

By: Representative Banks

To: Ways and Means

HOUSE BILL NO. 639

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

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

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



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

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

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



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

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

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

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



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

95 **SECTION 2.** This act shall take effect and be in force from
96 and after July 1, 2018.

