

## BILL ANALYSIS

Senate Research Center  
79R1638 CBH-D

S.B. 478  
By: Barrientos  
Finance  
3/14/2005  
As Filed

### AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

As proposed, S.B. 478 provides voters residing in counties which are within the boundaries of a metropolitan planning area that is served by a metropolitan planning organization and are also within or adjacent to a regional mobility authority with the option of replacing toll lane miles or toll rates with local gas tax revenue as a transportation project funding source.

### RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 370, Transportation Code, by adding Subchapter I, to read as follows:

#### SUBCHAPTER I. FINANCIAL PARTICIPATION OF CERTAIN COUNTIES IMPOSING LOCAL GASOLINE TAX

Sec. 370.351. DEFINITIONS. Defines "dealer," "gasoline," "jobber," "motor vehicle," "net gallon," "public highway," and "sale."

Sec. 370.352. TAX ON SALE OF GASOLINE AUTHORIZED. Authorizes a county, by order of the commissioners court, to impose a tax on the sale of gasoline sold in the county to propel a motor vehicle on public highways of this state if the county meets certain requirements. Authorizes the counties located in a metropolitan planning area described in this section to hold the election to authorize the imposition of the tax on the same uniform election dates or on different uniform election dates. Prohibits a county included in that metropolitan planning area from imposing the tax until the imposition of the tax has been approved in each county, if the counties hold elections on different uniform election dates.

Sec. 370.353. RATE OF TAX. Authorizes the tax authorized by this subchapter to be imposed in increments of one cent for each net gallon of gas 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. Requires each county, 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, to impose the tax at the lowest authorized rate.

Sec. 370.354. ADOPTION ELECTION PROCEDURE. Provides that an election to adopt the tax authorized by this subchapter is called by an order of the commissioners court. Requires the ballot, at an election to adopt the tax, to be prepared to permit voting for or against the proposition: "The adoption of a local tax on the sale of gasoline in (insert name of county) at the maximum rate of (insert proposed rate) cents per gallon."

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

seller to add the same amount of the tax authorized by this subchapter to the selling price of gasoline, and provides that the tax is a part of the gasoline price, is a debt owed to the seller, and is recoverable at law in the same manner as the gasoline fuel charge. Provides that the tax authorized by this chapter is in addition to the tax imposed by Chapter 162 (Motor Fuel Taxes), Tax Code.

Sec. 370.356. EXEMPTIONS APPLICABLE. Provides that the exemptions provided by Section 162.104 (Exemptions), Tax Code, apply to the tax authorized by this subchapter.

Sec. 370.357. EFFECTIVE DATE OF TAX. Requires the commissioners court of each county, 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), to 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. Requires a person, including a dealer or jobber, required to collect the tax authorized by this subchapter, to report and send the taxes to the county as provided by the county. Authorizes the county to 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. Authorizes the county to permit a person who is required to collect the tax 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. Authorizes the county to provide that the person may retain the amount only if the person pays the tax and files reports as required by the county. Authorizes the county attorney to bring suit against a person who violates this subchapter.

Sec. 370.359. REFUND. Authorizes a person who has paid the tax on gasoline used by the person for a purpose other than to propel a motor vehicle on public highways of this state or for a use exempted under Section 370.356 to file a claim for a refund. Requires the county to prescribe the procedures a person must use to obtain a refund.

Sec. 370.360. REQUIRED PERMIT. Authorizes a county to 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. Requires the county treasurer, not later than the last day of the first month following each calendar quarter, to send to the authority the taxes collected during that calendar quarter after payment of all refunds allowed by law and expenses of collection. Requires net tax revenue received by an authority under this subchapter to be accounted for separately and prohibits the revenue from being commingled with other authority revenue.

Sec. 370.362. USE OF TAX PROCEEDS. Authorizes an authority to use tax revenue received under this subchapter only for specific purposes.

SECTION 2. Effective date: upon passage by voters of a constitutional amendment proposed by the 79th Legislature, Regular Session, 2005 authorizing a county to impose a local tax on the sale of gasoline and to transfer the revenue from the tax to another political subdivision of this state takes effect. Provides that this Act has no effect if that amendment is not approved by voters.