

Bill No. SB 1940

Barcode 594834

CHAMBER ACTION

Senate

House

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The Committee on Transportation (Bennett) recommended the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

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

(1)(a) In addition to other taxes allowed by law, there may be levied as provided in ss. 206.41(1)(e) and 206.87(1)(c) a 1-cent, 2-cent, 3-cent, 4-cent, 5-cent, or 6-cent local option fuel tax upon every gallon of motor fuel and diesel fuel sold in a county and taxed under the provisions of part I or part II of chapter 206.

1. All impositions and rate changes of the tax shall be levied before July 1 to be effective January 1 of the following year for a period not to exceed 30 years, and the applicable method of distribution shall be established pursuant to subsection (3) or subsection (4). However, levies of the tax which were in effect on July 1, 2002, and which

Bill No. SB 1940

Barcode 594834

1 expire on August 31 of any year may be reimposed at the
2 current authorized rate effective September 1 of the year of
3 expiration. Upon expiration, the tax may be relieved provided
4 that a redetermination of the method of distribution is made
5 as provided in this section.

6 2. County and municipal governments shall utilize
7 moneys received pursuant to this paragraph only for
8 transportation expenditures.

9 3. Any tax levied pursuant to this paragraph may be
10 extended on a majority vote of the governing body of the
11 county. A redetermination of the method of distribution shall
12 be established pursuant to subsection (3) or subsection (4),
13 if, after July 1, 1986, the tax is extended or the tax rate
14 changed, for the period of extension or for the additional
15 tax.

16 (b) In addition to other taxes allowed by law, there
17 may be levied as provided in s. 206.41(1)(e) a 1-cent, 2-cent,
18 3-cent, 4-cent, or 5-cent local option fuel tax upon every
19 gallon of motor fuel sold in a county and taxed under the
20 provisions of part I of chapter 206. The tax shall be levied
21 by an ordinance adopted by a majority ~~plus one~~ vote of the
22 membership of the governing body of the county or by
23 referendum. In the event the county has not levied the full
24 amount of local option fuel tax authorized by this
25 subparagraph, then beginning January 1, 2006 and
26 notwithstanding s. 206.41(1)(e), a municipality within the
27 county may levy a 1-cent or 2-cent local option fuel tax upon
28 every gallon of motor fuel sold within the municipality. In no
29 event, may the total local option fuel tax levied under this
30 subparagraph exceed 5 cents per gallon. Any local option fuel
31 tax levied by a municipal government shall be levied by an

Bill No. SB 1940

Barcode 594834

1 ordinance adopted by a referendum of the voters of the
2 municipality.

3 1. All impositions and rate changes of the tax shall
4 be levied before July 1, to be effective January 1 of the
5 following year. However, levies of the tax which were in
6 effect on July 1, 2002, and which expire on August 31 of any
7 year may be reimposed at the current authorized rate effective
8 September 1 of the year of expiration.

9 2. The county may, prior to levy of the tax, establish
10 by interlocal agreement with one or more municipalities
11 located therein, representing a majority of the population of
12 the incorporated area within the county, a distribution
13 formula for dividing the entire proceeds of the tax among
14 county government and all eligible municipalities within the
15 county. ~~If no interlocal agreement is adopted before the~~
16 ~~effective date of the tax, tax revenues shall be distributed~~
17 ~~pursuant to the provisions of subsection (4).~~ If no interlocal
18 agreement exists, a new interlocal agreement may be
19 established prior to June 1 of any year pursuant to this
20 subparagraph. However, any interlocal agreement agreed to
21 under this subparagraph after the initial levy of the tax or
22 change in the tax rate authorized in this section shall under
23 no circumstances materially or adversely affect the rights of
24 holders of outstanding bonds which are backed by taxes
25 authorized by this paragraph, and the amounts distributed to
26 the county government and each municipality shall not be
27 reduced below the amount necessary for the payment of
28 principal and interest and reserves for principal and interest
29 as required under the covenants of any bond resolution
30 outstanding on the date of establishment of the new interlocal
31 agreement.

Bill No. SB 1940

Barcode 594834

1 3. County and municipal governments shall use moneys
2 received pursuant to this paragraph for transportation
3 expenditures needed to meet the requirements of the capital
4 improvements element of an adopted comprehensive plan or for
5 expenditures needed to meet immediate local transportation
6 problems and for other transportation-related expenditures
7 that are critical for building comprehensive roadway networks
8 by local governments. For purposes of this paragraph,
9 expenditures for the construction of new roads, the
10 reconstruction or resurfacing of existing paved roads, or the
11 paving of existing graded roads shall be deemed to increase
12 capacity and such projects shall be included in the capital
13 improvements element of an adopted comprehensive plan.
14 Expenditures for purposes of this paragraph shall not include
15 routine maintenance of roads.

16 (c) Local governments may use the services of the
17 Division of Bond Finance of the State Board of Administration
18 pursuant to the State Bond Act to issue any bonds through the
19 provisions of this section and may pledge the revenues from
20 local option fuel taxes to secure the payment of the bonds. In
21 no case may a jurisdiction issue bonds pursuant to this
22 section more frequently than once per year. Counties and
23 municipalities may join together for the issuance of bonds
24 issued pursuant to this section.

25 (d) If an interlocal agreement entered into under this
26 section does not provide for automatic adjustments or periodic
27 review by the local governmental entities of the method of
28 distribution of local option fuel tax revenues, the parties to
29 the agreement shall review and hold public hearings on the
30 terms of the agreement at least every 2 years.

31 (2)(a) The tax levied pursuant to paragraph (1)(a)

Bill No. SB 1940

Barcode 594834

1 shall be collected and remitted in the same manner provided by
2 ss. 206.41(1)(e) and 206.87(1)(c). The tax levied pursuant to
3 paragraph (1)(b) shall be collected and remitted in the same
4 manner provided by s. 206.41(1)(e). The taxes remitted
5 pursuant to this section shall be transferred to the Local
6 Option Fuel Tax Trust Fund, which fund is created for
7 distribution to the county and eligible municipal governments
8 within the county in which the tax was collected and which
9 fund is subject to the service charge imposed in chapter 215.
10 The tax shall be distributed monthly by the department in the
11 same manner provided by s. 336.021(1)(c) and (d). The
12 department shall deduct the administrative costs incurred by
13 it in collecting, administering, enforcing, and distributing
14 back to the counties the tax, which administrative costs may
15 not exceed 2 percent of collections authorized by this
16 section. The total administrative costs shall be prorated
17 among those counties levying the tax according to the
18 following formula, which shall be revised on July 1 of each
19 year: Two-thirds of the amount deducted shall be based on the
20 county's proportional share of the number of dealers who are
21 registered for purposes of chapter 212 on June 30 of the
22 preceding state fiscal year, and one-third of the amount
23 deducted shall be based on the county's share of the total
24 amount of the tax collected during the preceding state fiscal
25 year. The department has the authority to prescribe and
26 publish all forms upon which reports shall be made to it and
27 other forms and records deemed to be necessary for proper
28 administration and collection of the taxes levied by any
29 county and shall promulgate such rules as may be necessary for
30 the enforcement of this section, which rules shall have the
31 full force and effect of law. The provisions of ss. 206.026,

Bill No. SB 1940

Barcode 594834

1 206.027, 206.028, 206.051, 206.052, 206.054, 206.055, 206.06,
 2 206.07, 206.075, 206.08, 206.09, 206.095, 206.10, 206.11,
 3 206.12, 206.13, 206.14, 206.15, 206.16, 206.17, 206.175,
 4 206.18, 206.199, 206.20, 206.204, 206.205, 206.21, 206.215,
 5 206.22, 206.24, 206.27, 206.28, 206.41, 206.416, 206.44,
 6 206.45, 206.48, 206.49, 206.56, 206.59, 206.626, 206.87,
 7 206.872, 206.873, 206.8735, 206.874, 206.8741, 206.94, and
 8 206.945 shall, as far as practicable, be applicable to the
 9 levy and collection of taxes imposed pursuant to this section
 10 as if fully set out in this section.

11 (b) The provisions of s. 206.43(7) shall apply to the
 12 incorrect reporting of the tax levied under this section.

13 (c) The provisions for refund provided in s. 206.625
 14 are not applicable to the tax levied pursuant to paragraph
 15 (1)(a) or paragraph (1)(b) by any county.

16 (3) The tax authorized pursuant to paragraph (1)(a)
 17 shall be levied using either of the following procedures:

18 (a) The tax may be levied by an ordinance adopted by a
 19 majority vote of the governing body or upon approval by
 20 referendum. Such ordinance shall be adopted in accordance with
 21 the requirements imposed under one of the following
 22 circumstances, whichever is applicable:

23 1. The county may, prior to June 1, establish by
 24 interlocal agreement with one or more of the municipalities
 25 located therein, representing a majority of the population of
 26 the incorporated area within the county, a distribution
 27 formula for dividing the entire proceeds of the local option
 28 fuel tax among the county government and all eligible
 29 municipalities within the county. If no interlocal agreement
 30 exists, a new interlocal agreement may be established prior to
 31 August 1, 1986, or June 1 of any year thereafter pursuant to

Bill No. SB 1940

Barcode 594834

1 this subparagraph. However, any interlocal agreement agreed
 2 to under this subparagraph after the initial imposition of the
 3 tax, extension of the tax, or change in the tax rate
 4 authorized in this section shall under no circumstances
 5 materially or adversely affect the rights of holders of
 6 outstanding bonds which are backed by taxes authorized by this
 7 section, and the amounts distributed to the county government
 8 and each municipality shall not be reduced below the amount
 9 necessary for the payment of principal and interest and
 10 reserves for principal and interest as required under the
 11 covenants of any bond resolution outstanding on the date of
 12 establishment of the new interlocal agreement.

13 2. If an interlocal agreement has not been executed
 14 pursuant to subparagraph 1., the county may, prior to June 10,
 15 adopt a resolution of intent to levy the tax allowed in
 16 paragraph (1)(a).

17 3. Notwithstanding subparagraphs 1. and 2., any inland
 18 county with a population greater than 500,000 as of July 1,
 19 1996, with an interlocal agreement with one or more of the
 20 incorporated areas within the county established pursuant to
 21 subparagraph 1. must utilize the population estimates of local
 22 governmental units as of April 1 of each year pursuant to s.
 23 186.901, for dividing the proceeds of the local option fuel
 24 tax contained in such interlocal agreement. However, any
 25 interlocal agreement agreed to under this subparagraph after
 26 the initial imposition of the tax, extension of the tax, or
 27 change in the tax rate authorized in this section shall under
 28 no circumstances materially or adversely affect the rights of
 29 holders of outstanding bonds which are backed by taxes
 30 authorized by this section, and the amounts distributed to the
 31 county government and each municipality shall not be reduced

Bill No. SB 1940

Barcode 594834

1 below the amount necessary for the payment of principal and
 2 interest and reserves for principal and interest as required
 3 under the covenants of any bond resolution outstanding on the
 4 date of establishment of the new interlocal agreement.

5 (b) If no interlocal agreement or resolution is
 6 adopted pursuant to subparagraph (a)1. or subparagraph (a)2.,
 7 municipalities representing more than 50 percent of the county
 8 population may, prior to June 20, adopt uniform resolutions
 9 approving the local option tax, establishing the duration of
 10 the levy and the rate authorized in paragraph (1)(a), and
 11 setting the date for a countywide referendum on whether to
 12 levy the tax. A referendum shall be held in accordance with
 13 the provisions of such resolution and applicable state law,
 14 provided that the county shall bear the costs thereof. The tax
 15 shall be levied and collected countywide on January 1
 16 following 30 days after voter approval.

17 (4)(a) If the tax authorized pursuant to paragraph
 18 (1)(a) is levied under the circumstances of subparagraph
 19 (3)(a)2. or paragraph (3)(b), the proceeds of the tax shall be
 20 distributed among the county government and eligible
 21 municipalities based on the transportation expenditures of
 22 each for the immediately preceding 5 fiscal years, as a
 23 proportion of the total of such expenditures for the county
 24 and all municipalities within the county. After the initial
 25 levy of a tax being distributed pursuant to the provisions of
 26 this paragraph, the proportions shall be recalculated every 10
 27 years based on the transportation expenditures of the
 28 immediately preceding 5 years. However, such recalculation
 29 shall under no circumstances materially or adversely affect
 30 the rights of holders of bonds outstanding on July 1, 1986,
 31 which are backed by taxes authorized in paragraph (1)(a), and

Bill No. SB 1940

Barcode 594834

1 the amounts distributed to the county government and each
 2 municipality shall not be reduced below the amount necessary
 3 for the payment of principal and interest and reserves for
 4 principal and interest as required under the covenants of any
 5 bond resolution outstanding on the date of the recalculation.

6 (b) Any newly incorporated municipality which is
 7 eligible for participation in the distribution of moneys under
 8 parts II and VI of chapter 218 and which is located in a
 9 county levying the tax pursuant to paragraph (1)(a) or
 10 paragraph (1)(b) is entitled to receive a share of the tax
 11 revenues. Distribution of such revenues to a newly
 12 incorporated municipality shall begin in the first full fiscal
 13 year following incorporation. The distribution to a newly
 14 incorporated municipality shall be:

15 1. Equal to the county's per lane mile expenditure in
 16 the previous year times the lane miles within the jurisdiction
 17 or responsibility of the municipality, in which case the
 18 county's share shall be reduced proportionately; or

19 2. Determined by the local act incorporating the
 20 municipality.

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 22 Such distribution shall under no circumstances materially or
 23 adversely affect the rights of holders of outstanding bonds
 24 which are backed by taxes authorized in this section, and the
 25 amounts distributed to the county government and each
 26 municipality shall not be reduced below the amount necessary
 27 for the payment of principal and interest and reserves for
 28 principal and interest as required under the covenants of any
 29 bond resolution outstanding on the date of the redistribution.

30 (5)(a) By July 1 of each year, the county shall notify
 31 the Department of Revenue of the rate of the taxes levied

Bill No. SB 1940

Barcode 594834

1 pursuant to paragraphs (1)(a) and (b), and of its decision to
 2 rescind or change the rate of a tax, if applicable, and shall
 3 provide the department with a certified copy of the interlocal
 4 agreement established under subparagraph (1)(b)2. or
 5 subparagraph (3)(a)1. with distribution proportions
 6 established by such agreement or pursuant to subsection (4),
 7 if applicable. A decision to rescind a tax shall not take
 8 effect on any date other than December 31 and shall require a
 9 minimum of 60 days' notice to the Department of Revenue of
 10 such decision.

11 (b) Any dispute as to the determination by the county
 12 of distribution proportions shall be resolved through an
 13 appeal to the Administration Commission in accordance with
 14 procedures developed by the commission. Pending final
 15 disposition of such proceeding, the tax shall be collected
 16 pursuant to this section, and such funds shall be held in
 17 escrow by the clerk of the circuit court of the county until
 18 final disposition.

19 (6) Only those municipalities and counties eligible
 20 for participation in the distribution of moneys under parts II
 21 and VI of chapter 218 are eligible to receive moneys under
 22 this section. Any funds otherwise undistributed because of
 23 ineligibility shall be distributed to eligible governments
 24 within the county in proportion to other moneys distributed
 25 pursuant to this section.

26 (7) For the purposes of this section, "transportation
 27 expenditures" means expenditures by the local government from
 28 local or state shared revenue sources, excluding expenditures
 29 of bond proceeds, for the following programs:

30 (a) Public transportation operations and maintenance.

31 (b) Roadway and right-of-way maintenance and equipment

Bill No. SB 1940

Barcode 594834

1 and structures used primarily for the storage and maintenance
2 of such equipment.

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

4 (d) Street lighting.

5 (e) Traffic signs, traffic engineering, signalization,
6 and pavement markings.

7 (f) Bridge maintenance and operation.

8 (g) Debt service and current expenditures for
9 transportation capital projects in the foregoing program
10 areas, including construction or reconstruction of roads and
11 sidewalks.

12 (8) In addition to the uses specified in subsection
13 (7), the governing body of a county with a population of
14 50,000 or less on April 1, 1992, or the governing body of a
15 municipality within such a county may use the proceeds of the
16 tax levied pursuant to paragraph (1)(a) in any fiscal year to
17 fund infrastructure projects, if such projects are consistent
18 with the local government's approved comprehensive plan or, if
19 the approval or denial of the plan has not become final,
20 consistent with the plan last submitted to the state land
21 planning agency. In addition, no more than an amount equal to
22 the proceeds from 4 cents per gallon of the tax imposed
23 pursuant to paragraph (1)(a) may be used by such county for
24 the express and limited purpose of paying for a court-ordered
25 refund of special assessments. Except as provided in
26 subsection (7), such funds shall not be used for the
27 operational expenses of any infrastructure. Such funds may be
28 used for infrastructure projects under this subsection only
29 after the local government, prior to the fiscal year in which
30 the funds are proposed to be used, or if pledged for bonded
31 indebtedness, prior to the fiscal year in which the bonds will

Bill No. SB 1940

Barcode 594834

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

15 (9) Notwithstanding any other provision of this
16 section, the tax on diesel fuel authorized in this section
17 shall be levied in every county at the rate of 6 cents per net
18 gallon.

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21 ===== T I T L E A M E N D M E N T =====

22 And the title is amended as follows:

23 Delete everything before the enacting clause

24

25 and insert:

26 An act relating to the county road system;
27 amending s. 336.025, F.S., revising the vote
28 requirements for the imposition of a local
29 option motor fuel tax, providing for the
30 imposition of a local option motor fuel tax by
31 municipalities by referendum, removing a

Bill No. SB 1940

Barcode 594834

1 requirement on the distribution of tax revenues
2 raised, providing an effective date
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