

House Bill No. 1813

An act relating to county and municipal taxes on motor 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 a certain gas tax; 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 other transportation purposes. In the event the powers and duties relating to transportation facilities, roads, ~~and bridges,~~ bicycle paths, and pedestrian pathways usually exercised and performed by boards of county commissioners are exercised and performed by some other or separate county board, such board shall receive the proceeds, exercise the powers, and perform the duties designated in this section to be done by the boards of county commissioners.

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

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

(4) It is hereby expressly recognized and declared by the Legislature that all public roads, ~~and bridges, bicycle paths, and pedestrian pathways~~ being constructed or built or which will be hereafter constructed or built, including the acquisition of rights-of-way as incident thereto, either by the Department of Transportation or the several counties of the state, were, are, and will be constructed and built as general public projects and undertakings and that the cost of the construction and building thereof, including the acquisition of rights-of-way as incident thereto, was, is, and will be legitimate, proper state expense incurred for a general public and state purpose. And it is expressly recognized and declared that the construction, reconstruction, maintenance, and acquisition of rights-of-way of all secondary roads are essential to the welfare of the state and that such roads when constructed, reconstructed, or maintained, or such rights-of-way when acquired, are and will be for a general public and state purpose. And the Legislature has found and hereby declares that for the proper and efficient construction and maintenance of public highways designated state roads, it is in the best interest of the state to further integrate the activities of the Department of Transportation and the several boards of county commissioners as provided in subsection (1) in order that both state and local highway needs may be adequately provided for.

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

206.605 Municipal tax on motor fuel.—

(2) Funds available under this section shall be used only for purchase of transportation facilities and road and street rights-of-way,³ construction, reconstruction, and maintenance of roads, and streets, bicycle paths, and pedestrian pathways; ~~for the adjustment of city-owned utilities as required by road and street construction;~~³ and the construction, reconstruction, transportation-related public safety activities, maintenance, and operation of transportation facilities. Municipalities are authorized to expend the funds received under this section in conjunction with other cities or counties or state or federal government in joint projects.

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

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

(1)

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

1. All impositions and rate changes of the tax shall be levied before July 1, to be effective January 1 of the following year. However, levies of the tax

which were in effect on July 1, 2002, and which expire on August 31 of any year may be reimposed at the current authorized rate effective September 1 of the year of expiration.

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

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

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

- (a) Public transportation operations and maintenance.
- (b) Roadway and right-of-way maintenance and equipment and structures used primarily for the storage and maintenance of such equipment.
- (c) Roadway and right-of-way drainage.
- (d) Street lighting.
- (e) Traffic signs, traffic engineering, signalization, and pavement markings.

(f) Bridge maintenance and operation.

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

(8) In addition to the uses specified in subsection (7), the governing body of a county with a population of 50,000 or less on April 1, 1992, or the governing body of a municipality within such a county may use the proceeds of the tax levied pursuant to paragraph (1)(a) in any fiscal year to fund infrastructure projects, if such projects are consistent with the local government's approved comprehensive plan or, if the approval or denial of the plan has not become final, consistent with the plan last submitted to the state land planning agency. In addition, no more than an amount equal to the proceeds from 4 cents per gallon of the tax imposed pursuant to paragraph (1)(a) may be used by such county for the express and limited purpose of paying for a court-ordered refund of special assessments. Except as provided in subsection (7), such funds shall not be used for the operational expenses of any infrastructure. Such funds may be used for infrastructure projects under this subsection only after the local government, prior to the fiscal year in which the funds are proposed to be used, or if pledged for bonded indebtedness, prior to the fiscal year in which the bonds will be issued, has held a duly noticed public hearing on the proposed use of the funds and has adopted a resolution certifying that the local government has met all of the transportation needs identified in its approved comprehensive plan or, if the approval or denial of the plan has not become final, consistent with the plan last submitted to the state land planning agency. The proceeds shall not be pledged for bonded indebtedness for a period exceeding 10 years, except that, for the express and limited purpose of using such proceeds in any fiscal year to pay a court-ordered refund of special assessments, the proceeds may be pledged for bonded indebtedness not exceeding 15 years. For the purposes of this subsection, "infrastructure" has the same meaning as provided in s. 212.055.

Section 4. This act shall take effect upon becoming a law.

Approved by the Governor June 3, 2003.

Filed in Office Secretary of State June 3, 2003.