

1 HB183
2 164180-2
3 By Representative Shiver (N & P)
4 RFD: Local Legislation
5 First Read: 05-MAR-15

9 A BILL
10 TO BE ENTITLED
11 AN ACT
12

13 Relating to Monroe County; to authorize the Monroe
14 County Commission to call for a referendum on the levy of an
15 excise tax on gasoline or motor fuel not to exceed five cents
16 (\$.05) per gallon for specific road and bridge projects
17 identified by the county prior to the referendum; to provide
18 that the excise tax could only be in effect for a period not
19 to exceed five years; and to provide for subsequent local
20 referendums asking that new levies be authorized.

21 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

22 Section 1. For the purposes of this act, the
23 following terms shall have the following meanings:

24 (1) DISTRIBUTOR. Any person who engages in the
25 selling of gasoline or motor fuel in this state by wholesale
26 domestic trade, but shall not apply to any transaction of the
27 distributor in interstate commerce.

1 (2) GASOLINE. Gasoline, naphtha, and other liquid
2 motor fuels or any device or substitute commonly used in
3 internal combustion engines, including any other inflammable
4 liquid or substance by whatever name it may be known and sold,
5 used as a fuel for the propulsion of motor vehicles. The term
6 does not include biofuels, aviation fuels, or those products
7 known commercially as kerosene oil, fuel oil, or crude oil
8 when used for lighting, heating, or industrial purposes.

9 (3) MOTOR FUEL. Diesel fuel, tractor fuel,
10 distillate, kerosene, jet fuel, or any substitute therefor.
11 The term does not include biofuels, aviation fuels, off-road
12 diesel fuel, or those products commercially known as kerosene
13 oil, fuel oil, or crude oil, when used for lighting, heating,
14 or commercial purposes.

15 (4) PERSON. Persons, corporations, copartnerships,
16 companies, agencies, associations, incorporated or otherwise,
17 singular or plural.

18 (5) PROJECT LIST. A list of road or bridge projects,
19 or both, designated by the county commission to be funded by
20 the proceeds of the county excise tax on gasoline and motor
21 fuels authorized under this act.

22 (6) PUBLIC TRANSPORTATION. Public transit using
23 roads, rail, high speed rail, airports, or waterways.

24 (7) STORER. Any person who ships, causes to be
25 shipped, or receives in any quantities, stores in any manner,
26 and withdraws or uses gasoline or motor fuel for any purpose.

1 Section 2. (a) The Monroe County Commission, by
2 resolution, may call for a local referendum on the question of
3 whether to authorize the Monroe County Commission to levy a
4 county excise tax on gasoline and motor fuels under the terms
5 and conditions and for the purposes set out in this act. The
6 resolution shall be adopted by affirmative vote of a majority
7 of the members of the county commission at a regular meeting
8 of the county commission, and shall include the proposed levy
9 amount, which may not exceed five cents (\$.05) per gallon, and
10 the duration, which may not be for a period more than five
11 years from the date of levy.

12 (b) Prior to the adoption of a resolution calling
13 for a local referendum as provided in subsection (a), the
14 Monroe County Commission shall compile a project list of the
15 local transportation projects that will be funded with the
16 proceeds of a county excise tax on gasoline and motor fuels
17 levied pursuant to this act. The project list may include
18 public transportation projects and projects within the
19 corporate limits of one or more of the municipalities within
20 the county. The project list shall be based upon an estimate
21 of revenues anticipated from the tax levy and the estimated
22 cost of each project considered for inclusion in the project
23 list. The total estimated cost anticipated under the final
24 project list shall not equal more than 120 percent of the
25 estimated revenues anticipated from the levy. The Monroe
26 County Commission shall consider the needs of each district in
27 the county in determining what projects to include on the

1 project list and shall approve the project list by affirmative
2 vote of a majority of the members of the Monroe County
3 Commission at the same time it adopts the resolution required
4 in subsection (a).

5 (c) The project list may not be altered after it is
6 adopted. No funds collected from the tax authorized herein may
7 be allocated to projects other than those included in the
8 project list of the county until all of the projects are
9 completed. Notwithstanding the foregoing, in the event of a
10 state of emergency declared by the Governor, funds may be
11 utilized to repair damage to a road or bridge directly
12 resulting from the event for which the state of emergency was
13 declared. The project list shall at all times be posted in
14 conspicuous places at the county courthouse, the county
15 commission office, the county highway department, and any
16 other places deemed appropriate by the county commission. If
17 the referendum fails, the posting requirement will no longer
18 apply.

19 (d) If the Monroe County Commission adopts the
20 resolution required for calling a local referendum, the
21 resolution shall be forwarded to the judge of probate at least
22 60 days prior to the next primary or general election held for
23 another purpose in the county with a request that the local
24 referendum be placed on the ballot for that election. The
25 referendum shall be held only in conjunction with a primary or
26 general election or in conjunction with any other countywide
27 election held for another purpose in the county and shall be

1 conducted in accordance with the election laws of the state.
2 The following language shall be included on the ballot:

3 "Do you authorize the Monroe County Commission to
4 levy for a period of ____ (insert time period) a ____ cents
5 per gallon county excise tax on gasoline and motor fuels to
6 provide funding for road and bridge projects itemized by the
7 county commission on a project list adopted by the Monroe
8 County Commission on _____ (insert date)?"

9 "____ Yes ____ No."

10 Section 3. If the voters in the county approve the
11 local referendum authorizing the county commission to levy a
12 county excise tax on gasoline and motor fuels as provided in
13 Section 2, the county commission may levy an excise tax on
14 persons selling, distributing, storing, or withdrawing from
15 storage for any purpose whatever, gasoline or motor fuel
16 within the county at the rate and for the time period
17 specified in the resolution. The county commission, applying
18 all procedures set out in Section 2, may call for subsequent
19 local referendums on the question of new levies. No levy or
20 combination of levies pursuant to this act shall at any time
21 total in excess of five cents (\$.05) or continue more than
22 five years from the date of the levy.

23 Section 4. Except as otherwise specifically provided
24 in this act, the excise tax shall be collected in the same
25 manner and at the same time as the state excise tax on
26 gasoline, shall parallel the corresponding state tax levy,
27 except for the rate of tax, and shall be subject to all

1 definitions, exceptions, exemptions, proceedings,
2 requirements, provisions, rules, regulations, direct pay
3 permits and drive-out certificate procedures, statutes of
4 limitation, penalties, fines, punishments, and deductions as
5 applicable to the corresponding state tax, including
6 provisions for the enforcement and collection of taxes. The
7 tax shall not be levied by the county commission upon any
8 gasoline or motor fuel when used in governmental functions by
9 the state, an agency of the state, county governing agencies,
10 municipalities, and boards of education.

11 Section 5. The county commission may contract with
12 the Department of Revenue to administer and collect the tax or
13 it may administer and collect, or contract for the collection
14 of the county excise tax as authorized in Section 11-3-11.2,
15 Code of Alabama 1975, provided the tax is collected at the
16 same time as the state tax is due to be paid to the
17 department. Any county commission which elects to administer
18 and collect, or contract for the collection of, the excise tax
19 shall have the same rights, remedies, power, and authority,
20 including the right to adopt and implement the same
21 procedures, as would be available to the Department of Revenue
22 if the tax or taxes were being administered, enforced, and
23 collected by the department. Any rules adopted or utilized by
24 the county or its designee shall be consistent with the rules
25 adopted through the provisions of the Alabama Administrative
26 Procedure Act by the Department of Revenue for the
27 corresponding state tax.

1 Section 6. (a) The proceeds of any taxes imposed
2 under authority of this act shall be deposited into a special
3 local transportation safety fund to be expended for the
4 maintenance, improvement, replacement, and construction of
5 county-maintained roads and bridges, as matching funds for
6 federal projects, for public transportation purposes, or, with
7 the consent of the municipality, municipally-maintained roads
8 and bridges. All records shall be audited by the Office of
9 Examiners of Public Accounts in the same manner as all other
10 county funds.

11 (b) Except as provided in subsection (c), the county
12 commission shall be the awarding authority for all projects
13 funded by the proceeds of the tax levied pursuant to this act.
14 All contracts shall be awarded to licensed contractors
15 authorized to work in the State of Alabama for road and bridge
16 maintenance, improvement, replacement, or construction
17 projects. All contracts shall be bid, awarded, and executed
18 pursuant to Title 39, Code of Alabama 1975.

19 (c) The proceeds of the tax may be used to match
20 federal funds made available through the State Department of
21 Transportation. In that case, the revenue shall be retained in
22 the local transportation safety fund and disbursed as required
23 by the department.

24 (d) Not more than 30 percent of the proceeds of the
25 excise tax authorized in this act may be used to purchase
26 necessary materials for projects to be performed by county
27 work forces. The county shall not use proceeds of any excise

1 tax levied pursuant to this act on salaries, benefits, or any
2 other form of compensation for county employees or officials
3 or for the purchase, lease, or maintenance of equipment.

4 (e) Except as provided in subsection (c), all
5 projects funded from the proceeds of the excise tax authorized
6 in this act for road and bridge maintenance, improvement,
7 replacement, or construction on roads or bridges with less
8 than 2,500 average daily traffic shall be designed in a manner
9 consistent with the standards for low volume roads as
10 established in the County Road Design Policy for Low Volume
11 Roads adopted by the State Department of Transportation. All
12 projects for roads and bridges which have greater than 2,500
13 average daily traffic shall be designed in a manner consistent
14 with the most current edition of the State Department of
15 Transportation Standards and Specifications for Roadway
16 Constructions.

17 Section 7. The county engineer shall provide to the
18 county commission an annual report detailing expenditures made
19 from the local transportation safety fund and the status of
20 each project included on the project list. The written report
21 covering the previous fiscal year shall be submitted no later
22 than the first regular county commission meeting in January of
23 each year and shall be made available to the public for
24 inspection, including posting on the county's website, if
25 available. The report shall also be forwarded to the
26 Association of County Commissions of Alabama for posting on
27 its website.

1 Section 8. All laws or parts of laws which conflict
2 with this act are repealed to the extent of such conflict;
3 provided, however, that nothing in this act shall be construed
4 to repeal, modify, or supersede any other provisions of
5 general or local law providing county funding for county road
6 and bridge projects.

7 Section 9. This act shall become effective
8 immediately following its passage and approval by the
9 Governor, or its otherwise becoming law.