

BILL ANALYSIS

Senate Research Center
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S.B. 1283
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Finance
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DIGEST

Currently, motor fuel taxes provide most of the revenue to construct and maintain the interstate, national, and state highway system; however, no such system exists for local, municipal, or county roads. S.B. 1283 would allow voters of a political subdivision to impose a local motor fuel tax of one cent on each gallon or portion of a gallon of gasoline to be used only for the maintenance of local roads.

PURPOSE

As proposed, S.B. 1283 allows voters to adopt a local motor fuel tax of one cent for the maintenance of local roads.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION1. Amends Title 3, Tax Code, by adding Subtitle E, as follows:

SUBTITLE E. LOCAL MOTOR FUEL TAXES
CHAPTER 371. LOCAL GASOLINE TAX
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 371.001. DEFINITIONS. Defines “aviation fuel dealer,” “dealer,” “distributor,” “gasoline,” “gasoline jobber,” “motor vehicle,” “public highway,” and “sale.”

SUBCHAPTER B. AUTHORITY OF CERTAIN POLITICAL SUBDIVISIONS TO
IMPOSE GASOLINE TAX

Sec. 371.021. GASOLINE TAX AUTHORIZED. Authorizes a political subdivision of this state by order to adopt or abolish a local one cent gasoline tax, if the adoption or abolition is authorized at an election in which a majority of the qualified voters of the political subdivision voting at an election held for that purpose approve the adoption or abolition. Provides that a tax authorized by this chapter is imposed at the rate of one cent on each gallon or fractional gallon of gasoline sold in the political subdivision to propel a motor vehicle on the public highways. Authorizes the tax collected under this chapter to be used only by the political subdivision to repair or maintain roads in the political subdivision that the political subdivision has the authority under other law to repair or maintain.

Sec. 371.022. ELECTION. Authorizes the governing body of a political subdivision to order an election on the question of imposing or abolishing the local gasoline tax under this chapter. Requires the governing body to order an election on the question of imposing or abolishing the tax, if the governing body receives a petition requesting the election signed by a number of registered voters of the political subdivision equal to at least five percent of the total vote received in the political subdivision by all candidates for governor in the most recent gubernatorial general election. Sets forth standard language on a ballot to impose a tax. Sets forth standard language on a ballot to abolish the tax. Provides that the Election Code governs an election held under this chapter.

Sec. 371.023. EFFECTIVE DATES. Provides that the imposition or abolition of a tax imposed

under this chapter takes effect on the date prescribed by the order imposing or abolishing the tax.

Sec. 371.024. FREQUENCY OF ELECTION. Prohibits an election under this chapter in a political subdivision from being held before the first anniversary of the date of a previous election under this chapter in the political subdivision.

SUBCHAPTER C. IMPOSITION OF TAX

Sec. 371.051. IMPOSITION OF TAX. Provides that in a political subdivision that has adopted the tax authorized by this chapter, there is imposed a one cent tax on each gallon of gasoline, or fractional part, sold in the political subdivision to a person who uses or consumes the gasoline to propel a motor vehicle on the public highways of this state.

Sec. 371.052. COMPUTATION OF TAX. Requires the amount of the tax to be computed and paid on the volume of gallons of taxable gasoline sold in the political subdivision to persons who use or consume the gasoline to propel a motor vehicle on the public highways of this state. Authorizes the political subdivision to compute and determine the amount required to be paid on the basis of the beginning inventory, showing the total gallons of gasoline in storage at the location on the first day of the calendar month, plus the total gallons of gasoline delivered into the storage facility during the month, less the total gallons of gasoline in the storage facility at the end of the calendar month, if a political subdivision is not satisfied with a tax return or the amount of tax required to be paid.

Sec. 371.053. EXCEPTIONS. Provides that the tax imposed by this chapter does not apply to certain gasoline.

Sec. 371.054. COLLECTION OF TAX; ALLOWANCE. Requires a person who makes a sale of gasoline in the political subdivision that is subject to taxation under this chapter, at the time of sale to collect the tax from the purchaser or recipient of the gasoline. Requires the seller to add the tax to the price of the gasoline, and when added, the tax is a part of the sales price, a debt owed to the seller by the person purchasing the gasoline, and recoverable at law in the same manner as the charge for the gasoline. Requires the tax on two percent of the taxable gallons of gasoline sold in the political subdivision to be allocated to the distributor, gasoline jobber, dealer, or other person paying the tax to the political subdivision under this chapter for the expenses of collecting, accounting for, reporting, and remitting the tax collected and of keeping records.

Sec. 371.055. REPORTS AND PAYMENTS. Requires a distributor, gasoline jobber, dealer, or other person required to collect the tax imposed by this chapter in a political subdivision to file each report or supplement required by the political subdivision and remit the amount of tax required to be collected. Requires the report to be executed by the person collecting the tax or by that person's representative using a form provided or approved by the political subdivision. Requires the report to include complete and detailed information, as required by the political subdivision, of gasoline transactions in the political subdivision. Requires a person required to file a report under this section who has not sold any gasoline in the political subdivision during the reporting period to file the report with the political subdivision and include that information in the report. Provides that failure to obtain a form from the political subdivision does not excuse a person from filing a report under this section.

Sec. 371.056. REFUND. Authorizes a person who has paid the tax imposed by this chapter on gasoline used by the person for a purpose other than to propel a motor vehicle on the public highways of this state or for a use exempted under Section 371.053 to file a claim for a refund. Requires a political subdivision to prescribe the procedures a person must use to obtain a refund under this section.

SUBCHAPTER D. COLLECTION OF TAX

Sec. 371.101. POLITICAL SUBDIVISION TO COLLECT AND ADMINISTER TAXES. Requires the political subdivision to administer, collect, and enforce any tax imposed in the political subdivision under this chapter. Authorizes a political subdivision by order to prescribe penalties, including interest charges, for failure to keep records required by the political

subdivision, to report when required, or to pay the tax when due. Authorizes the attorney acting for the political subdivision to bring suit against a person who fails to collect a tax under this chapter and to pay it over to the political subdivision as required.

Sec. 371.102. REQUIRED PERMIT. Authorizes a political subdivision to require a dealer, gasoline jobber, distributor, or other person required to collect, report, and pay a tax imposed by this chapter to obtain a permit from the political subdivision.

SUBCHAPTER E. DEPOSIT AND USE OF TAXES

Sec. 371.151. DEPOSIT OF LOCAL GASOLINE TAX. Requires a political subdivision to deposit revenue from the tax imposed under this section in a special account in the general fund of the political subdivision.

Sec. 371.152. USE OF FUND. Authorizes the political subdivision to use money in the special account only to repair and maintain roads in the political subdivision that the political subdivision has the authority under other law to repair or maintain.

SECTION 2. Amends Section 153.015, Tax Code, as follows:

Sec. 153.015. New heading: OTHER MOTOR FUEL TAXES PROHIBITED; EXCEPTION. Provides that the taxes imposed by this chapter are in lieu of any other excise or occupation tax imposed by a political subdivision of the state on the sale, use, or distribution of gasoline, diesel fuel, or liquefied gas, except as provided by Chapter 371. Makes a conforming change.

SECTION 3. Effective date: the date on which the constitutional amendment proposed by S.J.R. No. 29, 76th Legislature, Regular Session, 1999, authorizing the imposition of a local gasoline tax, takes effect. Provides that this Act has no effect, if that amendment is not approved by the voters.