

1 HB434
2 148371-1
3 By Representatives Shiver and Jackson (N & P)
4 RFD: Local Legislation
5 First Read: 20-MAR-13

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8 SYNOPSIS: This bill would allow the Monroe County
9 Commission to call for a local referendum to
10 authorize the Monroe County Commission to levy an
11 excise tax on gasoline or motor fuel not to exceed
12 five cents (\$.05) per gallon for specific road and
13 bridge projects identified by the county prior to
14 the referendum. The resolution calling for a
15 referendum would specify the amount of the levy and
16 the duration of the levy which would not exceed
17 five years. Subsequent local referendums on
18 additional levies would be authorized under the
19 same procedures as the original referendum.

20
21 A BILL
22 TO BE ENTITLED
23 AN ACT

24
25 Relating to Monroe County; to authorize the Monroe
26 County Commission to call for a referendum on the levy of an
27 excise tax on gasoline or motor fuel not to exceed five cents

1 (\$.05) per gallon for specific road and bridge projects
2 identified by the county prior to the referendum; to provide
3 that the excise tax could only be in effect for a period not
4 to exceed five years; and to provide for subsequent local
5 referendums asking that new levies be authorized.

6 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

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

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

21 (3) MOTOR FUEL. Diesel fuel, tractor fuel,
22 distillate, kerosene, jet fuel, or any substitute therefor.
23 The term does not include biofuels, aviation fuels, or those
24 products commercially known as kerosene oil, fuel oil, or
25 crude oil, when used for lighting, heating, or commercial
26 purposes.

1 (4) PERSON. Persons, corporations, copartnerships,
2 companies, agencies, associations, incorporated or otherwise,
3 singular or plural.

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

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

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

13 Section 2. (a) The Monroe County Commission, by
14 resolution, may call for a local referendum on the question of
15 whether to authorize the Monroe County Commission to levy a
16 county excise tax on gasoline and motor fuels under the terms
17 and conditions and for the purposes set out in this act. The
18 resolution shall be adopted by affirmative vote of a majority
19 of the members of the county commission at a regular meeting
20 of the county commission, and shall include the proposed levy
21 amount, which may not exceed five cents (\$.05) per gallon, and
22 the duration, which may not be for a period more than five
23 years from the date of levy.

24 (b) Prior to the adoption of a resolution calling
25 for a local referendum as provided in subsection (a), the
26 Monroe County Commission shall compile a project list of the
27 local transportation projects that will be funded with the

1 proceeds of a county excise tax on gasoline and motor fuels
2 levied pursuant to this act. The project list may include
3 public transportation projects and projects within the
4 corporate limits of one or more of the municipalities within
5 the county. The project list shall be based upon an estimate
6 of revenues anticipated from the tax levy and the estimated
7 cost of each project considered for inclusion in the project
8 list. The total estimated cost anticipated under the final
9 project list shall not equal more than 120 percent of the
10 estimated revenues anticipated from the levy. The Monroe
11 County Commission shall consider the needs of each district in
12 the county in determining what projects to include on the
13 project list and shall approve the project list by affirmative
14 vote of a majority of the members of the Monroe County
15 Commission at the same time it adopts the resolution required
16 in subsection (a).

17 (c) The project list may not be altered after it is
18 adopted. No funds collected from the tax authorized herein may
19 be allocated to projects other than those included in the
20 project list of the county until all of the projects are
21 completed. Notwithstanding the foregoing, in the event of a
22 state of emergency declared by the Governor, funds may be
23 utilized to repair damage to a road or bridge directly
24 resulting from the event for which the state of emergency was
25 declared. The project list shall at all times be posted in
26 conspicuous places at the county courthouse, the county
27 commission office, the county highway department, and any

1 other places deemed appropriate by the county commission. If
2 the referendum fails, the posting requirement will no longer
3 apply.

4 (d) If the Monroe County Commission adopts the
5 resolution required for calling a local referendum, the
6 resolution shall be forwarded to the judge of probate at least
7 60 days prior to the next primary or general election held for
8 another purpose in the county with a request that the local
9 referendum be placed on the ballot for that election. The
10 referendum shall be held only in conjunction with a primary or
11 general election or in conjunction with any other countywide
12 election held for another purpose in the county and shall be
13 conducted in accordance with the election laws of the state.
14 The following language shall be included on the ballot:

15 "Do you authorize the Monroe County Commission to
16 levy for a period of ____ (insert time period) a ____ cents
17 per gallon county excise tax on gasoline and motor fuels to
18 provide funding for road and bridge projects itemized by the
19 county commission on a project list adopted by the Monroe
20 County Commission on _____ (insert date)?"

21 " ____ Yes ____ No."

22 Section 3. If the voters in the county approve the
23 local referendum authorizing the county commission to levy a
24 county excise tax on gasoline and motor fuels as provided in
25 Section 2, the county commission may levy an excise tax on
26 persons selling, distributing, storing, or withdrawing from
27 storage for any purpose whatever, gasoline or motor fuel

1 within the county at the rate and for the time period
2 specified in the resolution. The county commission, applying
3 all procedures set out in Section 2, may call for subsequent
4 local referendums on the question of new levies. No levy or
5 combination of levies pursuant to this act shall at any time
6 total in excess of five cents (\$.05) or continue more than
7 five years from the date of the levy.

8 Section 4. Except as otherwise specifically provided
9 in this act, the excise tax shall be collected in the same
10 manner and at the same time as the state excise tax on
11 gasoline, shall parallel the corresponding state tax levy,
12 except for the rate of tax, and shall be subject to all
13 definitions, exceptions, exemptions, proceedings,
14 requirements, provisions, rules, regulations, direct pay
15 permits and drive-out certificate procedures, statutes of
16 limitation, penalties, fines, punishments, and deductions as
17 applicable to the corresponding state tax, including
18 provisions for the enforcement and collection of taxes. The
19 tax shall not be levied by the county commission upon any
20 gasoline or motor fuel when used in governmental functions by
21 the state, an agency of the state, county governing agencies,
22 municipalities, and boards of education.

23 Section 5. The county commission may contract with
24 the Department of Revenue to administer and collect the tax or
25 it may administer and collect, or contract for the collection
26 of the county excise tax as authorized in Section 11-3-11.2,
27 Code of Alabama 1975, provided the tax is collected at the

1 same time as the state tax is due to be paid to the
2 department. Any county commission which elects to administer
3 and collect, or contract for the collection of, the excise tax
4 shall have the same rights, remedies, power, and authority,
5 including the right to adopt and implement the same
6 procedures, as would be available to the Department of Revenue
7 if the tax or taxes were being administered, enforced, and
8 collected by the department. Any rules adopted or utilized by
9 the county or its designee shall be consistent with the rules
10 adopted through the provisions of the Alabama Administrative
11 Procedure Act by the Department of Revenue for the
12 corresponding state tax.

13 Section 6. (a) The proceeds of any taxes imposed
14 under authority of this act shall be deposited into a special
15 local transportation safety fund to be expended for the
16 maintenance, improvement, replacement, and construction of
17 county-maintained roads and bridges, as matching funds for
18 federal projects, for public transportation purposes, or, with
19 the consent of the municipality, municipally-maintained roads
20 and bridges. All records shall be audited by the Office of
21 Examiners of Public Accounts in the same manner as all other
22 county funds.

23 (b) Except as provided in subsection (c), the county
24 commission shall be the awarding authority for all projects
25 funded by the proceeds of the tax levied pursuant to this act.
26 All contracts shall be awarded to licensed contractors
27 authorized to work in the State of Alabama for road and bridge

1 maintenance, improvement, replacement, or construction
2 projects. All contracts shall be bid, awarded, and executed
3 pursuant to Title 39, Code of Alabama 1975.

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

9 (d) Not more than 30 percent of the proceeds of the
10 excise tax authorized in this act may be used to purchase
11 necessary materials for projects to be performed by county
12 work forces. The county shall not use proceeds of any excise
13 tax levied pursuant to this act on salaries, benefits, or any
14 other form of compensation for county employees or officials
15 or for the purchase, lease, or maintenance of equipment.

16 (e) Except as provided in subsection (c), all
17 projects funded from the proceeds of the excise tax authorized
18 in this act for road and bridge maintenance, improvement,
19 replacement, or construction on roads or bridges with less
20 than 2,500 average daily traffic shall be designed in a manner
21 consistent with the standards for low volume roads as
22 established in the County Road Design Policy for Low Volume
23 Roads adopted by the State Department of Transportation. All
24 projects for roads and bridges which have greater than 2,500
25 average daily traffic shall be designed in a manner consistent
26 with the most current edition of the State Department of

1 Transportation Standards and Specifications for Roadway
2 Constructions.

3 Section 7. The county engineer shall provide to the
4 county commission an annual report detailing expenditures made
5 from the local transportation safety fund and the status of
6 each project included on the project list. The written report
7 covering the previous fiscal year shall be submitted no later
8 than the first regular county commission meeting in January of
9 each year and shall be made available to the public for
10 inspection, including posting on the county's website, if
11 available. The report shall also be forwarded to the
12 Association of County Commissions of Alabama for posting on
13 its website.

14 Section 8. All laws or parts of laws which conflict
15 with this act are repealed to the extent of such conflict;
16 provided, however, that nothing in this act shall be construed
17 to repeal, modify, or supersede any other provisions of
18 general or local law providing county funding for county road
19 and bridge projects.

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