



- Authorizes a county auditor or a designee to act as a motor fuel inspector and conduct inspections at each retailer that sells motor fuel in that county. The costs of such a program can be substantial if a county would elect to conduct these inspections.
  - A county may experience a gain in fine revenues associated with violations of motor fuel standards. Any revenue received as a result must be used to pay for the administration of the inspection program.
- 

## *Detailed Fiscal Analysis*

### **Department of Agriculture costs**

The bill requires the Director of the Department of Agriculture to develop a motor fuel quality testing program, presumably within the Weights and Measures Division. The Director must adopt rules in accordance with Chapter 119. of the Revised Code to administer the program. In addition to establishing rules that county auditors must use to administer this program, the Department must also establish requirements that are modeled on the uniform laws and regulations of the National Institute of Standards and Technology (NIST), and incorporate standards for motor fuel based on standards developed by the American Society for Testing and Materials (ASTM). The cost to develop the program and its rules is likely to be minimal.

The Department is one of the entities, along with another state, a Board of Regents authorized institution of higher education, a state institution of higher education, or an approved private firm, from which a motor fuel inspector may receive training. The Division of Weights and Measures in the Department of Agriculture currently has training sessions for retail motor fuel dispensers to ensure that consumers receive the amount of fuel they are paying for. Training for the motor fuel quality testing program could be added to these sessions, but the cost to develop the curriculum would likely be minimal in the near term. In future years, the program may need additional staff depending on participation. Another option may be offering training through the ASTM. This organization already provides training for fuel quality inspectors at a cost of \$995 at locations in Pennsylvania, Florida, and Nevada.<sup>1</sup> The ASTM also offers the fuel-training course on-site for groups of 15 or more. This on-site training can be tailored to meet the specific needs of the group attending. The Department could opt to cover all or part of these costs by charging participating counties a fee.

### **County auditor program requirements**

The bill authorizes county auditors to conduct a motor fuel inspection program, but does not require counties to participate. Those that elect to do so must do the following: (1) inspect and test motor fuel sold in that county, (2) inspect each location at which a retailer sells motor fuel to ensure that retailer is in compliance with the program (the county auditor may also inspect any retail location upon the auditor's own initiative or upon a complaint made by a person), and (3) successfully complete training that is provided by the Director of the Department of

---

<sup>1</sup> <http://www.astm.org/cgi-bin/SoftCart.exe/TRAIN/filtrexx40.cgi?U+mystore+yet13029+-P+ID+4+/usr6/htdocs/astm.org/TRAIN/traindetail.frm>

Agriculture, another state, an institution of higher education, or an approved private firm. County auditors must also determine the frequency of the retail inspections and may terminate motor fuel quality testing by sending written notice to the Director of Agriculture.

County auditors may also test sediment from the motor fuel pumps and water in the motor fuel storage tanks. The standards must be modeled on the uniform laws and regulations of the National Institute of Standards and Technology (NIST). County auditors can establish penalties for violations of the standards.

When doing inspections, the auditor or designated investigator must require a retailer to immediately provide, free of charge, in containers provided by the auditor's office, an amount of fuel for testing using a portable scanning device. The investigator must personally pull down the fuel used for testing. The investigator must allow the retailer, if the results of the investigation indicate that the fuel is below required standards, to challenge the results by immediately submitting a written statement on a form prescribed by the Director of Agriculture. This challenge must be done before the inspector leaves the retail site. If such a challenge is issued, the investigator must submit a sample of the fuel to a certified laboratory to determine if the fuel is in compliance with standards.

The bill also sets forth penalty provisions for any retailer selling motor fuel that fails to meet standards. A first offense results in a warning. Additionally, if the retailer challenges the results of an inspection done by a portable scanning device, and it is determined through a laboratory inspection that the fuel does not meet standards, the retailer must also pay all applicable laboratory costs. A second offense occurring within two years of the original offense results in a \$250 fine, as well as any laboratory costs that are applicable. A third offense within two years of the first offense yields a fine of \$500 as well as any applicable laboratory costs. A fourth offense within two years doubles the fine to \$1,000 as well as any applicable laboratory costs. A fifth or subsequent offense within two years of the first offense yields a fine of \$2,000 plus laboratory costs. Finally, a sixth or subsequent offense within two years of the first offense yields a fine of twice the amount of the most recent fine imposed, in addition to laboratory costs. Counties must use any fine revenue resulting from violations to administer the inspection program.

### **County auditor program costs**

There are several costs associated with the implementation of a motor fuel inspection program, including equipment, personnel, laboratory testing, and other miscellaneous costs.

#### **Equipment costs**

LSC obtained an approximation of what equipment would be necessary for this program and estimated costs from the County Auditors' Association in 2006. The equipment, a description of its functions, and a cost approximation are listed below. Please note that there may be other brands of testing equipment available, and that prices may vary.

**Zeltex** - A portable device to measure octane levels. Individual counties would need to purchase and use the Zeltex machine in the field for inspections. The approximate cost for this piece of equipment is \$10,000 to \$12,000 per unit.

***Turbidimeter*** - This machine is a critical piece of the testing for sediment. ASTM standards state that the fuel must visually appear bright and clear. In order to prevent an inspector from making a judgment call on compliance, this machine can be used to test the standards, and to determine acceptable and unacceptable tolerance levels that the fuel must meet coming from the pump. These devices cost approximately \$900 per unit.

***Bacon Bomb*** - This device is dropped into the underground storage tank. It creates a vacuum as it descends and when it hits the bottom it opens up and sucks up whatever resides on the bottom of the tank. The sample is then dropped into a glass jar to give the inspector an indication of the appearance of the bottom of the tank. It will show phase separation and microbial growth. This measurement can give an idea as to the level of degradation of the fuel quality in those tanks. These devices cost approximately \$300 to \$600 per unit.

***Stick & Paste*** - This device offers an inexpensive method to measure how much water is in the storage tank. ASTM standards allow for two inches for conventional fuel and only one-fourth inch for ethanol extended fuel. These devices cost \$25 per unit.

***Scully*** - This is a small device that will sound an alarm as soon as it touches the fuel in the tank if water is present. This is often used in conjunction with the stick and paste test in measuring water levels in storage tanks. These devices cost \$200 per unit.

Despite these new potential costs, however, the County Auditors' Association indicated that several counties could enter into a cost-sharing agreement to help defray equipment and personnel expenses, such as currently exists between some counties for their weights and measures inspection responsibilities.

### **Personnel costs**

The County Auditors' Association indicated to LSC that additional staff should not be necessary to implement this program. Current staff could do the additional inspections once all required training is completed.

### **Laboratory testing costs**

There will be some instances where samples must be collected and sent to a laboratory for additional testing. While retailers will be responsible for all lab costs associated with any samples that are deemed to not meet standards, the county would be responsible for lab costs for those samples that are determined to meet standards. Currently, counties pay \$771 per sample for octane testing done in a lab. It is assumed that the additional lab tests would cost approximately the same.

### **Miscellaneous costs**

There are also several miscellaneous costs associated with the implementation of this program. For instance, the bill requires county auditors to maintain records that are determined necessary to ascertain compliance with the program. At a minimum, county auditors must

maintain for two years after the date the testing was conducted all records of testing indicating substandard fuel quality. There would likely be some minimal record-keeping costs associated with this requirement. There are transportation costs for the shipping of samples to labs or to the auditor's office for storage until sent to a lab. Each sample would need to be sealed and packed in accordance with ASTM and Department of Transportation standards as these samples are deemed to be hazardous materials. It is estimated that the storage and transportation containers could cost as much as \$140 per container.

Additionally, hazardous material transport training costs would also be incurred. FedEx and UPS both offer training courses in transporting these types of materials. The cost of this training is \$150 per trainee. FedEx offers an online training course at the same price. The County Auditors' Association also estimates that it will cost approximately \$200 per county for the creation and production of all necessary new forms needed to implement this program. The final miscellaneous cost is for testing jars. It is unknown at this time how many jars would be needed, and what type of testing jars would be necessary, so the cost for this is not known. All of the above miscellaneous costs will vary based upon the size of the county, number of stations located in the county, and the number of inspections done in any given year.

*LSC fiscal staff: Jason Phillips, Budget Analyst*

*SB01011N/lb*