

REFINED PETROLEUM FUND FEE EXTENSION

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Senate Bill 1267

Sponsor: Sen. Dennis Olshove

Committee: Appropriations

Complete to 9-22-10

A SUMMARY OF SENATE BILL 1267 AS PASSED BY THE SENATE 9-16-10

Senate Bill 1267 would amend Part 215 (Refined Petroleum Fund) of the Natural Resources and Environmental Protection Act (NREPA) to establish a new sunset date of December 31, 2012, on the 7/8 cent per gallon regulatory fee on refined petroleum products. All of the fee revenue is deposited into the Refined Petroleum Fund. Under current law, the fee would end on December 31, 2010. This bill would extend this sunset date for an additional two years.

BACKGROUND INFORMATION:

In Michigan, there is an environmental protection regulatory fee of 7/8 cent per gallon on all refined petroleum products sold. This fee generated approximately \$52.0 million in FY 2009 and is expected to generate \$52.2 million in FY 2010. All fee revenues are deposited into the Refined Petroleum Fund. The bill would extend the collection of the fee through December 31, 2012.

When the 7/8 cent per gallon regulatory fee was first established, the revenue was deposited into the Michigan Underground Storage Tank Financial Assurance (MUSTFA) fund. This fund was authorized by Part 215 of the NREPA (MCL 324.21506) and funded the disposal of underground storage tanks and corrective actions for tank leaks and spills. Under the MUSTFA program, underground storage tank owners who complied with program requirements were eligible for MUSTFA funding to help pay for corrective actions. The MUSTFA fund paid owners approximately \$625.0 million in reimbursement claims before the fund was declared insolvent in 1995. In 1996, the MUSTFA Authority sold revenue bonds as a source of funding for cleanups. At that time, the 7/8 cent per gallon fee revenue was used to pay debt service payments for these bonds.

In 2004, the MUSTFA fund was replaced by the Refined Petroleum Fund (RPF) which was created in House Bill 6074, PA 390 of 2004 (MCL 324.21506a). The RPF is a state-restricted fund within the state treasury. Beginning on October 12, 2004, all revenue from the 7/8 cent per gallon regulatory fee is deposited into the RPF. Monies remaining in the fund at the close of the fiscal year remain in the RPF and do not lapse into the General Fund. Along with the creation of the RPF, the 2004 bill extended the authority to collect the regulatory fee for an additional five years until December 31, 2010, transferred the existing MUSTFA balance to the RPF, and expanded the allowable uses of RPF revenues to include gas inspection programs within the Department of Agriculture.

REFINED PETROLEUM FUND APPROPRIATIONS

Under current law (MCL 324.21506a), the revenue in the RPF may be used to fund an underground storage tank cleanup program, the motor fuel inspection programs of the Department of Agriculture, and for administrative costs of the Department of Natural Resources and Environment (DNRE) and the Departments of Agriculture, Attorney General, and Treasury. The statute provides for appropriations from the RPF for gasoline inspection programs under the Weights and Measures Act (PA 283 of 1964) and the Motor Fuels Quality Act (PA 44 of 1984) -- both acts administered by the Department of Agriculture.

There were appropriations from the RPF in three budget areas in FY 2009-10: Department of Agriculture, Department of Environmental Quality, and Treasury.

For FY 2009-10, these appropriations from the RPF total **\$55,177,400**, which is more than the anticipated revenue that will be collected. The line items that received RPF funding in FY 2009-10 are as follows:

Department of Agriculture (FY 2009-10)	
Management Services	\$ 54,700
Laboratory Services	284,800
Consumer Protection Program	3,001,400
Rent and Building Occupancy Charges	114,000
Total	\$ 3,454,900

Department of Environmental Quality (FY 2009-10)	
Executive Operations	\$400,000
Central Operations	643,900
Building Occupancy Charges	563,500
Rent - Privately Owned Property	664,600
Air Quality Programs	2,873,300
Surface Water	105,300
Fish Contaminant Monitoring	316,100
Drinking Water and Environmental Health	552,000
Contaminated Site Investment, Cleanup, and Revitalization	5,932,700
Emergency Cleanup Actions	1,000,000
Refined Petroleum Product Cleanup Program	20,000,000
Underground Storage Tank Program	1,001,100
Aboveground Storage Tank Program	403,400
Criminal Investigations	253,900
Grants to Counties - Air Pollution	83,700
Information Technology	1,414,500
Total	\$36,208,000

Department of Treasury (FY 2009-10)	
Quality of Life Bond (Debt Service)	\$15,514,500

LEAKING UNDERGROUND STORAGE TANK (LUST) PROGRAM

Within the DNRE, the largest recipient of the RPF funding is the LUST Program which regulates the cleanup of contamination resulting from leaking underground storage tanks in Michigan. In FY 2010, \$20.0 million RPF funding is dedicated to the direct cleanup of LUSTs. According to the Department, when the Underground Storage Tank programs were created in Michigan almost 25 years ago, approximately 21,800 releases were discovered from underground storage tanks that stored petroleum products. Since then, 12,750 of the storage tanks that had "releases" have been cleaned up. As of May 1, 2007, there were 9,100 releases at approximately 7,100 sites in Michigan which still needed the necessary corrective action taken to address contamination. The Department estimates that the average cost per cleanup per site is approximately \$400,000.

The DNRE contends that if the State does not respond adequately to leaking tanks, drinking water supplies may be threatened and explosive and toxic vapors may be uncontrolled at contaminated sites. In addition, some sites may add pollution to Michigan lakes and rivers.

FISCAL IMPACT:

The 7/8 cent per gallon regulatory fee is anticipated to generate \$52.2 million in FY 2010. This bill would authorize the collection of the fee until December 31, 2012. Without this extension, the State would no longer have to the authority to collect these fees after December 31, 2010 and there would be no additional revenues to the RPF. The RPF funding is used to fund the underground storage tank cleanup program and related environmental programs in the DNRE, consumer protection programs concerning gas pump inspections in the Department of Agriculture, and debt service funding for environmental protection bonds.

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