

Fiscal Estimate Narratives
DATCP 9/28/2009

LRB Number	09-3316/1	Introduction Number	AB-0408	Estimate Type	Original
Description Financial assistance related to bioenergy feedstocks, biorefineries, and conversion to biomass energy; the definition of the term agricultural use for the purpose of determining the assessed value of a parcel of land; requiring a strategic bioenergy feedstock assessment; creation of a bioenergy council; the agricultural and forestry diversification programs; biofuels training assessment; a study of regulatory burdens relating to biofuel production facilities; marketing orders and agreements for bioenergy feedstocks; exempting personal renewable fuel production and use from the motor vehicle fuel tax, the petroleum inspection fee, and business tax registration requirements; an income and franchise tax credit for installing or retrofitting pumps that mix motor vehicle fuels from separate storage tanks; offering gasoline that is not blended with ethanol to motor fuel dealers; state renewable motor vehicle fuels sales goals; required sales of renewable motor vehicle fuels; use of petroleum-based transportation fuels by state vehicles; use of alternative fuels in flex fuel vehicles owned by the state; use of public alternative fuel refueling facilities; duties of the Office of Energy Independence; granting rule-making authority; requiring the exercise of rule-making authority; making appropriations; and providing penalties					

Assumptions Used in Arriving at Fiscal Estimate

Assembly Bill 408 would create or modify provisions relating to support and promotion of biofuels and bioenergy use. Changes would impact DATCP programs in a number of responsibility areas:

1. Agricultural Development and Diversification

Under current law, DATCP is directed to make agricultural research and development grants to fund demonstration projects, feasibility analyses and applied research directed toward new or alternative technologies and practices that stimulate one or more of the following: creation of jobs in the agricultural industry; new capital investment and expansion; agricultural product market development and expansion; diversification and expansion of the production, processing and distribution of agricultural products; commercial application of new technologies or practices related to agricultural products; increased use of surplus agricultural products; improvement of the competitive position of this state's agricultural industry; or efficient use of farmland and other agricultural resources. This proposal would add products from the production of ag commodities, including alternative fuels, heat, electricity and marketable credits.

The proposal also would expand the scope of this grant program to include forestry research and development grants.

On average the program receives 90 applications a year and the internal logging and reviewing takes approximately 150 hours. This fiscal estimate assumes that these eligibility expansions would result in at least 50% more grant applications. The increased numbers and the addition of new project categories would require more review plus consultation with DNR, adding at least 100 hours of DATCP staff time to the review process. The fiscal estimate is zero since these costs could be absorbed by existing staff. (Note: changes to appropriations 20.115 (4)(c) and (4)(r) are amendments to the appropriation definitions only)

2. Market Orders

DATCP is charged in chapter s. 96 with administering market orders and agreements for agricultural commodities which are defined as "any agricultural, horticultural (excepting floricultural), viticultural, vegetable, poultry, and livestock products produced in this state, including milk and milk products, bees and honey, or any class, variety or utilization thereof, either in their natural state or as processed by a producer for the purpose of marketing such product or by a processor, but not including timber and wood products." This bill would expand the definition of agricultural commodity as used in chapter 96 to include its use as a bioenergy feedstock, and would authorize the DATCP secretary to propose the issuance of a marketing order for bioenergy feedstocks.

The purpose of the marketing order program is to safeguard the public interest by addressing conditions that jeopardize the continued production of an adequate food supply. This bill would expand the purpose to include the production of adequate energy supplies.

This fiscal estimate assumes that bioenergy feedstock marketing order would be issued and that DATCP

would administer that order. It also assumes that workload for this order is similar to other marketing orders and that all day-to-day support activities could be completed by the existing staff person who is fully funded by assessments charged to the marketing order boards. Under the marketing order program, each market order board is assessed a portion of the full administrative costs. Therefore, any additions to program costs for additional supplies, etc. would be covered by the assessment. So the fiscal effect for the purposes of this estimate is zero.

The addition of a new marketing order would require promulgation of a new administrative rule and amendment of the general program rule. It is estimated this would require 800 hours of staff work by program and legal staff on a one-time basis over a one year period. Under the terms of the market order statutes, the industry seeking the market order pays all the department's costs of developing the rule. Costs are estimated at \$48,000 (800 hours x staff average of \$60.00/hour salary and fringe). These costs could not be absorbed and would be paid by the bioenergy feedstock market order board.

3. Bioenergy Council

This proposal would create a secretary-appointed council to identify voluntary best management practices for biomass and biofuels production and report at least biennially to agencies and private parties that assist biofuel producers. This fiscal estimate assumes that the council will be attached to the DATCP Office of the Secretary and will be staffed by an expert in biofuels/biomass to provide the direction and support required. This expertise does not currently exist at DATCP so this fiscal estimate assumes that 1.0 FTE Special Initiatives Advisor-Admin would be hired to provide staffing for this council and its responsibilities. Salary and fringe costs plus support costs associated with an additional employee (computer, rent, etc.) are estimated at \$105,000 GPR (\$44.00 salary and fringe x 2080 hours = approximately \$92,000 and \$13,000 for admin/support costs). Support costs for the council are estimated at \$5,000 GPR annually (\$2,500 annually for food and miscellaneous, \$5,000 biennially for report publication costs), bringing total costs to \$110,000 GPR annually. These costs could not be absorbed.

4. Motor fuel dealership grantor requirements.

Under current law, persons who grant a motor fuel dealership are required to include certain survivorship rights in the franchise agreement and are prohibited from requiring dealers to keep the business open for more than 16 hours per day. This bill would additionally require grantors (that provide gasoline to dealers) to offer gasoline that is not blended with ethanol but is suitable for subsequent blending with ethanol. Further, this bill prohibits grantors from requiring that the dealer purchase ethanol for blending purposes from the grantor.

DATCP's fiscal estimate assumes that the fiscal effect of this section will be zero. While the provision is in a chapter of the statutes that generally fall under DATCP's authority, DATCP does not anticipate much investigative or enforcement activity in this area. The bill does not appear to have any penalty provisions attached to these new requirements.

5. Annual Report on state renewable fuel goals.

This bill would require DATCP to prepare an annual report on renewable fuel sales in the state, and determine whether or not those sales met goals established in the bill. If sales did not meet the goals, DATCP must provide an assessment as to why sales did not meet the goals. The bill contains specific topics that must be addressed in the assessment: a determination of supply, demand, and prices, a determination of whether state or federal laws prevent or impede sale of renewable fuels, a determination of whether requiring the sale of renewable fuels by administrative rule would likely result in meeting the sales goals. If DATCP's assessment concludes that requiring the sale of renewable fuels by administrative rule would likely result in meeting the sales goals; DATCP must then promulgate rules doing just that.

DATCP estimates that annual cost for preparing this report would be about \$18,200 GPR. \$13,200 of this is for roughly 300 hours of employee time spent researching, drafting, and finalizing the report (approximately .14 FTE equivalent). We are assuming that the weighted-average cost per hour (salary plus fringe) for the employees who would work on the report would be around \$44.00 per hour. [\$44.00 X 300 hours = \$13,200]. The additional \$5,000 is to purchase specialized supplies & services for use in preparing the report, particularly, the purchase of data from fuel pricing and supply services. These costs could not be absorbed.

Should DATCP need to promulgate administrative rules pursuant to this bill, the rulemaking required would be somewhat technical. We estimate that it would take about 1.0 FTE about one year to research potential rule provisions, hold hearings, draft the rule (and supporting documents), and other rulemaking tasks. Many of these tasks would need to be performed by medium to high-level employees with good technical knowledge of economic, legal, and fuel distribution systems. Therefore, we estimate that the one-time cost for implementing the administrative rule would be about \$75,000 GPR. This workload could not be absorbed

by existing staff.

Should such an administrative rule become effective, the annual costs to administer it could be significant. However, the bill creates a program revenue appropriation and allows DATCP to incorporate fees for administration and enforcement of the rule. The bill provides no parameters for the development of the rule and the fee, but leaves these to the department's discretion. Therefore, since the details of a possible future rule and fee structure are unknown, a valid estimate of associated costs and revenue cannot readily be made for the purposes of this fiscal estimate.

6. Definition of Agricultural Use

This proposal would change the definition of agricultural use of land, as defined by DOR by rule, to include the growing of short rotation woody crops, including poplars and willows, using agronomic practices. Adding short rotation woody crops to the definition of agricultural use of land should not significantly impact programs within DATCP's Land and Water Resources Bureau, including the Working Lands Initiative.

For the purposes of the Farmland Preservation Program (FPP), the definition of agricultural use already includes growing Christmas trees and forestry. The FPP tax credit program was recently modified and there is an annual statutory limit of just over \$27 million for the total FPP tax credit. If the addition of short rotation woody crops to the definition of agricultural use of land results in a significant number of new farmers claiming the credit, this could trigger the statutory pro-ration of the FPP tax credit.

7. Local Government Effects

No local government fiscal effect would result related to DATCP-specific programs.

Long-Range Fiscal Implications

Fiscal Estimate Worksheet - 2009 Session

Detailed Estimate of Annual Fiscal Effect

Original
 Updated
 Corrected
 Supplemental

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I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect): 1. Staff costs to develop administrative rules for renewable fuels goal program = \$75,000 GPR 2. Legal and program staff costs to develop and administrative rule for a biofuels feedstock market order = \$48,000 PR - reimbursed by biofuels feedstock market order board		
II. Annualized Costs:		
	Annualized Fiscal Impact on funds from:	
	Increased Costs Decreased Costs	
A. State Costs by Category		
State Operations - Salaries and Fringes	\$105,200	\$
(FTE Position Changes)	(1.1 FTE)	
State Operations - Other Costs	23,000	
Local Assistance		
Aids to Individuals or Organizations		
TOTAL State Costs by Category	\$128,200	\$
B. State Costs by Source of Funds		
GPR	128,200	
FED		
PRO/PRS		
SEG/SEG-S		
III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)		
	Increased Rev	Decreased Rev
GPR Taxes	\$	\$
GPR Earned		
FED		
PRO/PRS		
SEG/SEG-S		
TOTAL State Revenues	\$	\$

NET ANNUALIZED FISCAL IMPACT

	<u>State</u>	<u>Local</u>
NET CHANGE IN COSTS	\$128,200	\$
NET CHANGE IN REVENUE	\$	\$
Agency/Prepared By		
DATCP/ Linda Merriman Hitchman (608) 224-5132	Authorized Signature	Date
	Bill Walker (608) 224-4353	9/28/2009