

House Bill 1612

By: Representatives Royal of the 140th, Coleman of the 118th, Orrock of the 51st, Holmes of the 48th, Post 1, Sinkfield of the 50th, 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 change certain provisions regarding limitations on the maximum
3 amount of local sales and use taxes; to provide for additional procedures, conditions, and
4 limitations with respect to certain water capital outlay projects, sewer capital outlay projects,
5 or water and sewer capital outlay projects with respect to the special county 1 percent sales
6 and use tax; to provide for withholding of certain proceeds; to provide an effective date; to
7 repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to sales and use
11 taxes, is amended by striking subsections (b) and (c) of Code Section 48-8-6, relating to
12 limitations on the maximum amount of local sales and use taxes, and inserting in their place
13 new subsections (b) and (c) to read as follows:

14 "(b) There shall not be imposed in any jurisdiction in this state or on any transaction in this
15 state local sales taxes, local use taxes, or local sales and use taxes in excess of 2 percent.
16 For purposes of this prohibition, the taxes affected are any sales tax, use tax, or sales and
17 use tax which is levied in an area consisting of less than the entire state, however
18 authorized, including such taxes authorized by or pursuant to constitutional amendment,
19 except that the following taxes shall not count toward or be subject to such 2 percent
20 limitation:

21 (1) A sales and use tax for educational purposes exempted from such limitation under
22 Article VIII, Section VI, Paragraph IV of the Constitution;

23 (2) Any tax levied for purposes of a metropolitan area system of public transportation,
24 as authorized by the amendment to the Constitution set out at Georgia Laws, 1964, page
25 1008; the continuation of such amendment under Article XI, Section I, Paragraph IV(d)
26 of the Constitution; and the laws enacted pursuant to such constitutional amendment;

1 provided, however, that the exception provided for under this paragraph shall only apply
 2 in a county in which a tax is being imposed under subparagraph (a)(1)(D) of Code
 3 Section 48-8-111 solely in whole or in part for the county purpose or purposes of a water
 4 capital outlay project or projects, a sewer capital outlay project or projects, a water and
 5 sewer capital outlay project or projects, or a combination of such projects and such
 6 exception with respect to which the county has entered into an intergovernmental contract
 7 with a municipality, in which the average waste-water system flow of such municipality
 8 is not less than 100 million gallons per day, allocating proceeds to such municipality to
 9 be used solely for a water capital outlay project or projects, a sewer capital outlay project
 10 or projects, a water and sewer capital outlay project or projects, or a combination of such
 11 projects. The exception provided for under this paragraph shall apply only during the
 12 period the tax under said subparagraph (a)(1)(D) is in effect. The exception provided for
 13 under this paragraph shall not apply in any county in which a tax is being imposed under
 14 Article 2A of this chapter.

15 If the imposition of any otherwise authorized local sales tax, local use tax, or local sales
 16 and use tax would result in a tax rate in excess of that authorized by this subsection, then
 17 such otherwise authorized tax may not be imposed.

18 (c) ~~Where the exception specified in paragraph (2) of subsection (b) of this Code section~~
 19 ~~applies, the tax imposed under subparagraph (a)(1)(D) of Code Section 48-8-111 shall not~~
 20 ~~apply to:~~

21 ~~(1) The furnishing for value to the public of any room or rooms, lodgings, or~~
 22 ~~accommodations which is subject to taxation under Article 3 of Chapter 13 of this title;~~
 23 ~~and~~

24 ~~(2) The sale of motor vehicles. Reserved.~~

25 SECTION 2.

26 Said chapter is further amended by adding a new subsection at the end of Code Section
 27 48-8-111, relating to procedures for imposing the special county 1 percent sales and use tax,
 28 to be designated subsection (g), to read as follows:

29 "(g)(1) In any county in which the provisions of paragraph (2) of subsection (b) of Code
 30 Section 48-8-6 will be applicable if the tax under this article is imposed pursuant to
 31 subparagraph (a)(1)(D) of this Code section in whole or in part for the county purpose or
 32 purposes of a water capital outlay project or projects, a sewer capital outlay project or
 33 projects, a water and sewer capital outlay project or projects, or a combination of such
 34 projects, the governing authority of a municipality, in which the average waste-water
 35 system flow of such municipality is not less than 100 million gallons per day, located
 36 wholly or partially in such county may deliver or mail a written copy of a resolution of

1 such municipal governing authority calling for the imposition of the tax under this article
 2 in whole or in part for the county purpose or purposes of a water capital outlay project
 3 or projects, a sewer capital outlay project or projects, a water and sewer capital outlay
 4 project or projects, or a combination of such projects to the governing authority of such
 5 county.

6 (2) Within 30 days following the date of delivery of such resolution to the governing
 7 authority of such county, the governing authorities of such county and municipality shall
 8 enter into an intergovernmental contract as authorized by Article IX, Section III of the
 9 Constitution which shall specify the allocation of the proceeds of the tax between such
 10 county and municipality according to the ratio the population of such municipality bears
 11 to the population of such county so that such municipality's share of the total net
 12 proceeds shall be the percentage of the population of such municipality divided by the
 13 population of such county.

14 (3) Immediately following the entering into of the intergovernmental contract under
 15 paragraph (2) of this subsection, the governing authority of such county shall select the
 16 next practicable date authorized under Code Section 21-2-540 for conducting a special
 17 election on the question of imposing such tax. The governing authority of such county
 18 shall notify the county election superintendent by forwarding to the superintendent a copy
 19 of the resolution of the governing authority of such municipality calling for the
 20 imposition of the tax in such county. Following receipt of the resolution, the election
 21 superintendent shall issue the appropriate call for an election for the purpose of
 22 submitting the question of the imposition of the tax to the voters of such county in the
 23 manner specified in this Code section.

24 (4) Following the delivery of such resolution of the governing authority of such
 25 municipality, if the governing authority of such county fails to comply with any of the
 26 requirements specified under this subsection, the commissioner shall withhold any funds
 27 otherwise due to be distributed to such county governing authority under paragraph (2)
 28 of subsection (a) of Code Section 48-8-89 until such requirements have been met."

29 **SECTION 3.**

30 This Act shall become effective upon its approval by the Governor or upon its becoming law
 31 without such approval.

32 **SECTION 4.**

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