

1 HB561  
2 172800-1  
3 By Representative Beech (N & P)  
4 RFD: Local Legislation  
5 First Read: 20-APR-16

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9 A BILL  
10 TO BE ENTITLED  
11 AN ACT  
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13 Relating to Washington County; authorizing the  
14 county commission to levy an excise tax on the business of  
15 selling, distributing, storing, or withdrawing from storage,  
16 for any purpose whatsoever, gasoline or motor fuel and  
17 substitutes in the county not to exceed two cents (\$.02) per  
18 gallon; providing for the collection and payment of the tax  
19 and for the distribution of the tax proceeds; authorizing the  
20 county commission to make reasonable rules and regulations for  
21 the collection and enforcement of the tax levied; and  
22 providing for a referendum.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. This act applies to Washington County.

25 Section 2. For the purposes of this act the  
26 following words shall have the following meanings:

27 (1) COUNTY. Washington County.

1                   (2) COUNTY COMMISSION. The Washington County  
2 Commission.

3                   (3) DISTRIBUTOR. Any person who engages in the  
4 selling of gasoline or motor fuel in this state by wholesale  
5 domestic trade, but shall not apply to any transaction of the  
6 distributor in interstate commerce.

7                   (4) GASOLINE. Gasoline, naphtha, and other liquid  
8 motor fuels or any device or substitute commonly used in  
9 internal combustion engines. The term shall not be held to  
10 apply to aviation fuels or to those products known  
11 commercially as "kerosene oil," "fuel oil," or "crude oil"  
12 when used for lighting, heating, or industrial purposes.

13                   (5) MOTOR FUEL. Diesel fuel, tractor fuel,  
14 distillate, kerosene, jet fuel or any substitute therefor. The  
15 term shall not be held to apply to aviation fuels or to those  
16 products commercially known as "kerosene oil," "fuel oil," or  
17 "crude oil," when used for lighting, heating or commercial  
18 purposes.

19                   (6) PERSON. Persons, corporations, copartnerships,  
20 companies, agencies, associations, incorporated or otherwise,  
21 singular or plural.

22                   (7) REFINER. Any person who manufactures, distills,  
23 blends, compounds, or mixes any one or more products in the  
24 production of gasoline or motor fuel as defined in this act.

25                   (8) RETAIL DEALER. Any person defined in this act as  
26 a distributor who is also engaged in the selling of gasoline

1 or motor fuel in this state at any place in this state in  
2 broken quantities.

3 (9) STORER. Any person who ships, causes to be  
4 shipped, or receives in any quantities, stores in any manner  
5 and withdraws or uses gasoline or motor fuel for any purpose.

6 (10) USER. Any person who uses or consumes gasoline  
7 or motor fuel in this state in any manner or for any purpose.  
8 The term "user" shall not include any refiner who has a  
9 refinery or refineries located within the State of Alabama  
10 when using gasoline or motor fuel in the manufacturing or  
11 refining process, or any person who holds a federal permit to  
12 blend motor fuels under the federal law and statutes and who  
13 pays the federal excise tax on the motor fuels directly to the  
14 federal government, when the person uses gasoline or motor  
15 fuel in this state in the blending process.

16 Section 3. (a) The county commission may levy, in  
17 addition to all other taxes imposed by law, an excise tax on  
18 persons selling, distributing, storing, or withdrawing from  
19 storage for any purpose whatever, gasoline or motor fuel  
20 within the county at a rate not to exceed two cents (\$.02) per  
21 gallon, and require every distributor, retail dealer, or  
22 storer of gasoline or motor fuel to pay the excise tax upon  
23 the selling, distributing, or withdrawing from storage for any  
24 use, gasoline or motor fuel in the county. The excise tax  
25 levied pursuant to this act shall not be levied upon the sale  
26 of gasoline or motor fuel in interstate commerce. If the  
27 excise tax levied pursuant to this act upon the sale of

1 gasoline or motor fuel has been paid by a distributor or by a  
2 retail dealer or storer, the payment shall be sufficient, so  
3 that the tax shall not be paid but once. The excise tax levied  
4 pursuant to this act shall apply to persons, firms,  
5 corporations, dealers, or distributors storing gasoline or  
6 motor fuel and distributing or allowing the gasoline or motor  
7 fuel to be withdrawn from storage, whether the withdrawal is  
8 for sale or other use, provided that sellers of gasoline or  
9 motor fuel and substitutes paying the tax, may pay the tax  
10 computed and paid on the basis of their sales as required, and  
11 storers and distributors shall compute and pay the tax on the  
12 basis of their withdrawals or distributions. The tax levied  
13 shall be in addition to any and all excise or other taxes  
14 imposed on gasoline or motor fuel or any device or substitute,  
15 or on the business of selling, distributing, storing, or  
16 withdrawing from storage for any purpose, gasoline or motor  
17 fuel. The tax shall not be levied by the county commission  
18 upon any gasoline or motor fuel when used in governmental  
19 functions by the State of Alabama or an agency of the state,  
20 county governing agencies, municipalities, and boards of  
21 education.

22 Section 4. On or before the 20th day of each month  
23 after this act has become effective, every person upon whom  
24 the excise tax is levied shall render to the county commission  
25 on forms prescribed by the county commission a true and  
26 correct statement of all sales and withdrawals of gasoline and  
27 motor fuel made by him or her during the next preceding month,

1 liable for payment of the excise tax imposed pursuant to the  
2 provisions of this act, and shall furnish to the county  
3 commission such additional information as the county  
4 commission may require upon forms to be furnished by the  
5 county commission, and at the time of making such report shall  
6 pay to the county commission an amount of money equal to the  
7 excise tax levied under this act. The statement herein  
8 required to be made by the distributor, storer or retail  
9 dealer shall be sworn to before some officer authorized to  
10 administer oaths, and any false statement sworn to shall  
11 constitute perjury and upon conviction thereupon the person so  
12 convicted shall be punished as provided by law for the crime  
13 of perjury.

14 Section 5. It shall be the duty of the county  
15 commission to enforce the collection of the tax levied under  
16 this act, and it shall have the right, through its officers or  
17 its agents to examine the books, reports, and accounts of  
18 every distributor, storer, or retail dealer on which the tax  
19 has been imposed and to make rules and regulations for the  
20 collection of the tax. Provided, however, upon resolution of  
21 the county commission, the State Department of Revenue shall  
22 collect the tax now or hereafter levied by the county under  
23 this act. All persons, firms, businesses, and corporations  
24 subject to and owing the tax shall be and hereby are directed  
25 to pay the same over to the department and such payment shall  
26 be a full and complete discharge of all liability therefor to  
27 the county. The department may promulgate reasonable rules and

1 regulations to facilitate the orderly and efficient collection  
2 of the taxes. The department may recover all costs of  
3 collecting the tax, not to exceed five percent of the proceeds  
4 thereof, from the proceeds and shall pay the net amount  
5 remaining thereafter to the county.

6 Section 6. If any distributor, storer, or retail  
7 dealer fails to make monthly reports or fails to pay the tax  
8 imposed under this act, the tax shall be delinquent and there  
9 shall be added to the amount of the tax a penalty of 25  
10 percent, and if in the opinion of the county commission a good  
11 and sufficient cause or reason is shown for the delinquency,  
12 the penalty may be remitted. The county commission may make  
13 returns for delinquent taxpayers upon the information  
14 reasonably obtained and add the penalty prescribed by this  
15 act. If any person is delinquent in the payment of the tax  
16 imposed under this act, the county commission shall issue  
17 execution for the collection of the tax, directed to the  
18 county sheriff, who shall proceed to collect the tax in the  
19 manner now provided by law for the collection of delinquent  
20 taxes by the county tax collector and make return of the  
21 execution to the county commission. The tax and the penalties  
22 provided for shall be held as a debt payable to the county by  
23 the person against whom the tax shall have been imposed or  
24 against whom the penalties shall have accrued, and all taxes  
25 and penalties shall be a lien upon the property of the person  
26 against whom the tax shall have been imposed and the penalties  
27 shall have accrued in the county and anywhere in this state.

1           Section 7. The acceptance of any amount paid for any  
2 excise tax imposed pursuant to this act shall not preclude the  
3 collection of the amount actually due. The amount actually  
4 paid shall constitute a credit against the amount actually  
5 due.

6           Section 8. Any distributor, storer, or dealer who  
7 violates this act, or fails to comply with any rule or  
8 regulation promulgated, may be restrained, and proper  
9 prosecution instituted in the name of the county by the county  
10 attorney or the Attorney General of the State of Alabama, or  
11 by such counsel as the county commission appoints, from  
12 distributing, selling, storing, or withdrawing from storage  
13 any gasoline or motor fuel the sale or withdrawal of which is  
14 taxable until there is compliance with this act.

15           Section 9. The proceeds of the tax imposed under  
16 this act shall be deposited into a county special revenue fund  
17 to be expended for the replacement and construction of bridges  
18 and resurfacing of existing paved roads in Washington County.

19           Section 10. Sections 1 through 9 of this act shall  
20 become operative only if approved by a majority of the  
21 qualified electors of Washington County who vote in an  
22 election to be held in conjunction with the next regularly  
23 scheduled or special election held in the county. The notice  
24 of the election shall be given by the judge of probate and the  
25 election shall be held, conducted, and the results canvassed  
26 in the manner as other county elections. The question shall  
27 be, "Do you favor the adoption of Act No. \_\_ of the 2016



1 \_\_\_\_\_ Session of the Alabama Legislature, which authorizes  
2 the levy of a gasoline tax in Washington County for county  
3 roads and bridges? Yes ( ) No ( )." The county shall pay any  
4 costs and expenses not otherwise reimbursed by a governmental  
5 agency which are incidental to the election. If a majority of  
6 the votes cast in the election are "Yes," Sections 1 through 9  
7 of this act shall be operative immediately. If a majority of  
8 the votes cast are "No," Sections 1 through 9 of this act  
9 shall be null and void and shall have no further effect. The  
10 judge of probate shall certify the results of the election to  
11 the Secretary of State.

12 Section 11. This act shall become effective  
13 immediately following its passage and approval by the  
14 Governor, or its otherwise becoming law.