**South Carolina General Assembly**

120th Session, 2013-2014

**H. 4356**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Felder, Long, Southard and Gagnon

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Companion/Similar bill(s): 149

Introduced in the House on January 14, 2014

Currently residing in the House Committee on **Ways and Means**

Summary: Local Option Motor Fuel User Fee Act

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/3/2013 House Prefiled

12/3/2013 House Referred to Committee on **Ways and Means**

1/14/2014 House Introduced and read first time ([House Journal‑page 46](file:///H:\HJ%20Archive\2014\01-14-14.docx))

1/14/2014 House Referred to Committee on **Ways and Means** ([House Journal‑page 46](file:///H:\HJ%20Archive\2014\01-14-14.docx))

1/16/2014 House Member(s) request name added as sponsor: Gagnon

**VERSIONS OF THIS BILL**

[12/3/2013](file:///p:\pprever\2013-14\4356_20131203.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 14 TO TITLE 6 SO AS TO ENACT THE “LOCAL OPTION MOTOR FUEL USER FEE ACT”, TO PROVIDE THAT A COUNTY MAY IMPOSE BY ORDINANCE, APPROVED BY REFERENDUM, A USER FEE OF NOT MORE THAN TWO CENTS A GALLON ON RETAIL SALES OF MOTOR FUEL FOR THE SOLE PURPOSE OF ROAD IMPROVEMENT PROJECTS AND ROAD MAINTENANCE WITHIN THE COUNTY, TO PROVIDE THE PROCESS BY WHICH THE USER FEE MAY BE IMPOSED, AND TO PROVIDE THE MANNER IN WHICH THE DEPARTMENT OF REVENUE SHALL COLLECT AND DISTRIBUTE THE USER FEE.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Title 6 of the 1976 Code is amended by adding:

“CHAPTER 14

Local Option Motor Fuel User Fee

Section 6‑14‑10. This chapter may be cited as the ‘Local Option Motor Fuel User Fee Act’.

Section 6‑14‑20. For purposes of this chapter:

(1) ‘Motor fuel’ means:

(a) all gasoline, gasohol, or blended fuels containing gasoline that are used or consumed for any purpose in this State; and

(b) all diesel fuel, substitute fuels, or alternative fuels, or blended fuels containing diesel fuel that are used or consumed in this State in producing or generating power for propelling motor vehicles.

(2) ‘Retail sales’ has the same meaning as provided in Section 12‑36‑110.

(3) ‘Road improvement projects’ and ‘road maintenance’ consists of any work that is planned and performed to maintain and preserve the condition of the highway system or to respond to specific conditions and events that restore a roadway to an adequate level of service. Such activities include, but are not limited to:

(a) cleaning of roadside ditches and structures;

(b) crack filling;

(c) pothole patching and isolated overlays;

(d) chip seal;

(e) signage of routes;

(f) pavement marking;

(g) pavement reconstruction; and

(h) pavement resurfacing.

Section 6‑14‑30. Subject to the requirements of this chapter, a county may impose by ordinance, approved by referendum, a user fee of not more than two cents a gallon on retail sales of motor fuel for the sole purpose of road improvement projects and road maintenance to state secondary roads and county roads within the county.

Section 6‑14‑40. (A) The local governing body of the county may vote to impose the user fee authorized by this chapter, subject to a referendum, by enacting an ordinance. The ordinance must specify:

(1) the specific road improvement projects for which the proceeds of the user fee are to be used and the total estimated capital costs associated with the projects;

(2) the maximum time, stated in calendar years or calendar quarters, or a combination thereof, not to exceed five years, for which the user fee may be imposed; and

(3) the time when the referendum shall be held. The referendum may be held on the first Tuesday ninety days after the adoption of the ordinance or on the first Tuesday following the first Monday in November of an even‑numbered year so long as at least ninety days have passed since the adoption of the ordinance.

At least two weeks before second reading of an ordinance calling for a referendum, the local governing body of the county shall publish notice in a newspaper of general circulation within the jurisdiction a description of the ordinance and the time and place of the meeting to discuss the ordinance. The local governing body of the county also must publish the notice on its website in the same manner. The local governing body only may give second reading to the ordinance at a meeting for which notice has been given.

(B) Upon the adoption of an ordinance calling for a referendum, the county election commission shall conduct a referendum at the time specified in the ordinance on the question of implementing the motor fuel user fee within the county. The state election laws apply to the referendum, mutatis mutandis. The county election commission shall publish the results of the referendum and certify them to the local governing body. The user fee must not be imposed in the county unless a majority of the qualified electors voting in the referendum vote in favor of the referendum.

(C)(1) The ballot must read substantially as follows:

‘Must a \_\_\_\_\_\_ cent a gallon motor fuel user fee on each gallon of motor fuel sold at retail be levied in \_\_\_\_\_\_\_\_\_\_ County for not more than \_\_\_\_\_\_ years for the purpose of road improvement projects?

Yes 

No ’

(2) If the question is not approved at the initial referendum, the local governing body of the county may, by an ordinance meeting the requirements of this section, call for another referendum on the question. However, following the initial referendum, a referendum for this purpose must not be held more often than once in a twenty‑four month period on the Tuesday following the first Monday in November in even‑numbered years.

(3) Once a week for the four weeks immediately preceding the referendum, the local governing body of the county shall publish notice in a newspaper of general circulation within the jurisdiction a description of and the specific uses for the user fee. The local governing body also must publish notice on its website in the same manner.

(D) The imposition date of the user fee allowed pursuant to this chapter is the first day of the first month beginning more than sixty days after the local governing body files a certified copy of the ordinance and a certified copy of the results of the referendum with the South Carolina Department of Revenue.

(E) Once a certified copy of the ordinance and a certified copy of the results of the referendum are filed with the Department of Revenue, for the period of imposition provided in the ordinance, the department may not accept as filed any additional ordinance or referendum results from the county that in any way relate to the user fee allowed to be imposed pursuant to this chapter except an ordinance or the referendum results rescinding or reducing the existing user fee. The department shall accept for filing a certified copy of an ordinance and referendum results reducing or repealing the user fee and that reduction or repeal applies in the manner provided in subsection (E) for imposition.

(G) Pursuant to Section 6‑14‑50(C), revenues collected pursuant to the imposition of the user fee must be used only for the purpose stated in the imposition ordinance.

Section 6‑14‑50. (A) The user fee imposed pursuant to this chapter must be administered and collected by the Department of Revenue in the same manner that sales and use taxes are collected. The department may prescribe amounts that may be added to the sales price because of the user fee. The sales tax return shall contain a line reporting gallons of gasoline sold for the purpose of calculating the user fee. Every establishment selling gasoline at retail in a jurisdiction imposing the user fee shall obtain a retail sales license.

(B) When the local motor fuel user fee is imposed for more than one project, the local governing body authorizing the referendum for the user fee shall determine the priority for the expenditure of the net proceeds of the user fee for the purposes stated in the referendum.

(C) The revenues of the user fee collected in each county pursuant to this chapter must be remitted to the State Treasurer and credited to a fund separate and distinct from the general fund of the State. After deducting the amount of refunds made and costs to the Department of Revenue of administering the user fee, not to exceed one percent of the revenues, the State Treasurer shall distribute the revenues quarterly to the county in which the user fee is imposed. These revenues must be used only for the purpose stated in the imposition ordinance. The State Treasurer may correct misallocation costs or refunds by adjusting subsequent distributions, but these adjustments must be made in the same fiscal year as the misallocation.

Section 6‑14‑60. The Department of Revenue shall furnish data to the State Treasurer and to the counties receiving revenues for the purpose of calculating distributions and estimating revenues. The information that must be supplied to the counties upon request includes, but is not limited to, gross receipts, net taxable sales, and tax liability by taxpayers. Information about a specific taxpayer is considered confidential and is governed by the provisions of Section 12‑54‑240. A person violating this section is subject to the penalties provided in Section 12‑54‑240.

Section 6‑14‑70. The Department of Revenue may promulgate regulations necessary to implement this chapter.”

SECTION 2. This act takes effect upon approval by the Governor.

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