

The 2017 Florida Statutes

Title XXVI

PUBLIC TRANSPORTATION

Chapter 336

COUNTY ROAD SYSTEM

[View Entire Chapter](#)

336.025 County transportation system; levy of local option fuel tax on motor fuel and diesel fuel.—

(1)(a) In addition to other taxes allowed by law, there may be levied as provided in ss. 206.41(1)(e) and 206.87(1)(c) a 1-cent, 2-cent, 3-cent, 4-cent, 5-cent, or 6-cent local option fuel tax upon every gallon of motor fuel and diesel fuel sold in a county and taxed under the provisions of part I or part II of chapter 206.

1. All impositions and rate changes of the tax shall be levied before October 1 to be effective January 1 of the following year for a period not to exceed 30 years, and the applicable method of distribution shall be established pursuant to subsection (3) or subsection (4). However, levies of the tax which were in effect on July 1, 2002, and which expire on August 31 of any year may be reimposed at the current authorized rate provided the tax is levied before July 1 and is effective September 1 of the year of expiration. Upon expiration, the tax may be relieved provided that a redetermination of the method of distribution is made as provided in this section.

2. County and municipal governments shall utilize moneys received pursuant to this paragraph only for transportation expenditures.

3. Any tax levied pursuant to this paragraph may be extended on a majority vote of the governing body of the county. A redetermination of the method of distribution shall be established pursuant to subsection (3) or subsection (4), if, after July 1, 1986, the tax is extended or the tax rate changed, for the period of extension or for the additional tax.

(b) In addition to other taxes allowed by law, there may be levied as provided in s. 206.41(1)(e) a 1-cent, 2-cent, 3-cent, 4-cent, or 5-cent local option fuel tax upon every gallon of motor fuel sold in a county and taxed under the provisions of part I of chapter 206. The tax shall be levied by an ordinance adopted by a majority plus one vote of the membership of the governing body of the county or by referendum.

1. All impositions and rate changes of the tax shall be levied before October 1, to be effective January 1 of the following year. However, levies of the tax which were in effect on July 1, 2002, and which expire on

August 31 of any year may be reimposed at the current authorized rate provided the tax is levied before July 1 and is effective September 1 of the year of expiration.

2. The county may, prior to levy of the tax, establish by interlocal agreement with one or more municipalities located therein, representing a majority of the population of the incorporated area within the county, a distribution formula for dividing the entire proceeds of the tax among county government and all eligible municipalities within the county. If no interlocal agreement is adopted before the effective date of the tax, tax revenues shall be distributed pursuant to the provisions of subsection (4). If no interlocal agreement exists, a new interlocal agreement may be established prior to June 1 of any year pursuant to this subparagraph. However, any interlocal agreement agreed to under this subparagraph after the initial levy of the tax or change in the tax rate authorized in this section shall under no circumstances materially or adversely affect the rights of holders of outstanding bonds which are backed by taxes authorized by this paragraph, and the amounts distributed to the county government and each municipality shall not be reduced below the amount necessary for the payment of principal and interest and reserves for principal and interest as required under the covenants of any bond resolution outstanding on the date of establishment of the new interlocal agreement.

3. County and municipal governments shall use moneys received pursuant to this paragraph for transportation expenditures needed to meet the requirements of the capital improvements element of an adopted comprehensive plan or for expenditures needed to meet immediate local transportation problems and for other transportation-related expenditures that are critical for building comprehensive roadway networks by local governments. For purposes of this paragraph, expenditures for the construction of new roads, the reconstruction or resurfacing of existing paved roads, or the paving of existing graded roads shall be deemed to increase capacity and such projects shall be included in the capital improvements element of an adopted comprehensive plan. Expenditures for purposes of this paragraph shall not include routine maintenance of roads.

(c) Local governments may use the services of the Division of Bond Finance of the State Board of Administration pursuant to the State Bond Act to issue any bonds through the provisions of this section and may pledge the revenues from local option fuel taxes to secure the payment of the bonds. Counties and municipalities may join together for the issuance of bonds issued pursuant to this section.

(d) If an interlocal agreement entered into under this section does not provide for automatic adjustments or periodic review by the local governmental entities of the method of distribution of local option fuel tax revenues, the parties to the agreement shall review and hold public hearings on the terms of the agreement at least every 2 years.

(2)(a) The tax levied pursuant to paragraph (1)(a) shall be collected and remitted in the same manner provided by ss. 206.41(1)(e) and 206.87(1)(c). The tax levied pursuant to paragraph (1)(b) shall be collected and remitted in the same manner provided by s. 206.41(1)(e). The taxes remitted pursuant to this section shall be transferred to the Local Option Fuel Tax Trust Fund, which fund is created for distribution to the county and eligible municipal governments within the county in which the tax was collected and which fund is subject to the service charge imposed in chapter 215. The tax shall be distributed monthly by the department in the same manner provided by s. 336.021(1)(c) and (d). The department shall deduct the administrative costs incurred by it in collecting, administering, enforcing, and distributing back to the counties the tax, which administrative costs may not exceed 2 percent of collections authorized by this section. The total administrative costs shall be prorated among those counties levying the tax according to the following formula, which shall be revised on July 1 of each year: Two-thirds of the amount deducted shall be based on the county's proportional share of the number of dealers who are registered for purposes of chapter 212 on June 30 of the preceding state fiscal year, and one-third of the amount deducted shall be based on the county's share of the total amount of the tax collected during the preceding state fiscal year. The department has the authority to prescribe and publish all forms upon which reports shall be made to it and other forms and records deemed to be necessary for proper administration and collection of the taxes levied by any county and shall promulgate such rules as may be necessary for the enforcement of this section, which rules shall have the full force and effect of law. The provisions of ss. 206.026, 206.027, 206.028, 206.051, 206.052, 206.054, 206.055, 206.06, 206.07, 206.075, 206.08, 206.09, 206.095, 206.10, 206.11, 206.12, 206.13, 206.14, 206.15, 206.16, 206.17, 206.175, 206.18, 206.199, 206.20, 206.204, 206.205, 206.21, 206.215, 206.22, 206.24, 206.27, 206.28, 206.41, 206.416, 206.44, 206.45, 206.48, 206.49, 206.56, 206.59, 206.626, 206.87, 206.872, 206.873, 206.8735, 206.874, 206.8741, 206.94, and 206.945 shall, as far as practicable, be applicable to the levy and collection of taxes imposed pursuant to this section as if fully set out in this section.

(b) The provisions of s. 206.43(7) shall apply to the incorrect reporting of the tax levied under this section.

(c) The provisions for refund provided in s. 206.625 are not applicable to the tax levied pursuant to paragraph (1)(a) or paragraph (1)(b) by any county.

(3) The tax authorized pursuant to paragraph (1)(a) shall be levied using either of the following procedures:

(a) The tax may be levied by an ordinance adopted by a majority vote of the governing body or upon approval by referendum. Such ordinance shall be adopted in accordance with the requirements imposed under one of the following circumstances, whichever is applicable:

1. The county may, prior to June 1, establish by interlocal agreement with one or more of the municipalities located therein, representing a majority of the population of the incorporated area within the county, a distribution formula for dividing the entire proceeds of the local option fuel tax among the county government and all eligible municipalities within the county. If no interlocal agreement exists, a

new interlocal agreement may be established prior to August 1, 1986, or June 1 of any year thereafter pursuant to this subparagraph. However, any interlocal agreement agreed to under this subparagraph after the initial imposition of the tax, extension of the tax, or change in the tax rate authorized in this section shall under no circumstances materially or adversely affect the rights of holders of outstanding bonds which are backed by taxes authorized by this section, and the amounts distributed to the county government and each municipality shall not be reduced below the amount necessary for the payment of principal and interest and reserves for principal and interest as required under the covenants of any bond resolution outstanding on the date of establishment of the new interlocal agreement.

2. If an interlocal agreement has not been executed pursuant to subparagraph 1., the county may, prior to June 10, adopt a resolution of intent to levy the tax allowed in paragraph (1)(a).

3. Notwithstanding subparagraphs 1. and 2., any inland county with a population greater than 500,000 as of July 1, 1996, with an interlocal agreement with one or more of the incorporated areas within the county established pursuant to subparagraph 1. must utilize the population estimates of local governmental units as of April 1 of each year pursuant to s. 186.901, for dividing the proceeds of the local option fuel tax contained in such interlocal agreement. However, any interlocal agreement agreed to under this subparagraph after the initial imposition of the tax, extension of the tax, or change in the tax rate authorized in this section shall under no circumstances materially or adversely affect the rights of holders of outstanding bonds which are backed by taxes authorized by this section, and the amounts distributed to the county government and each municipality shall not be reduced below the amount necessary for the payment of principal and interest and reserves for principal and interest as required under the covenants of any bond resolution outstanding on the date of establishment of the new interlocal agreement.

(b) If no interlocal agreement or resolution is adopted pursuant to subparagraph (a)1. or subparagraph (a)2., municipalities representing more than 50 percent of the county population may, prior to June 20, adopt uniform resolutions approving the local option tax, establishing the duration of the levy and the rate authorized in paragraph (1)(a), and setting the date for a countywide referendum on whether to levy the tax. A referendum shall be held in accordance with the provisions of such resolution and applicable state law, provided that the county shall bear the costs thereof. The tax shall be levied and collected countywide on January 1 following 30 days after voter approval.

(4)(a) If the tax authorized pursuant to paragraph (1)(a) is levied under the circumstances of subparagraph (3)(a)2. or paragraph (3)(b), the proceeds of the tax shall be distributed among the county government and eligible municipalities based on the transportation expenditures of each for the immediately preceding 5 fiscal years, as a proportion of the total of such expenditures for the county and all municipalities within the county. After the initial levy of a tax being distributed pursuant to the

provisions of this paragraph, the proportions shall be recalculated every 10 years based on the transportation expenditures of the immediately preceding 5 years. However, such recalculation shall under no circumstances materially or adversely affect the rights of holders of bonds outstanding on July 1, 1986, which are backed by taxes authorized in paragraph (1)(a), and the amounts distributed to the county government and each municipality shall not be reduced below the amount necessary for the payment of principal and interest and reserves for principal and interest as required under the covenants of any bond resolution outstanding on the date of the recalculation.

(b) Any newly incorporated municipality which is eligible for participation in the distribution of moneys under parts II and VI of chapter 218 and which is located in a county levying the tax pursuant to paragraph (1)(a) or paragraph (1)(b) is entitled to receive a share of the tax revenues. Distribution of such revenues to a newly incorporated municipality shall begin in the first full fiscal year following incorporation. The distribution to a newly incorporated municipality shall be:

1. Equal to the county's per lane mile expenditure in the previous year times the lane miles within the jurisdiction or responsibility of the municipality, in which case the county's share shall be reduced proportionately; or

2. Determined by the local act incorporating the municipality.

Such distribution shall under no circumstances materially or adversely affect the rights of holders of outstanding bonds which are backed by taxes authorized in this section, and the amounts distributed to the county government and each municipality shall not be reduced below the amount necessary for the payment of principal and interest and reserves for principal and interest as required under the covenants of any bond resolution outstanding on the date of the redistribution.

(5)(a) By October 1 of each year, the county shall notify the Department of Revenue of the rate of the taxes levied pursuant to paragraphs (1)(a) and (b), and of its decision to rescind or change the rate of a tax, if applicable, and shall provide the department with a certified copy of the interlocal agreement established under subparagraph (1)(b)2. or subparagraph (3)(a)1. with distribution proportions established by such agreement or pursuant to subsection (4), if applicable. A decision to rescind a tax may not take effect on any date other than December 31, regardless of when the tax was originally imposed, and requires a minimum of 60 days' notice to the Department of Revenue of such decision.

(b) Any dispute as to the determination by the county of distribution proportions shall be resolved through an appeal to the Administration Commission in accordance with procedures developed by the commission. Pending final disposition of such proceeding, the tax shall be collected pursuant to this

section, and such funds shall be held in escrow by the clerk of the circuit court of the county until final disposition.

(6) Only those municipalities and counties eligible for participation in the distribution of moneys under parts II and VI of chapter 218 are eligible to receive moneys under this section. Any funds otherwise undistributed because of ineligibility shall be distributed to eligible governments within the county in proportion to other moneys distributed pursuant to this section.

(7) For the purposes of this section, “transportation expenditures” means expenditures by the local government from local or state shared revenue sources, excluding expenditures of bond proceeds, for the following programs:

(a) Public transportation operations and maintenance.

(b) Roadway and right-of-way maintenance and equipment and structures used primarily for the storage and maintenance of such equipment.

(c) Roadway and right-of-way drainage.

(d) Street lighting installation, operation, maintenance, and repair.

(e) Traffic signs, traffic engineering, signalization, and pavement markings, installation, operation, maintenance, and repair.

(f) Bridge maintenance and operation.

(g) Debt service and current expenditures for transportation capital projects in the foregoing program areas, including construction or reconstruction of roads and sidewalks.

(8) In addition to the uses specified in subsection (7), the governing body of a county with a population of 50,000 or less on April 1, 1992, or the governing body of a municipality within such a county may use the proceeds of the tax levied pursuant to paragraph (1)(a) in any fiscal year to fund infrastructure projects, if such projects are consistent with the local government’s approved comprehensive plan or, if the approval or denial of the plan has not become final, consistent with the plan last submitted to the state land planning agency. In addition, no more than an amount equal to the proceeds from 4 cents per

gallon of the tax imposed pursuant to paragraph (1)(a) may be used by such county for the express and limited purpose of paying for a court-ordered refund of special assessments. Except as provided in subsection (7), such funds shall not be used for the operational expenses of any infrastructure. Such funds may be used for infrastructure projects under this subsection only after the local government, prior to the fiscal year in which the funds are proposed to be used, or if pledged for bonded indebtedness, prior to the fiscal year in which the bonds will be issued, has held a duly noticed public hearing on the proposed use of the funds and has adopted a resolution certifying that the local government has met all of the transportation needs identified in its approved comprehensive plan or, if the approval or denial of the plan has not become final, consistent with the plan last submitted to the state land planning agency. The proceeds shall not be pledged for bonded indebtedness for a period exceeding 10 years, except that, for the express and limited purpose of using such proceeds in any fiscal year to pay a court-ordered refund of special assessments, the proceeds may be pledged for bonded indebtedness not exceeding 15 years. For the purposes of this subsection, "infrastructure" has the same meaning as provided in s. 212.055.

(9) Notwithstanding any other provision of this section, the tax on diesel fuel authorized in this section shall be levied in every county at the rate of 6 cents per net gallon.

History.—s. 55, ch. 83-3; s. 6, ch. 83-138; s. 8, ch. 83-339; s. 1, ch. 84-369; s. 17, ch. 85-81; s. 33, ch. 85-180; s. 123, ch. 85-342; s. 43, ch. 86-152; s. 29, ch. 86-243; s. 71, ch. 87-99; s. 2, ch. 90-351; s. 9, ch. 92-184; s. 280, ch. 92-279; s. 4, ch. 92-309; s. 55, ch. 92-326; s. 33, ch. 93-164; s. 40, ch. 93-206; s. 8, ch. 94-146; s. 53, ch. 94-237; s. 960, ch. 95-148; s. 40, ch. 95-257; s. 1, ch. 95-343; ss. 118, 119, ch. 95-417; ss. 25, 68, ch. 96-323; ss. 18, 19, ch. 96-397; ss. 17, 18, ch. 97-54; s. 9, ch. 2000-266; s. 35, ch. 2001-201; s. 48, ch. 2002-218; s. 3, ch. 2003-86; s. 24, ch. 2003-254; s. 28, ch. 2007-196; s. 28, ch. 2012-174; s. 40, ch. 2017-36.