

By: Krusee

H.B. No. 2312

A BILL TO BE ENTITLED

AN ACT

relating to the use of certain taxes for the financing of transportation improvement projects by a regional mobility authority; providing penalties.

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 MOBILITY AUTHORITY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 368.001. DEFINITIONS. In this chapter:

(1) "Authority" means a regional mobility authority created under Section 361.003.

(2) "Board" means the board of directors of a regional mobility authority.

Sec. 368.002. RESOLUTION AUTHORIZING PROJECT. (a) The board by resolution may adopt a transportation improvement plan providing for the construction, maintenance, and operation of one or more turnpike projects.

(b) The resolution must designate each project and, if appropriate, each method of financing authorized by this chapter that the authority wants to use to finance a project. A resolution may designate more than one method of financing.

Sec. 368.003. ELECTION. (a) If an authority intends to finance a project specified in a transportation improvement plan,

1 the board must order an election on the question of approving and
2 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. 368.004. 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 [Sections 368.005-368.050 reserved for expansion]

14 SUBCHAPTER B. LOCAL FUEL TAX

15 Sec. 368.051. DEFINITIONS. In this subchapter, "dealer,"
16 "diesel fuel," "gasoline," "jobber," "motor vehicle," "public
17 highway," and "sale" have the meanings assigned by Section 153.001,
18 Tax Code.

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

23 (b) An authority may impose a tax under this subchapter only
24 if the tax is approved at an election held under Section 368.003.

25 Sec. 368.053. RATE OF TAX. The tax authorized by this
26 subchapter may be imposed in increments of one-eighth of one
27 percent, not to exceed one percent, on the sale in the territory of

1 the authority of gasoline and diesel fuel used to propel a motor
2 vehicle on the public highways of this state.

3 Sec. 368.054. ELECTION TO ABOLISH TAX OR CHANGE
4 RATE. (a) The board may order an election on the question of
5 abolishing or changing the rate of the tax authorized by this
6 subchapter.

7 (b) The board shall order an election on the question of
8 abolishing or changing the rate of the tax if the board receives a
9 petition requesting the election signed by a number of registered
10 voters of the authority equal to at least five percent of the total
11 vote received in the territory of the authority by all candidates
12 for governor in the most recent gubernatorial general election.

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

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

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

27 (b) The seller shall add the local fuel sales tax imposed by

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

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

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

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

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

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

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

1 if the person pays the tax and files reports as required by the
2 authority.

3 Sec. 368.059. REFUND. (a) A person who has paid the tax
4 authorized by this subchapter on gasoline or diesel fuel used by the
5 person for a purpose other than to propel a motor vehicle on the
6 public highways of this state or for a use exempted under Section
7 368.056 may file a claim for a refund.

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

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

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

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

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

27 [Sections 368.063-368.100 reserved for expansion]

1 SUBCHAPTER C. SALES AND USE TAX ON TRANSPORTATION-RELATED ITEMS
2 AND SERVICES

3 Sec. 368.101. DEFINITIONS. In this subchapter:

4 (1) "Transportation-related item" means an item that
5 becomes part of or is related to a motor vehicle, including a tire,
6 a repair or replacement part, oil, or a gas additive.

7 (2) "Transportation-related service" means a service
8 that is performed on a motor vehicle, including a repair service.

9 Sec. 368.102. TERMS DEFINED BY OTHER LAW. A term used in
10 this subchapter and defined by Chapter 151 or 321, Tax Code, has the
11 meaning assigned by those chapters.

12 Sec. 368.103. TRANSPORTATION SALES AND USE TAX AUTHORIZED.

13 (a) An authority by order may impose a sales and use tax on
14 transportation-related items or services, or both. The order
15 imposing the tax must clearly state the items or services, or both,
16 that are subject to the tax.

17 (b) An authority may impose a tax under this subchapter only
18 if the tax is approved at an election held under Section 368.003.

19 Sec. 368.104. RATE OF TAX. The tax authorized by this
20 subchapter may be imposed in increments of one-eighth of one
21 percent, not to exceed one percent, on the sale or use in the
22 authority of a transportation-related item or service.

23 Sec. 368.105. ELECTION TO ABOLISH TAX OR CHANGE
24 RATE. (a) The board may order an election on the question of
25 abolishing or changing the rate of the tax authorized by this
26 subchapter.

27 (b) The board shall order an election on the question of

1 abolishing or changing the rate of the tax if the board receives a
2 petition requesting the election signed by a number of registered
3 voters of the authority equal to at least five percent of the total
4 vote received in the territory of the authority by all candidates
5 for governor in the most recent gubernatorial general election.

6 (c) The ballot at an election to change the rate of the tax
7 must be printed to permit voting for or against the proposition:
8 "Authorizing _____ (insert name of authority) to impose a tax on
9 the sale or use of transportation-related items or services at the
10 rate of _____ percent (insert appropriate rate)."

11 (d) The ballot at an election to abolish the tax must be
12 printed to permit voting for or against the proposition:
13 "Abolishing the tax on the sale or use of transportation-related
14 items or services in _____ (insert name of authority)."

15 Sec. 368.106. ADMINISTRATION OF TAX. (a) Sections 321.201,
16 321.203, 321.204, 321.205, 321.207, 321.208, and 321.209, Tax Code,
17 apply to the tax authorized by this subchapter.

18 (b) Notwithstanding Sections 321.207 and 321.208, Tax Code,
19 the authority by order may impose the tax authorized by this
20 subchapter on a transportation-related item or service not subject
21 to taxation under Chapter 151, Tax Code.

22 (c) The tax authorized by this subchapter is in addition to
23 any other sales and use tax authorized by law. The tax authorized
24 by this subchapter may not be considered in determining the
25 combined rate of all sales and use taxes imposed by a political
26 subdivision having territory in the authority.

27 Sec. 368.107. EFFECTIVE DATE OF TAX OR TAX CHANGE. The

1 adoption or abolition of the tax authorized by this subchapter or a
2 change in a tax rate takes effect on the date prescribed by the
3 order imposing or abolishing the tax or changing the rate.

4 Sec. 368.108. COLLECTION OF TAX. (a) A person required to
5 collect a tax authorized by this subchapter shall report and send
6 the taxes to the authority in the manner provided by the authority.

7 (b) An authority by order may prescribe monetary penalties,
8 including interest charges, for failure to keep records required by
9 this subchapter, to report when required, or to pay the tax when
10 due. The attorney acting for the authority may bring suit against a
11 person who fails to collect a tax or penalty under this subchapter
12 and to pay the tax or penalty to the authority as required.

13 (c) An authority by order may permit a person who is
14 required to collect a tax under this subchapter to retain a
15 percentage of the amount collected and required to be reported as
16 reimbursement to the person for the costs of collecting the tax.
17 The authority may provide that the person may retain the amount only
18 if the person pays the tax and files reports as required by the
19 authority.

20 Sec. 368.109. REFUND. An authority shall prescribe the
21 procedures a person must use to obtain a refund of taxes unlawfully
22 or erroneously paid.

23 Sec. 368.110. REQUIRED PERMIT. An authority may require a
24 retailer or other person required to collect, report, and pay a tax
25 authorized by this subchapter to obtain a permit from the
26 authority.

27 Sec. 368.111. USE OF TAX PROCEEDS. The authority may use net

1 tax revenue received under this subchapter only to provide funding
2 for a transportation improvement plan approved at the election that
3 authorized imposition of the tax.

4 SECTION 2. Section 153.015, Tax Code, is amended to read as
5 follows:

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

12 SECTION 3. This Act takes effect September 1, 2003.