



2003 ASSEMBLY BILL 699

December 5, 2003 - Introduced by Representatives FREESE, J. WOOD, GRONEMUS, WARD, OTT, AINSWORTH, PETROWSKI, SUDER, HINES, LOEFFELHOLZ, TOWNS, BALOW, VRUWINK, GUNDERSON, HAHN, PETTIS, ALBERS, OWENS, McCORMICK, MUSSER and BIES, cosponsored by Senators HARSDORF, WELCH, ROESSLER, A. LASEE, SCHULTZ and ZIEN. Referred to Committee on Agriculture.

1 **AN ACT** *to repeal* 93.75 (3) (c); *to renumber and amend* 93.75 (2); *to amend*
2 20.115 (1) (d), 20.115 (1) (k), 93.75 (1) (intro.), 93.75 (1) (b), 93.75 (3m) (d) and
3 93.75 (4); and *to create* 93.75 (2) (a) to (d) of the statutes; **relating to:**
4 payments to ethanol producers and making an appropriation.

Analysis by the Legislative Reference Bureau

Current law requires the Department of Agriculture, Trade and Consumer Protection (DATCP) to make payments to an ethanol producer during its first 60 months of ethanol production if the producer satisfies certain requirements. The payments are 20 cents per gallon for not more than 15,000,000 gallons of ethanol produced within 12 months, except that, if there is insufficient funding, DATCP must prorate the payments. Current law requires the Department of Transportation (DOT) to determine whether federal transportation aids are decreased because of ethanol sales in this state. The program ends on June 30, 2006, or earlier if DOT determines that federal transportation aids are decreased because of ethanol sales in this state.

This bill creates a sum sufficient appropriation for payments by DATCP to ethanol producers. The bill eliminates the requirement that DATCP prorate payments if funding is insufficient to make full payments. Under the bill, a producer is eligible for payments for its first 96 months of ethanol production. The bill requires DATCP and a producer to enter into a contract under which DATCP makes the payments. The bill reduces the per-gallon payment to ten cents beginning on July 1, 2005. Under the bill, a producer would be eligible for the per-gallon payment for

ASSEMBLY BILL 699

12,500,000 gallons of ethanol for its first two years, 10,000,000 gallons for its third and fourth years, 7,500,000 gallons for its fifth and sixth years, and 5,000,000 gallons for its seventh and eighth years. The bill also eliminates the June 30, 2006, ending date for the program, but does not eliminate the provision that ends the program if DOT determines that federal transportation aids are decreased because of ethanol sales.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 20.115 (1) (d) of the statutes is amended to read:

2 20.115 (1) (d) *Payments to ethanol producers.* ~~The amounts in the schedule A~~
3 ~~sum sufficient~~ for payments to ethanol producers under s. 93.75. ~~No funds may be~~
4 ~~encumbered under this paragraph after June 30, 2006 to the extent that the~~
5 ~~payments are not made under par. (k).~~

6 **SECTION 2.** 20.115 (1) (k) of the statutes is amended to read:

7 20.115 (1) (k) *Payments to ethanol producers.* The amounts in the schedule for
8 payments to ethanol producers under s. 93.75. All moneys transferred from the
9 appropriation account under s. 20.505 (8) (hm) 2m. shall be credited to this
10 appropriation account. Notwithstanding s. 20.001 (3) (a), the unencumbered
11 balance on June 30 of each year shall revert to the appropriation account under s.
12 20.505 (8) (hm). ~~No funds may be encumbered under this paragraph after June 30,~~
13 ~~2006.~~

14 **SECTION 3.** 93.75 (1) (intro.) of the statutes is amended to read:

15 93.75 (1) **ELIGIBILITY.** (intro.) ~~Beginning on July 1, 2001 the~~ The department
16 shall ~~administer a program~~ enter into a binding contract under which the
17 department makes payments, subject to sub. (4), to a person who produces ethanol
18 and who satisfies all of the following criteria:

ASSEMBLY BILL 699

1 **SECTION 4.** 93.75 (1) (b) of the statutes is amended to read:

2 93.75 (1) (b) The person has been producing ethanol in this state for fewer than
3 ~~60~~ 96 months.

4 **SECTION 5.** 93.75 (2) of the statutes is renumbered 93.75 (2) (intro.) and
5 amended to read:

6 93.75 (2) PAYMENTS. (intro.) The department shall pay a person who is eligible
7 under sub. (1) at the rate of ~~20~~ 10 cents per gallon for not more than ~~15,000,000~~ the
8 following number of gallons of ethanol produced in this state within 12 months,
9 ~~except that if there are insufficient funds to make payments at this rate to all eligible~~
10 ~~persons the department shall prorate the payments.~~

11 **SECTION 6.** 93.75 (2) (a) to (d) of the statutes are created to read:

12 93.75 (2) (a) For the 1st and 2nd 12 months, 12,500,000 gallons.

13 (b) For the 3rd and 4th 12 months, 10,000,000 gallons.

14 (c) For the 5th and 6th 12 months, 7,500,000 gallons.

15 (d) For the 7th and 8th 12 months, 5,000,000 gallons.

16 **SECTION 7.** 93.75 (3) (c) of the statutes is repealed.

17 **SECTION 8.** 93.75 (3m) (d) of the statutes is amended to read:

18 93.75 (3m) (d) If the department of transportation determines, during any year
19 ~~after December 31, 2004, and before January 1, 2006~~, that the amount of federal
20 moneys received by this state for highways and other surface transportation
21 purposes, excluding federal moneys received for railroads, is decreased due to
22 ethanol sales in this state, the department of transportation shall notify the
23 department of agriculture, trade and consumer protection of that determination not
24 sooner than ~~October 1, 2005~~, and not later than ~~December 31, 2005~~ of the following
25 year.

ASSEMBLY BILL 699

1 **SECTION 9.** 93.75 (4) of the statutes is amended to read:

2 93.75 (4) SUNSET. The department may not make a payment under this section
3 after ~~June 30, 2006, or~~ the first day of the 6th month beginning after the department
4 receives a notice under sub. (3m), ~~whichever is sooner.~~

5 **SECTION 10. Nonstatutory provisions.**

6 (1) If the department of agriculture, trade and consumer protection has
7 determined that an ethanol producer is eligible for payments under section 93.75,
8 2001 stats., before July 1, 2005, the department shall enter into a contract as
9 provided under section 93.75 (1) of the statutes, as affected by this act, with the
10 producer and shall make payments to the producer as provided under section 93.75
11 (2) of the statutes, as affected by this act, for ethanol produced by the producer
12 beginning on the effective date of this subsection to the end of the period specified
13 in section 93.75 (1) (b) of the statutes, as affected by this act, or until the producer
14 ceases to be eligible for the payments, whichever is sooner.

15 **SECTION 11. Initial applicability.**

16 (1) The treatment of section 93.75 (2) of the statutes first applies to ethanol
17 produced on the effective date of this subsection.

18 **SECTION 12. Effective date.**

19 (1) This act takes effect on July 1, 2005, or on the first day of the first month
20 beginning after publication, whichever is later.

21 (END)