MISSISSIPPI LEGISLATURE REGULAR SESSION 2021

By: Representative Banks To: Ways and Means

HOUSE BILL NO. 828

AN ACT TO AUTHORIZE CERTAIN MUNICIPALITIES TO IMPOSE AN EXCISE TAX OF ONE CENT PER GALLON UPON THE RETAIL SALE OF GASOLINE AND DIESEL FUEL FOR MOTOR VEHICLES IN THE MUNICIPALITY; TO PROVIDE THAT BEFORE THE TAX MAY BE IMPOSED, THE MUNICIPALITY SHALL ADOPT A RESOLUTION DECLARING ITS INTENTION TO LEVY THE TAX AND CALLING FOR AN ELECTION TO BE HELD ON THE QUESTION; TO REQUIRE THE MUNICIPALITY TO PUBLISH NOTICE OF THE ELECTION; TO PROVIDE THAT THE TAX MUST BE APPROVED BY A MAJORITY OF THE QUALIFIED ELECTORS WHO VOTE IN THE ELECTION BEFORE THE MUNICIPALITY MAY LEVY AND COLLECT THE TAX; TO PROVIDE THAT THE TAX SHALL BE COLLECTED BY THE DEPARTMENT OF REVENUE AND PAID TO THE MUNICIPALITY; TO PROVIDE THAT THE PROCEEDS OF THE TAX SHALL BE PLACED INTO A SPECIAL MUNICIPAL FUND APART FROM THE MUNICIPAL GENERAL FUND AND ANY OTHER FUNDS OF THE MUNICIPALITY, AND SHALL BE EXPENDED BY THE MUNICIPALITY SOLELY FOR THE REPAIR, MAINTENANCE AND/OR RECONSTRUCTION OF ROADS, STREETS AND BRIDGES IN THE MUNICIPALITY; AND FOR RELATED PURPOSES.

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

SECTION 1. (1) The governing authorities of any municipality in the state with a population of one hundred fifty thousand (150,000) or more according to the most recent federal decennial census may impose an excise tax equal to One Cent (1¢) per gallon, in addition to any such tax levied and collected by the state in the municipality, upon retail sales of gasoline and diesel fuel for motor vehicles in the municipality.

(2) (a) Before the tax authorized under this section may be imposed, the governing authorities of the municipality shall adopt a resolution declaring its intention to levy the tax, setting the date upon which the tax will become effective, calling for an election to be held on the question and setting the date of the election.

(b) Notice of the election shall be published once each week for at least three (3) consecutive weeks in a newspaper published or having a general circulation in the municipality, with the first publication of the notice to be made not less than twenty-one (21) days before the date fixed in the resolution for the election and the last publication to be made not more than seven (7) days before the election. At the election, all qualified electors of the municipality may vote. The ballots used at the election shall have printed thereon a brief description of the tax, the amount of the tax levy, and the words "FOR THE MOTOR VEHICLE FUEL TAX" and "AGAINST THE MOTOR VEHICLE FUEL TAX" and the voter shall vote by placing a cross (X) or check mark (✓) opposite his choice on the proposition.

(c) When the results of the election have been canvassed by the election commissioners of the municipality and certified by them to the governing authorities, it shall be the duty of the governing authorities to determine and adjudicate whether a majority of the qualified electors who voted in the election voted in favor of the tax. If a majority of the

qualified electors who voted in the election voted in favor of the tax, the governing authorities shall adopt a resolution declaring the levy and collection of the tax provided in this section, and shall set the first day of the second month following the date of that adoption as the effective date of the tax levy. A certified copy of this resolution, together with the result of the election, shall be furnished to the Department of Revenue not less than thirty (30) days before the effective date of the levy.

(3) The tax authorized by this section shall be collected by the Department of Revenue, shall be accounted for separately from the amount of fuel tax collected for the state in the municipality and shall be paid to the municipality. The Department of Revenue may retain one percent (1%) of the proceeds of that tax for the purpose of defraying the costs incurred by the department in the collection of the tax. Payments to the municipality shall be made by the Department of Revenue on or before the fifteenth day of the month following the month in which the tax was collected.

(4) The proceeds of the tax authorized by this section shall be placed into a special municipal fund apart from the municipal general fund and any other funds of the municipality, and shall be expended by the municipality solely for the repair, maintenance and/or reconstruction of roads, streets and bridges in the municipality.

(5) All provisions of the Mississippi Sales Tax Law applicable to filing of returns, discounts to the taxpayer,

remittances to the Department of Revenue, enforced collection, rights of taxpayers, recovery of improper taxes, refunds of overpaid taxes or other provisions of law providing for imposition and collection of the state sales tax shall apply to the tax authorized by this section, except where there is a conflict, in which case the provisions of this section shall control. Any damages, penalties or interest collected for the nonpayment of taxes imposed under this section, or for noncompliance with the provisions of this section, shall be paid to the municipality on the same basis and in the same manner as the tax proceeds. Any overpayment of tax for any reason that has been disbursed to a municipality or any payment of the tax to a municipality in error may be adjusted by the Department of Revenue on any later payment to the municipality under the provisions of the Mississippi Sales Tax Law. The Department of Revenue may, from time to time, make such rules and regulations not inconsistent with this section as may be deemed necessary to carry out the provisions of this section, and such rules and regulations shall have the full force and effect of law.

SECTION 2. This act shall take effect and be in force from and after July 1, 2021.