

Amend CSHB 3 (Senate committee report) by adding a new article to the bill, appropriately numbered, to read:

ARTICLE _____. LOCAL MOTOR FUELS TAX

SECTION _____.01. Chapter 370, Transportation Code, is amended by adding Subchapter I to read as follows:

SUBCHAPTER I. FINANCIAL PARTICIPATION OF CERTAIN COUNTIES IMPOSING
LOCAL FUELS TAX

Sec. 370.351. DEFINITIONS. In this subchapter:

(1) "Dealer" has the meaning assigned by Section 162.001, Tax Code.

(2) "Diesel fuel" has the meaning assigned by Section 162.001, Tax Code.

(3) "Gasoline" has the meaning assigned by Section 162.001, Tax Code.

(4) "Jobber" means a person who:

(A) purchases tax-paid diesel fuel or gasoline from a person who holds a license under Chapter 162, Tax Code; and

(B) makes a sale with the tax included to a person who maintains storage facilities for motor fuel and uses all or part of the stored motor fuel to operate a motor vehicle.

(5) "Motor vehicle" has the meaning assigned by Section 162.001, Tax Code.

(6) "Net gallon" has the meaning assigned by Section 162.001, Tax Code.

(7) "Public highway" has the meaning assigned by Section 162.001, Tax Code.

(8) "Sale" has the meaning assigned by Section 162.001, Tax Code.

Sec. 370.352. TAX ON SALE OF DIESEL FUEL AND GASOLINE AUTHORIZED. (a) A county, by order of the commissioners court, may impose a tax on the sale of diesel fuel and gasoline sold in the county to propel a motor vehicle on the public highways of this state if:

(1) the county is included in an authority or is adjacent to such a county, provided that a county not included in the authority must be located in the same metropolitan planning organization as the county in the authority to which it is adjacent;

(2) the county is located in the boundaries of a metropolitan planning area that is served by a metropolitan planning organization; and

(3) imposition of the tax is approved at an election called for that purpose and held in each county located in that metropolitan planning area.

(b) The counties located in a metropolitan planning area described by Subsection (a)(2) may hold the election to authorize the imposition of the tax on the same uniform election dates or on different uniform election dates. If the counties hold the elections on different uniform election dates, a county included in that metropolitan planning area may not impose the tax until the imposition of the tax has been approved in each county.

Sec. 370.353. RATE OF TAX. (a) The tax authorized by this subchapter may be imposed in increments of one cent for each net gallon of diesel fuel or gasoline sold in the county to propel a motor vehicle on the public highways of this state, with a minimum rate of three cents for each net gallon and a maximum rate of 10 cents for each net gallon.

(b) If the voters of the counties located in a metropolitan

planning area described by Section 370.352(a)(3) authorize the imposition of the tax at different rates, each county shall impose the tax at the lowest authorized rate.

Sec. 370.354. ADOPTION ELECTION PROCEDURE. (a) An election to adopt the tax authorized by this subchapter is called by an order of the commissioners court.

(b) At an election to adopt the tax, the ballot shall be prepared to permit voting for or against the proposition: "The adoption of a local tax on the sale of diesel fuel and gasoline in (insert name of county) at the maximum rate of (insert proposed rate) cents per gallon."

Sec. 370.355. COMPUTATION OF TAX. (a) A person, including a dealer or jobber, who makes a sale of diesel fuel or gasoline in a county authorized to impose the tax to a person who uses the diesel fuel or gasoline to propel a motor vehicle on the public highways of this state shall collect the tax authorized by this subchapter for the benefit of the county.

(b) The seller shall add the amount of the tax authorized by this subchapter to the selling price of the diesel fuel or gasoline, and the tax is a part of the fuel price, is a debt owed to the seller, and is recoverable at law in the same manner as the fuel charge.

(c) The tax authorized by this subchapter is in addition to the tax imposed by Chapter 162, Tax Code.

Sec. 370.356. EXEMPTIONS APPLICABLE. The exemptions provided by Sections 162.104 and 162.204, Tax Code, apply to the tax authorized by this subchapter.

Sec. 370.357. EFFECTIVE DATE OF TAX. After the imposition of the tax has been approved in each county located in a metropolitan planning area described by Section 370.352(a)(2), the commissioners court of each county shall issue a concurrent order prescribing the date on which the adoption of the tax will take effect in those counties.

Sec. 370.358. COLLECTION AND ENFORCEMENT OF TAX. (a) A person, including a dealer or jobber, required to collect the tax authorized by this subchapter shall report and send the taxes to the county as provided by the county.

(b) The county may prescribe monetary penalties, including interest charges, for failure to keep records required by this subchapter, to report when required, or to pay the tax when due.

(c) The county may permit a person who is required to collect the tax authorized by this subchapter to retain a percentage of the amount collected and required to be reported as reimbursement to the person for the costs of collecting the tax. The county may provide that the person may retain the amount only if the person pays the tax and files reports as required by the county.

(d) The county attorney may bring suit against a person who violates this subchapter.

Sec. 370.359. REFUND. (a) A person who has paid the tax authorized by this subchapter on diesel fuel or gasoline used by the person for a purpose other than to propel a motor vehicle on the public highways of this state or for a use exempted under Section 370.356 may file a claim for a refund.

(b) The county shall prescribe the procedures a person must use to obtain a refund under this section.

Sec. 370.360. REQUIRED PERMIT. The county may require a dealer, jobber, or other person required to collect, report, and pay the tax authorized by this subchapter to obtain a permit from the county.

Sec. 370.361. TRANSFER TO AUTHORITY. (a) Not later than the last day of the first month following each calendar quarter, the county treasurer shall send to the authority the taxes collected during that calendar quarter after payment of all refunds allowed by law and expenses of collection.

(b) Net tax revenue received by an authority under this subchapter shall be accounted for separately and may not be commingled with other authority revenue.

Sec. 370.362. USE OF TAX PROCEEDS. An authority may use net tax revenue received under this subchapter only to:

(1) reduce the number of lane miles included in a proposed transportation project or a part or section of a proposed transportation project for which the authority intends to impose a toll for use according to the authority's most recently adopted toll plan;

(2) reduce the amount of the toll charged for use of a transportation project or a part or section of a transportation project in use at the time the tax is imposed under this subchapter;

(3) waive the toll charged for use of a transportation project or for a part or section of a transportation project by one or more classes of vehicles prescribed by the authority, such as public school buses and mass transit vehicles; and

(4) finance any costs associated with the implementation, operation, or maintenance of a passenger rail transportation project.

SECTION _____.02. This article take effect September 1, 2005, if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for effect on that date, this article takes effect on the 91st day after the last day of the legislative session.