

1 HB540  
2 176483-2  
3 By Representatives Lee, Clouse, Chesteen and Grimsley  
4 (Constitutional Amendment)  
5 RFD: Local Legislation  
6 First Read: 13-APR-16

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8 SYNOPSIS: This bill would propose a local  
9 constitutional amendment to the Constitution of  
10 Alabama of 1901, relating to Houston County, to  
11 authorize the Houston County Commission to levy a  
12 road and bridge maintenance and construction excise  
13 fee on motor fuels.

14  
15 A BILL  
16 TO BE ENTITLED  
17 AN ACT

18  
19 To propose an amendment to the Constitution of  
20 Alabama of 1901; relating to Houston County; to authorize the  
21 Houston County Commission to levy a road and bridge  
22 maintenance construction excise fee on motor fuels; and to  
23 provide for the distribution of proceeds to a special  
24 transportation safety fund to be used for road and bridge  
25 maintenance and construction in the county.

26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1                   Section 1. The following amendment to the  
2                   Constitution of Alabama of 1901, is proposed and shall become  
3                   valid as a part of the Constitution when all requirements of  
4                   this amendment are fulfilled:

5   PROPOSED AMENDMENT

6                   (a) For the purposes of this amendment, the  
7                   following terms shall have the following meanings:

8   (1) DISTRIBUTOR. The term as defined in Section  
9                   40-17-322, Code of Alabama 1975.

10    (2) MOTOR FUEL. Gasoline, blended fuel, and diesel  
11                   fuel as those terms are defined in Section 40-17-322, Code of  
12                   Alabama 1975.

13    (3) PERSON. Persons, corporations, copartnerships,  
14                   companies, agencies, associations, incorporated or otherwise,  
15                   singular or plural.

16    (4) STORER. Any person who ships, causes to be  
17                   shipped, or receives in any quantities, stores in any manner,  
18                   and withdraws or uses motor fuels for any purpose.

19    (b) The Houston County Commission may levy a road  
20                   and bridge maintenance and construction excise fee on persons  
21                   selling, distributing, storing, or withdrawing from storage  
22                   for any purpose whatever, motor fuels within the county at the  
23                   rate not to exceed five cents (\$0.05) per gallon.

24    (c) Except as otherwise specifically provided in  
25                   this amendment, the fee authorized in this amendment shall be  
26                   collected in the same manner and at the same time as the state  
27                   excise tax on motor fuels, shall parallel the corresponding

1 state tax levy, except for the rate of fee, and shall be  
2 subject to all definitions, exceptions, exemptions,  
3 proceedings, requirements, provisions, rules, regulations,  
4 direct pay permits and drive-out certificate procedures,  
5 statutes of limitation, penalties, fines, punishments, and  
6 deductions as applicable to the corresponding state tax,  
7 including provisions for the enforcement and collection of  
8 taxes. The excise fee shall not be levied by the county  
9 commission upon any motor fuel when used in governmental  
10 functions by the state, an agency of the state, county  
11 governing agencies, municipalities, and boards of education.

12 (d) The county commission may contract with the  
13 Department of Revenue to administer and collect the excise fee  
14 or it may administer and collect, or contract for the  
15 collection of the county excise fee as authorized in Section  
16 11-3-11.2, Code of Alabama 1975, provided the excise fee is  
17 collected at the same time as the state excise tax on motor  
18 fuels is due to be paid to the department. Any county  
19 commission which elects to administer and collect, or contract  
20 for the collection of, the excise fee shall have the same  
21 rights, remedies, power, and authority, including the right to  
22 adopt and implement the same procedures, as would be available  
23 to the Department of Revenue if the excise fee was being  
24 administered, enforced, and collected by the department. Any  
25 rules adopted or utilized by the county or its designee shall  
26 be consistent with the rules adopted through the provisions of

1 the Alabama Administrative Procedure Act by the Department of  
2 Revenue for the corresponding state excise tax.

3 (e) The net proceeds of any excise fee imposed under  
4 authority of this amendment shall be deposited into a special  
5 local transportation safety fund to be expended for the  
6 maintenance, improvement, replacement, and construction of  
7 roads and bridges in the county as follows:

8 (1) Two cents of the net proceeds from the excise  
9 fee collected on each gallon of motor fuel sold within the  
10 corporate limits of any incorporated active city or town shall  
11 be distributed to the city or town to be used for the purposes  
12 provided in this section.

13 (2) The remainder of the net proceeds from the  
14 excise fee shall be used by the county for the purposes  
15 provided in this amendment.

16 (f) All records shall be audited by the Office of  
17 Examiners of Public Accounts in the same manner as all other  
18 county and municipal funds.

19 (g) The additional revenue available in Houston  
20 County for maintenance, improvement, replacement, and  
21 construction of roads and bridges from any excise fee levied  
22 pursuant to this amendment shall not in any way reduce funding  
23 by the county or any municipality for the maintenance,  
24 improvement, replacement, and construction of roads and  
25 bridges as provided prior to this amendment.

26 (h) If the State of Alabama enacts a statewide  
27 excise fee on motor fuels with the proceeds distributed to

1 counties and cities in the state within four years of the  
2 ratification of this amendment, the rate established in this  
3 amendment shall be lowered to two cents (\$0.02) per gallon,  
4 and one-half of the net proceeds shall be distributed as  
5 provided in subdivision (1) of subsection (e) and the  
6 remainder of the net proceeds shall be distributed as provided  
7 in subdivision (2) of subsection (e).

8 (i) After the ratification of this amendment, no  
9 incorporated city or town in Houston County shall levy or  
10 collect a privilege license or excise tax on any liquid motor  
11 fuel upon the business of selling, delivering, withdrawing  
12 from storage, or keeping in storage the motor fuels on a  
13 quantity basis; provided, however, this limitation shall not  
14 apply to the ordinary license to do business in the  
15 municipalities.

16 (j) Act 82-727 of the 1982 Second Special Session  
17 (Acts 1982 First, Second, and Third Special Session, p. 183),  
18 upon the implementation of any excise fee pursuant to this  
19 amendment, is hereby repealed.

20 Section 2. An election upon the proposed amendment  
21 shall be held at the next general election in accordance with  
22 Amendment 555 to the Constitution of Alabama of 1901, now  
23 appearing as Section 284.01 of the Official Recompilation of  
24 the Constitution of Alabama of 1901, as amended, and the  
25 election laws of this state.

26 Section 3. The appropriate election official shall  
27 assign a ballot number for the proposed constitutional

1 amendment on the election ballot and shall set forth the  
2 following description of the substance or subject matter of  
3 the proposed constitutional amendment:

4 "Relating to Houston County, proposing an amendment  
5 to the Constitution of Alabama of 1901, to authorize the  
6 Houston County Commission to levy a road and bridge  
7 maintenance construction excise fee on motor fuels; and to  
8 provide for the distribution of proceeds to a special  
9 transportation safety fund to be used for road and bridge  
10 maintenance and construction in the county.

11 "Proposed by Act \_\_\_\_\_"

12 This description shall be followed by the following  
13 language:

14 "Yes ( ) No ( )."