

By: Wentworth

S.B. No. 942

A BILL TO BE ENTITLED

AN ACT

relating to local option methods for financing transportation projects and services.

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

SECTION 1. The heading to Title 6, Transportation Code, is amended to read as follows:

TITLE 6. ROADWAYS AND OTHER TRANSPORTATION INFRASTRUCTURE

SECTION 2. The heading to Subtitle J, Title 6, Transportation Code, is amended to read as follows:

SUBTITLE J. LOCAL TRANSPORTATION INFRASTRUCTURE FUNDING OPTIONS

~~[ROAD UTILITY DISTRICTS]~~

SECTION 3. Subtitle J, Title 6, Transportation Code, is amended by adding Chapter 442 to read as follows:

CHAPTER 442. COUNTY OPTIONS FOR FUNDING TRANSPORTATION

INFRASTRUCTURE AND SERVICES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 442.001. DEFINITION. In this chapter, "funding option" means:

(1) a county gasoline and diesel fuel tax under Subchapter B;

(2) a county motor vehicle sales tax under Subchapter C;

(3) an additional county sales and use tax under Subchapter D;

1 (4) a real estate transfer fee under Subchapter E;

2 (5) an additional vehicle registration fee under
3 Subchapter F;

4 (6) a passenger motor vehicle sales fee under
5 Subchapter G; or

6 (7) a miscellaneous fee under Subchapter H.

7 Sec. 442.002. IMPLEMENTATION OF OPTION BY GOVERNING BODY OR
8 VOTER APPROVAL. A county may exercise a funding option under this
9 chapter if:

10 (1) the commissioners court of the county by order
11 imposes the option; or

12 (2) the commissioners court by order calls an election
13 to be held in the county for that purpose and the imposition of the
14 option is approved by a majority of the voters of the county voting
15 at that election.

16 Sec. 442.003. CONTENTS OF ORDER; BALLOT LANGUAGE. (a) At a
17 minimum, an order imposing one or more funding options or calling an
18 election to approve the imposition of one or more funding options
19 must:

20 (1) designate each funding option;

21 (2) specify:

22 (A) the rate or amount of each funding option;

23 (B) the effective date of the imposition of each
24 funding option; and

25 (C) the manner in which each funding option will
26 be administered, collected, and enforced; and

27 (3) for an order to call an election, allow the voters

1 to vote for or against each funding option separately.

2 (b) The order calling the election may:

3 (1) specify one or more county transportation projects
4 or services to which revenue from a proposed funding option will be
5 dedicated; or

6 (2) provide that a funding option will expire when the
7 associated transportation project is completed.

8 (c) At an election to impose a proposed funding option under
9 Section 442.002(2), the ballot proposition must specify the rate of
10 the tax or amount of the fee, as applicable.

11 Sec. 442.004. ABOLITION OF FUNDING OPTION, CHANGE IN RATE
12 OR AMOUNT, OR CHANGE IN DEDICATION. (a) A commissioners court by
13 order may:

14 (1) abolish one or more funding options previously
15 imposed by order under Section 442.002(1);

16 (2) increase or decrease the rate or amount of one or
17 more funding options previously imposed under that section;

18 (3) decrease the rate or amount of one or more funding
19 options previously approved at an election; or

20 (4) call an election on the issue of:

21 (A) abolishing one or more funding options
22 previously approved at an election;

23 (B) increasing or decreasing the maximum rate or
24 amount of one or more funding options previously approved at an
25 election; or

26 (C) changing the dedication of one or more
27 funding options approved at an election.

1 (b) A commissioners court shall call an election under
2 Subsection (a)(4) if the commissioners court receives a petition
3 requesting the election signed by a number of registered voters of
4 the county equal to at least 10 percent of the total votes cast in
5 the county by all candidates for governor in the most recent
6 gubernatorial general election.

7 (c) Notwithstanding any other provision of this section, a
8 county may abolish, decrease the rate of, or change the dedication
9 of a funding option only if the abolition, decrease, or change will
10 not violate, impair, or be inconsistent with a bond resolution,
11 trust agreement, or indenture governing the use of the revenue
12 attributable to the funding option.

13 Sec. 442.005. USE OF REVENUE; USE BY OTHER TRANSPORTATION
14 ENTITY. (a) A county shall deposit money collected under this
15 chapter in a special account in the county general fund. Subject to
16 Section 442.006, money in the account may be used only for county
17 transportation purposes.

18 (b) A county may use the money for payment under a contract
19 for county transportation needs entered into with another
20 governmental entity for transportation services or infrastructure
21 provided to the county, including:

- 22 (1) a regional mobility authority;
- 23 (2) a regional tollway authority;
- 24 (3) an advanced transportation district;
- 25 (4) a metropolitan rapid transit authority; and
- 26 (5) a regional transportation authority.

27 (c) A county may contract with another governmental entity

1 under Subsection (b) only if the county finds that the primary
2 purpose of the contract is to promote a public purpose of the
3 county.

4 Sec. 442.006. CONSTITUTIONAL LIMITATION ON USE OF CERTAIN
5 REVENUE. (a) Unless otherwise authorized by the constitution of
6 this state, money collected from a county gasoline and diesel fuel
7 tax under Subchapter B or an additional vehicle registration fee
8 under Subchapter F may be used only for acquiring rights-of-way,
9 constructing, maintaining, and policing public roadways, and
10 administering laws related to the supervision of traffic and safety
11 on those roads.

12 (b) If the constitution of this state does not authorize the
13 use of money collected under Subchapter B or F for transportation
14 uses other than those described by Subsection (a), the county shall
15 deposit that money into an account separate from the money
16 collected under the remainder of this chapter and may use the money
17 only for the purposes described by Subsection (b).

18 (c) If the constitution of this state requires that
19 one-fourth of the county gasoline and diesel fuel tax collected
20 under Subchapter B be allocated to the available school fund, the
21 county shall deposit that money into an account separate from the
22 money collected under the remainder of this chapter and shall
23 allocate the money as required by the constitution of this state.

24 [Sections 442.007-442.030 reserved for expansion]

25 SUBCHAPTER B. COUNTY GASOLINE AND DIESEL FUEL TAX

26 Sec. 442.031. DEFINITIONS. In this subchapter:

27 (1) "Dealer" has the meaning assigned by Section

1 162.001, Tax Code.

2 (2) "Diesel fuel" has the meaning assigned by Section
3 162.001, Tax Code.

4 (3) "Gasoline" has the meaning assigned by Section
5 162.001, Tax Code.

6 (4) "Jobber" means a person who:

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

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

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

15 (6) "Net gallon" has the meaning assigned by Section
16 162.001, Tax Code.

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

19 (8) "Sale" has the meaning assigned by Section
20 162.001, Tax Code.

21 Sec. 442.032. TAX ON SALE OF GASOLINE AND DIESEL FUEL
22 AUTHORIZED. A county may impose a tax on the sale of gasoline or
23 diesel fuel sold in the county to propel a motor vehicle on the
24 public highways of this state.

25 Sec. 442.033. RATE OF TAX. The tax authorized by this
26 subchapter may be imposed in increments of one cent for each net
27 gallon of gasoline or diesel fuel sold in the county to propel a

1 motor vehicle on the public highways of this state, with a maximum
2 rate of four cents for each net gallon.

3 Sec. 442.034. COMPUTATION OF TAX. (a) A person, including
4 a dealer or jobber, who makes a sale of gasoline or diesel fuel in a
5 county authorized to impose the tax to a person who uses the
6 gasoline or diesel fuel to propel a motor vehicle on the public
7 highways of this state shall collect the tax authorized by this
8 subchapter for the benefit of the county.

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

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

16 Sec. 442.035. EXEMPTIONS APPLICABLE. The exemptions
17 provided by Sections 162.104 and 162.204, Tax Code, apply to the tax
18 authorized by this subchapter.

19 Sec. 442.036. COLLECTION AND ENFORCEMENT OF TAX. (a) A
20 person, including a dealer or jobber, required to collect the tax
21 authorized by this subchapter shall report and send the taxes to the
22 county as provided by the county.

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

26 (c) The county may permit a person who is required to
27 collect the tax authorized by this subchapter to retain a

1 percentage of the amount collected and required to be reported as
2 reimbursement to the person for the costs of collecting the tax.
3 The county may provide that the person may retain the amount only if
4 the person pays the tax and files reports as required by the county.

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

7 Sec. 442.037. REFUND. (a) A person who has paid the tax
8 authorized by this subchapter on gasoline or diesel fuel used by the
9 person for a purpose other than to propel a motor vehicle on the
10 public highways of this state or for a use exempted under Section
11 442.035 may file a claim for a refund.

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

14 Sec. 442.038. REQUIRED PERMIT. The county may require a
15 dealer, jobber, or other person required to collect, report, and
16 pay the tax authorized by this subchapter to obtain a permit from
17 the county.

18 [Sections 442.039-442.060 reserved for expansion]

19 SUBCHAPTER C. COUNTY MOTOR VEHICLE SALES TAX

20 Sec. 442.061. DEFINITIONS. In this subchapter:

21 (1) "Motor vehicle" and "retail sale" have the
22 meanings assigned by Section 152.001, Tax Code.

23 (2) "Total consideration" has the meaning assigned by
24 Section 152.002, Tax Code.

25 Sec. 442.062. RATE OF TAX. The tax authorized by this
26 subchapter may be imposed at a rate not to exceed 1.75 percent of
27 the total consideration.

1 Sec. 442.063. APPLICABILITY OF STATE MOTOR VEHICLE SALES
2 TAX PROVISIONS. (a) The tax authorized by this subchapter is in
3 addition to the tax imposed by Chapter 152, Tax Code.

4 (b) The exemptions provided by Subchapter E, Chapter 152,
5 Tax Code, apply to the tax authorized by this subchapter.

6 Sec. 442.064. ADMINISTRATION BY COUNTY. (a) A person
7 required to collect the tax authorized by this subchapter shall
8 report and send the tax to the county as required by the county.

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

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

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

20 [Sections 442.065-442.090 reserved for expansion]

21 SUBCHAPTER D. ADDITIONAL COUNTY SALES AND USE TAX

22 Sec. 442.091. ADDITIONAL SALES AND USE TAX. A county may
23 impose a sales and use tax under this subchapter.

24 Sec. 442.092. TAX RATE. The rate of a tax authorized by
25 this subchapter must be one-eighth, one-fourth, three-eighths, or
26 one-half of one percent.

27 Sec. 442.093. APPLICABILITY OF TAX CODE. (a) Chapter 323,

1 Tax Code, governs the imposition, computation, administration,
2 collection, and remittance of a tax authorized by this subchapter
3 except as inconsistent with this subchapter.

4 (b) Section 323.101, Tax Code, does not apply to the tax
5 authorized by this subchapter.

6 (c) The tax authorized by this subchapter is in addition to
7 a tax imposed under other law, including Chapter 323, Tax Code.

8 Sec. 442.094. EFFECT ON COMBINED LOCAL TAX RATE. The rate
9 of a tax authorized by this subchapter may not be considered in
10 determining the combined or overlapping rate in any area of local
11 sales and use taxes imposed under this code or another law,
12 including:

- 13 (1) the Health and Safety Code;
14 (2) the Local Government Code; or
15 (3) the Special District Local Laws Code.

16 Sec. 442.095. RATE INCREASE. The rate of a tax authorized
17 by this subchapter may be increased in one or more increments of
18 one-eighth of one percent to a maximum of one-half of one percent.

19 Sec. 442.096. EFFECTIVE DATE OF TAX. The imposition of the
20 tax or the change in the tax rate takes effect on the first day of
21 the first calendar quarter occurring after the expiration of the
22 first complete quarter occurring after the date the comptroller
23 receives a notice of the order or the results of the election, as
24 applicable, imposing, increasing, or decreasing the tax.

25 Sec. 442.097. ABOLITION OF TAX. (a) Notwithstanding
26 Section 442.004(c), the tax authorized by this subchapter may not
27 be collected after the last day of the first calendar quarter

1 occurring after notification to the comptroller by the county that
2 the county has abolished the tax.

3 (b) The county shall notify the comptroller of the abolition
4 of the tax not later than the 60th day before the abolition date.

5 [Sections 442.098-442.120 reserved for expansion]

6 SUBCHAPTER E. REAL ESTATE TRANSFER FEE

7 Sec. 442.121. DEFINITIONS. In this subchapter:

8 (1) "Consideration" means anything of value,
9 including a promise or other obligation.

10 (2) "Interest in real property" includes any present
11 or future right of possession, title, ownership, or use of real
12 property, but does not include a leasehold interest.

13 (3) "Real estate" means real property, both commercial
14 and residential, and includes improvements and interests in real
15 property.

16 Sec. 442.122. FEE IMPOSED. (a) A county may impose a real
17 estate transfer fee authorized by this subchapter if:

18 (1) the commissioners court develops a proposal for
19 the imposition of the fee that specifies:

20 (A) the amount of the fee to be imposed, either as
21 a set amount for a transfer of real estate or as a rate to be
22 multiplied by the total consideration given for the transfer;

23 (B) any transfers of real estate that will be
24 excluded from the fee and any exemptions, including a homestead
25 exemption, that will be allowed;

26 (C) subject to the requirements of this
27 subchapter, procedures for the administration of the fee; and

1 (D) provisions for the enforcement of the fee,
2 including any penalty to be imposed if the fee is not paid as
3 required by Section 442.124; and

4 (2) the fee is imposed under Section 442.002(1) or
5 (2), as applicable.

6 (b) The fee authorized by this subchapter is imposed on the
7 voluntary transfer for consideration of real estate located in the
8 county.

9 Sec. 442.123. JOINT AFFIDAVIT. (a) Each party to a
10 transfer of real estate shall execute an affidavit, executed by
11 each other party to the transfer, stating the names of the parties,
12 a description of the property transferred, a description of the
13 total consideration for the transfer, and a statement of an amount
14 that is equal to or exceeds the total present value of that
15 consideration.

16 (b) If any portion of the consideration for the transfer of
17 real estate consists of other real estate, the affidavit must
18 contain a valuation of each piece of real estate involved in the
19 transaction.

20 Sec. 442.124. WHEN FEE DUE; PAYMENT. (a) A fee authorized
21 by this subchapter must be paid not later than the 30th day after
22 the date the transfer occurs.

23 (b) The fee must be paid to the county clerk of the county in
24 which the real estate is located, subject to Subsection (c).

25 (c) If real estate is located in more than one county, the
26 imposition of a fee for the transfer of that real estate is governed
27 by orders adopted by the commissioners court of the county in which

1 the majority of the real estate is located. If a fee is imposed in
2 that county, the fee must be paid to the county clerk of that
3 county.

4 (d) A county clerk may not accept for recording a deed, a
5 deed of trust, or any other written instrument showing or
6 evidencing a transfer of real estate unless the person offering the
7 instrument for filing submits the joint affidavit required by
8 Section 442.183 and pays the amount of the fee shown to be due on the
9 transfer of the real estate, subject to Subsection (c).

10 (e) A joint affidavit submitted under Subsection (d) is for
11 the confidential use of the county. The affidavit may not be shown,
12 or the contents revealed, to any person other than a party to the
13 transfer.

14 Sec. 442.125. PARTIES LIABLE FOR FEE. Each party to an
15 agreement for the transfer of real estate and each party to a
16 conveyance, including a grantor, purchaser, seller, mortgagor,
17 mortgagee, trustee, or other party, is jointly and severally liable
18 for the payment of the fee authorized by this subchapter.

19 Sec. 442.126. RECEIPT. (a) At the time the fee authorized
20 by this subchapter is paid, the county clerk to whom the fee is paid
21 shall issue a receipt showing the amount of the fee paid, a
22 description of the real estate transferred, the date of the
23 transfer, and the date of the fee payment.

24 (b) If the transfer is fully excluded or exempted as
25 provided by the commissioners court in the proposal adopted under
26 Section 442.122, the county clerk shall issue a certificate showing
27 the exclusion or exemption and stating that no fee is due on the

1 transfer.

2 (c) A receipt or a certificate issued under this section may
3 be filed in the deed records of any county with or as a part of a
4 deed or other instrument recorded.

5 [Sections 442.127-442.150 reserved for expansion]

6 SUBCHAPTER F. ADDITIONAL VEHICLE REGISTRATION FEE

7 Sec. 442.151. OPTIONAL COUNTY FEE FOR TRANSPORTATION
8 PROJECTS. A county may impose an additional fee, not to exceed \$10,
9 for registering a vehicle in the county.

10 Sec. 442.152. EXEMPTION. A vehicle that may be registered
11 under Chapter 502 or 504 without payment of a registration fee may
12 be registered in a county imposing a fee authorized by this
13 subchapter without payment of the additional fee.

14 Sec. 442.153. EFFECTIVE DATE. A fee authorized by this
15 subchapter may take effect only on January 1 of a year. The county
16 must notify the department not later than September 1 of the year
17 preceding the year in which the fee takes effect.

18 Sec. 442.154. ABOLITION OF FEE. A fee authorized by this
19 subchapter may be abolished under Section 442.004. The abolition
20 may take effect only on January 1 of a year. A county must notify
21 the department not later than September 1 of the year preceding the
22 year in which the abolition takes effect.

23 Sec. 442.155. COLLECTION OF FEE. The county
24 assessor-collector of a county imposing a fee authorized by this
25 subchapter shall collect the fee for a vehicle when other fees
26 imposed under Chapter 502 or 504 are collected.

27 Sec. 442.156. VEHICLES REGISTERED DIRECTLY WITH

1 DEPARTMENT. The department shall collect the additional fee on a
2 vehicle that is owned by a resident of a county imposing a fee
3 authorized by this subchapter and that, under Chapter 502 or 504,
4 must be registered directly with the department. The department
5 shall send all fees collected for a county under this section to the
6 county for deposit as provided by Section 442.005.

7 Sec. 442.157. DEPARTMENT RULES. The department shall adopt
8 rules and develop forms necessary to administer registration by
9 mail for a vehicle being registered in a county imposing a fee
10 authorized by this subchapter or a vehicle that is owned by a
11 resident of such a county.

12 [Sections 442.158-442.180 reserved for expansion]

13 SUBCHAPTER G. PASSENGER MOTOR VEHICLE SALES FEE

14 Sec. 442.181. DEFINITIONS. In this subchapter:

15 (1) "Motor vehicle" and "retail sale" have the
16 meanings assigned by Section 152.001, Tax Code.

17 (2) "Passenger motor vehicle" means a motor vehicle of
18 a private passenger type, including a passenger van and minivan,
19 primarily intended for private use.

20 (3) "Total consideration" has the meaning assigned by
21 Section 152.002, Tax Code.

22 Sec. 442.182. AMOUNT OF FEE. The fee authorized by this
23 subchapter may be imposed as a set amount for the retail sale of a
24 passenger motor vehicle.

25 Sec. 442.183. APPLICABILITY OF MOTOR VEHICLE SALES TAXES.
26 The fee authorized by this subchapter is in addition to the tax
27 imposed by Chapter 152, Tax Code, and a tax imposed by any other

1 law, including Subchapter C.

2 Sec. 442.184. ADMINISTRATION BY COUNTY. (a) The
3 commissioners court of a county may provide exemptions to the
4 imposition of the fee.

5 (b) A person required to collect the fee authorized by this
6 subchapter shall report and send the fee to the county as required
7 by the county.

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

11 (d) The county may permit a person who is required to
12 collect the fee authorized by this subchapter to retain a
13 percentage of the amount collected and required to be reported as
14 reimbursement to the person for the costs of collecting the fee.
15 The county may provide that the person may retain the amount only if
16 the person pays the fee and files reports as required by the county.

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

19 [Sections 442.185-442.210 reserved for expansion]

20 SUBCHAPTER H. MISCELLANEOUS FEES

21 Sec. 442.211. ROAD IMPACT FEE. A county may impose a fee,
22 not to exceed \$100, to each new resident of the county.

23 Sec. 442.212. NONRESIDENT COMMUTER FEE. A county may
24 impose a nonresident commuter fee on nonresidents who commute into
25 the county.

26 Sec. 442.213. MILEAGE-BASED ROAD USER FEE. A county may
27 impose a fee based on the number of miles traveled by a motor

1 vehicle registered to a resident of the county.

2 Sec. 442.214. ADDITIONAL INSPECTION FEE. A county may
3 impose a fee not to exceed \$10 to be imposed for each motor vehicle
4 inspected in the county under Chapter 548.

5 Sec. 442.215. CONGESTION FEES. (a) A county may designate
6 certain areas of the county as high congestion areas and charge a
7 fee to enter those areas during peak traffic times.

8 (b) If any part of an area to be designated as a high
9 congestion area under this section is in the boundaries of a
10 municipality, the county must obtain the consent of the
11 municipality before designating the area as a high congestion area.

12 SECTION 4. Section 502.1725, Transportation Code, is
13 repealed.

14 SECTION 5. This Act takes effect September 1, 2009.