**South Carolina General Assembly**

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**S. 279**

**STATUS INFORMATION**

General Bill

Sponsors: Senator Rose

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Currently residing in the Senate Committee on **Finance**

Summary: Local Option Motor Fuel User Fee Act

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/15/2010 Senate Prefiled

12/15/2010 Senate Referred to Committee on **Finance**

1/11/2011 Senate Introduced and read first time ([Senate Journal‑page 127](file:///h:\sj%20archive\2011\01-11-11.docx))

1/11/2011 Senate Referred to Committee on **Finance** ([Senate Journal‑page 127](file:///h:\sj%20archive\2011\01-11-11.docx))

**VERSIONS OF THIS BILL**

[12/15/2010](file:///p:\pprever\2011-12\279_20101215.docx)

**A** **BILL**

TO AMEND TITLE 6 OF THE 1976 CODE, BY ADDING CHAPTER 14, 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 ONE CENT 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PROJECTS AND ROAD MAINTENANCE WITHIN THE COUNTY, TO PROVIDE THE PROCESS BY WHICH THE USER FEE MAY BE IMPOSED AND RESCINDED, AND TO PROVIDE THE MANNER IN WHICH THE DEPARTMENT OF REVENUE SHALL COLLECT AND DISTRIBUTE THE USER FEE.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.

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 one cent a gallon on retail sales of motor fuel for the sole purpose of road improvement projects and road maintenance 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;

(2) the maximum time, stated in calendar years or calendar quarters, or a combination thereof, not to exceed ten 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.

(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 approve the question.

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

‘Must a one cent a gallon motor fuel user fee on each gallon of motor fuel sold at retail be levied in \_\_\_\_\_\_\_\_\_\_ County 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 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) Two weeks before the referendum, the local governing body of the county shall publish in a newspaper of general circulation within the jurisdiction a description of and the uses for the user fee.

(D)(1) Upon the adoption of an ordinance calling for a referendum to rescind the user fee by the local governing body of the county, the county election commission shall conduct a referendum in the same manner provided in subsection (B) on the question of rescinding the user fee imposed by this section. 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 of the county. The user fee must be rescinded in the county upon the certification of the results if a majority of the qualified electors voting in the referendum vote in favor of rescinding the user fee.

(2) The ballot must read substantially as follows:

‘Must the one cent a gallon motor fuel user fee on each gallon of motor fuel sold at retail levied in \_\_\_\_\_\_\_\_\_\_ County pursuant to Section 6‑14‑40 of the 1976 Code be rescinded?

Yes 

No ’

(3) A referendum for rescission of this user fee may not be held earlier than two years after the user fee has been levied in the county. If a majority of the qualified electors voting in the rescission referendum vote against rescinding the user fee, no further rescission referendums may be held for a period of twenty‑four months on the first Tuesday following the first Monday in November of even‑numbered years. If a majority of the qualified electors vote in favor of rescinding the user fee, the user fee may not be reimposed in the county for a period of two years.

(E) 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 certification of the results of the referendum with the South Carolina Department of Revenue.

(F) Once a certified copy of the ordinance and a certified copy of the referendum results 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 reducing or repealing 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.

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 tax 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) Amounts collected in excess of the required proceeds must first be applied, if necessary, to complete a project for which the user fee was imposed; otherwise, the excess amounts must be returned to the county’s taxpayers through a property tax credit. The local governing body of the county may determine the manner in which the excess is returned.

(D) The revenues of the user fee collected in each county under 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 and 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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