

By the Committee on Finance and Taxation; and Senator Saunders

314-2530-03

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31

A bill to be entitled  
An act relating to local option fuel taxes on motor fuel and diesel fuel; amending ss. 206.60 and 206.605, F.S.; including bicycle paths and pedestrian pathways within authorized uses of proceeds of county and municipal taxes on motor fuel; amending s. 336.025, F.S.; expanding the uses of proceeds from local option fuel taxes on motor fuel and diesel fuel; authorizing certain municipalities to expend local option fuel taxes; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (b) of subsection (1) and subsection (4) of section 206.60, Florida Statutes, are amended to read:

206.60 County tax on motor fuel.--

(1) The proceeds of the county fuel tax imposed pursuant to s. 206.41(1)(b) are appropriated for public transportation purposes in the manner following:

(b)1. The Department of Revenue shall, from month to month, distribute the amount allocated to each of the several counties under paragraph (a) to the board of county commissioners of the county, who shall use such funds solely for the acquisition of rights-of-way; the construction, reconstruction, operation, maintenance, and repair of transportation facilities, roads, ~~and~~ bridges, bicycle paths, and pedestrian pathways therein; or the reduction of bonded indebtedness of such county or of special road and bridge districts within such county, incurred for road and bridge or

1 other transportation purposes. In the event the powers and  
2 duties relating to transportation facilities, roads, ~~and~~  
3 bridges, bicycle paths, and pedestrian pathways usually  
4 exercised and performed by boards of county commissioners are  
5 exercised and performed by some other or separate county  
6 board, such board shall receive the proceeds, exercise the  
7 powers, and perform the duties designated in this section to  
8 be done by the boards of county commissioners.

9           2. The board of county commissioners of each county,  
10 or any separate board or local agency exercising the powers  
11 and performing the duties relating to transportation  
12 facilities, roads, ~~and~~ bridges, bicycle paths, and pedestrian  
13 pathways usually exercised and performed by the boards of  
14 county commissioners, shall be assigned the full  
15 responsibility for the maintenance of transportation  
16 facilities in the county and of roads in the county road  
17 system.

18           3. Nothing in this paragraph as amended by chapter  
19 71-212, Laws of Florida, shall be construed to permit the  
20 expenditure of public funds in such manner or for such  
21 projects as would violate the State Constitution or the trust  
22 indenture of any bond issue or which would cause the state to  
23 lose any federal aid funds for highway or transportation  
24 purposes; and the provisions of this paragraph shall be  
25 applied in a manner to avoid such result.

26           (4) It is hereby expressly recognized and declared by  
27 the Legislature that all public roads, ~~and~~ bridges, bicycle  
28 paths, and pedestrian pathways being constructed or built or  
29 which will be hereafter constructed or built, including the  
30 acquisition of rights-of-way as incident thereto, either by  
31 the Department of Transportation or the several counties of

1 the state, were, are, and will be constructed and built as  
2 general public projects and undertakings and that the cost of  
3 the construction and building thereof, including the  
4 acquisition of rights-of-way as incident thereto, was, is, and  
5 will be legitimate, proper state expense incurred for a  
6 general public and state purpose. And it is expressly  
7 recognized and declared that the construction, reconstruction,  
8 maintenance, and acquisition of rights-of-way of all secondary  
9 roads are essential to the welfare of the state and that such  
10 roads when constructed, reconstructed, or maintained, or such  
11 rights-of-way when acquired, are and will be for a general  
12 public and state purpose. And the Legislature has found and  
13 hereby declares that for the proper and efficient construction  
14 and maintenance of public highways designated state roads, it  
15 is in the best interest of the state to further integrate the  
16 activities of the Department of Transportation and the several  
17 boards of county commissioners as provided in subsection (1)  
18 in order that both state and local highway needs may be  
19 adequately provided for.

20 Section 2. Subsection (2) of section 206.605, Florida  
21 Statutes, is amended to read:

22 206.605 Municipal tax on motor fuel.--

23 (2) Funds available under this section shall be used  
24 only for purchase of transportation facilities and road and  
25 street rights-of-way; construction, reconstruction, and  
26 maintenance of roads, and streets, bicycle paths, and  
27 pedestrian pathways; for the adjustment of city-owned  
28 utilities as required by road and street construction; and  
29 ~~the~~ construction, reconstruction, transportation-related  
30 public safety activities, maintenance, and operation of  
31 transportation facilities. Municipalities are authorized to

1 expend the funds received under this section in conjunction  
2 with other cities or counties or state or federal government  
3 in joint projects.

4 Section 3. Paragraph (b) of subsection (1) and  
5 subsections (7) and (8) of section 336.025, Florida Statutes,  
6 are amended to read:

7 336.025 County transportation system; levy of local  
8 option fuel tax on motor fuel and diesel fuel.--

9 (1)

10 (b) In addition to other taxes allowed by law, there  
11 may be levied as provided in s. 206.41(1)(e) a 1-cent, 2-cent,  
12 3-cent, 4-cent, or 5-cent local option fuel tax upon every  
13 gallon of motor fuel sold in a county and taxed under the  
14 provisions of part I of chapter 206. The tax shall be levied  
15 by an ordinance adopted by a majority plus one vote of the  
16 membership of the governing body of the county or by  
17 referendum.

18 1. All impositions and rate changes of the tax shall  
19 be levied before July 1, to be effective January 1 of the  
20 following year. However, levies of the tax which were in  
21 effect on July 1, 2002, and which expire on August 31 of any  
22 year may be reimposed at the current authorized rate effective  
23 September 1 of the year of expiration.

24 2. The county may, prior to levy of the tax, establish  
25 by interlocal agreement with one or more municipalities  
26 located therein, representing a majority of the population of  
27 the incorporated area within the county, a distribution  
28 formula for dividing the entire proceeds of the tax among  
29 county government and all eligible municipalities within the  
30 county. If no interlocal agreement is adopted before the  
31 effective date of the tax, tax revenues shall be distributed

1 pursuant to the provisions of subsection (4). If no  
2 interlocal agreement exists, a new interlocal agreement may be  
3 established prior to June 1 of any year pursuant to this  
4 subparagraph. However, any interlocal agreement agreed to  
5 under this subparagraph after the initial levy of the tax or  
6 change in the tax rate authorized in this section shall under  
7 no circumstances materially or adversely affect the rights of  
8 holders of outstanding bonds which are backed by taxes  
9 authorized by this paragraph, and the amounts distributed to  
10 the county government and each municipality shall not be  
11 reduced below the amount necessary for the payment of  
12 principal and interest and reserves for principal and interest  
13 as required under the covenants of any bond resolution  
14 outstanding on the date of establishment of the new interlocal  
15 agreement.

16           3. County and municipal governments shall use ~~utilize~~  
17 moneys received pursuant to this paragraph ~~only~~ for  
18 transportation expenditures needed to meet the requirements of  
19 the capital improvements element of an adopted comprehensive  
20 plan or for expenditures needed to meet immediate local  
21 transportation problems and for other transportation-related  
22 expenditures that are critical for building comprehensive  
23 roadway networks by local governments. For purposes of this  
24 paragraph, expenditures for the construction of new roads, the  
25 reconstruction or resurfacing of existing paved roads, or the  
26 paving of existing graded roads shall be deemed to increase  
27 capacity and such projects shall be included in the capital  
28 improvements element of an adopted comprehensive plan.  
29 Expenditures for purposes of this paragraph shall not include  
30 routine maintenance of roads.

31

1           (7) For the purposes of this section, "transportation  
2 expenditures" means expenditures by the local government from  
3 local or state shared revenue sources, excluding expenditures  
4 of bond proceeds, for the following programs:

5           (a) Public transportation operations and maintenance.

6           (b) Roadway and right-of-way maintenance and equipment  
7 and structures used primarily for the storage and maintenance  
8 of such equipment.

9           (c) Roadway and right-of-way drainage.

10          (d) Street lighting.

11          (e) Traffic signs, traffic engineering, signalization,  
12 and pavement markings.

13          (f) Bridge maintenance and operation.

14          (g) Debt service and current expenditures for  
15 transportation capital projects in the foregoing program  
16 areas, including construction or reconstruction of roads and  
17 sidewalks.

18          (8) In addition to the uses specified in subsection  
19 (7), the governing body of a county with a population of  
20 50,000 or less on April 1, 1992, or the governing body of a  
21 municipality within such a county, may use the proceeds of the  
22 tax levied pursuant to paragraph (1)(a) in any fiscal year to  
23 fund infrastructure projects, if such projects are consistent  
24 with the local government's approved comprehensive plan or, if  
25 the approval or denial of the plan has not become final,  
26 consistent with the plan last submitted to the state land  
27 planning agency. In addition, no more than an amount equal to  
28 the proceeds from 4 cents per gallon of the tax imposed  
29 pursuant to paragraph (1)(a) may be used by such county for  
30 the express and limited purpose of paying for a court-ordered  
31 refund of special assessments. Except as provided in

1 subsection (7), such funds shall not be used for the  
2 operational expenses of any infrastructure. Such funds may be  
3 used for infrastructure projects under this subsection only  
4 after the local government, prior to the fiscal year in which  
5 the funds are proposed to be used, or if pledged for bonded  
6 indebtedness, prior to the fiscal year in which the bonds will  
7 be issued, has held a duly noticed public hearing on the  
8 proposed use of the funds and has adopted a resolution  
9 certifying that the local government has met all of the  
10 transportation needs identified in its approved comprehensive  
11 plan or, if the approval or denial of the plan has not become  
12 final, consistent with the plan last submitted to the state  
13 land planning agency. The proceeds shall not be pledged for  
14 bonded indebtedness for a period exceeding 10 years, except  
15 that, for the express and limited purpose of using such  
16 proceeds in any fiscal year to pay a court-ordered refund of  
17 special assessments, the proceeds may be pledged for bonded  
18 indebtedness not exceeding 15 years. For the purposes of this  
19 subsection, "infrastructure" has the same meaning as provided  
20 in s. 212.055.

21 Section 4. This act shall take effect July 1, 2003.

22

23 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
24 COMMITTEE SUBSTITUTE FOR  
25 Senate Bill 332

26 The bill expands the authorized uses of the "1-cent county  
27 fuel tax" and the "1-cent municipal fuel tax" revenues to  
28 include the construction, operation, maintenance, and repair  
of bicycle paths and pedestrian pathways.

29 In addition, the bill authorizes a municipality in a county  
30 with a population of 50,000 or less to use the proceeds from  
the first 6 cents of the 11 cents local option gas tax for  
infrastructure projects, provided such projects are consistent  
with the local government's comprehensive plan.

31