SLS 21RS-229 ORIGINAL

2021 Regular Session

SENATE BILL NO. 40

BY SENATOR WARD

TAX/SALES. Constitutional amendment to authorize a parish governing authority to levy sales tax on motor fuels with the approval of the parish electors. (2/3 - CA13s1(A))

A JOINT RESOLUTION

Proposing to amend Article VI, Section 29(A) and Article VII, Sections 4(C) and 27(A) of the Constitution of Louisiana and to add Article VI, Section 29.1 of the Constitution of Louisiana; to authorize a parish governing authority to levy and collect a sales tax on motor fuels; to require approval of the electors; to provide that the avails of the tax shall be used for the construction and maintenance of highways and bridges located in the parish where the tax is collected; to provide for submission of the proposed amendment to the electors; and to provide for related matters.

Section 1. Be it resolved by the Legislature of Louisiana, two-thirds of the members elected to each house concurring, that there shall be submitted to the electors of the state of Louisiana, for their approval or rejection in the manner provided by law, a proposal to amend Article VI, Section 29(A) and to add Article VI, Section 29.1 of the Constitution of Louisiana, to read as follows:

§29. Local Governmental Subdivisions and School Boards; Sales Tax

Section 29.(A) Sales Tax Authorized. Except as otherwise authorized in a home rule charter as provided for in Section 4 of this Article, the governing authority

of any local governmental subdivision or school board may levy and collect a tax

upon the sale at retail, the use, the lease or rental, the consumption, and the storage for use or consumption, of tangible personal property and on sales of services as defined by law, if approved by a majority of the electors voting thereon in an election held for that purpose. The rate thereof, when combined with the rate of all other sales and use taxes, exclusive of state sales and use taxes <u>and taxes levied pursuant to the authority granted in Section 29.1 of Article VI of this constitution</u>, levied and collected within any local governmental subdivision, shall not exceed three percent.

* * *

§29.1. Parish sales tax on gasoline, diesel fuel, and special fuels

Section 29.1. Except as otherwise authorized in a home rule charter as provided for in Section 4 of this Article, a parish governing authority may levy and collect a tax upon the retail sale of gasoline, diesel fuel, and special fuels that are subject to excise tax under Chapter 7 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950, if approved by a majority of the electors voting thereon in an election held for that purpose. The avails of this tax shall not be required to be deposited in the Transportation Trust Fund and shall be used solely to supplement state and federal funding for the construction and maintenance of highways and bridges located in the parish in which the tax was collected, as may be further provided by law.

Section 2. Be it resolved by the Legislature of Louisiana, two-thirds of the members elected to each house concurring, that there shall be submitted to the electors of the state of Louisiana, for their approval or rejection in the manner provided by law, a proposal to amend Article VII, Sections 4(C) and 27(A) of the Constitution of Louisiana, to read as follows:

§4. Income Tax; Severance Tax; Political Subdivisions

Section 4. * * *

(C) Political Subdivisions; Prohibitions. A political subdivision of the state shall not levy a severance tax, income tax, <u>or an</u> inheritance tax, <u>or and no political</u> subdivision of the state other than a parish governing authority shall levy a tax

on motor fuel.

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§27. Transportation Trust Fund

Section 27.(A) Creation of fund. Effective January 1, 1990, there shall be established in the state treasury as a special permanent trust fund the Transportation Trust Fund ("the trust fund") in which shall be deposited the "excess revenues" as defined herein which are a portion of the avails received in each year from all taxes levied on gasoline and motor fuels and on special fuels (said avails being referred to as the "revenues") as provided herein. After satisfying pledges respecting that portion of the revenues attributable to the tax rates in effect at the time of such pledges for the payment of obligations for bonds or other evidences of indebtedness on the effective date of this Section, the treasurer shall allocate such portion of the revenues received in each year as necessary to pay all principal, interest, premium, if any, and other obligations incident to the issuance, security, and payment in respect of bonds as authorized in Paragraph (C) hereof. Thereafter, the portion of the revenues remaining shall be deposited in the Bond Security and Redemption Fund in the state treasury. After (1) the payment of any obligations for bonds or other evidences of indebtedness in existence on the effective date of this Section which are secured by revenues; (2) payments in respect of bonds authorized in Paragraph (C) hereof; and (3) credit to the Bond Security and Redemption Fund, the treasurer shall deposit in and credit to the trust fund all of the revenues remaining (the "excess revenues") from the avails of all taxes levied on gasoline and motor fuels and on special fuels, as follows: for the fiscal year beginning July 1, 1989, the avails of twelve cents per gallon of said taxes received on and after January 1, 1990; for the fiscal year beginning on July 1, 1990, the avails of fourteen cents per gallon of said taxes; for the fiscal year beginning on July 1, 1991, and thereafter, the avails of all taxes levied on gasoline and motor fuels and on special fuels other than the avails of any tax levied by a parish governing authority pursuant to Section 29.1 of Article VI of this constitution. Taxes levied pursuant to Section 29.1 of Article VI of this

| <u>1</u> | to be deposited in the Transportation Trust Fund. Purchases of gasoline, diesel |
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| į | fuel, or special fuels which are subject to excise tax under Chapter 7 of Subtitle II of |
| r | Title 47 of the Louisiana Revised Statutes of 1950 shall be exempt from the state |
| S | sales tax and any sales tax levied by a political subdivision as defined by Article VI, |
| ; | Section 44(2), except for a tax levied pursuant to Section 29.1 of Article VI of |
| <u>1</u> | this constitution. The avails of any tax levied by a parish governing authority |
| J | pursuant to Section 29.1 of Article VI of this constitution shall not be considered |
| <u>,</u> | "excess revenues" and shall not be required to be deposited in the |
| , - | <u>Transportation Trust Fund</u> . All monies appropriated by the Federal Highway |
| | Administration and the Federal Aviation Administration, or their successors, either |
| 1 | reimbursed or paid directly, shall be paid directly or deposited in and credited to the |
| 1 | trust fund. |
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| \$ | Section 2. Be it further resolved that this proposed amendment shall be submitted |
| to the el | lectors of the state of Louisiana at the special election to be held on November 8, |
| 2022. | |
| • | Section 3. Be it further resolved that on the official ballot to be used at the election, |
| there sh | all be printed a proposition, upon which the electors of the state shall be permitted |
| to vote | YES or NO, to amend the Constitution of Louisiana, which proposition shall read as |
| follows: | |
| | Do you support an amendment to authorize a parish governing authority, |
| | with the approval of the voters, to levy and collect a sales tax on the retail |
| | sale of motor fuels, with the tax collections used solely for construction and |
| | maintenance of highways and bridges located in the parish where the tax was |
| | collected? |
| | (Amends Const. Art. VI, §29(A) and Art. VII, §4(C) and 27(A); adds Const. |
| | |

constitution shall not be considered "excess revenues" and shall not be required

Art. VI, §29.1)

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Leonore Heavey.

DIGEST 2021 Regular Session

Ward

SB 40 Original

<u>Present constitution</u> prohibits the levy by a political subdivision of a severance tax, income tax, inheritance tax, or a tax on motor fuels.

<u>Proposed constitutional amendment</u> authorizes a parish governing authority, subject to voter approval, to levy a sales tax on motor fuels.

<u>Present constitution</u> authorizes parish and municipal governing authorities and school boards to levy and collect a tax upon the sale at retail, the use, the lease or rental, the consumption, and the storage for use or consumption, of tangible personal property and on sales of services as defined by law, if approved by a majority of the electors voting in an election held for that purpose. The total of these taxes levied and collected within any parish or municipality is limited to 3%.

<u>Proposed constitutional amendment</u> retains <u>present constitution</u> and adds an exception for a tax levied by a parish governing authority on the sale of motor fuels pursuant to <u>proposed</u> constitutional amendment from the 3% limit on sales taxes in a parish.

<u>Present constitution</u> establishes the Transportation Trust Fund as a special treasury fund and requires that all state taxes levied on gasoline and motor fuels be deposited annually into the fund. The current state excise taxes on gasoline and motor fuels total 20 cents per gallon. Monies in the fund are used to provide for construction and maintenance of roads and bridges of the state and federal highway systems, the Statewide Flood-Control Program, ports, airports, transit, and the Parish Transportation Fund. Further, <u>present constitution</u> prohibits the levy of any state or local sales tax on gasoline and motor fuels.

<u>Proposed constitutional amendment</u> retains these provisions but adds an exception to that prohibition for a tax levied by a parish governing authority on the sale of motor fuels pursuant to the proposed constitutional amendment.

Provides for submission of the proposed amendment to the voters at the statewide election to be held November 8, 2022.

(Amends Const. Art. VI, §29(A) and Art. VII, §4(C) and 27(A); adds Const. Art. VI, §29.1)