

By Senator Bennett

21-02784-08

2008984__

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

19
20 Be It Enacted by the Legislature of the State of Florida:

21
22 Section 1. Paragraphs (d) and (e) of subsection (1) of
23 section 206.41, Florida Statutes, are amended, and paragraph (f)
24 of subsection (1) and paragraphs (b) and (c) of subsection (4) of
25 that section are reenacted, to read:

26 206.41 State taxes imposed on motor fuel.--

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

29 (d)1. An additional tax of 1 cent per net gallon may be

21-02784-08

2008984__

30 imposed by each county on motor fuel, which shall be designated
31 as the "ninth-cent fuel tax." This tax shall be levied and used
32 as provided in s. 336.021.

33 2. Beginning January 1, 2009, and on January 1 of each year
34 thereafter, a county may, by ordinance, provide that the tax rate
35 set forth in subparagraph 1. be adjusted by the percentage change
36 in the average of the Consumer Price Index issued by the United
37 States Department of Labor for the most recent 12-month period
38 ending September 30, compared to the average for the base year,
39 which is the 12-month period ending September 30, 2006, and
40 rounded to the nearest tenth of a cent.

41 3. Each imposition or rate change of the tax must be levied
42 before July 1 in order to be effective January 1 of the following
43 year.

44 4. Within 10 days after adopting an ordinance authorizing
45 the indexing of the tax, the county shall furnish a certified
46 copy of the ordinance to the Department of Revenue.

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

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

55 2. Beginning January 1, 2009, and on January 1 of each year
56 thereafter, a county may, by ordinance, provide that the tax rate
57 set forth in subparagraph 1. be adjusted by the percentage change
58 in the average of the Consumer Price Index issued by the United

21-02784-08

2008984__

59 States Department of Labor for the most recent 12-month period
60 ending September 30, compared to the average for the base year,
61 which is the 12-month period ending September 30, 2006, and
62 rounded to the nearest tenth of a cent.

63 3. Each imposition or rate change of the tax must be levied
64 before July 1 in order to be effective January 1 of the following
65 year.

66 4. Within 10 days after adopting an ordinance authorizing
67 the indexing of the tax, the county shall furnish a certified
68 copy of the ordinance to the Department of Revenue.

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

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

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

81 3. Beginning January 1, 1992, and on January 1 of each year
82 thereafter, the tax rate provided in subparagraph 2. shall be
83 adjusted by the percentage change in the average of the Consumer
84 Price Index issued by the United States Department of Labor for
85 the most recent 12-month period ending September 30, compared to
86 the base year average, which is the average for the 12-month
87 period ending September 30, 1990, and rounded to the nearest

21-02784-08

2008984__

88 | tenth of a cent.

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

93 | (4)

94 | (b) Any person who uses motor fuel on which the taxes
95 | imposed by paragraph (1)(e), paragraph (1)(f), or paragraph
96 | (1)(g) have been paid for any system of mass public
97 | transportation authorized to operate within any city, town,
98 | municipality, county, or transit authority region in this state,
99 | as distinguished from any over-the-road or charter system of
100 | public transportation, is entitled to a refund of such taxes.
101 | However, such transit system shall be entitled to take a credit
102 | on the monthly diesel fuel tax return not to exceed the tax
103 | imposed under said paragraphs on those gallons which would
104 | otherwise be eligible for refund, when such transit system is
105 | licensed as a mass transit system. A public transportation system
106 | or transit system as defined in this paragraph may operate
107 | outside its limits when such operation is found necessary to
108 | adequately and efficiently provide mass public transportation
109 | services for the city, town, or municipality involved. A transit
110 | system as defined in this paragraph includes demand service that
111 | is an integral part of a city, town, municipality, county, or
112 | transit or transportation authority system but does not include
113 | independent taxicab or limousine operations. The terms "city,"
114 | "county," and "authority" as used in this paragraph include any
115 | city, town, municipality, county, or transit or transportation

21-02784-08

2008984__

116 authority organized in this state by virtue of any general or
117 special law enacted by the Legislature.

118 (c)1. Any person who uses any motor fuel for agricultural,
119 aquacultural, commercial fishing, or commercial aviation purposes
120 on which fuel the tax imposed by paragraph (1)(e), paragraph
121 (1)(f), or paragraph (1)(g) has been paid is entitled to a refund
122 of such tax.

123 2. For the purposes of this paragraph, "agricultural and
124 aquacultural purposes" means motor fuel used in any tractor,
125 vehicle, or other farm equipment which is used exclusively on a
126 farm or for processing farm products on the farm, and no part of
127 which fuel is used in any vehicle or equipment driven or operated
128 upon the public highways of this state. This restriction does not
129 apply to the movement of a farm vehicle or farm equipment between
130 farms. The transporting of bees by water and the operating of
131 equipment used in the apiary of a beekeeper shall be also deemed
132 an agricultural purpose.

133 3. For the purposes of this paragraph, "commercial fishing
134 and aquacultural purposes" means motor fuel used in the operation
135 of boats, vessels, or equipment used exclusively for the taking
136 of fish, crayfish, oysters, shrimp, or sponges from salt or fresh
137 waters under the jurisdiction of the state for resale to the
138 public, and no part of which fuel is used in any vehicle or
139 equipment driven or operated upon the highways of this state;
140 however, the term may in no way be construed to include fuel used
141 for sport or pleasure fishing.

142 4. For the purposes of this paragraph, "commercial aviation
143 purposes" means motor fuel used in the operation of aviation
144 ground support vehicles or equipment, no part of which fuel is

21-02784-08

2008984__

145 used in any vehicle or equipment driven or operated upon the
146 public highways of this state.

147 Section 2. For the purpose of incorporating the amendments
148 made by this act to section 206.41, Florida Statutes, in
149 references thereto, section 206.414, Florida Statutes, is
150 reenacted to read:

151 206.414 Collection of certain taxes; prohibited credits and
152 refunds.--

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

157 (a) Prior to January 1 each year the department shall
158 determine the minimum amount of taxes to be imposed by s.
159 206.41(1)(d), (e), and (f) in any county.

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

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

171 (2) Terminal suppliers and wholesalers shall not collect
172 the taxes imposed by s. 206.41(1)(d), (e), and (f) above the
173 annual minimum established in this section on authorized

21-02784-08

2008984__

174 exchanges and sales to terminal suppliers, wholesalers, and
175 importers.

176 (3) Terminal suppliers, wholesalers, and importers shall
177 not pay the taxes imposed by s. 206.41(1)(d), (e), and (f) above
178 the annual minimum established in this section to their
179 suppliers. There shall be no credit or refund for any of the
180 taxes imposed by s. 206.41(1)(d), (e), and (f) above the annual
181 minimum established in this section paid by a terminal supplier,
182 wholesaler, or importer to any supplier.

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

188 206.43 Terminal supplier, importer, exporter, blender, and
189 wholesaler to report to department monthly; deduction.--The taxes
190 levied and assessed as provided in this part shall be paid to the
191 department monthly in the following manner:

192 (1)

193 (b) In addition to the allowance authorized by paragraph
194 (a), every terminal supplier and wholesaler shall be entitled to
195 a deduction of 1.1 percent of the tax imposed under s.
196 206.41(1)(d) and the first 6 cents of tax imposed under s.
197 206.41(1)(e), which deduction is hereby allowed on account of
198 services and expenses in complying with the provisions of this
199 part. This allowance shall not be deductible unless payment of
200 the tax is made on or before the 20th day of the month as herein
201 required.

202 (6) (a) A licensed wholesaler shall self-accrue and remit to

21-02784-08

2008984__

203 | the department the tax on motor fuel imposed by s. 206.41(1)(d),
204 | (e), and (f) in accordance with subsections (1)-(3).

205 | (c) A terminal supplier or wholesaler that has paid the tax
206 | required under s. 206.41(1)(d), (e), and (f) upon sales to a
207 | retail dealer or reseller may take credit for any unpaid tax due
208 | on worthless accounts within 12 months after the month the bad
209 | debt was written off for federal income tax purposes, if the debt
210 | for the fuel upon which the tax was paid was also written off and
211 | if the credit for taxes paid is limited to the sales of fuel and
212 | taxes remitted within the first 60 days of nonpayment, not to
213 | exceed 120 percent of the 60-day average based on the prior 12
214 | months of business. Any taxes due on sales to retailers and
215 | resellers resulting in worthless accounts receivable following
216 | the first 60 days of nonpayment shall not be credited or
217 | refunded. If any accounts so charged off for which a credit or
218 | refund has been obtained are thereafter in whole or in part paid
219 | to the licensee, the amount so paid shall be included in the
220 | first return filed after such collection and the tax paid
221 | accordingly.

222 | Section 4. For the purpose of incorporating the amendments
223 | made by this act to section 206.41, Florida Statutes, in
224 | references thereto, paragraph (b) of subsection (5) of section
225 | 206.47, Florida Statutes, is reenacted to read:

226 | 206.47 Distribution of constitutional fuel tax pursuant to
227 | State Constitution.--

228 | (5)

229 | (b) For the purpose of this section, "taxable gallons
230 | attributable to each county" shall be calculated as a consumption
231 | factor for each county divided by the sum of such consumption

21-02784-08

2008984__

232 factors for all counties, and multiplied by the total gallons
233 statewide upon which a tax was paid pursuant to s. 206.41(1)(a).
234 For each county imposing a tax pursuant to s. 206.41(1)(d) or
235 (e), the consumption factor shall be the gallons upon which the
236 county's tax was paid under either or both of said sections. For
237 each other county, the consumption factor shall be calculated as
238 the taxable gallons yielding the tax amount certified pursuant to
239 this section for fiscal year 1984-1985 for the county, multiplied
240 by the quotient of the statewide total taxes collected pursuant
241 to s. 206.41(1)(a) for the current year divided by the statewide
242 total taxes certified pursuant to this section for fiscal year
243 1984-1985.

244 Section 5. For the purpose of incorporating the amendments
245 made by this act to section 206.41, Florida Statutes, in
246 references thereto, subsection (4) of section 206.8745, Florida
247 Statutes, is reenacted to read:

248 206.8745 Credits and refund claims.--

249 (4) A licensed wholesaler which has paid the tax imposed by
250 this part and any applicable local option tax on undyed diesel
251 fuel subsequently sold tax-free for use on a farm for farming
252 purposes, or to the United States or its departments or agencies
253 in bulk lots of not less than 500 gallons in each delivery may,
254 in lieu of applying for a refund, take a credit on its monthly
255 consolidated fuel tax return against any motor or diesel fuel
256 local option taxes due to the department pursuant to s.
257 206.41(1)(d), (e), and (f).

258 Section 6. For the purpose of incorporating the amendments
259 made by this act to section 206.41, Florida Statutes, in
260 references thereto, paragraph (a) of subsection (1) of section

21-02784-08

2008984__

261 | 206.9825, Florida Statutes, is reenacted to read:

262 | 206.9825 Aviation fuel tax.--

263 | (1) (a) Except as otherwise provided in this part, an excise
264 | tax of 6.9 cents per gallon of aviation fuel is imposed upon
265 | every gallon of aviation fuel sold in this state, or brought into
266 | this state for use, upon which such tax has not been paid or the
267 | payment thereof has not been lawfully assumed by some person
268 | handling the same in this state. Fuel taxed pursuant to this part
269 | shall not be subject to the taxes imposed by ss. 206.41(1) (d),
270 | (e), and (f) and 206.87(1) (b), (c), and (d).

271 | Section 7. For the purpose of incorporating the amendments
272 | made by this act to section 206.41, Florida Statutes, in a
273 | reference thereto, paragraph (a) of subsection (1) of section
274 | 336.021, Florida Statutes, is reenacted to read:

275 | 336.021 County transportation system; levy of ninth-cent
276 | fuel tax on motor fuel and diesel fuel.--

277 | (1) (a) Any county in the state, by extraordinary vote of
278 | the membership of its governing body or subject to a referendum,
279 | may levy the tax imposed by ss. 206.41(1) (d) and 206.87(1) (b).
280 | County and municipal governments may use the moneys received
281 | under this paragraph only for transportation expenditures as
282 | defined in s. 336.025(7).

283 | Section 8. For the purpose of incorporating the amendments
284 | made by this act to section 206.41, Florida Statutes, in
285 | references thereto, paragraphs (a) and (b) of subsection (1) and
286 | paragraph (a) of subsection (2) of section 336.025, Florida
287 | Statutes, are reenacted to read:

288 | 336.025 County transportation system; levy of local option
289 | fuel tax on motor fuel and diesel fuel.--

21-02784-08

2008984__

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

296 1. All impositions and rate changes of the tax shall be
297 levied before July 1 to be effective January 1 of the following
298 year for a period not to exceed 30 years, and the applicable
299 method of distribution shall be established pursuant to
300 subsection (3) or subsection (4). However, levies of the tax
301 which were in effect on July 1, 2002, and which expire on August
302 31 of any year may be reimposed at the current authorized rate
303 effective September 1 of the year of expiration. Upon
304 expiration, the tax may be relieved provided that a
305 redetermination of the method of distribution is made as provided
306 in this section.

307 2. County and municipal governments shall utilize moneys
308 received pursuant to this paragraph only for transportation
309 expenditures.

310 3. Any tax levied pursuant to this paragraph may be
311 extended on a majority vote of the governing body of the county.
312 A redetermination of the method of distribution shall be
313 established pursuant to subsection (3) or subsection (4), if,
314 after July 1, 1986, the tax is extended or the tax rate changed,
315 for the period of extension or for the additional tax.

316 (b) In addition to other taxes allowed by law, there may be
317 levied as provided in s. 206.41(1) (e) a 1-cent, 2-cent, 3-cent,
318 4-cent, or 5-cent local option fuel tax upon every gallon of

21-02784-08

2008984__

319 motor fuel sold in a county and taxed under the provisions of
320 part I of chapter 206. The tax shall be levied by an ordinance
321 adopted by a majority plus one vote of the membership of the
322 governing body of the county or by referendum.

323 1. All impositions and rate changes of the tax shall be
324 levied before July 1, to be effective January 1 of the following
325 year. However, levies of the tax which were in effect on July 1,
326 2002, and which expire on August 31 of any year may be reimposed
327 at the current authorized rate effective September 1 of the year
328 of expiration.

329 2. The county may, prior to levy of the tax, establish by
330 interlocal agreement with one or more municipalities located
331 therein, representing a majority of the population of the
332 incorporated area within the county, a distribution formula for
333 dividing the entire proceeds of the tax among county government
334 and all eligible municipalities within the county. If no
335 interlocal agreement is adopted before the effective date of the
336 tax, tax revenues shall be distributed pursuant to the provisions
337 of subsection (4). If no interlocal agreement exists, a new
338 interlocal agreement may be established prior to June 1 of any
339 year pursuant to this subparagraph. However, any interlocal
340 agreement agreed to under this subparagraph after the initial
341 levy of the tax or change in the tax rate authorized in this
342 section shall under no circumstances materially or adversely
343 affect the rights of holders of outstanding bonds which are
344 backed by taxes authorized by this paragraph, and the amounts
345 distributed to the county government and each municipality shall
346 not be reduced below the amount necessary for the payment of
347 principal and interest and reserves for principal and interest as

21-02784-08

2008984__

348 required under the covenants of any bond resolution outstanding
349 on the date of establishment of the new interlocal agreement.

350 3. County and municipal governments shall use moneys
351 received pursuant to this paragraph for transportation
352 expenditures needed to meet the requirements of the capital
353 improvements element of an adopted comprehensive plan or for
354 expenditures needed to meet immediate local transportation
355 problems and for other transportation-related expenditures that
356 are critical for building comprehensive roadway networks by local
357 governments. For purposes of this paragraph, expenditures for the
358 construction of new roads, the reconstruction or resurfacing of
359 existing paved roads, or the paving of existing graded roads
360 shall be deemed to increase capacity and such projects shall be
361 included in the capital improvements element of an adopted
362 comprehensive plan. Expenditures for purposes of this paragraph
363 shall not include routine maintenance of roads.

364 (2) (a) The tax levied pursuant to paragraph (1) (a) shall be
365 collected and remitted in the same manner provided by ss.
366 206.41(1) (e) and 206.87(1) (c). The tax levied pursuant to
367 paragraph (1) (b) shall be collected and remitted in the same
368 manner provided by s. 206.41(1) (e). The taxes remitted pursuant
369 to this section shall be transferred to the Local Option Fuel Tax
370 Trust Fund, which fund is created for distribution to the county
371 and eligible municipal governments within the county in which the
372 tax was collected and which fund is subject to the service charge
373 imposed in chapter 215. The tax shall be distributed monthly by
374 the department in the same manner provided by s. 336.021(1) (c)
375 and (d). The department shall deduct the administrative costs
376 incurred by it in collecting, administering, enforcing, and

21-02784-08

2008984__

377 distributing back to the counties the tax, which administrative
378 costs may not exceed 2 percent of collections authorized by this
379 section. The total administrative costs shall be prorated among
380 those counties levying the tax according to the following
381 formula, which shall be revised on July 1 of each year: Two-
382 thirds of the amount deducted shall be based on the county's
383 proportional share of the number of dealers who are registered
384 for purposes of chapter 212 on June 30 of the preceding state
385 fiscal year, and one-third of the amount deducted shall be based
386 on the county's share of the total amount of the tax collected
387 during the preceding state fiscal year. The department has the
388 authority to prescribe and publish all forms upon which reports
389 shall be made to it and other forms and records deemed to be
390 necessary for proper administration and collection of the taxes
391 levied by any county and shall promulgate such rules as may be
392 necessary for the enforcement of this section, which rules shall
393 have the full force and effect of law. The provisions of ss.
394 206.026, 206.027, 206.028, 206.051, 206.052, 206.054, 206.055,
395 206.06, 206.07, 206.075, 206.08, 206.09, 206.095, 206.10, 206.11,
396 206.12, 206.13, 206.14, 206.15, 206.16, 206.17, 206.175, 206.18,
397 206.199, 206.20, 206.204, 206.205, 206.21, 206.215, 206.22,
398 206.24, 206.27, 206.28, 206.41, 206.416, 206.44, 206.45, 206.48,
399 206.49, 206.56, 206.59, 206.626, 206.87, 206.872, 206.873,
400 206.8735, 206.874, 206.8741, 206.94, and 206.945 shall, as far as
401 practicable, be applicable to the levy and collection of taxes
402 imposed pursuant to this section as if fully set out in this
403 section.

404 Section 9. This act shall take effect July 1, 2008.