

House Bill 883

By: Representative Borders of the 142<sup>nd</sup>

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 provide for the levy and collection of a special purpose local option  
3 sales and use tax; to provide for procedures, conditions, and limitations; to provide for  
4 definitions; to provide for powers, duties, and authority of the state revenue commissioner  
5 with respect to the foregoing; to provide for related matters; to repeal conflicting laws; and  
6 for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to sales and use  
10 taxes, is amended by adding a new article at the end thereof to be designated Article 4, to  
11 read as follows:

12 "ARTICLE 4

13 48-8-200.

14 As used in this article, the term:

15 (1) 'Building and construction materials' means all building and construction materials,  
16 supplies, fixtures, or equipment, any combination of such items, and any other leased or  
17 purchased articles when the materials, supplies, fixtures, equipment, or articles are to be  
18 utilized or consumed during construction or are to be incorporated into construction work  
19 pursuant to a bona fide written construction contract.

20 (2) 'Debt' means any lawfully incurred debt of the governing authority of the county,  
21 including, but specifically not limited to, general obligation debt.

1 48-8-201.

2 The governing authority of any county in this state may, subject to the requirement of  
3 referendum approval and the other requirements of this article, impose within the county  
4 a special sales and use tax for a limited period of time. Any tax imposed under this article  
5 shall be at the rate of 1 percent. Except as to rate, a tax imposed under this article shall  
6 correspond to the tax imposed by Article 1 of this chapter. No item or transaction which  
7 is not subject to taxation under Article 1 of this chapter shall be subject to a tax imposed  
8 under this article, except that a tax imposed under this article shall apply to sales of motor  
9 fuels as that term is defined by Code Section 48-9-2 and shall be applicable to the sale of  
10 food and beverages as provided for in division (57)(D)(i) of Code Section 48-8-3.

11 48-8-202.

12 (a) Prior to the vote of a county governing authority to impose the tax under this article,  
13 such governing authority shall deliver or mail a written notice to the mayor or chief elected  
14 official in each municipality located within the county. Such notice shall contain the date,  
15 time, place, and purpose of a meeting at which the governing authorities of the county and  
16 of each municipality are to meet to discuss the proposed tax. The notice shall be delivered  
17 or mailed at least ten days prior to the date of the meeting. The meeting shall be held at  
18 least 30 days prior to the issuance of the call for the referendum. Following such meeting,  
19 a county governing authority voting to impose the tax authorized by this article shall notify  
20 the county election superintendent by forwarding to the superintendent a copy of the  
21 resolution or ordinance of the governing authority calling for the imposition of the tax.  
22 Such ordinance or resolution shall specify:

23 (1) The purpose or purposes for which the proceeds of the tax are to be used and may be  
24 expended, which purpose or purposes may consist of any of the following purposes:

25 (A) Offsetting Medicaid costs in public hospitals;

26 (B) Indigent medical care in public hospitals; or

27 (C) Any combination of the foregoing;

28 (2) The maximum period of time, to be stated in calendar years or calendar quarters and  
29 not to exceed five years;

30 (3) The maximum cost of the purposes which will be funded from the proceeds of the  
31 tax, which maximum cost shall also be the maximum amount of net proceeds to be raised  
32 by the tax; and

33 (4) If debt is to be issued in conjunction with the imposition of the tax, as authorized by  
34 this article, the principal amount of the debt to be issued, the purpose for which the debt  
35 is to be issued, the interest rate or rates or the maximum interest rate or rates which such

1 debt is to bear, and the amount of principal to be paid in each year during the life of the  
2 debt.

3 (b) Upon receipt of the resolution or ordinance, the election superintendent shall issue the  
4 call for an election for the purpose of submitting the question of the imposition of the tax  
5 to the voters of the county. The election superintendent shall issue the call and shall  
6 conduct the election on a date and in the manner authorized under Code Section 21-2-540.  
7 The election superintendent shall cause the date and purpose of the election to be published  
8 once a week for four weeks immediately preceding the date of the election in the official  
9 organ of the county. If debt is to be issued in conjunction with the imposition of the tax,  
10 the notice published by the election superintendent shall also include, in such form as may  
11 be specified by the county governing authority, the principal amount of the debt, the  
12 purpose for which the debt is to be issued, the rate or rates of interest or the maximum rate  
13 or rates of interest the debt will bear, and the amount of principal to be paid in each year  
14 during the life of the debt; and such publication of notice by the election superintendent  
15 shall take the place of the notice otherwise required by Code Section 36-80-11 or by  
16 subsection (b) of Code Section 36-82-1, which notice shall not be required.

17 (c)(1) If the tax is to be imposed and if no debt is to be issued, the ballot shall have  
18 written or printed thereon the following:

19 '( ) YES Shall a special purpose local option sales tax be imposed in \_\_\_\_\_  
20 County for a period of time not to exceed \_\_\_\_\_ and for the raising  
21 ( ) NO of not more than \$ \_\_\_\_\_ for the following purpose or purposes:  
22 \_\_\_\_\_?'

23 (2) If debt is to be issued, the ballot shall also have written or printed thereon, following  
24 the language specified by paragraph (1) of this subsection, the following:

25 'If imposition of the tax is approved by the voters, such vote shall also constitute  
26 approval of the issuance of debt of \_\_\_\_\_ County in the principal amount of  
27 \$ \_\_\_\_\_ for the above purpose or purposes.'

28 (d) All persons desiring to vote in favor of imposing the tax shall vote 'Yes' and all persons  
29 opposed to levying the tax shall vote 'No.' If more than one-half of the votes cast are in  
30 favor of imposing the tax then the tax shall be imposed as provided in this article;  
31 otherwise the tax shall not be imposed and the question of imposing the tax shall not again  
32 be submitted to the voters of the county until after 12 months immediately following the  
33 month in which the election was held. The election superintendent shall hold and conduct  
34 the election under the same rules and regulations as govern special elections. The  
35 superintendent shall canvass the returns, declare the result of the election, and certify the  
36 result to the Secretary of State and to the commissioner. The expense of the election shall  
37 be paid from county funds.

1 (e)(1) If the proposal includes the authority to issue debt and if more than one-half of the  
 2 votes cast are in favor of the proposal, then the authority to issue such debt in accordance  
 3 with Article IX, Section V, Paragraph I of the Constitution is given to the proper officers  
 4 of the county; otherwise such debt shall not be issued. If the authority to issue such debt  
 5 is so approved by the voters, then such debt may be issued without further approval by  
 6 the voters.

7 (2) If the issuance of debt is included and approved as provided in this Code section, then  
 8 the governing authority of the county may incur such debt in any legally authorized  
 9 manner. If such debt is incurred through the issuance of general obligation bonds, such  
 10 bonds and their issuance and validation shall be subject to Articles 1 and 2 of Chapter 82  
 11 of Title 36 except as specifically provided otherwise in this article. If such debt is  
 12 incurred through the execution of a promissory note or notes or other instrument or  
 13 instruments, no validation proceedings shall be necessary and such debt shall be subject  
 14 to Code Sections 36-80-10 through 36-80-14 except as specifically provided otherwise  
 15 in this article. In either event, such debt shall be payable first from the separate account  
 16 in which are placed the proceeds received by the county from the tax authorized by this  
 17 article. Such debt shall, however, constitute a pledge of the full faith, credit, and taxing  
 18 power of the county; and any liability on such debt which is not satisfied from the  
 19 proceeds of the tax authorized by this article shall be satisfied from the general funds of  
 20 the county.

21 48-8-203.

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

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

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

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

35 (3) As of the end of the calendar quarter during which the commissioner determines that  
 36 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 may, if feasible administratively, waive the limitations of  
14 subsection (a) of this Code section to the minimum extent necessary so as to permit the  
15 reimposition of a tax, if otherwise approved as required under this Code section, without  
16 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 48-8-204.

21 A tax levied pursuant to this article shall be exclusively administered and collected by the  
22 commissioner for the use and benefit of the county imposing the tax. Such administration  
23 and collection shall be accomplished in the same manner and subject to the same applicable  
24 provisions, procedures, and penalties provided in Article 1 of this chapter; provided,  
25 however, that all moneys collected from each taxpayer by the commissioner shall be  
26 applied first to such taxpayer's liability for taxes owed the state; and provided, further, that  
27 the commissioner may rely upon a representation by or in behalf of the county or the  
28 Secretary of State that such a tax has been validly imposed, and the commissioner and the  
29 commissioner's agents shall not be liable to any person for collecting any such tax which  
30 was not validly imposed. Dealers shall be allowed a percentage of the amount of the tax  
31 due and accounted for and shall be reimbursed in the form of a deduction in submitting,  
32 reporting, and paying the amount due if such amount is not delinquent at the time of  
33 payment. The deduction shall be at the rate and subject to the requirements specified under  
34 subsections (b) through (f) of Code Section 48-8-50.

1 48-8-205.

2 Each sales tax return remitting taxes collected under this article shall separately identify  
3 the location of each retail establishment at which any of the taxes remitted were collected  
4 and shall specify the amount of sales and the amount of taxes collected at each  
5 establishment for the period covered by the return in order to facilitate the determination  
6 by the commissioner that all taxes imposed by this article are collected and distributed  
7 according to situs of sale.

8 48-8-206.

9 The proceeds of the tax collected by the commissioner in each county under this article  
10 shall be disbursed as soon as practicable after collection as follows:

11 (1) One percent of the amount collected shall be paid into the general fund of the state  
12 treasury in order to defray the costs of administration; and

13 (2) Except for the percentage provided in paragraph (1) of this Code section, the  
14 remaining proceeds of the tax shall be distributed to the governing authority of the county  
15 imposing the tax.

16 48-8-207.

17 Where a local sales or use tax has been paid with respect to tangible personal property by  
18 the purchaser either in another local tax jurisdiction within the state or in a tax jurisdiction  
19 outside the state, the tax may be credited against the tax authorized to be imposed by this  
20 article upon the same property. If the amount of sales or use tax so paid is less than the  
21 amount of the use tax due under this article, the purchaser shall pay an amount equal to the  
22 difference between the amount paid in the other tax jurisdiction and the amount due under  
23 this article. The commissioner may require such proof of payment in another local tax  
24 jurisdiction as the commissioner deems necessary and proper. No credit shall be granted,  
25 however, against the tax imposed under this article for tax paid in another jurisdiction if the  
26 tax paid in such other jurisdiction is used to obtain a credit against any other local sales and  
27 use tax levied in the county or in a special district which includes the county; and taxes so  
28 paid in another jurisdiction shall be credited first against the tax levied under Article 2 of  
29 this chapter, if applicable, and then against the tax levied under this article.

30 48-8-208.

31 No tax provided for in this article shall be imposed upon the sale of tangible personal  
32 property which is ordered by and delivered to the purchaser at a point outside the  
33 geographical area of the county in which the tax is imposed regardless of the point at which  
34 title passes, if the delivery is made by the seller's vehicle, United States mail, or common

1 carrier or by private or contract carrier licensed by the Interstate Commerce Commission  
2 or the Georgia Public Service Commission.

3  
4 48-8-209.

5 No tax provided for in this article shall be imposed upon the sale or use of building and  
6 construction materials when the contract pursuant to which the materials are purchased or  
7 used was advertised for bid prior to the voters' approval of the levy of the tax and the  
8 contract was entered into as a result of a bid actually submitted in response to the  
9 advertisement prior to approval of the levy of the tax.

10 48-8-210.

11 The commissioner shall have the power and authority to promulgate such rules and  
12 regulations as shall be necessary for the effective and efficient administration and  
13 enforcement of the collection of the tax authorized to be imposed by this article.

14 48-8-211.

15 Except as provided in Code Section 48-8-6, the tax authorized by this article shall be in  
16 addition to any other local sales and use tax. Except as provided in Code Section 48-8-6,  
17 the imposition of any other local sales and use tax within a county shall not affect the  
18 authority of a county to impose the tax authorized by this article and the imposition of the  
19 tax authorized by this article shall not affect the imposition of any otherwise authorized  
20 local sales and use tax within the county.

21 48-8-212.

22 (a)(1) The proceeds received from the tax authorized by this article shall be used by the  
23 county exclusively for the purpose or purposes specified in the resolution or ordinance  
24 calling for imposition of the tax. Such proceeds shall be kept in a separate account from  
25 other funds of the county and shall not in any manner be commingled with other funds  
26 of the county prior to the expenditure.

27 (2) The governing authority of the county and the governing authority of each  
28 municipality receiving any proceeds from the tax pursuant to a contract with the county  
29 shall maintain a record of each and every purpose for which the proceeds of the tax are  
30 used. A schedule shall be included in each annual audit which shows for each purpose  
31 in the resolution or ordinance calling for imposition of the tax the original estimated cost,  
32 the current estimated cost if it is not the original estimated cost, amounts expended in  
33 prior years, and amounts expended in the current year. The auditor shall verify and test  
34 expenditures sufficient to provide assurances that the schedule is fairly presented in

1 relation to the financial statements. The auditor's report on the financial statements shall  
2 include an opinion, or disclaimer of opinion, as to whether the schedule is presented fairly  
3 in all material respects in relation to the financial statements taken as a whole.

4 (b) No debt shall be issued in conjunction with the imposition of the tax unless the county  
5 governing authority determines that, and if the debt is to be validated it is demonstrated in  
6 the validation proceedings that, during each year in which any payment of principal or  
7 interest on the debt comes due the county will receive from the tax authorized by this  
8 article net proceeds sufficient to fully satisfy such liability. Debt issued under this article  
9 shall be payable first from the separate account in which are placed the proceeds received  
10 by the county from the tax authorized by this article. Such debt, however, shall constitute  
11 a pledge of the full faith, credit, and taxing power of the county; and any liability on said  
12 debt which is not satisfied from the proceeds of the tax authorized by this article shall be  
13 satisfied from the general funds of the county.

14 (c) The resolution or ordinance calling for the imposition of the tax authorized by this  
15 article may specify that a part of the proceeds of the tax will be used for payment of debt  
16 issued in conjunction with the imposition of the tax. If the ordinance or resolution so  
17 provides, it shall specifically state the other purposes for which such proceeds will be used.  
18 In such a case no part of the net proceeds from the tax received in any year shall be used  
19 for such other purposes until all debt service requirements of the debt for that year have  
20 first been satisfied from the account in which the proceeds of the tax are placed.

21 (d) The resolution or ordinance calling for the imposition of the tax may specify that no  
22 debt is to be issued in conjunction with the imposition of the tax. If the ordinance or  
23 resolution so provides, it shall specifically state the purpose or purposes for which the  
24 proceeds will be used.

25 (e)(1)(A) If the proceeds of the tax are specified to be used solely for the purpose of  
26 payment of debt issued in conjunction with the imposition of the tax, then any net  
27 proceeds of the tax in excess of the amount required for final payment of such debt  
28 shall be subject to and applied as provided in paragraph (2) of this subsection.

29 (B) If the county receives from the tax net proceeds in excess of the maximum cost of  
30 the purposes or purposes stated in the resolution or ordinance calling for the imposition  
31 of the tax or in excess of the actual cost of such purpose or purposes, then such excess  
32 proceeds shall be subject to and applied as provided in paragraph (2) of this subsection.

33 (C) If the tax is terminated under paragraph (1) of subsection (b) of Code  
34 Section 48-8-112 by reason of denial of validation of debt, then all net proceeds  
35 received by the county from the tax shall be excess proceeds subject to paragraph (2)  
36 of this subsection.

1 (2) Excess proceeds subject to this subsection shall be used solely for the purpose of  
2 reducing any indebtedness of the county other than indebtedness incurred pursuant to this  
3 article. If there is no such other indebtedness or, if the excess proceeds exceed the  
4 amount of any such other indebtedness, then the excess proceeds shall next be paid into  
5 the general fund of the county, it being the intent that any funds so paid into the general  
6 fund of the county be used for the purpose of reducing ad valorem taxes."

7 **SECTION 2.**

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