

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6808

BILL NUMBER: SB 353

NOTE PREPARED: Jan 26, 2012

BILL AMENDED: Jan 26, 2012

SUBJECT: Sales Tax on Gasoline.

FIRST AUTHOR: Sen. Walker

FIRST SPONSOR:

BILL STATUS: CR Adopted - 1st House

FUNDS AFFECTED: GENERAL
 DEDICATED
 FEDERAL

IMPACT: State and Local

Summary of Legislation: (Amended) This bill provides that gross retail taxes imposed on gasoline shall be imposed on a per gallon basis. It requires the Department of State Revenue to determine a prepayment tax rate per gallon using a quarterly statewide average price and the 7% gross retail tax rate. It requires all reports of sales and use tax on gasoline to be filed electronically and the taxes remitted using the department's online tax system.

The bill changes from 25% to 15% the amount the price of gasoline must change before a new prepayment rate may be set. It requires a new prepayment rate to take effect on the first or fifteenth of the month. It requires the department to publish notices on its Internet web site and provide notices to registered distributors, refiners, and terminal operators using electronic mail with a direct link.

Effective Date: (Amended) Upon Passage; January 1, 2013.

Explanation of State Expenditures: (Revised) *Department of State Revenue (DOR):* DOR will have to revise tax forms to accommodate this change, but overall this bill could decrease administrative costs for the DOR. The DOR reports that this new procedure will reduce the number of taxpayers remitting sales tax on gasoline to approximately 360 distributors, versus approximately 3,600 retailers who currently sell gasoline. The bill requires all reports of sales tax on gasoline to be filed electronically and the taxes remitted using the DOR's online tax system.

Explanation of State Revenues: *Summary:* This bill would have an indeterminable impact on Sales Tax collected on gasoline each fiscal year. The bill changes the method of calculating the Sales Tax on gasoline

from the price of gas sold to a tax on the number of gallons sold. It is estimated that this bill could potentially have a negative fiscal impact when gasoline prices are increasing and a positive fiscal impact when gasoline prices are decreasing.

Sales Tax on Gasoline under Current Statute: Retailers are required to prepay the Sales Tax on gasoline. The prepayment rate is determined by the following formula: $80\% * \text{Sales Tax rate} * \text{average retail price}$ (as determined by the DOR). The prepayment rate is determined semiannually (in June and December) by the DOR and is limited to 125% of the previous prepayment rate. Retail merchants are then required to file their returns monthly to reconcile the amount of Sales Tax collected at the pump to the amount of Sales Tax prepaid. Retailers remit the difference between the prepaid Sales Tax and the total Sales Tax collected at the pump to the DOR. After reconciliation, the total Sales Tax on gasoline that gets remitted each month is based on actual pump prices for that month.

(Revised) *Sales Tax on Gasoline under this Bill:* Sales Tax would be remitted based on the average retail price of gasoline for the most recently completed quarter and the number of gallons sold. The bill requires 100% of the Sales Tax on gasoline to be prepaid by the distributors based on a rate published by the DOR. Under this bill, the prepayment rate is determined by this formula: $\text{Sales Tax rate} * \text{average retail price}$. At the end of the month immediately following each calendar quarter, the AG must provide the DOR with the statewide average price of gasoline for the most recently completed quarter. As an example, by the end of April, the AG's office would provide the DOR with the first quarter statewide average retail price of gasoline and the DOR would publish this price as the prepayment rate in June. The prepayment rate published in June would be applicable to gasoline sales in July, August, and September. Therefore, the amount of Sales Tax remitted would be based on a historical price and not be reconciled with the current sales price. The change in applying sales tax to the number of gallons sold applied by the average price versus the current price would have an indeterminable impact on revenue collections. This could have a negative fiscal impact on revenue collections in a fiscal year when gasoline prices are increasing and a positive fiscal impact in a fiscal year when gasoline prices are decreasing. The bill allows the DOR, after approval by the Office of Management and Budget to determine a new prepayment rate if the average retail price per gallon of gasoline excluding taxes has changed by at least 15% since the last determination.

Reconciliation Provision: This bill provides that each retail merchant shall, for sales made before July 1, 2012, take an inventory of the gasoline in storage on the commencement of business on July 1, 2012, and reconcile the amount of Sales Taxes owed on sales of gasoline through June 30, 2012. The bill provides that the reconciliation must be filed with the DOR before September 1, 2012, and must be accompanied by a payment for any gross retail taxes owed on gasoline sold through June 30, 2012, or by a claim for a credit, if the retail merchant's reconciliation indicates the retail merchant has overpaid Sales Taxes on gasoline sold through June 30, 2012. This provision allows for the collection of Sales Tax which was due under the original formula that had not been remitted before the effective date of the new formula. Retailers must remit Sales Tax before the 20th day after the end of month.

Background information: Sales Tax revenue is deposited in the state General Fund (99.848%), the Commuter Rail Service Fund (0.123%), and the Industrial Rail Service Fund (0.029%).

Explanation of Local Expenditures: Local revenues will be impacted to the extent that a local unit receives funds from the Commuter Rail Service Fund or the Industrial Rail Service Fund.

Explanation of Local Revenues:

State Agencies Affected: DOR.

Local Agencies Affected:

Information Sources: Tom Conley, DOR, 317-232-2107.

Fiscal Analyst: Diana Agidi, 317-232-9867.