

By Senator Bennett

21-443-07

1 A bill to be entitled
2 An act relating to taxes on motor fuel;
3 amending s. 206.41, F.S.; authorizing counties
4 to adopt an ordinance adjusting the rate of the
5 ninth-cent fuel tax or the local option fuel
6 tax based on the percentage change in the
7 Consumer Price Index; providing requirements
8 for imposing the rate change; requiring that
9 the county furnish a copy of the ordinance to
10 the Department of Revenue; requiring the
11 department to notify specified entities that
12 engage in the transfer of motor fuel of the
13 change in the tax rate; reenacting ss. 206.414,
14 206.43(1)(b) and (6)(a) and (c), 206.47(5)(b),
15 206.8745(4), 206.9825(1)(a), 336.021(1)(a), and
16 336.025(1)(a) and (b) and (2)(a), F.S.,
17 relating to the collection of taxes, the
18 distribution of the fuel tax, credit against
19 taxes due, aviation fuel taxes, the use of tax
20 revenues, and the levy of local option fuel
21 taxes, to incorporate the amendment to s.
22 206.41, F.S., in references thereto; providing
23 an effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:

26
27 Section 1. Paragraphs (d) and (e) of subsection (1) of
28 section 206.41, Florida Statutes, are amended, and paragraph
29 (f) of subsection (1) and paragraphs (b) and (c) of subsection
30 (4) of that section are reenacted, to read:
31 206.41 State taxes imposed on motor fuel.--

1 (1) The following taxes are imposed on motor fuel
2 under the circumstances described in subsection (6):

3 (d)1. An additional tax of 1 cent per net gallon may
4 be imposed by each county on motor fuel, which shall be
5 designated as the "ninth-cent fuel tax." This tax shall be
6 levied and used as provided in s. 336.021.

7 2. Beginning January 1, 2008, and on January 1 of each
8 year thereafter, a county may, by ordinance, provide that the
9 tax rate set forth in subparagraph 1. be adjusted by the
10 percentage change in the average of the Consumer Price Index
11 issued by the United States Department of Labor for the most
12 recent 12-month period ending September 30, compared to the
13 average for the base year, which is the 12-month period ending
14 September 30, 2006, and rounded to the nearest tenth of a
15 cent.

16 3. Each imposition or rate change of the tax must be
17 levied before July 1 in order to be effective January 1 of the
18 following year.

19 4. Within 10 days after adopting an ordinance
20 authorizing the indexing of the tax, the county shall furnish
21 a certified copy of the ordinance to the Department of
22 Revenue.

23 5. The department shall notify each terminal supplier,
24 position holder, wholesaler, and importer of the tax rate that
25 is applicable under this paragraph for the 12-month period
26 beginning January 1.

27 (e)1. An additional tax of between 1 cent and 11 cents
28 per net gallon may be imposed on motor fuel by each county,
29 which shall be designated as the "local option fuel tax."
30 This tax shall be levied and used as provided in s. 336.025.
31

1 2. Beginning January 1, 2008, and on January 1 of each
2 year thereafter, a county may, by ordinance, provide that the
3 tax rate set forth in subparagraph 1. be adjusted by the
4 percentage change in the average of the Consumer Price Index
5 issued by the United States Department of Labor for the most
6 recent 12-month period ending September 30, compared to the
7 average for the base year, which is the 12-month period ending
8 September 30, 2006, and rounded to the nearest tenth of a
9 cent.

10 3. Each imposition or rate change of the tax must be
11 levied before July 1 in order to be effective January 1 of the
12 following year.

13 4. Within 10 days after adopting an ordinance
14 authorizing the indexing of the tax, the county shall furnish
15 a certified copy of the ordinance to the Department of
16 Revenue.

17 5. The department shall notify each terminal supplier,
18 position holder, wholesaler, and importer of the tax rate that
19 is applicable under this paragraph for the 12-month period
20 beginning January 1.

21 (f)1. An additional tax designated as the State
22 Comprehensive Enhanced Transportation System Tax is imposed on
23 each net gallon of motor fuel in each county. This tax shall
24 be levied and used as provided in s. 206.608.

25 2. The rate of the tax in each county shall be equal
26 to two-thirds of the lesser of the sum of the taxes imposed on
27 motor fuel pursuant to paragraphs (d) and (e) in such county
28 or 6 cents, rounded to the nearest tenth of a cent.

29 3. Beginning January 1, 1992, and on January 1 of each
30 year thereafter, the tax rate provided in subparagraph 2.
31 shall be adjusted by the percentage change in the average of

1 | the Consumer Price Index issued by the United States
2 | Department of Labor for the most recent 12-month period ending
3 | September 30, compared to the base year average, which is the
4 | average for the 12-month period ending September 30, 1990, and
5 | rounded to the nearest tenth of a cent.

6 | 4. The department shall notify each terminal supplier,
7 | position holder, wholesaler, and importer of the tax rate
8 | applicable under this paragraph for the 12-month period
9 | beginning January 1.

10 | (4)

11 | (b) Any person who uses motor fuel on which the taxes
12 | imposed by paragraph (1)(e), paragraph (1)(f), or paragraph
13 | (1)(g) have been paid for any system of mass public
14 | transportation authorized to operate within any city, town,
15 | municipality, county, or transit authority region in this
16 | state, as distinguished from any over-the-road or charter
17 | system of public transportation, is entitled to a refund of
18 | such taxes. However, such transit system shall be entitled to
19 | take a credit on the monthly diesel fuel tax return not to
20 | exceed the tax imposed under said paragraphs on those gallons
21 | which would otherwise be eligible for refund, when such
22 | transit system is licensed as a mass transit system. A public
23 | transportation system or transit system as defined in this
24 | paragraph may operate outside its limits when such operation
25 | is found necessary to adequately and efficiently provide mass
26 | public transportation services for the city, town, or
27 | municipality involved. A transit system as defined in this
28 | paragraph includes demand service that is an integral part of
29 | a city, town, municipality, county, or transit or
30 | transportation authority system but does not include
31 | independent taxicab or limousine operations. The terms "city,"

1 "county," and "authority" as used in this paragraph include
2 any city, town, municipality, county, or transit or
3 transportation authority organized in this state by virtue of
4 any general or special law enacted by the Legislature.

5 (c)1. Any person who uses any motor fuel for
6 agricultural, aquacultural, or commercial fishing purposes on
7 which fuel the tax imposed by paragraph (1)(e), paragraph
8 (1)(f), or paragraph (1)(g) has been paid is entitled to a
9 refund of such tax.

10 2. For the purposes of this paragraph, "agricultural
11 and aquacultural purposes" means motor fuel used in any
12 tractor, vehicle, or other farm equipment which is used
13 exclusively on a farm or for processing farm products on the
14 farm, and no part of which fuel is used in any vehicle or
15 equipment driven or operated upon the public highways of this
16 state. This restriction does not apply to the movement of a
17 farm vehicle or farm equipment between farms. The transporting
18 of bees by water and the operating of equipment used in the
19 apiary of a beekeeper shall be also deemed an agricultural
20 purpose.

21 3. For the purposes of this paragraph, "commercial
22 fishing and aquacultural purposes" means motor fuel used in
23 the operation of boats, vessels, or equipment used exclusively
24 for the taking of fish, crayfish, oysters, shrimp, or sponges
25 from salt or fresh waters under the jurisdiction of the state
26 for resale to the public, and no part of which fuel is used in
27 any vehicle or equipment driven or operated upon the highways
28 of this state; however, the term may in no way be construed to
29 include fuel used for sport or pleasure fishing.

30 Section 2. For the purpose of incorporating the
31 amendments made by this act to section 206.41, Florida

1 Statutes, in references thereto, section 206.414, Florida
2 Statutes, is reenacted to read:

3 206.414 Collection of certain taxes; prohibited
4 credits and refunds.--

5 (1) Notwithstanding s. 206.41, which requires the
6 collection of taxes due when motor fuel is removed through the
7 terminal loading rack, the taxes imposed by s. 206.41(1)(d),
8 (e), and (f) shall be collected in the following manner:

9 (a) Prior to January 1 each year the department shall
10 determine the minimum amount of taxes to be imposed by s.
11 206.41(1)(d), (e), and (f) in any county.

12 (b) The minimum tax imposed by s. 206.41(1)(d), (e),
13 and (f) shall be collected in the same manner as the taxes
14 imposed under s. 206.41(a), (b), and (c); at the point of
15 removal through the terminal loading rack; or as provided in
16 paragraph (c). All taxes collected, refunded, or credited
17 shall be distributed based on the current applied period.

18 (c) The taxes imposed by s. 206.41(1)(d), (e), and (f)
19 above the annual minimum shall be collected and remitted by
20 licensed wholesalers and terminal suppliers upon each sale,
21 delivery, or consignment to retail dealers, resellers, and end
22 users.

23 (2) Terminal suppliers and wholesalers shall not
24 collect the taxes imposed by s. 206.41(1)(d), (e), and (f)
25 above the annual minimum established in this section on
26 authorized exchanges and sales to terminal suppliers,
27 wholesalers, and importers.

28 (3) Terminal suppliers, wholesalers, and importers
29 shall not pay the taxes imposed by s. 206.41(1)(d), (e), and
30 (f) above the annual minimum established in this section to
31 their suppliers. There shall be no credit or refund for any

1 of the taxes imposed by s. 206.41(1)(d), (e), and (f) above
2 the annual minimum established in this section paid by a
3 terminal supplier, wholesaler, or importer to any supplier.

4 Section 3. For the purpose of incorporating the
5 amendments made by this act to section 206.41, Florida
6 Statutes, in references thereto, paragraph (b) of subsection
7 (1) and paragraphs (a) and (c) of subsection (6) of section
8 206.43, Florida Statutes, are reenacted to read:

9 206.43 Terminal supplier, importer, exporter, blender,
10 and wholesaler to report to department monthly;
11 deduction.--The taxes levied and assessed as provided in this
12 part shall be paid to the department monthly in the following
13 manner:

14 (1)

15 (b) In addition to the allowance authorized by
16 paragraph (a), every terminal supplier and wholesaler shall be
17 entitled to a deduction of 1.1 percent of the tax imposed
18 under s. 206.41(1)(d) and the first 6 cents of tax imposed
19 under s. 206.41(1)(e), which deduction is hereby allowed on
20 account of services and expenses in complying with the
21 provisions of this part. This allowance shall not be
22 deductible unless payment of the tax is made on or before the
23 20th day of the month as herein required.

24 (6)(a) A licensed wholesaler shall self-accrue and
25 remit to the department the tax on motor fuel imposed by s.
26 206.41(1)(d), (e), and (f) in accordance with subsections
27 (1)-(3).

28 (c) A terminal supplier or wholesaler that has paid
29 the tax required under s. 206.41(1)(d), (e), and (f) upon
30 sales to a retail dealer or reseller may take credit for any
31 unpaid tax due on worthless accounts within 12 months after

1 | the month the bad debt was written off for federal income tax
2 | purposes, if the debt for the fuel upon which the tax was paid
3 | was also written off and if the credit for taxes paid is
4 | limited to the sales of fuel and taxes remitted within the
5 | first 60 days of nonpayment, not to exceed 120 percent of the
6 | 60-day average based on the prior 12 months of business. Any
7 | taxes due on sales to retailers and resellers resulting in
8 | worthless accounts receivable following the first 60 days of
9 | nonpayment shall not be credited or refunded. If any accounts
10 | so charged off for which a credit or refund has been obtained
11 | are thereafter in whole or in part paid to the licensee, the
12 | amount so paid shall be included in the first return filed
13 | after such collection and the tax paid accordingly.

14 | Section 4. For the purpose of incorporating the
15 | amendments made by this act to section 206.41, Florida
16 | Statutes, in references thereto, paragraph (b) of subsection
17 | (5) of section 206.47, Florida Statutes, is reenacted to read:

18 | 206.47 Distribution of constitutional fuel tax
19 | pursuant to State Constitution.--

20 | (5)

21 | (b) For the purpose of this section, "taxable gallons
22 | attributable to each county" shall be calculated as a
23 | consumption factor for each county divided by the sum of such
24 | consumption factors for all counties, and multiplied by the
25 | total gallons statewide upon which a tax was paid pursuant to
26 | s. 206.41(1)(a). For each county imposing a tax pursuant to s.
27 | 206.41(1)(d) or (e), the consumption factor shall be the
28 | gallons upon which the county's tax was paid under either or
29 | both of said sections. For each other county, the consumption
30 | factor shall be calculated as the taxable gallons yielding the
31 | tax amount certified pursuant to this section for fiscal year

1 | 1984-1985 for the county, multiplied by the quotient of the
2 | statewide total taxes collected pursuant to s. 206.41(1)(a)
3 | for the current year divided by the statewide total taxes
4 | certified pursuant to this section for fiscal year 1984-1985.

5 | Section 5. For the purpose of incorporating the
6 | amendments made by this act to section 206.41, Florida
7 | Statutes, in references thereto, subsection (4) of section
8 | 206.8745, Florida Statutes, is reenacted to read:

9 | 206.8745 Credits and refund claims.--

10 | (4) A licensed wholesaler which has paid the tax
11 | imposed by this part and any applicable local option tax on
12 | undyed diesel fuel subsequently sold tax-free for use on a
13 | farm for farming purposes, or to the United States or its
14 | departments or agencies in bulk lots of not less than 500
15 | gallons in each delivery may, in lieu of applying for a
16 | refund, take a credit on its monthly consolidated fuel tax
17 | return against any motor or diesel fuel local option taxes due
18 | to the department pursuant to s. 206.41(1)(d), (e), and (f).

19 | Section 6. For the purpose of incorporating the
20 | amendments made by this act to section 206.41, Florida
21 | Statutes, in references thereto, paragraph (a) of subsection
22 | (1) of section 206.9825, Florida Statutes, is reenacted to
23 | read:

24 | 206.9825 Aviation fuel tax.--

25 | (1)(a) Except as otherwise provided in this part, an
26 | excise tax of 6.9 cents per gallon of aviation fuel is imposed
27 | upon every gallon of aviation fuel sold in this state, or
28 | brought into this state for use, upon which such tax has not
29 | been paid or the payment thereof has not been lawfully assumed
30 | by some person handling the same in this state. Fuel taxed
31 | pursuant to this part shall not be subject to the taxes

1 imposed by ss. 206.41(1)(d), (e), and (f) and 206.87(1)(b),
2 (c), and (d).

3 Section 7. For the purpose of incorporating the
4 amendments made by this act to section 206.41, Florida
5 Statutes, in a reference thereto, paragraph (a) of subsection
6 (1) of section 336.021, Florida Statutes, is reenacted to
7 read:

8 336.021 County transportation system; levy of
9 ninth-cent fuel tax on motor fuel and diesel fuel.--

10 (1)(a) Any county in the state, by extraordinary vote
11 of the membership of its governing body or subject to a
12 referendum, may levy the tax imposed by ss. 206.41(1)(d) and
13 206.87(1)(b). County and municipal governments may use the
14 moneys received under this paragraph only for transportation
15 expenditures as defined in s. 336.025(7).

16 Section 8. For the purpose of incorporating the
17 amendments made by this act to section 206.41, Florida
18 Statutes, in references thereto, paragraphs (a) and (b) of
19 subsection (1) and paragraph (a) of subsection (2) of section
20 336.025, Florida Statutes, are reenacted to read:

21 336.025 County transportation system; levy of local
22 option fuel tax on motor fuel and diesel fuel.--

23 (1)(a) In addition to other taxes allowed by law,
24 there may be levied as provided in ss. 206.41(1)(e) and
25 206.87(1)(c) a 1-cent, 2-cent, 3-cent, 4-cent, 5-cent, or
26 6-cent local option fuel tax upon every gallon of motor fuel
27 and diesel fuel sold in a county and taxed under the
28 provisions of part I or part II of chapter 206.

29 1. All impositions and rate changes of the tax shall
30 be levied before July 1 to be effective January 1 of the
31 following year for a period not to exceed 30 years, and the

1 applicable method of distribution shall be established
2 pursuant to subsection (3) or subsection (4). However, levies
3 of the tax which were in effect on July 1, 2002, and which
4 expire on August 31 of any year may be reimposed at the
5 current authorized rate effective September 1 of the year of
6 expiration. Upon expiration, the tax may be relieved provided
7 that a redetermination of the method of distribution is made
8 as provided in this section.

9 2. County and municipal governments shall utilize
10 moneys received pursuant to this paragraph only for
11 transportation expenditures.

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

19 (b) In addition to other taxes allowed by law, there
20 may be levied as provided in s. 206.41(1)(e) a 1-cent, 2-cent,
21 3-cent, 4-cent, or 5-cent local option fuel tax upon every
22 gallon of motor fuel sold in a county and taxed under the
23 provisions of part I of chapter 206. The tax shall be levied
24 by an ordinance adopted by a majority plus one vote of the
25 membership of the governing body of the county or by
26 referendum.

27 1. All impositions and rate changes of the tax shall
28 be levied before July 1, to be effective January 1 of the
29 following year. However, levies of the tax which were in
30 effect on July 1, 2002, and which expire on August 31 of any
31

1 year may be reimposed at the current authorized rate effective
2 September 1 of the year of expiration.

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

26 3. County and municipal governments shall use moneys
27 received pursuant to this paragraph for transportation
28 expenditures needed to meet the requirements of the capital
29 improvements element of an adopted comprehensive plan or for
30 expenditures needed to meet immediate local transportation
31 problems and for other transportation-related expenditures

1 that are critical for building comprehensive roadway networks
2 by local governments. For purposes of this paragraph,
3 expenditures for the construction of new roads, the
4 reconstruction or resurfacing of existing paved roads, or the
5 paving of existing graded roads shall be deemed to increase
6 capacity and such projects shall be included in the capital
7 improvements element of an adopted comprehensive plan.
8 Expenditures for purposes of this paragraph shall not include
9 routine maintenance of roads.

10 (2)(a) The tax levied pursuant to paragraph (1)(a)
11 shall be collected and remitted in the same manner provided by
12 ss. 206.41(1)(e) and 206.87(1)(c). The tax levied pursuant to
13 paragraph (1)(b) shall be collected and remitted in the same
14 manner provided by s. 206.41(1)(e). The taxes remitted
15 pursuant to this section shall be transferred to the Local
16 Option Fuel Tax Trust Fund, which fund is created for
17 distribution to the county and eligible municipal governments
18 within the county in which the tax was collected and which
19 fund is subject to the service charge imposed in chapter 215.
20 The tax shall be distributed monthly by the department in the
21 same manner provided by s. 336.021(1)(c) and (d). The
22 department shall deduct the administrative costs incurred by
23 it in collecting, administering, enforcing, and distributing
24 back to the counties the tax, which administrative costs may
25 not exceed 2 percent of collections authorized by this
26 section. The total administrative costs shall be prorated
27 among those counties levying the tax according to the
28 following formula, which shall be revised on July 1 of each
29 year: Two-thirds of the amount deducted shall be based on the
30 county's proportional share of the number of dealers who are
31 registered for purposes of chapter 212 on June 30 of the

1 preceding state fiscal year, and one-third of the amount
2 deducted shall be based on the county's share of the total
3 amount of the tax collected during the preceding state fiscal
4 year. The department has the authority to prescribe and
5 publish all forms upon which reports shall be made to it and
6 other forms and records deemed to be necessary for proper
7 administration and collection of the taxes levied by any
8 county and shall promulgate such rules as may be necessary for
9 the enforcement of this section, which rules shall have the
10 full force and effect of law. The provisions of ss. 206.026,
11 206.027, 206.028, 206.051, 206.052, 206.054, 206.055, 206.06,
12 206.07, 206.075, 206.08, 206.09, 206.095, 206.10, 206.11,
13 206.12, 206.13, 206.14, 206.15, 206.16, 206.17, 206.175,
14 206.18, 206.199, 206.20, 206.204, 206.205, 206.21, 206.215,
15 206.22, 206.24, 206.27, 206.28, 206.41, 206.416, 206.44,
16 206.45, 206.48, 206.49, 206.56, 206.59, 206.626, 206.87,
17 206.872, 206.873, 206.8735, 206.874, 206.8741, 206.94, and
18 206.945 shall, as far as practicable, be applicable to the
19 levy and collection of taxes imposed pursuant to this section
20 as if fully set out in this section.

21 Section 9. This act shall take effect July 1, 2007.

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24 SENATE SUMMARY

25 Provides for counties to adopt an ordinance adjusting the
26 ninth-cent fuel tax or the local option fuel tax based on
27 the percentage change in the Consumer Price Index for the
28 most recent 12-month period. Requires that the county
29 furnish a certified copy of the ordinance to the
30 Department of Revenue. Requires the department to notify
31 specified entities that engage in the transfer of motor
fuel of the change in the tax rate.