

Marguerite Linke

From: Bryant, Linda C. <Linda.Bryant@DOS.MyFlorida.com>
Sent: Friday, June 26, 2015 9:34 AM
To: Marguerite Linke
Cc: County Ordinances
Attachments: Hernando20150625_Ordinance2015_10_Ack.pdf

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FLORIDA DEPARTMENT *of* STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

June 26, 2015

Honorable Don Barbee Jr.
Hernando County Clerk's Office
20 North Main Street, Rm. 3621
Brooksville, Florida 34601

Attention: Marguerite Linke

Dear Mr. Barbee:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Hernando County Ordinance No. 2015-10, which was filed in this office on June 25, 2015.

Sincerely,

Ernest L. Reddick
Program Administrator

ELR/lb

1 **ORDINANCE NO.: 2015 -~~10~~**

2 AN ORDINANCE CONCERNING HERNANDO COUNTY'S IMPOSITION OF
3 LOCAL OPTION GAS TAXES; PROVIDING FOR A STATEMENT OF
4 LEGISLATIVE AUTHORITY; AMENDING HERNANDO COUNTY CODE §§
5 27-16 AND 27-17 TO CORRECT THE EXPIRATION DATES OF THE LOCAL
6 OPTION GAS TAXES THAT ARE LEVIED PURSUANT TO FLA. STAT. §
7 336.025(1)(a); TRANSFERRING, RENUMBERING AND AMENDING
8 HERNANDO COUNTY CODE §§ 27-55, 27-56, AND 27-58; INCREASING
9 AMOUNT OF LEVY AND REMOVING EXPIRATION DATE OF THE LOCAL
10 OPTION GAS TAXES THAT ARE LEVIED PURSUANT TO FLA. STAT. §§
11 336.021(1)(a) AND 336.025(1)(b); PROVIDING FOR NOTICE TO BE GIVEN TO
12 THE FLORIDA DEPARTMENT OF REVENUE; PROVIDING FOR
13 SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING
14 FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN
15 EFFECTIVE DATE; AND PROVIDING FOR AN EXTRAORDINARY VOTE.

16 WHEREAS, the Florida Legislature has enacted legislation that allows county governments
17 to levy up to twelve cents (\$0.12) of local fuel taxes in the form of three (3) separate levies: (1) a tax
18 of one cent (\$0.01) on every net gallon of motor and diesel fuel sold within each county, known as
19 the "Ninth-Cent Fuel Tax," authorized by Fla. Stat. § 336.021(1)(a); (2) a tax of one cent (\$0.01) to
20 six cents (\$0.06) on every net gallon of motor and diesel fuel sold within each county, known as the

1 “First Local Option Gas Tax,” authorized by Fla. Stat. § 336.025(1)(a); and (3) a tax of one cent
2 (\$0.01) to five cents (\$0.05) levy upon every net gallon of motor fuel sold within the County, known
3 as the “Second Local Option Gas Tax,” authorized by Fla. Stat. § 336.025(1)(b); and,

4 WHEREAS, by enacting Ordinance 85-15, codified at Hernando County Code § 27-16, the
5 Hernando County Board of County Commissioners levied a four-cent local option gas tax pursuant
6 to Fla. Stat. § 336.025(1)(a); and,

7 WHEREAS, by enacting Ordinance 85-16, codified at Hernando County Code § 27-17, the
8 Hernando County Board of County Commissioners levied a fifth- and sixth-cent local option gas tax
9 pursuant to Fla. Stat. § 336.025(1)(a); and,

10 WHEREAS, together, the levies provided for in Hernando County Code §§ 27-16 and 27-17
11 constitute the “First Local Option Gas Tax”; and,

12 WHEREAS, by enacting Ordinance 99-21, codified at Hernando County Code §§ 27-51
13 through 27-58, the Hernando County Board of County Commissioners levied a Second Local Option
14 Gas Tax, pursuant to Fla. Stat. § 336.025(1)(b), in the amount of two cents; and,

15 WHEREAS, Ordinance 99-21 also levied the Ninth Cent Fuel Tax as authorized by Fla. Stat.
16 § 336.021(1)(a); and,

17 WHEREAS, Ordinance 99-21 dedicated the funds derived from the levies therein to a
18 specific residential road resurfacing plan that the Hernando County Board of County Commissioners
19 had previously approved; and,

20 WHEREAS, Ordinance 99-21 provided that Hernando County’s levy of the Second Local

1 Option Gas Tax would expire on December 31, 2006; and,

2 WHEREAS, the Hernando County Board of County Commissioners held a public hearing
3 on August 14, 2007, to consider a proposed ordinance amending Ordinance 99-21; and,

4 WHEREAS, the minutes of the August 14, 2007 meeting, reflect that then-County Engineer
5 Charles Mixson testified that the specific residential road resurfacing plan that was referenced in
6 Ordinance 99-21 had already been completed and that he would have no objection if the proposed
7 ordinance removed the reference to the plan; and,

8 WHEREAS, the Hernando County Board of County Commissioner enacted Ordinance 2007-
9 14 without removing the reference to the then-completed road resurfacing plan or the related levy
10 expiration date (although the expiration date was extended); and,

11 WHEREAS, the Hernando County Board of County Commissioners enacted Ordinance
12 2014-26 to extend Hernando County's levy of the First Local Option Gas Tax for an additional
13 thirty-year period, but due to a scrivener's error, inadvertently exceeded the statutory maximum
14 number of years for extensions; and,

15 WHEREAS, by enacting the instant ordinance, the Hernando County Board of County
16 Commissioners intends: (1) to correct the expiration dates for the First Local Option Gas Tax that
17 are contained in Hernando County Code §§ 27-16 and 27-17; (2) to remove the anachronistic
18 references to the "residential road resurfacing plan," and the related levy expiration date, contained
19 in Hernando County Code §§ 27-51 through 27-58; (3) to increase the Second Local Gas Tax levy
20 from two cents to five cents and to dedicate two-fifths of the proceeds to Hernando County's current

1 local street resurfacing program; (4) to dedicate the proceeds derived from the Ninth-Cent Fuel Tax
2 to the cost of providing public transportation; and (5) to merge the various gas tax ordinances into
3 a single article within Hernando County Code Ch. 27.

4 NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY
5 COMMISSIONERS OF HERNANDO COUNTY:

6 **Section 1. Statement of Statutory Authority.** A new Hernando County Code § 27-15, to
7 be contained within Article II of Chapter 27, is created to read as follows:

8 Statement of Statutory Authority for Local Option Gas Taxes.

9 Local governments in Florida are authorized to levy up to twelve cents (\$0.12) of
10 local fuel taxes in the form of three (3) separate levies, to wit:

- 11 A. “The First Local Option Gas Tax.” Fla. Stat. § 336.025(1)(a) allows
12 a local option gas tax (at a rate of one through six cents) upon every
13 gallon of motor fuel and diesel fuel sold at retail in a county and taxed
14 under the provisions of Part I or Part II of Fla. Stat. Ch. 206. These
15 funds are shared with municipalities. The use of the proceeds is
16 restricted to “transportation expenses,” as that term is defined by Fla.
17 Stat. § 336.025(7). Fla. Stat. § 336.025(1)(a)(1) limits the levy of the
18 First Local Option Gas Tax to a period of thirty years. Together, the
19 levies provided for in Hernando County Code §§ 27-16 and 27-17
20 constitute “the First Local Option Gas Tax.”

1 B. “The Second Local Option Gas Tax.” Fla. Stat. § 336.025(1)(b)
2 allows a local option gas tax (at a rate of one through five cents) upon
3 every gallon of motor fuel sold in a county and taxed under the
4 provisions of Part I of Chapter 206, Florida Statutes. These funds are
5 shared with municipalities. The use of proceeds is restricted to
6 transportation (roads and mass transit) expenditures needed to meet
7 the requirements of the capital improvements element of an adopted
8 comprehensive plan. Expenditures for these purposes include
9 construction of new roads or the paving of existing graded roads
10 when undertaken in part to relieve or mitigate existing or potential
11 adverse environmental impacts. The proceeds may also be expended
12 to meet immediate local transportation problems and for
13 transportation-related expenditures that are critical for building
14 comprehensive roadway networks by local governments. Routine
15 maintenance of roads is not considered an authorized expenditure.

16 C. “Ninth-Cent Local Option Gas Tax.” Fla. Stat. § 336.021(1)(a) states
17 that any county by extraordinary vote of the membership of its
18 governing body or subject to a referendum may levy the ninth-cent
19 fuel tax on motor fuel and diesel fuel sold at retail imposed by Fla.
20 Stat. §§ 206.41(1)(d) and 206.87(1)(b). These funds are not shared

1 with municipalities. The use of the proceeds is restricted to
2 “transportation expenses,” as that term is defined by Fla. Stat. §
3 336.025(7).

4 **Section 2. Amendment of Expiration Date of Four-Cent Local Option Gas Tax.**

5 Hernando County Code § 27-16 is amended to read as follows:

6 Four-Cent Local Option Gas Tax.

- 7 (a) Imposed. There is hereby imposed a four cent (\$0.04) local option gas tax
8 upon every gallon of motor fuel and special fuel sold in Hernando County
9 and taxed under the provisions of Chapter 206, Florida Statutes.
- 10 (b) Effective period. The tax imposition made by this section shall be effective
11 from September 1, 2015 to August 31, ~~2045~~ 2044, both inclusive.
- 12 (c) Distribution ratio. The ratio for dividing and distributing the proceeds of the
13 tax imposed by this section for subsequent years shall be recalculated,
14 pursuant to the agreement, as of July first of each year, which said
15 recalculation shall be transmitted to the department of revenue for
16 distribution.

17 **Section 3. Amendment of Expiration Date of Fifth- and Sixth-Cent Local Option Gas**

18 **Tax.** Hernando County Code § 27-17 is amended to read as follows, with underlined matter added
19 and struck-through matter deleted:

20 Additional Fifth- and Sixth-Cent Local Option Gas Tax.

1 (a) Imposed. There is hereby imposed a fifth and sixth cent local option gas tax,
2 in addition to and above the existing four cent (\$0.04) local option gas tax,
3 upon every gallon of motor fuel and special fuel sold in Hernando County
4 and taxed under the provisions of Chapter 206, Florida Statutes. ~~This section~~
5 ~~shall impose a fifth and sixth cent local option gas tax for a thirty-year period~~
6 ~~which shall be in addition to the first, second, third and fourth cent local~~
7 ~~option gas tax heretofore imposed for a period of thirty (30) years pursuant~~
8 ~~to Ordinance No. 85-15 adopted by the board of county commissioners on~~
9 ~~July 9, 1985.~~

10 (b) Effective period. The fifth and sixth cent local option gas tax imposition
11 hereby made shall be effective from September 1, 2015 to August 31, ~~2045~~
12 2044, both inclusive.

13 (c) Distribution ratio. The ratio for dividing and distributing the proceeds of the
14 tax for subsequent years shall be recalculated, pursuant to the agreement, as
15 of July first of each year, which said recalculation shall be transmitted to the
16 department of revenue for distribution.

17 **Section 4. Transfer, Renumbering, and Amendment of Local Option Fuel Tax**

18 **Provision.** Hernando County Code § Hernando County Code § 27-55 is transferred Article II of this
19 Chapter, renumbered as § 27-18, and is amended to read as follows:

20 Second Local Option Motor Fuel Gas Tax Imposed.

1 (a) There is hereby imposed a ~~two~~ five cents (~~\$0.02~~) (\$0.05) fuel tax upon every
2 gallon of motor fuel sold in Hernando County and taxed under the provision
3 of part I of chapter 206 and as authorized by section 336.025(1)(b), Florida
4 Statutes, as amended from time to time.

5 (b) The funds generated by the imposition of this additional local option gas tax
6 on motor fuel are to be used only for the purposes allowed by Fla. Stat. §
7 336.025(1)(b) & (7), provided that two-fifths of the annual proceeds shall be
8 dedicated to the resurfacing, regrading, and reconstruction of designated
9 “local streets,” as that term is defined by Hernando County Code § 26-2.

10 (c) The tax imposition hereby made shall be effective from January 1, 2001, until
11 amended or repealed.

12 **Section 5. Transfer, Renumbering, and Amendment of Ninth-Cent Local Option Fuel**
13 **Tax Provision.** Hernando County Code § Hernando County Code § 27-56 is transferred Article II
14 of this Chapter, renumbered as § 27-19, and is amended to read as follows:

15 Ninth Cent Motor Fuel Tax Imposed.

16 (a) There is hereby imposed a one cent (\$0.01) per gallon gas tax upon every
17 gallon of motor fuel or special fuel sold in Hernando County and taxed under
18 the provision of section 336.021 and parts I and II of chapter 206, Florida
19 Statutes, as amended from time to time.

20 (b) The funds generated by the imposition of this additional local option gas tax

1 on motor fuel are to be used, pursuant to Fla. Stat. §§ 336.025(3) and
2 336.025(7), to fund public transportation operations and maintenance.

3 (c) The tax imposition hereby made shall be effective from January 1, 2001, until
4 amended or repealed.

5 **Section 6. Transfer and Renumbering of Interlocal Agreement Provision.** Hernando
6 County Code § 27-58 is transferred to Article II of this Chapter and is renumbered as § 27-20.

7 **Section 7. Repeal of Anachronistic Provisions.** Hernando County Code Sections 27-51
8 (Intent), 27-52 (Authority), 27-53 (Residential Road Reconstruction Program), 27-54 (Disposition
9 of Proceeds), and 27-57 (Effective Period) are hereby repealed.

10 **Section 8. Notice.** Within ten days of the adoption of this ordinance but prior to July 1,
11 2015, the Clerk of the Board of County Commissioners shall provide notice of the adoption of this
12 ordinance to the Florida Department of Revenue by sending a certified copy of said ordinance to the
13 Florida Department of Revenue.

14 **Section 9. Severability.** It is declared to be the intent of the Board of County
15 Commissioners that if any section, subsection, clause, sentence, phrase, or provision of this
16 ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the
17 validity of the remaining portions of this ordinance.

18 **Section 10. Inclusion in the Code.** It is the intention of the Board of County
19 Commissioners of Hernando County, Florida, and it is hereby provided, that the provisions of this
20 Ordinance shall become and be made a part of the Code of Ordinances of Hernando County, Florida.

To this end, the section of this Ordinance may be renumbered or relettered to accomplish such intention, and that the word "ordinance" may be changed to "section," "article," or other appropriate designation.

Section 11. Conflicting Provisions Repealed. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 12. Effective Date. This ordinance shall take effect immediately upon receipt of official acknowledgment from the office of the Secretary of State of Florida that this ordinance has been filed with said office.

Section 13. Extraordinary Vote.

This ordinance shall be effective upon the affirmative vote of at least four members of the Board of County Commissioners of Hernando County.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF HERNANDO COUNTY in Regular Session this 23rd day of JUNE 2015.

**BOARD OF COUNTY COMMISSIONERS
HERNANDO COUNTY, FLORIDA**



Attest:

Margaret Lanke, DC
DONALD C. BARBEE, JR.
Clerk

By:

Nicholas W. Nicholson
Nicholas W. Nicholson
Chairman

Approved for Form and Legal Sufficiency

[Signature]
Deputy County Attorney