

House Bill 1767

By: Representatives Murphy of the 97th, Howard of the 98th, Warren of the 99th, and Anderson of the 100th

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 1 of Article 3 of Chapter 8 of Title 48 of the Official Code of Georgia
2 Annotated, relating to the special county 1 percent sales and use tax, so as to authorize use
3 and expenditure of such tax proceeds for consolidated government public safety purposes and
4 operations; to provide for procedures, conditions, and limitations; to provide an effective
5 date; to provide for applicability; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Part 1 of Article 3 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated,
9 relating to the special county 1 percent sales and use tax, is amended by striking Code
10 Section 48-8-111, relating to the imposition of such tax, and inserting in its place a new Code
11 Section 48-8-111 to read as follows:

12 "48-8-111.

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

25 (1) The purpose or purposes for which the proceeds of the tax are to be used and may be
26 expended, which purpose or purposes may consist of projects located within or outside,

1 or both within and outside, any incorporated areas in the county or outside the county, as
2 authorized by subparagraph (B) of this paragraph for regional facilities, and which may
3 include any of the following purposes:

4 (A) Road, street, and bridge purposes, which purposes may include sidewalks and
5 bicycle paths;

6 (B) A capital outlay project or projects of the county for the use of or the benefit of the
7 citizens of the entire county and consisting of a county courthouse; county
8 administrative buildings; a civic center; a county or regional jail, correctional
9 institution, or other detention facility; a county library; a coliseum; local or regional
10 solid waste handling facilities as defined under paragraph (27.1) or (35) of Code
11 Section 12-8-22, as amended, excluding any solid waste thermal treatment technology
12 facility, including, but not limited to, any facility for purposes of incineration or waste
13 to energy direct conversion; local or regional recovered materials processing facilities
14 as defined under paragraph (26) of Code Section 12-8-22, as amended; or any
15 combination of such projects;

16 (C) A capital outlay project or projects which will be operated by a joint authority or
17 authorities of the county and one or more municipalities within the county and which
18 will be for the use of or benefit of the citizens of the county and the citizens of one or
19 more municipalities within the county;

20 (D) A capital outlay project or projects, to be owned or operated or both either by the
21 county, one or more municipalities, or any combination thereof, with respect to which
22 the county has, prior to the call of the election, entered into a contract or agreement, as
23 authorized by Article IX, Section III of the Constitution, with one or more
24 municipalities in the county, which municipality or municipalities contain more than
25 one-half of the aggregate population of all municipalities within the county; and, for
26 purposes of determining the population of a municipality under this subparagraph, only
27 that portion of the population of each municipality which is within the county shall be
28 included;

29 (E) A capital outlay project consisting of a cultural facility, a recreational facility, or
30 a historic facility (or a facility for some combination of such purposes);

31 (F) A water capital outlay project, a sewer capital outlay project, a water and sewer
32 capital outlay project, or a combination of such projects, to be owned or operated or
33 both by a county water and sewer district and one or more municipalities in the county,
34 with respect to which the county has, prior to the call of the election, entered into a
35 contract or agreement, as authorized by Article IX, Section III of the Constitution; and
36 when the tax is imposed pursuant to this subparagraph the proceeds of the tax shall be
37 allocated between the water and sewer district and the municipality or municipalities

1 based upon the population of the municipality or municipalities, according to the United
 2 States decennial census of 1980 or any future such census, over the population of the
 3 county, according to the United States decennial census of 1980 or any future such
 4 census, with such allocation to be specified in the contract or agreement relating to the
 5 capital outlay facility or facilities;

6 (G) The retirement of previously incurred general obligation debt of the county, one
 7 or more municipalities, or any combination thereof other than general obligation debt
 8 incurred for road, street, or bridge purposes, if such previously incurred general
 9 obligation debt was incurred for a project or projects of a type for which new general
 10 obligation debt may be incurred under this article;

11 (H) A capital outlay project or projects of the county for the use of and benefit of the
 12 citizens of the entire county and consisting of public safety facilities, airport facilities,
 13 or related capital equipment used in the operation of public safety or airport facilities,
 14 or any combination of such purposes;

15 (I) A capital outlay project or projects, to be owned or operated or both, either by the
 16 county, one or more municipalities, or any combination thereof, consisting of capital
 17 equipment for use in voting in official elections or referendums with such county or
 18 municipality;

19 (J) A capital outlay project or projects of the county for the use and benefit of the
 20 citizens of the entire county and consisting of any transportation facility designed for
 21 the transportation of people or goods, including but not limited to railroads, port and
 22 harbor facilities, mass transportation facilities, or any combination thereof;

23 (K) A capital outlay project or projects for the use and benefit of the citizens of the
 24 entire county and consisting of a hospital or hospital facilities that are owned by a
 25 county or a hospital authority and operated by the county or hospital authority or by an
 26 organization which is tax exempt under Section 501(c)(3) of the Internal Revenue
 27 Code, which operates the hospital through a contract or lease with the county or
 28 hospital authority; or

29 (L) Maintenance and operation of public safety facilities only within the limits of a
 30 consolidated government; provided, however, that the amount of proceeds used for such
 31 maintenance and operation purposes shall not exceed 2 percent of the total proceeds
 32 which are collected under this article by such consolidated government for a capital
 33 outlay project or projects authorized under this paragraph; or

34 ~~(L)~~(M) Any combination of two or more of the foregoing;

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

1 (3) The maximum cost of the project or projects which will be funded from the proceeds
2 of the tax, which maximum cost shall also be the maximum amount of net proceeds to
3 be raised by the tax; ~~and~~

4 (4) If general obligation debt is to be issued in conjunction with the imposition of the tax,
5 as authorized by this article in cases where the tax is imposed other than in whole for
6 road, street, and bridge purposes, the principal amount of the debt to be issued, the
7 purpose for which the debt is to be issued other than for road, street, and bridge purposes,
8 the interest rate or rates or the maximum interest rate or rates which such debt is to bear,
9 and the amount of principal to be paid in each year during the life of the debt; and

10 (5) If proceeds are to be expended for consolidated government maintenance and
11 operations of public safety facilities, a good faith estimate of the annual amount to be
12 expended with respect to such purposes.

13 (a.1) For purposes of subsection (a) of this Code section, a 'capital outlay project' means
14 major, permanent, or long-lived improvements or betterments, such as land and structures,
15 such as would be properly chargeable to a capital asset account and as distinguished from
16 current expenditures and ordinary maintenance expenses. Such term shall include, but not
17 be limited to, police cars, fire trucks, ambulances, garbage trucks, and other major
18 equipment.

19 (b) Upon receipt of the resolution or ordinance, the election superintendent shall issue the
20 call for an election for the purpose of submitting the question of the imposition of the tax
21 to the voters of the county. The election superintendent shall issue the call and shall
22 conduct the election on a date and in the manner authorized under Code Section 21-2-540.
23 The election superintendent shall cause the date and purpose of the election to be published
24 once a week for four weeks immediately preceding the date of the election in the official
25 organ of the county. If general obligation debt is to be issued in conjunction with the
26 imposition of the tax, the notice published by the election superintendent shall also include,
27 in such form as may be specified by the county governing authority, the principal amount
28 of the debt, the purpose for which the debt is to be issued, the rate or rates of interest or the
29 maximum rate or rates of interest the debt will bear, and the amount of principal to be paid
30 in each year during the life of the debt; and such publication of notice by the election
31 superintendent shall take the place of the notice otherwise required by Code Section
32 36-80-11 or by subsection (b) of Code Section 36-82-1, which notice shall not be required.

33 (c) If the tax is to be imposed solely for road, street, and bridge purposes, the ballot shall
34 have written or printed thereon the following:

1 '() YES Shall a special 1 percent sales and use tax be imposed for road, street,
 2 and bridge purposes in _____ County for a period of time not
 3 () NO to exceed _____ and for the raising of not more than
 4 \$_____?'

5 (d)(1) If the tax is to be imposed solely for purposes other than for road, street, and
 6 bridge purposes and if no debt is to be issued, the ballot shall have written or printed
 7 thereon the following:

8 '() YES Shall a special 1 percent sales and use tax be imposed in _____
 9 County for a period of time not to exceed _____ and for the
 10 () NO raising of not more than \$_____ for the purpose of _____?'

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

13 'If imposition of the tax is approved by the voters, such vote shall also constitute
 14 approval of the issuance of general obligation debt of _____ County in the
 15 principal amount of \$_____ for the above purpose.'

16 (3) If the tax is to be imposed in part for road, street, and bridge purposes and in part for
 17 other purposes, the ballot shall have written or printed thereon the following:

18 '() YES Shall a special 1 percent sales and use tax be imposed in _____
 19 County for a period of time not to exceed _____ and for the raising
 20 () NO of not more than \$_____ for the purpose of _____ and for
 21 road, street, and bridge purposes for a period of time not to exceed
 22 _____ and for the raising of not more than \$_____?'

23 (4) If debt is to be issued for purposes other than road, street, and bridge purposes, the
 24 ballot shall also have written or printed thereon, following the language specified by
 25 paragraph (3) of this subsection, the following:

26 'If imposition of the tax is approved by the voters, such vote shall also constitute
 27 approval of the issuance of general obligation debt of _____ County in the
 28 principal amount of \$_____ for the above purpose other than road, street, and
 29 bridge purposes.'

30 (5) If the tax is to be imposed in part for consolidated government maintenance and
 31 operation of public safety facilities, the ballot shall have written or printed thereon,
 32 following the language specified by paragraph (4) of this subsection, the following:

33 'If imposition of the tax is approved by the voters, such vote shall also constitute
 34 approval of the annual expenditure of approximately \$_____ for consolidated
 35 government maintenance and operation of public safety facilities _____.'

1 (e) All persons desiring to vote in favor of imposing the tax shall vote 'Yes' and all persons
2 opposed to levying the tax shall vote 'No.' If more than one-half of the votes cast are in
3 favor of imposing the tax then the tax shall be imposed as provided in this article;
4 otherwise the tax shall not be imposed and the question of imposing the tax shall not again
5 be submitted to the voters of the county until after 12 months immediately following the
6 month in which the election was held; provided, however, that if an election date
7 authorized under Code Section 21-2-540 occurs during the twelfth month immediately
8 following the month in which such election was held, the question of imposing the tax may
9 be submitted to the voters of the county on such date. The election superintendent shall
10 hold and conduct the election under the same rules and regulations as govern special
11 elections. The superintendent shall canvass the returns, declare the result of the election,
12 and certify the result to the Secretary of State and to the commissioner. The expense of the
13 election shall be paid from county funds.

14 (f)(1) If the proposal includes the authority to issue general obligation debt and if more
15 than one-half of the votes cast are in favor of the proposal, then the authority to issue such
16 debt in accordance with Article IX, Section V, Paragraph I of the Constitution is given
17 to the proper officers of the county; otherwise such debt shall not be issued. If the
18 authority to issue such debt is so approved by the voters, then such debt may be issued
19 without further approval by the voters.

20 (2) If the issuance of general obligation debt is included and approved as provided in this
21 Code section, then the governing authority of the county may incur such debt either
22 through the issuance and validation of general obligation bonds or through the execution
23 of a promissory note or notes or other instrument or instruments. If such debt is incurred
24 through the issuance of general obligation bonds, such bonds and their issuance and
25 validation shall be subject to Articles 1 and 2 of Chapter 82 of Title 36 except as
26 specifically provided otherwise in this article. If such debt is incurred through the
27 execution of a promissory note or notes or other instrument or instruments, no validation
28 proceedings shall be necessary and such debt shall be subject to Code Sections 36-80-10
29 through 36-80-14 except as specifically provided otherwise in this article. In either event,
30 such general obligation debt shall be payable first from the separate account in which are
31 placed the proceeds received by the county from the tax authorized by this article. Such
32 general obligation debt shall, however, constitute a pledge of the full faith, credit, and
33 taxing power of the county; and any liability on such debt which is not satisfied from the
34 proceeds of the tax authorized by this article shall be satisfied from the general funds of
35 the county. In no event shall any proceeds of a tax which is imposed pursuant to this
36 article in whole or in part for road, street, or bridge purposes be used for payment of
37 general obligation debt with respect to such road, street, and bridge purposes."

1 **SECTION 2.**

2 This Act shall become effective upon its approval by the Governor or upon its becoming law
3 without such approval, and shall apply with respect to taxes imposed or to be imposed under
4 resolutions or ordinances adopted on or after that date.

5 **SECTION 3.**

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