

House Bill 376

By: Representatives Royal of the 164th, Murphy of the 18th, Walker of the 141st, Skipper of the 137th, Buck of the 135th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to sales
2 and use taxes, so as to revise and change provisions of the imposition, levy, collection, and
3 expenditure of proceeds of the joint county and municipal sales and use tax under certain
4 circumstances; to provide for definitions; to provide for a condition precedent to the authority
5 to continue to levy such tax or reimpose such tax; to provide for procedures; to revise and
6 change provisions of the special county 1 percent sales and use tax with respect to the
7 imposition, levy, collection, and expenditure of proceeds of such tax under certain
8 circumstances; to provide for a definition; to provide for a condition precedent to the
9 authority to reimpose such tax; to provide for procedures; to provide for related matters; to
10 provide an effective date; to provide for applicability; to repeal conflicting laws; and for
11 other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 style="text-align: center;">**SECTION 1.**

14 Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to sales and use
15 taxes, is amended by striking Code Section 48-8-80, relating to definitions regarding the joint
16 county and municipal sales and use tax, and inserting in its place a new Code Section
17 48-8-80 to read as follows:

18 "48-8-80.

19 As used in this article, the term '~~qualified~~':

20 (1) 'Qualified government entity' means a state authority created by general law which
21 provides at least four of the following services in its area of operation in lieu of such
22 services being provided by the county whose geographic boundary is conterminous with
23 that of the special district:

24 (A) Police protection;

25 (B) Fire protection;

26 (C) Emergency services;

1 (D) Roads;

2 (E) Business licensing;

3 (F) Water;

4 (G) Sewage; or

5 (H) Garbage and solid waste collection and disposal.

6 (2) 'Qualified municipality' means only those incorporated municipalities which impose
 7 a tax other than the tax authorized by this article and which provide at least three of the
 8 following services:

9 ~~(1)~~(A) Water;

10 ~~(2)~~(B) Sewage;

11 ~~(3)~~(C) Garbage collection;

12 ~~(4)~~(D) Police protection;

13 ~~(5)~~(E) Fire protection; or

14 ~~(6)~~(F) Library."

15 **SECTION 2.**

16 Said chapter is further amended by striking Code Section 48-8-82, relating to authorization
 17 to impose the joint county and municipal sales and use tax, and inserting in its place a new
 18 Code Section 48-8-82 to read as follows:

19 "48-8-82.

20 (a) When the imposition of a joint county and municipal sales and use tax is authorized
 21 according to the procedures provided in this article within a special district, the county
 22 whose geographical boundary is conterminous with that of the special district and each
 23 qualified municipality located wholly or partially within the special district shall levy a
 24 joint sales and use tax at the rate of 1 percent.

25 (b) Except as to rate, the joint tax shall correspond to the tax imposed and administered by
 26 Article 1 of this chapter. No item or transaction which is not subject to taxation by Article
 27 1 of this chapter shall be subject to the tax levied pursuant to this article, except that the
 28 joint tax provided in this article shall be applicable to sales of motor fuels as that term is
 29 defined by Code Section 48-9-2 and shall be applicable to the sale of food and beverages
 30 only to the extent provided for in paragraph (57) of Code Section 48-8-3.

31 (c) In the event a qualified government entity is located in the special district, the
 32 governing authority of the county whose boundary is conterminous with that of the special
 33 district shall, as a condition precedent to the authority to continue to levy the tax and collect
 34 any proceeds from the tax under this article, enter into a contractual agreement with the
 35 governing body of such qualified government entity with respect to the provision of local
 36 government services within the area of operation of such qualified government entity. The

1 total value of any such contract shall in no event exceed an amount equivalent to the
 2 amount of taxes collected, under this article only, within the area of operation of the
 3 qualified government entity as identified from returns pursuant to Code Section 48-8-88.
 4 In the event a tax is simultaneously levied and imposed pursuant to Part 1 of Article 3 of
 5 this chapter, such total value amount shall in no event exceed an amount equivalent to the
 6 aggregate amount of both such taxes collected, within the area of operation of the qualified
 7 government entity as identified from the returns pursuant to Code Sections 48-8-88 and
 8 48-8-114. If such contract has not been entered into on or before December 31, 2001, and
 9 a copy thereof filed with the commissioner, the authority to continue to levy the tax or
 10 collect any proceeds from the tax under this article shall terminate and such tax shall cease
 11 to be levied and collected at the last moment of December 31, 2001. In the event a
 12 termination of such tax occurs pursuant to this subsection, no proceedings to reimpose such
 13 tax shall be conducted under this article unless and until such contractual agreement has
 14 been entered into and a copy thereof filed with the commissioner."

15 SECTION 3.

16 Said chapter is further amended by striking Code Section 48-8-112, relating to
 17 commencement, termination, and continuation of the special county 1 percent sales and use
 18 tax, and inserting in its place a new Code Section 48-8-112 to read as follows:

19 "48-8-112.

20 (a) If the imposition of the tax is approved at the special election, the tax shall be imposed
 21 on the first day of the next succeeding calendar quarter which begins more than 80 days
 22 after the date of the election at which the tax was approved by the voters. With respect to
 23 services which are regularly billed on a monthly basis, however, the resolution shall
 24 become effective with respect to and the tax shall apply to services billed on or after the
 25 effective date specified in the previous sentence.

26 (b) The tax shall cease to be imposed on the earliest of the following dates:

27 (1) If the resolution or ordinance calling for the imposition of the tax provided for the
 28 issuance of general obligation debt and such debt is the subject of validation proceedings,
 29 as of the end of the first calendar quarter ending more than 80 days after the date on
 30 which a court of competent jurisdiction enters a final order denying validation of such
 31 debt;

32 (2) On the final day of the maximum period of time specified for the imposition of the
 33 tax; or

34 (3) As of the end of the calendar quarter during which the commissioner determines that
 35 the tax will have raised revenues sufficient to provide to the county net proceeds equal

1 to or greater than the amount specified as the maximum amount of net proceeds to be
2 raised by the tax.

3 (c)(1) No county shall impose at any time more than a single 1 percent tax under this
4 article.

5 (2) A county in which a tax authorized by this article is in effect may, while the tax is in
6 effect, adopt a resolution or ordinance calling for the reimposition of a tax as authorized
7 by this article upon the termination of the tax then in effect; and a special election may
8 be held for this purpose while the tax is in effect. Proceedings for the reimposition of a
9 tax shall be in the same manner as proceedings for the initial imposition of the tax, but
10 the newly authorized tax shall not be imposed until the expiration of the tax then in effect;
11 provided, however, that in the event of emergency conditions under which a county is
12 unable to conduct a referendum so as to continue the tax then in effect without
13 interruption, the ~~Commissioner~~ commissioner may, if feasible administratively, waive the
14 limitations of subsection (a) of this Code section to the minimum extent necessary so as
15 to permit the reimposition of a tax, if otherwise approved as required under this Code
16 section, without interruption, upon the expiration of the tax then in effect.

17 (3) Following the expiration of a tax under this article, a county may initiate proceedings
18 for the reimposition of a tax under this article in the same manner as provided in this
19 article for initial imposition of such tax.

20 (d)(1) As used in this subsection, the term 'qualified government entity' means a state
21 authority created by general law which provides at least four of the following services in
22 its area of operation in lieu of such services being provided by the county in which such
23 area of operation is located:

24 (A) Police protection;

25 (B) Fire protection;

26 (C) Emergency services;

27 (D) Roads;

28 (E) Business licensing;

29 (F) Water;

30 (G) Sewage; or

31 (H) Garbage and solid waste collection and disposal.

32 (2) In the event a qualified government entity is located in a county in which a tax under
33 this article is imposed or is sought be reimposed, the governing authority of such county
34 shall, as a condition precedent to the authority to impose initially or reimpose a tax under
35 this article, enter in a contractual agreement with the governing body of such qualified
36 government entity with respect to the provision of local government services within the
37 area of operation of such qualified government entity. The total value of any such

1 contract shall in no event exceed an amount equivalent to the amount of taxes collected,
2 under this part only, within the area of operation of the qualified government entity as
3 identified from returns pursuant to Code Section 48-8-114. In the event a tax is
4 simultaneously levied and imposed pursuant to Article 2 of this chapter, such total value
5 amount shall in no event exceed an amount equivalent to the aggregate amount of both
6 such taxes collected, within the area of operation of the qualified government entity as
7 identified from the returns pursuant to Code Sections 48-8-114 and 48-8-88. No
8 proceedings to initially impose or reimpose such tax shall be conducted under this article
9 unless and until such contractual agreement has been entered and a copy thereof filed
10 with the commissioner."

11 **SECTION 4.**

12 This Act shall become effective upon its approval by the Governor or upon its becoming law
13 without such approval and Section 3 of this Act shall apply with respect to taxes imposed or
14 to be imposed under resolutions or ordinances adopted on or after the effective date of this
15 Act.

16 **SECTION 5.**

17 All laws and parts of laws in conflict with this Act are repealed.