

House Bill 1416

By: Representatives Willard of the 49th, Chambers of the 81st, and Jacobs of the 80th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2A of Chapter 8 of Title 48 of the Official Code of Georgia Annotated,
2 relating to the homestead option sales and use tax, so as to change the manner and method
3 of disbursing the proceeds of such tax; to provide for a definition; to provide for legislative
4 intent; to provide for distribution certificates; to provide for procedures, conditions, and
5 limitations; to provide for powers and duties of the state revenue commissioner; to provide
6 an effective date; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 2A of Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to the
10 homestead option sales and use tax, is amended by adding a new paragraph (3) at the end of
11 Code Section 48-8-101, relating to definitions, to read as follows:

12 "(3) 'Municipality' means each municipality lying wholly within or partially within a
13 county."

14 **SECTION 2.**

15 Said article is further amended by adding a new Code section immediately following Code
16 Section 48-8-101, to be designated Code Section 48-8-101.1, to read as follows:

17 "48-8-101.1.

18 It the intent of the General Assembly that the proceeds of the homestead option sales tax
19 be distributed to the counties and municipalities according to the calculations set forth in
20 this article so that their respective residents will benefit equally therefrom. The provisions
21 of this article shall be liberally construed to effectuate such intent."

SECTION 3.

Said article is further amended by striking Code Section 48-8-104, relating to administration and disbursement of homestead option sales and use tax proceeds, and inserting in its place a new Code Section 48-8-104 to read as follows:

"48-8-104.

(a) The sales and use tax levied pursuant to this article shall be exclusively administered and collected by the commissioner for the use and benefit of each county whose geographical boundary is conterminous with that of a special district. Such administration and collection shall be accomplished in the same manner and subject to the same applicable provisions, procedures, and penalties provided in Article 1 of this chapter; provided, however, that all moneys collected from each taxpayer by the commissioner shall be applied first to such taxpayer's liability for taxes owed the state. Dealers shall be allowed a percentage of the amount of the sales and use tax due and accounted for and shall be reimbursed in the form of a deduction in submitting, reporting, and paying the amount due if such amount is not delinquent at the time of payment. The deduction shall be at the rate and subject to the requirements specified under subsections (b) through (f) of Code Section 48-8-50.

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

(c) The proceeds of the sales and use tax collected by the commissioner in each special district under this article shall be disbursed as soon as practicable after collection as follows:

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

(2) Except for the percentage provided in paragraph (1) of this subsection, the remaining proceeds of the sales and use tax shall be distributed to the governing authority of the county whose geographical boundary is conterminous with that of the special district. As a condition precedent for the authority to levy the sales and use tax or to collect any proceeds from the tax authorized by this article for the year following the first complete calendar year in which it is levied and for all subsequent years except the year following the year in which the sales and use tax is terminated under Code Section 48-8-106, the county whose geographical boundary is conterminous with that of the special district

1 shall, except as otherwise provided in subsection (c) of Code Section 48-8-102, expend
2 such proceeds as follows:

3 ~~(A) A portion of such proceeds shall be expended for the purpose of funding capital
4 outlay projects as follows:~~

5 ~~(i) The governing authority of the county whose geographical boundary is
6 conterminous with that of the special district shall establish the capital factor which
7 shall not exceed .200; and~~

8 ~~(ii) Capital outlay projects shall be funded in an amount equal to the product of the
9 capital factor multiplied by the net amount of the sales and use tax proceeds collected
10 under this article during the previous calendar year;~~

11 (A) A portion equal to .200 times such remaining proceeds shall be referred to as
12 'capital outlay proceeds,' which shall be expended for the purpose of funding capital
13 outlay projects of the county and each municipality located in such county, except as
14 provided by paragraph (9) of subsection (d) of this Code section. The commissioner
15 shall distribute to the governing authority of each municipality located in the special
16 district a share of the capital outlay proceeds calculated as provided in subsection (d)
17 of this Code section.

18 (B) A portion of such proceeds shall be expended for the purpose of funding services
19 within the special district equal to the revenue lost to the homestead exemption as
20 provided in this Code section as follows:

21 (i) The homestead factor shall be calculated by multiplying the quantity 1.000 minus
22 the capital factor times an amount equal to the net amount of sales and use tax
23 collected in the special district pursuant to this article for the previous calendar year
24 and then divided by the taxes levied for county purposes on only that portion of the
25 county tax digest that represents net assessments on qualified homestead property
26 after all other homestead exemptions have been applied, rounding the result to three
27 decimal places. The capital factor shall equal .200;

28 (ii) If the homestead factor is less than or equal to 1.000, the amount of homestead
29 exemption created under this article on qualified homestead property shall be equal
30 to the product of the homestead factor multiplied by the net assessment of each
31 qualified homestead remaining after all other homestead exemptions have been
32 applied; and

33 (iii) If the homestead factor is greater than 1.000, the homestead exemption created
34 by this article on qualified homestead property shall be equal to the net assessment of
35 each homestead remaining after all other homestead exemptions have been applied;
36 and

1 (C) If any of such proceeds remain following the distribution provided for in
 2 subparagraphs (A) and (B) of this paragraph:

3 (i) The millage rate levied for county purposes shall be rolled back in an amount
 4 equal to such excess divided by the net taxable digest for county purposes after
 5 deducting all homestead exemptions including the exemption under this article; and

6 (ii) In the event the rollback created by division (i) of this subparagraph exceeds the
 7 millage rate for county purposes, the governing authority of the county whose
 8 boundary is conterminous with the special district shall be authorized to expend the
 9 surplus funds for funding all or any portion of those services which are to be provided
 10 by such governing authorities pursuant to and in accordance with Article IX, Section
 11 II, Paragraph III of the Constitution.

12 (d)(1) As used in this subsection, the term:

13 (A) 'Equalization amount' means for a municipality the product of the equalization
 14 millage times the net homestead digest for that municipality.

15 (B) 'Equalization millage' for each municipality shall equal the product of the
 16 homestead factor calculated pursuant to subparagraph (c)(2)(B) of this Code section
 17 times the difference between the unincorporated county millage rate and the
 18 incorporated county millage rate for that municipality.

19 (C) 'Incorporated county millage rate' means the millage rate for all ad valorem taxes
 20 for county purposes levied by the county in each of the municipalities in the county.

21 (D) 'Net homestead digest' means for each municipality the total net assessed value
 22 of all qualified homestead property located in that portion of the municipality located
 23 in the county remaining after all other homestead exemptions are applied. The tax
 24 commissioner shall certify to the commissioner the net homestead digest for each
 25 municipality at the time the digest is completed and deposited pursuant to Code
 26 Section 48-5-205.

27 (E) 'Unincorporated county millage rate' means the millage rate for all ad valorem
 28 taxes for county purposes levied by the county in the unincorporated area of the
 29 county.

30 (2) The commissioner shall deposit the capital outlay proceeds into an interest-bearing
 31 escrow account as they are collected each year. On or before January 20 of the following
 32 year, the commissioner shall distribute to the governing authority of each municipality
 33 the equalization amount for that municipality.

34 (3) The commissioner shall distribute as soon as practicable to the governing authority
 35 of the county on a monthly basis an amount equal to the product of .800 times the
 36 proceeds of the net sales and use tax remaining after the deposit of the capital outlay
 37 proceeds is made.

1 (4) A hypothetical example of the calculation of the equalization amount is as follows:

2 Calculation of homestead factor

3	<u>Capital factor (per paragraph 3 of this subsection)</u>	<u>.200</u>
4	<u>Net sales and use tax collections for prior calendar</u>	
5	<u>year:</u>	<u>\$ 50 million</u>
6	<u>Total ad valorem taxes levied by county on homestead</u>	
7	<u>property:</u>	<u>\$100 million</u>
8	<u>Homestead factor using figures above</u>	
9	<u>[(1-.200)(\$50,000.00/\$100 million)]</u>	<u>.400</u>

10 Calculation of equalization amount

11	<u>Unincorporated county millage rate for county</u>	<u>15.0 mills</u>
12	<u>Minus the incorporated county millage rate for</u>	
13	<u>municipality 'Y'</u>	<u>(10.0 mills)</u>
14	<u>Difference:</u>	<u>= 5.0 mills</u>
15	<u>Times homestead factor (calculated above)</u>	<u>x .400</u>
16	<u>Equalization millage:</u>	<u>= 2 mills</u>
17	<u>Times net homestead digest for municipality 'Y'</u>	<u>\$200 million</u>
18	<u>Equalization amount payable to municipality 'Y'</u>	<u>\$ 400,000.00</u>

19 (5) In the event the total amount payable in a calendar year to all municipalities in the
 20 special district exceeds the capital outlay proceeds, the commissioner shall pay to the
 21 governing authority of each municipality a proportional share of such proceeds. The
 22 commissioner shall calculate each municipality's share by dividing the net homestead
 23 digest for that municipality by the total net homestead digest of all the municipalities in
 24 the special district.

25 (6) In the event the total amount payable in a calendar year to all municipalities in the
 26 special district is less than the capital outlay proceeds, the commissioner shall pay to the
 27 governing authority of each municipality a proportional share of the excess amount. The
 28 commissioner shall calculate each municipality's share by dividing the net homestead
 29 digest for that municipality by the total net homestead digest of all the municipalities in
 30 the special district.

1 (7) In the event the incorporated county millage rate for a municipality is greater than the
2 unincorporated county millage rate, no payment shall be due from the governing
3 authority of the municipality to the governing authority of the county.

4 (8) If any municipality is located partially in the county then only that portion so located
5 shall be considered in the calculations contained in this subsection.

6 (9) Following disbursement of such capital outlay proceeds by the commissioner to all
7 municipalities in the county, the commissioner shall distribute the remaining portion, if
8 any, of such capital outlay proceeds to the governing authority of the county. The
9 governing authority of the county may use its own remaining share of the capital outlay
10 proceeds for either capital outlay projects or to increase the homestead exemption
11 calculated pursuant to subparagraph (C)(2)(B) of this Code section."

12 **SECTION 4.**

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

15 **SECTION 5.**

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