

1 HB543
2 138311-2
3 By Representative Clouse
4 RFD: Ways and Means General Fund
5 First Read: 14-MAR-12

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8 SYNOPSIS: Under existing law, the Commissioner of
9 Agriculture and Industries collects permit fees,
10 inspection fees, and fees for penalties, if any,
11 from persons who sell, offer for sale, store, or
12 use petroleum products. The proceeds of these fees
13 are paid into the State Treasury and distributed by
14 the State Treasurer. An amount equal to five
15 percent or not less than \$175,000 per month,
16 whichever is greater, of the proceeds is required
17 to be deposited into the Agricultural Fund for the
18 operation of the Department of Agriculture and
19 Industries. The remaining balance is distributed to
20 counties, municipalities, and the Department of
21 Transportation for the construction,
22 reconstruction, or improvement of certain roads and
23 bridges.

24 This bill would require that 10 percent of
25 the proceeds received each month be deposited in
26 the Agricultural Fund.
27

1 A BILL
2 TO BE ENTITLED
3 AN ACT
4

5 To amend Section 8-17-91, Code of Alabama 1975,
6 relating to the disposition of funds collected from certain
7 petroleum inspection fees by the Commissioner of Agriculture
8 and Industries; to increase the percentage of proceeds
9 deposited in the Agricultural Fund.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

11 Section 1. Section 8-17-91, Code of Alabama 1975, is
12 amended to read as follows:

13 "§8-17-91.

14 "(a) The proceeds from the permit fees, inspection
15 fees, and penalties, if any, collected by the Commissioner of
16 Agriculture and Industries pursuant to the provisions of this
17 division shall be paid into the State Treasury and distributed
18 by the State Treasurer as follows:

19 "(1) An amount equal to ~~5~~ 10 percent or no less than
20 \$175,000, whichever is greater, of the proceeds received each
21 month shall accrue to the credit of, and be deposited in, the
22 Agricultural Fund; and

23 "(2) The balance of the proceeds shall be
24 distributed as follows:

25 "a. 13.87 percent of the balance of the proceeds
26 shall be distributed equally among each of the 67 counties of

1 the state monthly. Such funds shall be used by the counties
2 for the following purpose:

3 "When the use is by a county, such use shall be for
4 the construction, including draining, grading, basing, paving,
5 signing, and erosion items, of certain high density unpaved
6 roads as herein provided and for the construction or
7 reconstruction of bridges on such high density roads. The use
8 may also be for the reconstruction, resurfacing, restoration,
9 and rehabilitation of the paved county roads and bridges or
10 bridge replacement on the county road system. The use may also
11 be for the construction, including draining, grading, basing,
12 and paving of certain unpaved roads, and reconstruction of
13 certain paved roads accessing certain public and private
14 recreational facilities and areas.

15 "There is hereby created a committee to be referred
16 to as the Secondary Road Committee comprised of two county
17 engineers appointed by the Director of the State Department of
18 Transportation, two county commission members appointed by the
19 Governor, and the Chief of the Bureau of Secondary Roads. The
20 committee members shall serve at the pleasure of the
21 appointing authority. The committee shall elect one of its
22 members to serve as chairman. A quorum of the committee shall
23 consist of no less than three members. Committee members shall
24 serve without compensation.

25 "The Secondary Road Committee shall develop and
26 publish criteria for the designation of high density roads and
27 bridges and for the designation of eligible recreational

1 access roads. The committee may in its discretion provide
2 different criteria for counties according to population,
3 topography, and road mileage. The committee shall also develop
4 and publish minimum design standards, including allowable cost
5 items, for the construction, reconstruction, surfacing,
6 resurfacing, restoration, and rehabilitation of such high
7 density roads and bridges and recreational access roads.
8 Criteria and standards developed by the committee shall be
9 published by distributing printed copies thereof to the
10 chairman of each county commission in Alabama no later than 90
11 days after May 1, 1984. The committee may from time to time
12 amend the criteria and standards developed provided that at
13 least 60 days' notice is provided in writing to the chairman
14 of each county commission before the effective date of such
15 amendment. The State Department of Transportation shall
16 provide all supplies and clerical help necessary for the
17 committee to execute its responsibilities.

18 "County commissions are hereby required to submit
19 all plans for the use of such proceeds to the Director of the
20 State Department of Transportation or his designee for
21 approval. The Director of the State Department of
22 Transportation or his designee shall review all plans and
23 approve them or disapprove them, based on the criteria and
24 standards developed by the committee.

25 "The funds distributed to the counties under this
26 subsection shall not be commingled with other funds of the
27 county except the counties' portion of the auto license tax

1 distributed under Section 40-12-270(a)(1), as amended and
2 shall be kept and disbursed by such county from a special fund
3 only for the purposes hereinabove provided.

4 "The provisions of this section notwithstanding, any
5 county may at any time deposit all or any portion of such
6 proceeds into the county's special RRR Fund as provided for in
7 Section 40-17-224, and may use the proceeds so deposited for
8 any purpose authorized under said section.

9 "b. \$408,981 shall be allocated to the State
10 Department of Transportation monthly and deposited in the
11 State Treasury to the credit of the Public Road and Bridge
12 Fund. Such funds are hereby appropriated to the State
13 Department of Transportation to be used to match federal aid
14 discretionary funds that may from time to time become
15 available to the State Department of Transportation. In the
16 event that in any fiscal year other State Department of
17 Transportation funds are insufficient to match the
18 department's regular federal aid apportionment, then at the
19 Director State Department of Transportation's recommendation
20 and approval by the Governor funds appropriated under this
21 subsection may be used to match said federal aid
22 apportionment.

23 "c. 2.76 percent of the balance of the proceeds
24 shall be allocated among the incorporated municipalities of
25 the state as follows:

26 "1. A portion of the municipalities' share of the
27 balance of the proceeds that is equal to 45.45 percent of the

1 municipalities' share of the balance of the proceeds shall be
2 allocated equally among the 67 counties of the state.

3 "2. The entire residue of the municipalities' share
4 of the balance of the proceeds being an amount equal to 54.55
5 percent of the municipalities' share of the balance of the
6 proceeds shall be allocated among the 67 counties of the state
7 on the basis of the ratio of the population of each such
8 county to the total population of the state according to the
9 then next preceding federal decennial census, or any special
10 federal census heretofore held in any county subsequent to the
11 effective date of the 1980 federal decennial census.

12 "3. The amount so allocated or apportioned to each
13 county shall be distributed among the municipalities in the
14 county with respect to which the allocation or apportionment
15 is made, each such distribution among the said municipalities
16 to be on the basis of the ratio of the population of each such
17 municipality to the total population of all municipalities in
18 the applicable county according to the then next preceding
19 federal decennial census.

20 "4. The population of any municipality incorporated
21 subsequent to the taking of the then next preceding federal
22 decennial census shall be deemed to be the population shown by
23 the census for that municipality taken pursuant to the
24 requirements of Section 11-41-4. Any municipality incorporated
25 after September, 1983, shall not participate in the
26 distribution provided for in this section until the fiscal
27 year next succeeding the fiscal year during which it is

1 incorporated, the first distribution to such municipality to
2 be made in respect of receipts of the inspection fee by the
3 state during October of the fiscal year next succeeding the
4 said incorporation.

5 "5. Use of the inspection fee by a municipality
6 shall be for transportation planning, the construction,
7 reconstruction, maintenance, widening, alteration, and
8 improvement of public roads, bridges, streets, and other
9 public ways, including payment of the principal of and
10 interest on any securities at any time issued by the
11 municipality pursuant to law for the payment of which any part
12 of the net tax proceeds were or may be lawfully pledged;
13 provided, that no part of the balance of the proceeds referred
14 to in this section shall be expended contrary to the
15 provisions of the Constitution; and provided further, that
16 funds distributed to municipalities under the provisions of
17 this division shall not be commingled with other funds of the
18 municipality, except the municipalities' portion of the
19 highway gasoline tax, and shall be kept and disbursed by such
20 municipality from a special fund only for the purposes
21 hereinabove provided.

22 "d. The balance of the proceeds after a, b, and c
23 above have been distributed monthly shall accrue to the credit
24 of and be deposited in the Public Road and Bridge Fund.

25 "(b) In the event of the collection hereunder from
26 any person of an amount in excess of the amount of all permit
27 fees, inspection fees, or penalties properly and lawfully

1 required to be paid by such person, such person may apply to
2 the Commissioner of Agriculture and Industries for a refund of
3 the amount of such overpayment. If such application for refund
4 is approved in whole or in part by the commissioner, the
5 commissioner shall submit to the state Comptroller a
6 statement, approved by the state Attorney General, setting
7 forth the amount determined to have been overpaid and the date
8 of the overpayment. The state Comptroller shall then draw his
9 warrant in favor of the person making such overpayment upon
10 the State Treasurer for the amount specified in the said
11 statement, and such amount shall be paid out of current
12 months' collections before any distribution is made under
13 subsection (a) of this section.

14 "(c) The application for refund provided for in this
15 section must be filed with the Commissioner of Agriculture and
16 Industries within 12 calendar months from the date upon which
17 the overpayment was made, and no amount shall be refunded
18 unless the application therefor is filed within the time
19 prescribed herein.

20 "(d) The Department of Agriculture and Industries
21 shall have authority to make and issue rules and regulations
22 relating to the procedure to be followed in filing an
23 application for a refund and for payment of any refund made
24 under this section."

25 Section 2. This act shall become effective on the
26 first day of the third month following its passage and
27 approval by the Governor, or its otherwise becoming law.

