



Florida Legislative Committee on Intergovernmental Relations

Issue Brief



Utilization of Local Option Fuel Taxes by Florida Counties

October 2008

I. Introduction

Local option fuel taxes are significant revenue sources to Florida’s local governments and represent important funding mechanisms for the provision of local transportation infrastructure. The current utilization of existing taxing authority is of continuing interest to state lawmakers and local officials alike, particularly in the context of recurring discussions of growth management and local service provisions. This issue brief provides a review of existing taxing authority for local option fuel taxes available to Florida’s county governments and offers estimates of realized and unrealized tax revenues for the local fiscal year ending September 30, 2009.

II. Current Taxing Authority

County governments are authorized to impose up to 12 cents of local option fuel taxes via three separate levies. Local option fuel tax impositions shall be levied before July 1st of each year to be effective January 1st of the following year.¹

A. Ninth-cent Fuel Tax

The Ninth-cent Fuel Tax is a tax of 1 cent on every net gallon of motor and diesel fuel sold within a county.² Since January 1, 1994, this tax has been automatically imposed on diesel fuel in every county pursuant to a policy of statewide equalization of diesel fuel tax rates.³ The tax on motor fuel may be imposed pursuant to an ordinance adopted by an extraordinary vote of the

county’s governing body or voter approval in a countywide referendum. Consequently, even if a county does not levy the tax on motor fuel, it still receives proceeds from the levy on diesel fuel.

The county’s governing body may, by joint agreement with one or more of its respective municipalities, provide for the distribution of tax proceeds within both the incorporated and unincorporated areas of the county in order to pay only those transportation expenditures defined in s. 336.025(7), F.S., and summarized in the table below. However, the county is not required to share the tax proceeds with municipalities.

Transportation Expenditures Authorized by Section 336.025(7), Florida Statutes	
Paragraph	Authorized Expenditures
(a)	Public transportation operations and maintenance.
(b)	Roadway and right-of-way maintenance and equipment and structures used primarily for the storage and maintenance of such equipment.
(c)	Roadway and right-of-way drainage.
(d)	Street lighting.
(e)	Traffic signs, traffic engineering, signalization, and pavement markings.
(f)	Bridge maintenance and operation.
(g)	Debt service and current expenditures for transportation capital projects in the foregoing program areas, including construction or reconstruction of roads and sidewalks.

¹ See Sections 336.021(5), 336.025(1)(a)1. & (b)1., Florida Statutes.

² Sections 206.41(1)(d), 206.87(1)(b), & 336.021, Florida Statutes.

³ Chapter 90-351, Laws of Florida.

B. 1-6 Cents Local Option Fuel Tax

The 1-6 Cents Local Option Fuel Tax is a tax of 1 to 6 cents on every net gallon of motor and diesel fuel sold within a county.⁴ This tax has been automatically imposed on diesel fuel at the maximum rate of 6 cents in every county since January 1, 1993, pursuant to a policy of statewide equalization of diesel fuel tax rates.⁵ The tax on motor fuel may be imposed pursuant to an ordinance adopted by a majority vote of the county's governing body or voter approval in a countywide referendum. Therefore, even if a county does not levy the tax on motor fuel at all or at the maximum rate, it still receives proceeds from the full 6 cents levy on diesel fuel.

The tax proceeds shall be distributed according to the distribution factors determined at the local level by interlocal agreement between a county and its respective municipalities. If no interlocal agreement has been established, then the distribution shall be based on the transportation expenditures of each local government for the immediately preceding five fiscal years, as a proportion of the total of such expenditures for the county and all municipalities within the county. These proportions shall be recalculated every ten years based on the transportation expenditures of the immediately preceding five years. The tax proceeds shall be used for those transportation expenditures as defined in s. 336.025(7), F.S., and summarized in the table on the preceding page.

Pursuant to s. 336.025(8), F.S., the governing body of a county with a population of 50,000 or less on April 1, 1992, or the governing body of a municipality within such a county may use the tax proceeds in any fiscal year to fund infrastructure projects, if such projects are consistent with the local government's approved comprehensive plan or, if the approval or denial of the plan has not become final, consistent with the plan last submitted to the state land planning agency. Additionally, no more than an amount equal to the proceeds from 4 cents per gallon of the imposed tax may be used by such county for the express

and limited purpose of paying for a court-ordered refund of special assessments. Except as provided in subsection (7), such funds shall not be used for the operational expenses of any infrastructure.

Such funds may be used for infrastructure projects pursuant to s. 336.025(8), F.S., only after the local government, prior to the fiscal year in which the funds are proposed to be used, or if pledged for bonded indebtedness, prior to the fiscal year in which the bonds will be issued, has held a duly noticed public hearing on the proposed use of the funds and has adopted a resolution certifying that the local government has met all of the transportation needs identified in its approved comprehensive plan or, if the approval or denial of the plan has not become final, consistent with the plan last submitted to the state land planning agency. The proceeds shall not be pledged for bonded indebtedness for a period exceeding 10 years, except that, for the express and limited purpose of using such proceeds in any fiscal year to pay a court-ordered refund of special assessments, the proceeds may be pledged for bonded indebtedness not exceeding 15 years. For purposes of this subsection, "infrastructure" has the same meaning as provided in s. 212.055, F.S.

C. 1-5 Cents Local Option Fuel Tax

The 1-5 Cents Local Option Fuel Tax is a tax of 1 to 5 cents on every net gallon of motor fuel sold within a county.⁶ Diesel fuel is not subject to this tax. This tax may be levied by an ordinance adopted by a majority plus one vote of the county's governing body or voter approval in a countywide referendum.

The tax proceeds shall be distributed according to the distribution factors determined at the local level by interlocal agreement between the county and municipalities within the county's boundaries. If no interlocal agreement has been established, then the distribution shall be based on the transportation expenditures of each local government for the immediately preceding five fiscal years, as a proportion of the total of such expenditures for the county and all municipalities within the county. These proportions shall be

⁴ Sections 206.41(1)(e), 206.87(1)(c), & 336.025, Florida Statutes.

⁵ Chapter 90-351, Laws of Florida.

⁶ Sections 206.41(1)(e), & 336.025, Florida Statutes.

recalculated every ten years based on the transportation expenditures of the immediately preceding five years.

The tax proceeds shall be used for transportation expenditures needed to meet the requirements of the capital improvements element of an adopted comprehensive plan or for expenditures needed to meet the immediate local transportation problems and for other transportation-related expenditures that are critical for building comprehensive roadway networks by local governments. Although public transportation and roadway maintenance is an authorized expenditure for the Ninth-cent and 1-6 Cents fuel taxes, routine maintenance of roads is not considered an authorized expenditure for the 1-5 Cents tax.

III. Utilization of Current Taxing Authority

All county governments are eligible to impose a local option fuel tax on motor fuel. As of October 1, 2008, all counties levy at least one of the three taxes as illustrated in the following table.

Number of County Governments Eligible to Levy and Levying Local Option Fuel Taxes on Motor Fuel as of October 1, 2008		
Tax	# Eligible	# Levying
Ninth-cent	67	49
1-6 Cents	67	65 levy 6 cents. 2 levy 5 cents.
1-5 Cents	67	18 levy 5 cents. 1 levies 3 cents. 2 levy 2 cents.

As summarized below, Florida counties will realize \$788 million in local option fuel tax revenues during fiscal year 2009. Of the \$544 million statewide in 1-6 Cents Local Option Fuel Tax revenues to be realized during the fiscal year, \$384 million will be received by county governments and \$160 million will be received by municipal governments. Of the \$165 million statewide in 1-5 Cents Local Option Fuel Tax revenues to be realized during the fiscal year, \$114 million will be received by county governments and \$50.9 million will be received by municipal governments. Since counties levying the Ninth-cent Fuel Tax are not statutorily-required to share the proceeds with their

respective municipalities, the LCIR does not have data on the amount of tax revenue to be received by those municipalities located in counties imposing this tax.

Estimates of Realized and Unrealized Local Option Fuel Tax Revenues: Fiscal Year Ending September 30, 2009		
Tax	\$ Realized	\$ Unrealized
Ninth-cent	\$79.6 million	\$16.3 million
1-6 Cents	\$544 million	\$85,791
1-5 Cents	\$165 million	\$213 million
Total	\$788 million	\$229 million

Florida counties, not currently levying local option fuel taxes for which they are eligible to impose, will allow \$229 million statewide to go unrealized during this fiscal year. Of that total, \$213 million or 93 percent, is represented by the 1-5 Cents Local Option Fuel Tax.

A. Ninth-cent Fuel Tax

The table below summarizes the realized and unrealized revenues generated from the Ninth-cent Fuel Tax for those counties having total populations of 75,000 or less versus those counties having total populations greater than 75,000, based on the official 2007 countywide population estimates. This distinction is used here and throughout the remainder of this brief in order to contrast the taxing capacities of less populous, predominantly rural counties versus more populous, predominantly urban counties.

Ninth-cent Fuel Tax: Utilization in Local Fiscal Year 2009				
Pop.	Realized		Unrealized	
	#	\$	#	\$
75,000 or less	30	\$5.1 million	11	\$1.4 million
> 75,000	37	\$74.5 million	7	\$14.9 million

Florida counties will realize \$79.6 million in Ninth-cent Fuel Tax revenues. Eighteen counties will allow \$16.3 million in tax revenues to go unrealized during the fiscal year. Of that total, \$14.9 million or 91 percent, is represented by seven counties having total populations greater than 75,000.

B. 1-6 Cents Local Option Fuel Tax

Florida counties will realize \$544 million in 1-6 Cents Local Option Fuel Tax revenues. Only Franklin and Union counties, both having total populations of 75,000 or less, do not levy the tax on motor fuel at the maximum rate of 6 cents and consequently will have unrealized tax revenues totaling \$85,791.

1-6 Cents Local Option Fuel Tax: Utilization in Local Fiscal Year 2009				
Pop.	Realized		Unrealized	
	#	\$	#	\$
75,000 or less	30	\$36.6 million	2	\$85,791
> 75,000	37	\$507 million	0	\$0

C. 1-5 Cents Local Option Fuel Tax

Florida counties will realize \$165 million in 1-5 Cents Local Option Fuel Tax revenues. Forty-nine counties will allow \$213 million in tax revenues to go unrealized during the fiscal year. Of that total, \$196 million or 92 percent, is represented by 23 counties having total populations greater than 75,000.

1-5 Cents Local Option Fuel Tax: Utilization in Local Fiscal Year 2009				
Pop.	Realized		Unrealized	
	#	\$	#	\$
75,000 or less	5	\$3.7 million	26	\$16.5 million
> 75,000	16	\$161 million	23	\$196 million

To facilitate comparisons among individual counties, Table 1 on pages 5-6 lists the current motor fuel tax rates and estimates of total realized tax revenues for each individual county for the local fiscal year ending September 30, 2009. Table 2 on pages 7-8 lists the unrealized motor fuel tax rates and estimates of total unrealized tax revenues.

IV. Conclusion

As of October 1, 2008, all counties levy at least one of the three local option fuel taxes on motor fuel. Forty-nine of 67 counties levy the Ninth-cent

Fuel Tax; 65 of 67 counties levy the 1-6 Cents Local Option Fuel Tax at the maximum rate of 6 cents; and 18 of 67 counties levy the 1-5 Cents Local Option Fuel Tax at the maximum rate of 5 cents.

A number of reasons may help explain why some county governments have chosen not to maximize all possible local option fuel tax levies. County commissioners may be reluctant to increase the overall cost of fuel to motorists given the current high gasoline prices. For some county commissioners, the increased tax revenues may not be worth the potential political fallout from a board of county commissioners (BOCC) authorized fuel tax increase. Another possible explanation for the differences in tax utilization rates among counties may be the varying methods by which these taxes can be authorized.

While current law provides for voter approval in a countywide referendum as an optional authorization method for all three taxes, each tax requires a different standard for approval by vote of the county's governing body. An extraordinary vote is required for the Ninth-cent Fuel Tax; a majority vote is required for the 1-6 Cents Local Option Fuel Tax; and a majority plus one vote is required for the 1-5 Cents Local Option Fuel Tax.

During local fiscal year 2009, Florida counties will realize \$788 million in local option fuel tax revenues, which represents 77 percent of the \$1.02 billion statewide that would be realized if every county were levying each separate local option fuel tax at its maximum possible rate. Counties not currently levying local option fuel taxes for which they are eligible to impose will allow \$229 million statewide, or 23 percent of the total possible, to go unrealized during this fiscal year.

**Table 1
Current Motor Fuel Tax Rates and Estimates of Total Realized Tax Revenues in LFY 2009**

County	Ninth-cent Fuel Tax		1-6 Cents Fuel Tax		1-5 Cents Fuel Tax		Total – All Taxes	
	Rate	\$	Rate	\$	Rate	\$	Rate	\$
Alachua	1	\$1,292,500	6	\$7,333,457	5	\$5,288,355	12	\$13,914,312
Baker	1	174,985	6	990,827	0	0	7	1,165,811
Bay	1	958,452	6	5,443,140	0	0	7	6,401,592
Bradford	0	33,569	6	1,002,841	0	0	6	1,036,410
Brevard	0	373,211	6	15,438,788	0	0	6	15,811,999
Broward	1	8,444,004	6	47,771,327	5	35,657,597	12	91,872,928
Calhoun	0	26,202	6	379,789	0	0	6	405,992
Charlotte	1	888,869	6	5,038,959	5	3,489,792	12	9,417,620
Citrus	1	556,934	6	3,165,756	5	2,244,756	12	5,967,447
Clay	1	790,542	6	4,484,401	0	0	7	5,274,943
Collier	1	1,370,937	6	7,766,433	5	5,796,741	12	14,934,111
Columbia	1	589,581	6	3,340,539	0	0	7	3,930,120
De Soto	1	152,572	6	868,247	5	534,595	12	1,555,414
Dixie	0	34,755	6	559,040	0	0	6	593,795
Duval	0	1,209,851	6	31,468,688	0	0	6	32,678,539
Escambia	1	1,561,935	6	8,859,284	0	0	7	10,421,219
Flagler	1	401,471	6	2,274,529	0	0	7	2,676,000
Franklin	0	16,117	5	357,740	0	0	5	373,857
Gadsden	0	334,725	6	3,415,167	0	0	6	3,749,892
Gilchrist	1	70,645	6	400,529	0	0	7	471,174
Glades	1	50,149	6	288,908	0	0	7	339,057
Gulf	1	64,661	6	371,544	0	0	7	436,205
Hamilton	0	78,034	6	942,189	0	0	6	1,020,223
Hardee	1	166,580	6	946,711	5	579,245	12	1,692,535
Hendry	1	273,236	6	1,558,304	2	317,598	9	2,149,137
Hernando	1	867,994	6	4,925,285	2	1,363,514	9	7,156,793
Highlands	1	501,877	6	2,849,686	5	1,761,363	12	5,112,926
Hillsborough	1	6,609,122	6	37,434,734	0	0	7	44,043,856
Holmes	1	117,174	6	665,470	0	0	7	782,644
Indian River	0	182,520	6	4,550,610	0	0	6	4,733,130
Jackson	1	534,924	6	3,027,032	0	0	7	3,561,956
Jefferson	1	140,867	6	799,240	0	0	7	940,107
Lafayette	0	12,667	6	218,434	0	0	6	231,101
Lake	1	1,399,209	6	7,939,332	0	0	7	9,338,542
Lee	1	3,140,349	6	17,797,824	5	12,988,099	12	33,926,273
Leon	1	1,287,199	6	7,289,699	0	0	7	8,576,898
Levy	0	54,704	6	1,278,472	0	0	6	1,333,176
Liberty	1	54,078	6	307,747	0	0	7	361,825
Madison	0	191,780	6	1,543,945	0	0	6	1,735,725
Manatee	1	1,551,344	6	8,784,916	5	6,292,529	12	16,628,790
Marion	1	2,218,276	6	12,570,752	0	0	7	14,789,028
Martin	1	795,171	6	4,504,853	5	3,333,414	12	8,633,438
Miami-Dade	1	10,998,968	6	62,346,635	3	26,895,848	10	100,241,450
Monroe	0	51,768	6	3,219,140	0	0	6	3,270,908
Nassau	1	367,557	6	2,079,332	0	0	7	2,446,889
Okaloosa	1	1,036,292	6	5,867,284	0	0	7	6,903,576
Okeechobee	1	352,446	6	2,001,433	5	1,256,664	12	3,610,543
Orange	0	1,130,757	6	38,329,791	0	0	6	39,460,548
Osceola	1	1,685,056	6	9,562,745	0	0	7	11,247,802

Table 1 continued
Current Motor Fuel Tax Rates and Estimates of Total Realized Tax Revenues in LFY 2009

County	Ninth-cent Fuel Tax		1-6 Cents Fuel Tax		1-5 Cents Fuel Tax		Total – All Taxes	
	Rate	\$	Rate	\$	Rate	\$	Rate	\$
Palm Beach	1	5,631,051	6	31,916,162	5	23,284,897	12	60,832,109
Pasco	1	2,057,044	6	11,650,169	0	0	7	13,707,213
Pinellas	1	3,855,162	6	21,836,226	0	0	7	25,691,388
Polk	1	3,131,038	6	17,787,575	5	10,697,608	12	31,616,221
Putnam	0	80,378	6	2,229,138	0	0	6	2,309,516
Saint Johns	0	222,519	6	6,297,065	0	0	6	6,519,585
Saint Lucie	1	1,354,529	6	7,678,959	5	5,309,558	12	14,343,047
Santa Rosa	0	112,109	6	4,108,224	0	0	6	4,220,333
Sarasota	1	1,666,504	6	9,431,952	5	7,017,072	12	18,115,528
Seminole	1	2,096,853	6	11,885,323	0	0	7	13,982,176
Sumter	1	751,825	6	4,257,746	0	0	7	5,009,571
Suwannee	1	296,432	6	1,681,160	5	988,926	12	2,966,517
Taylor	0	76,173	6	1,119,408	0	0	6	1,195,581
Union	1	68,414	5	356,466	0	0	6	424,880
Volusia	1	2,352,192	6	13,329,873	5	9,778,935	12	25,461,000
Wakulla	1	120,610	6	686,653	0	0	7	807,264
Walton	1	450,564	6	2,572,127	0	0	7	3,022,692
Washington	1	114,542	6	651,089	0	0	7	765,632
Statewide		\$79,634,555		\$543,836,847		\$164,877,107		\$788,348,509

**Table 2
Unrealized Motor Tax Rates and Estimates of Total Unrealized Tax Revenues in LFY 2009**

County	Ninth-cent Fuel Tax		1-6 Cents Fuel Tax		1-5 Cents Fuel Tax		Total – All Taxes	
	Rate	\$	Rate	\$	Rate	\$	Rate	\$
Alachua	0	\$0	0	\$0	0	\$0	0	\$0
Baker	0	0	0	0	5	674,784	5	674,784
Bay	0	0	0	0	5	3,812,784	5	3,812,784
Bradford	1	142,428	0	0	5	669,811	6	812,239
Brevard	1	2,353,280	0	0	5	11,066,971	6	13,420,251
Broward	0	0	0	0	0	0	0	0
Calhoun	1	40,713	0	0	5	191,467	6	232,180
Charlotte	0	0	0	0	0	0	0	0
Citrus	0	0	0	0	0	0	0	0
Clay	0	0	0	0	5	3,263,069	5	3,263,069
Collier	0	0	0	0	0	0	0	0
Columbia	0	0	0	0	5	2,020,056	5	2,020,056
De Soto	0	0	0	0	0	0	0	0
Dixie	1	62,693	0	0	5	294,830	6	357,523
Duval	1	4,335,859	0	0	5	20,390,616	6	24,726,475
Escambia	0	0	0	0	5	5,945,621	5	5,945,621
Flagler	0	0	0	0	5	1,663,392	5	1,663,392
Franklin	1	56,084	1	52,750	5	263,750	7	352,585
Gadsden	1	271,327	0	0	5	1,275,994	6	1,547,320
Gilchrist	0	0	0	0	5	277,166	5	277,166
Glades	0	0	0	0	5	150,528	5	150,528
Gulf	0	0	0	0	5	224,122	5	224,122
Hamilton	1	88,403	0	0	5	415,738	6	504,140
Hardee	0	0	0	0	0	0	0	0
Hendry	0	0	0	0	3	476,397	3	476,397
Hernando	0	0	0	0	3	2,045,271	3	2,045,271
Highlands	0	0	0	0	0	0	0	0
Hillsborough	0	0	0	0	5	25,638,576	5	25,638,576
Holmes	0	0	0	0	5	363,883	5	363,883
Indian River	1	622,043	0	0	5	2,925,336	6	3,547,379
Jackson	0	0	0	0	5	1,412,827	5	1,412,827
Jefferson	0	0	0	0	5	397,358	5	397,358
Lafayette	1	25,263	0	0	5	118,810	6	144,073
Lake	0	0	0	0	5	5,678,467	5	5,678,467
Lee	0	0	0	0	0	0	0	0
Leon	0	0	0	0	5	5,312,880	5	5,312,880
Levy	1	170,140	0	0	5	800,131	6	970,271
Liberty	0	0	0	0	5	138,950	5	138,950
Madison	1	82,485	0	0	5	387,907	6	470,392
Manatee	0	0	0	0	0	0	0	0
Marion	0	0	0	0	5	8,043,163	5	8,043,163
Martin	0	0	0	0	0	0	0	0
Miami-Dade	0	0	0	0	2	17,930,565	2	17,930,565
Monroe	1	516,874	0	0	5	2,430,749	6	2,947,623
Nassau	0	0	0	0	5	1,319,707	5	1,319,707
Okaloosa	0	0	0	0	5	4,385,770	5	4,385,770
Okeechobee	0	0	0	0	0	0	0	0
Orange	1	5,638,011	0	0	5	26,514,365	6	32,152,376
Osceola	0	0	0	0	5	6,931,867	5	6,931,867

**Table 2 continued
Unrealized Motor Fuel Tax Rates and Estimates of Total Unrealized Tax Revenues in LFY 2009**

County	Ninth-cent Fuel Tax		1-6 Cents Fuel Tax		1-5 Cents Fuel Tax		Total – All Taxes	
	Rate	\$	Rate	\$	Rate	\$	Rate	\$
Palm Beach	0	0	0	0	0	0	0	0
Pasco	0	0	0	0	5	8,355,466	5	8,355,466
Pinellas	0	0	0	0	5	16,133,770	5	16,133,770
Polk	0	0	0	0	0	0	0	0
Putnam	1	312,372	0	0	5	1,469,021	6	1,781,393
Saint Johns	1	891,769	0	0	5	4,193,798	6	5,085,568
Saint Lucie	0	0	0	0	0	0	0	0
Santa Rosa	1	610,294	0	0	5	2,870,083	6	3,480,377
Sarasota	0	0	0	0	0	0	0	0
Seminole	0	0	0	0	5	8,828,616	5	8,828,616
Sumter	0	0	0	0	5	1,932,691	5	1,932,691
Suwannee	0	0	0	0	0	0	0	0
Taylor	1	120,135	0	0	5	564,970	6	685,105
Union	0	0	1	33,041	5	165,206	6	198,248
Volusia	0	0	0	0	0	0	0	0
Wakulla	0	0	0	0	5	438,197	5	438,197
Walton	0	0	0	0	5	1,602,557	5	1,602,557
Washington	0	0	0	0	5	431,683	5	431,683
Statewide		\$16,340,174		\$85,791		\$212,839,737		\$229,265,702