

By: Brimer

S.B. No. 849

A BILL TO BE ENTITLED

AN ACT

relating to the authority of a regional mobility authority to impose a local tax on the sale of gasoline and diesel fuel.

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

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

SUBCHAPTER I. AUTHORITY TO IMPOSE LOCAL FUEL TAXES

Sec. 370.351. DEFINITIONS. In this chapter:

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

1 (7) "Sale" has the meaning assigned by Section
2 162.001, Tax Code.

3 Sec 370.352. FUEL SALES TAX AUTHORIZED. (a) The board of
4 an authority, by order, may impose a sales tax on gasoline and
5 diesel fuel sold in the territory of the authority to propel a motor
6 vehicle on the public highways of this state.

7 (b) The board may impose a tax under this chapter only if the
8 tax is approved at an election held under Section 370.354.

9 Sec. 370.353. RATE OF TAX. The tax authorized by this
10 chapter may be imposed in increments of one-eighth of one percent,
11 not to exceed the rate approved by the voters under Section 370.354
12 or 370.355, on the sale in the territory of the authority of
13 gasoline and diesel fuel used to propel a motor vehicle on the
14 public highways of this state.

15 Sec. 370.354. ADOPTION ELECTION PROCEDURE. (a) An
16 election to adopt the tax authorized by this subchapter is called by
17 order of the board.

18 (b) At an election to adopt the tax, the ballot shall be
19 prepared to permit voting for or against the proposition: "The
20 adoption of a local fuel sales tax in (name of authority) at the
21 rate of (insert proposed rate)."

22 Sec. 370.355. ELECTION TO ABOLISH TAX OR CHANGE RATE.
23 (a) The board by order may call an election on the question of
24 abolishing or changing the rate of the tax authorized by this
25 subchapter.

26 (b) The board shall call an election on the question of
27 abolishing or changing the rate of the tax if the board receives a

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

5 (c) The ballot at an election to change the rate of the tax
6 must be printed to permit voting for or against the proposition:
7 "Authorizing (name or authority) to impose a local fuel tax at the
8 rate of (insert proposed rate)."

9 (d) The ballot at an election to abolish the tax must be
10 printed to permit voting for or against the proposition:
11 "Abolishing the local fuel sales tax in (name of authority)."

12 Sec. 370.356. COMPUTATION OF TAX. (a) A person, including
13 a dealer or jobber, who makes a sale of gasoline or diesel in the
14 authority to a person who uses the gasoline or diesel fuel to propel
15 a motor vehicle on the public highways of this state shall collect
16 the tax authorized by this subchapter for the benefit of the
17 authority.

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

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

25 Sec. 370.357. EXEMPTIONS APPLICABLE. The exemptions
26 provided by Sections 162.104 and 162.204, Tax Code, apply to the tax
27 authorized by this subchapter.

1 Sec. 370.358. EFFECTIVE DATE OF TAX OR TAX CHANGE. The
2 adoption or abolition of the tax authorized by this subchapter or a
3 change in a tax rate takes effect on the date prescribed by the
4 order imposing or abolishing the tax or changing the rate.

5 Sec. 370.359. COLLECTION AND ENFORCEMENT OF TAX. (a) A
6 person required to collect the tax authorized by this subchapter
7 shall report and send the taxes to the authority as provided by the
8 authority.

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

13 (c) The authority may permit a person who is required to
14 collect the tax authorized by 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 (d) The attorney acting for the authority may bring suit
21 against a person who violates this subchapter.

22 Sec. 370.360. REFUND. (a) A person who has paid the tax
23 authorized by this subchapter on gasoline or diesel fuel used by the
24 person for a purpose other than to propel a motor vehicle on the
25 public highways of this state or for a use exempted under Section
26 370.357 may file a claim for a refund.

27 (b) The authority shall prescribe the procedures a person

1 must use to obtain a refund under this section.

2 Sec. 370.361. REQUIRED PERMIT. The authority may require a
3 dealer, jobber, or other person required to collect, report, and
4 pay the tax authorized by this subchapter to obtain a permit from
5 the authority.

6 Sec. 370.362. USE OF TAX PROCEEDS. The authority may use
7 tax revenue received under this subchapter for transportation
8 projects authorized by this chapter and located in the territory of
9 the authority.

10 SECTION 2. This Act takes effect on the date on which the
11 constitutional amendment proposed by the 79th Legislature, Regular
12 Session, 2005, limiting the constitution dedication of revenue from
13 a tax on motor fuels to taxes imposed by this state. If that
14 amendment is not approved by the voters, this Act has no effect.