

By: Krusee

H.B. No. 2312

Substitute the following for H.B. No. 2312:

By: Harper-Brown

C.S.H.B. No. 2312

A BILL TO BE ENTITLED

AN ACT

relating to the use of certain taxes for the financing of regional transportation projects.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle G, Title 6, Transportation Code, is amended by adding Chapter 368 to read as follows:

CHAPTER 368. FINANCING OF PROJECTS BY REGIONAL AUTHORITIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 368.001. DEFINITIONS. In this chapter:

(1) "Authority" means:

(A) a regional mobility authority created under Section 361.003;

(B) a county that operates a tollway project under Chapter 284; or

(C) a tollway authority that is organized under Chapter 366.

(2) "Governing body" means:

(A) the board of directors of a regional mobility authority;

(B) the commissioners court of a county that operates a tollway project under Chapter 284; or

(C) the board of directors of a tollway authority organized under Chapter 366.

Sec. 368.002. RESOLUTION AUTHORIZING PROJECT. (a) The

1 governing body of an authority by resolution may adopt a  
2 transportation improvement plan providing for the construction,  
3 maintenance, and operation of one or more turnpike projects or any  
4 other project the authority is authorized to undertake.

5 (b) A transportation improvement plan included in a  
6 resolution under Subsection (a) may not include a project that is  
7 subject to 23 C.F.R. Part 450, Subpart C, unless the project is also  
8 included in the transportation plan approved by the metropolitan  
9 planning organization for that area.

10 (c) The resolution must designate each project and, if  
11 appropriate, each method of financing authorized by this chapter  
12 that the authority wants to use to finance a project. A resolution  
13 may designate one or more methods of financing.

14 Sec. 368.003. APPROVAL BY COMMISSION. (a) Before calling  
15 an election under Section 368.004, the governing body of the  
16 authority shall send to the commission a copy of the transportation  
17 improvement plan included in the resolution.

18 (b) The commission may approve or disapprove the  
19 transportation improvement plan. In determining whether to approve  
20 or disapprove the plan, the commission shall consider whether the  
21 plan addresses regional transportation needs. The commission may  
22 not approve a plan submitted by an authority located in a  
23 nonattainment or near-nonattainment area unless that entire area is  
24 included within the authority.

25 Sec. 368.004. ELECTION. (a) If the commission approves the  
26 transportation improvement plan and the authority intends to  
27 finance a project specified in the plan using financing authorized

1 by this chapter, the board must order an election on the question of  
2 approving and implementing the transportation improvement plan.

3 (b) The order calling the election must:

4 (1) designate the projects included in the plan; and

5 (2) designate each method of financing authorized by  
6 this chapter that the authority wants to use to finance the plan and  
7 the maximum rate of each method.

8 (c) The Election Code governs an election held under this  
9 chapter.

10 Sec. 368.005. COMMISSION APPROVAL. This chapter does not  
11 affect the requirement that the commission approve a turnpike  
12 project before the authority may undertake the project.

13 Sec. 368.006. EFFECT ON STATE FUNDING. Financing provided  
14 under this chapter is intended to supplement and not supplant state  
15 funding, and the commission may not consider financing provided  
16 under this chapter in determining the amount of state funding for an  
17 area.

18 [Sections 368.007-368.050 reserved for expansion]

19 SUBCHAPTER B. LOCAL FUEL TAX

20 Sec. 368.051. DEFINITIONS. In this subchapter, "dealer,"  
21 "diesel fuel," "gasoline," "jobber," "motor vehicle," "public  
22 highway," and "sale" have the meanings assigned by Section 153.001,  
23 Tax Code.

24 Sec. 368.052. FUEL SALES TAX AUTHORIZED. (a) An authority  
25 by order may impose a sales tax on gasoline and diesel fuel sold in  
26 the territory of the authority to propel a motor vehicle on the  
27 public highways of this state.

1       (b) An authority may impose a tax under this subchapter only  
2 if the tax is approved at an election held under Section 368.004.

3       Sec. 368.053. RATE OF TAX. The tax authorized by this  
4 subchapter may be imposed in increments of one-eighth of one  
5 percent, not to exceed 8-1/4 percent, on the sale in the territory  
6 of the authority of gasoline and diesel fuel used to propel a motor  
7 vehicle on the public highways of this state.

8       Sec. 368.054. ELECTION TO ABOLISH TAX OR CHANGE RATE. (a)  
9 The governing body may order an election on the question of  
10 abolishing or changing the rate of the tax authorized by this  
11 subchapter.

12       (b) The ballot at an election to change the rate of the tax  
13 must be printed to permit voting for or against the proposition:  
14 "Authorizing \_\_\_\_\_ (insert name of authority) to impose a fuel  
15 sales tax at the rate of \_\_\_\_\_ percent (insert appropriate  
16 rate)."

17       (c) The ballot at an election to abolish the tax must be  
18 printed to permit voting for or against the proposition:  
19 "Abolishing the fuel sales tax in \_\_\_\_\_ (insert name of  
20 authority)."

21       Sec. 368.055. COMPUTATION OF TAX. (a) A person, including  
22 a dealer or jobber, who makes a sale of gasoline or diesel fuel in  
23 the authority to a person who uses the gasoline or diesel fuel to  
24 propel a motor vehicle on the public highways of this state shall  
25 collect the tax for the benefit of the authority.

26       (b) The seller shall add the local fuel sales tax imposed by  
27 the authority under this subchapter to the selling price of

1 gasoline or diesel fuel, and the tax is a part of the gasoline or  
2 diesel fuel price, a debt owed to the seller, and recoverable at law  
3 in the same manner as the gasoline or diesel fuel charge.

4 (c) The tax authorized by this subchapter is in addition to  
5 the tax imposed by Chapter 153, Tax Code.

6 Sec. 368.056. EXEMPTIONS APPLICABLE. The exemptions  
7 provided by Sections 153.104 and 153.203, Tax Code, apply to the tax  
8 authorized by this subchapter.

9 Sec. 368.057. EFFECTIVE DATE OF TAX OR TAX CHANGE. The  
10 adoption or abolition of the tax authorized by this subchapter or a  
11 change in a tax rate takes effect on the date prescribed by the  
12 order imposing or abolishing the tax or changing the rate.

13 Sec. 368.058. COLLECTION OF TAX. (a) A person required to  
14 collect a tax authorized by this subchapter shall report and send  
15 the taxes to the authority as provided by the authority.

16 (b) An authority by order may prescribe monetary penalties,  
17 including interest charges, for failure to keep records required by  
18 this subchapter, to report when required, or to pay the tax when  
19 due. The attorney acting for the authority may bring suit against a  
20 person who fails to collect a tax or penalty under this subchapter  
21 and to pay the tax or penalty to the authority as required.

22 (c) An authority by order may permit a person who is  
23 required to collect a tax under this subchapter to retain a  
24 percentage of the amount collected and required to be reported as  
25 reimbursement to the person for the costs of collecting the tax.  
26 The authority may provide that the person may retain the amount only  
27 if the person pays the tax and files reports as required by the

1 authority.

2 Sec. 368.059. REFUND. (a) A person who has paid the tax  
3 authorized by this subchapter on gasoline or diesel fuel used by the  
4 person for a purpose other than to propel a motor vehicle on the  
5 public highways of this state or for a use exempted under Section  
6 368.056 may file a claim for a refund.

7 (b) An authority shall prescribe the procedures a person  
8 must use to obtain a refund under this section.

9 Sec. 368.060. REQUIRED PERMIT. An authority may require a  
10 dealer, jobber, or other person required to collect, report, and  
11 pay a tax authorized by this subchapter to obtain a permit from the  
12 authority.

13 Sec. 368.061. TRANSFER TO COMPTROLLER. (a) Not later than  
14 the last day of the first month following each calendar quarter, the  
15 custodian of the authority treasury shall send to the comptroller  
16 an amount equal to one-fourth of the taxes collected during that  
17 calendar quarter after payment of all refunds allowed by law and  
18 expenses of collection.

19 (b) The comptroller shall deposit money received under this  
20 section to the credit of the available school fund.

21 Sec. 368.062. USE OF TAX PROCEEDS. Except as provided by  
22 Section 368.061, the authority may use net tax revenue received  
23 under this subchapter only to provide funding for a transportation  
24 improvement plan approved at the election that authorized  
25 imposition of the tax.

26 [Sections 368.063-368.100 reserved for expansion]

27 SUBCHAPTER C. LOCAL SALES AND USE TAX

1       Sec. 368.101. LOCAL SALES AND USE TAX. (a) An authority by  
2 order may impose a sales and use tax in the authority as provided by  
3 this subchapter.

4       (b) An authority may impose a tax under this subchapter only  
5 if the tax is approved at an election held under Section 368.004.

6       (c) An authority may not adopt a tax under this subchapter  
7 or change the rate of the tax if as a result of the adoption of the  
8 tax or the change in the rate the combined rate of all sales and use  
9 taxes imposed by the authority and other political subdivisions of  
10 this state having territory in the authority would exceed two  
11 percent at any location in the authority.

12       (d) If the voters of an authority approve the adoption of  
13 the tax or the change in the rate at an election held on the same  
14 election date on which another political subdivision adopts a sales  
15 and use tax or approves the increase in the rate of its sales and use  
16 tax and as a result the combined rate of all sales and use taxes  
17 imposed by the authority and other political subdivisions of this  
18 state having territory in the authority would exceed two percent at  
19 any location in the authority, the election to adopt a sales and use  
20 tax under this subchapter or to change the rate of the tax has no  
21 effect.

22       Sec. 368.102. COUNTY SALES AND USE TAX APPLICABLE. (a)  
23 Except as provided by Subsection (b), Chapter 323 applies to the tax  
24 authorized by this subchapter in the same manner as that chapter  
25 applies to the tax authorized by that chapter.

26       (b) Section 323.101(b) does not apply to the tax imposed  
27 under this subchapter.

1       Sec. 368.103. TAX RATES. The tax authorized by this chapter  
2 may be imposed in increments of one-eighth of one percent, with a  
3 minimum tax rate of one-eighth of one percent and a maximum tax rate  
4 of one percent.

5       Sec. 368.104. ELECTION TO ABOLISH TAX OR CHANGE RATE. (a)  
6 The governing body may order an election on the question of  
7 abolishing or changing the rate of the tax authorized by this  
8 subchapter.

9       (b) The ballot at an election to change the rate of the tax  
10 must be printed to permit voting for or against the proposition:  
11 "Authorizing \_\_\_\_\_ (insert name of authority) to impose a local  
12 sales and use tax at the rate of \_\_\_\_\_ percent (insert  
13 appropriate rate)."

14       (c) The ballot at an election to abolish the tax must be  
15 printed to permit voting for or against the proposition:  
16 "Abolishing the local sales and use tax in \_\_\_\_\_ (insert name  
17 of authority)."

18       Sec. 368.105. EFFECTIVE DATE OF TAX. (a) The adoption of the  
19 tax or the change in the rate of the tax takes effect on the first  
20 day of the first calendar quarter occurring after the expiration of  
21 the first complete calendar quarter occurring after the date on  
22 which the comptroller receives a notice of the results of the  
23 election.

24       (b) If the comptroller determines that an effective date  
25 provided by Subsection (a) will occur before the comptroller can  
26 reasonably take the action required to begin collecting the tax,  
27 the effective date may be extended by the comptroller until the



1 first day of the next succeeding calendar quarter.

2 Sec. 368.106. USE OF TAX REVENUE. An authority may use tax  
3 revenue collected under this subchapter only to provide funding for  
4 a transportation improvement plan approved at the election that  
5 authorized imposition of the tax.

6 SECTION 2. Section 153.015, Tax Code, is amended to read as  
7 follows:

8 Sec. 153.015. OTHER MOTOR FUEL TAXES PROHIBITED. Except as  
9 provided by Chapter 368, Transportation Code, the [The] taxes  
10 imposed by this chapter are in lieu of any other excise or  
11 occupation tax imposed by a political subdivision of the state on  
12 the sale, use, or distribution of gasoline, diesel fuel, or  
13 liquefied gas.

14 SECTION 3. (a) This Act takes effect September 1, 2003.

15 (b) An authority, as that term is defined by Section  
16 368.001, Transportation Code, as added by this Act, may not impose a  
17 tax authorized by Subchapter B, Chapter 368, Transportation Code,  
18 as added by this Act, before September 1, 2004.