

1 HB572
2 177493-1
3 By Representatives Lee, Clouse and Chesteen (Constitutional
4 Amendment)
5 RFD: Local Legislation
6 First Read: 27-APR-16

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8 SYNOPSIS: This bill would propose a local
9 constitutional amendment to the Constitution of
10 Alabama of 1901, relating to Houston County, to
11 authorize the Houston County Commission to levy a
12 road and bridge maintenance and construction excise
13 fee on motor fuels.

14
15 A BILL
16 TO BE ENTITLED
17 AN ACT

18
19 To propose an amendment to the Constitution of
20 Alabama of 1901; relating to Houston County; to authorize the
21 Houston County Commission to levy a road and bridge
22 maintenance construction excise fee on motor fuels; and to
23 provide for the distribution of proceeds to a special
24 transportation safety fund to be used for road and bridge
25 maintenance and construction in the county.

26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. The following amendment to the
2 Constitution of Alabama of 1901, is proposed and shall become
3 valid as a part of the Constitution when all requirements of
4 this amendment are fulfilled:

5 PROPOSED AMENDMENT

6 (a) For the purposes of this amendment, the
7 following terms shall have the following meanings:

8 (1) DISTRIBUTOR. The term as defined in Section
9 40-17-322, Code of Alabama 1975.

10 (2) MOTOR FUEL. Gasoline, blended fuel, and diesel
11 fuel as those terms are defined in Section 40-17-322, Code of
12 Alabama 1975.

13 (3) PERSON. Persons, corporations, copartnerships,
14 companies, agencies, associations, incorporated or otherwise,
15 singular or plural.

16 (4) STORER. Any person who ships, causes to be
17 shipped, or receives in any quantities, stores in any manner,
18 and withdraws or uses motor fuels for any purpose.

19 (b) The Houston County Commission may levy a road
20 and bridge maintenance and construction excise fee on persons
21 selling, distributing, storing, or withdrawing from storage
22 for any purpose whatever, motor fuels within the county at the
23 rate not to exceed five cents (\$0.05) per gallon.

24 (c) The county commission shall provide for
25 collection of the fee. Except as otherwise specifically
26 provided in this amendment, the fee shall be collected at the
27 same time as the state excise tax on motor fuels, shall

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

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

1 (e) The net proceeds of any excise fee imposed under
2 authority of this amendment shall be deposited into a Houston
3 County special local transportation safety fund to be expended
4 for the maintenance, improvement, replacement, and
5 construction of roads and bridges in the county as follows:

6 (1) Two cents of the net proceeds from the excise
7 fee collected on each gallon of motor fuel sold within the
8 corporate limits of any incorporated active city or town shall
9 be distributed to the city or town to be used for the purposes
10 provided in this section.

11 (2) The remainder of the net proceeds from the
12 excise fee shall be used by the county for the purposes
13 provided in this amendment.

14 (f) All records shall be audited by the Office of
15 Examiners of Public Accounts in the same manner as all other
16 county and municipal funds.

17 (g) The additional revenue available in Houston
18 County for maintenance, improvement, replacement, and
19 construction of roads and bridges from any excise fee levied
20 pursuant to this amendment shall not in any way reduce funding
21 by the county or any municipality for the maintenance,
22 improvement, replacement, and construction of roads and
23 bridges as provided prior to this amendment.

24 (h) If the State of Alabama enacts a statewide
25 excise fee on motor fuels with the proceeds distributed to
26 counties and cities in the state within four years of the
27 ratification of this amendment, the rate established in this

1 amendment shall be lowered to two cents (\$0.02) per gallon,
2 and one-half of the net proceeds shall be distributed as
3 provided in subdivision (1) of subsection (e) and the
4 remainder of the net proceeds shall be distributed as provided
5 in subdivision (2) of subsection (e).

6 (i) After the ratification of this amendment, no
7 incorporated city or town in Houston County shall levy or
8 collect a privilege license or excise tax on any liquid motor
9 fuel upon the business of selling, delivering, withdrawing
10 from storage, or keeping in storage the motor fuels on a
11 quantity basis; provided, however, this limitation shall not
12 apply to the ordinary license to do business in the
13 municipalities.

14 (j) Act 82-727 of the 1982 Second Special Session
15 (Acts 1982 First, Second, and Third Special Session, p. 183),
16 upon the implementation of any excise fee pursuant to this
17 amendment, is hereby repealed.

18 Section 2. An election upon the proposed amendment
19 shall be held at the next general election in accordance with
20 Amendment 555 to the Constitution of Alabama of 1901, now
21 appearing as Section 284.01 of the Official Recompilation of
22 the Constitution of Alabama of 1901, as amended, and the
23 election laws of this state.

24 Section 3. The appropriate election official shall
25 assign a ballot number for the proposed constitutional
26 amendment on the election ballot and shall set forth the

1 following description of the substance or subject matter of
2 the proposed constitutional amendment:

3 "Relating to Houston County, proposing an amendment
4 to the Constitution of Alabama of 1901, to authorize the
5 Houston County Commission to levy a road and bridge
6 maintenance construction excise fee on motor fuels; and to
7 provide for the distribution of proceeds to a special
8 transportation safety fund to be used for road and bridge
9 maintenance and construction in the county.

10 "Proposed by Act _____"

11 This description shall be followed by the following
12 language:

13 "Yes () No ()."