

House Bill 1139

By: Representatives Smith of the 129th, Sheldon of the 105th, Shaw of the 176th, Harbin of the 118th, Rogers of the 26th, 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 implement a 1 percent increase in the state-wide sales and use taxes
3 to be used for transportation purposes; to not exempt motor fuels from such increase in the
4 state-wide sales and use taxes; to amend Chapter 13 of Title 48 of the Official Code of
5 Georgia Annotated, relating to specific, business, and occupation taxes, so as to reflect the
6 1 percent increase in the sales and use tax; to provide for distribution of the proceeds of the
7 state-wide transportation tax; to provide for related matters; to provide for a contingent
8 effective date and applicability; to provide for automatic repeal under certain circumstances;
9 to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

12 Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to sales and use
13 taxes, is amended by revising Code Section 48-8-3.1, relating to exemptions for motor fuels
14 from sales and use taxes, as follows:

15 "48-8-3.1.

16 (a) Except as provided in subsection (b) of this Code section, sales of motor fuels as
17 defined in paragraph (9) of Code Section 48-9-2 shall be exempt from the first 3 percent
18 of the sales and use taxes levied or imposed by this article and shall be subject to the
19 remaining ~~1~~ 2 percent of the sales and use taxes levied or imposed by this article.

20 (b) Sales of motor fuel other than gasoline, which motor fuel other than gasoline is
21 purchased for purposes other than propelling motor vehicles on public highways as defined
22 in Article 1 of Chapter 9 of this title, shall be fully subject to the ~~4~~ 5 percent sales and use
23 taxes levied or imposed by this article unless otherwise specifically exempted by this
24 article.

25 (c) It is specifically declared to be the intent of the General Assembly that taxation
26 imposed on sales of motor fuel wholly or partially subject to taxation under this Code

1 section shall not constitute motor fuel taxes for purposes of any provision of the
 2 Constitution providing for the automatic or mandatory appropriation of any amount of
 3 funds equal to funds derived from motor fuel taxes.

4 (d) It is further declared to be the intent of the General Assembly that 1 percent of the
 5 amount of sales and use tax raised from sales of motor fuel, as provided by Article III,
 6 Section IX, Paragraph VI(b.1) of the Constitution, shall be used to fund the Local
 7 Assistance Road Program and the State Funds Road Construction Program."

8 SECTION 2.

9 Said chapter is further amended by revising subsection (c.1) of Code Section 48-8-6, relating
 10 to the ceiling on local sales and use taxes, as follows:

11 "(c.1) Where the exception specified in paragraph (2) of subsection (b) of this Code section
 12 applies, on and after ~~July 1, 2007~~ January 1, 2009, the aggregate amount of all excise taxes
 13 imposed under paragraph (5) of subsection (a) of Code Section 48-13-51 and all sales and
 14 use taxes shall not exceed ~~14~~ 15 percent."

15 SECTION 3.

16 Said chapter is further amended by revising Code Section 48-8-30, relating to the rate and
 17 imposition of the state sales and use tax, as follows:

18 "48-8-30.

19 (a) There is levied and imposed a tax on the retail purchase, retail sale, rental, storage, use,
 20 or consumption of tangible personal property and on the services described in this article.

21 (b)(1) Every purchaser of tangible personal property at retail in this state shall be liable
 22 for a tax on the purchase at the rate of ~~4~~ 5 percent of the sales price of the purchase. The
 23 tax shall be paid by the purchaser to the retailer making the sale, as provided in this
 24 article. The retailer shall remit the tax to the commissioner, as provided in this article,
 25 and, when received by the commissioner, the tax shall be a credit against the tax imposed
 26 on the retailer. Every person making a sale or sales of tangible personal property at retail
 27 in this state shall be a retailer and a dealer and shall be liable for a tax on the sale at the
 28 rate of ~~4~~ 5 percent of the gross sale or gross sales, or the amount of taxes collected by him
 29 or her from his or her purchaser or purchasers, whichever is greater.

30 (2) No retail sale shall be taxable to the retailer or dealer which is not taxable to the
 31 purchaser at retail.

32 (c)(1) Upon the first instance of use, consumption, distribution, or storage within this
 33 state of tangible personal property purchased at retail outside this state, the owner or user
 34 of the property shall be a dealer and shall be liable for a tax at the rate of ~~4~~ 5 percent of
 35 the cost price, except as provided in paragraph (2) of this subsection.

1 (2) Upon the first instance of use, consumption, distribution, or storage within this state
 2 of tangible personal property purchased at retail outside this state and used outside this
 3 state for more than six months prior to its first use within this state, the owner or user of
 4 the property shall be a dealer and shall be liable for a tax at the rate of 4 5 percent of the
 5 cost price or fair market value of the property, whichever is the lesser.

6 (3) This subsection shall not be construed to require a duplication in the payment of the
 7 tax. The tax imposed by this subsection shall be subject to the credit otherwise granted
 8 by this article for like taxes previously paid in another state.

9 (c.1)(1) Every purchaser of tangible personal property at retail outside this state from a
 10 dealer, as defined in subparagraph (H) of paragraph (3) of Code Section 48-8-2, when
 11 such property is to be used, consumed, distributed, or stored within this state, shall be
 12 liable for a tax on the purchase at the rate of 4 5 percent of the sales price of the purchase.
 13 It shall be prima-facie evidence that such property is to be used, consumed, distributed,
 14 or stored within this state if that property is delivered in this state to the purchaser or
 15 agent thereof. The tax shall be paid by the purchaser to the retailer making the sale, as
 16 provided in this article. The retailer shall remit the tax to the commissioner, as provided
 17 in this article, and, when received by the commissioner, the tax shall be a credit against
 18 the tax imposed on the retailer. Every person who is a dealer, as defined in
 19 subparagraph (H) of paragraph (3) of Code Section 48-8-2, and who makes any sale of
 20 tangible personal property at retail outside this state, which property is to be delivered in
 21 this state to a purchaser or purchaser's agent, shall be a retailer and a dealer for purposes
 22 of this article and shall be liable for a tax on the sale at the rate of 4 5 percent of such
 23 gross sales or the amount of tax as collected by that person from purchasers having their
 24 purchases delivered in this state, whichever is greater.

25 (2) No retail sale shall be taxable to the retailer or dealer which is not taxable to the
 26 purchaser at retail. The tax imposed by this subsection shall be subject to the credit
 27 otherwise granted by this article for like taxes previously paid in another state. This
 28 subsection shall not be construed to require a duplication in the payment of the tax.

29 (d)(1) Every person to whom tangible personal property in ~~the~~ this state is leased or
 30 rented shall be liable for a tax on the lease or rental at the rate of 4 5 percent of the gross
 31 lease or rental charge. The tax shall be paid to the person who leases or rents the property
 32 by the person to whom the property is leased or rented. A person who leases or rents
 33 property to others as a dealer under this article shall remit the tax to the commissioner,
 34 as provided in this article. When received by the commissioner, the tax shall be a credit
 35 against the tax imposed on the person who leases or rents the property to others. Every
 36 person who leases or rents tangible personal property in this state to others shall be a
 37 dealer and shall be liable for a tax on the lease or rental at the rate of 4 5 percent of the

1 gross lease or rental proceeds, or the amount of taxes collected by him or her from
 2 persons to whom he or she leases or rents tangible personal property, whichever is
 3 greater.

4 (2) No lease or rental shall be taxable to the person who leases or rents tangible property
 5 to another which is not taxable to the person to whom the property is leased or rented.

6 (3) The lessee of both taxable and exempt property in this state under a single lease
 7 agreement containing a lease period of ten years or more shall have the option to
 8 discharge in full all sales and use taxes imposed by this article relating to the tangible
 9 personal property by paying in a lump sum ~~4~~ 5 percent of the fair market value of the
 10 tangible personal property at the date of inception of the lease agreement in the same
 11 manner and under the same conditions applicable to sales of the tangible personal
 12 property.

13 (e) Upon the first instance of use within this state of tangible personal property leased or
 14 rented outside this state, the person to whom the property is leased or rented shall be a
 15 dealer and shall be liable for a tax at the rate of ~~4~~ 5 percent of the rental charge paid to the
 16 person who leased or rented the property, subject to the credit authorized for like taxes
 17 previously paid in another state.

18 (e.1)(1) Every person who leases, as lessor, or rents tangible personal property outside
 19 this state for use within this state shall be liable for a tax at the rate of ~~4~~ 5 percent of the
 20 rental charge paid for that lease or rental if that person is a dealer, as defined in
 21 subparagraph (H) of paragraph (3) of Code Section 48-8-2₂, and title to that property
 22 remains in that person. It shall be prima-facie evidence that such property is to be used
 23 within this state if that property is delivered in this state to the lessee or renter of such
 24 property, or to the agent of either. The tax shall be paid by the lessee or renter₂ and
 25 payment of the tax shall be made to the lessor or person receiving rental payments for that
 26 property, which person shall be the dealer for purposes of this article. The dealer shall
 27 remit the tax to the commissioner₂ as provided in this article₂ and, when received by the
 28 commissioner, the tax shall be a credit against the tax imposed on the dealer. Every
 29 person who is a dealer, as defined in subparagraph (H) of paragraph (3) of Code
 30 Section 48-8-2₂, and who leases or rents tangible personal property outside this state to be
 31 delivered in this state to the lessee, renter, or agent of either shall be a dealer and shall be
 32 liable as such for a tax on the lease or rental at the rate of ~~4~~ 5 percent of the gross
 33 proceeds from such leases or rentals or the amount of taxes collected by that dealer for
 34 leases or rentals of tangible personal property delivered in this state, whichever is greater.

35 (2) No lease or rental shall be taxable to the dealer which is not taxable to the lessee or
 36 renter. The tax imposed by this subsection shall be subject to the credit granted by this

1 article for like taxes previously paid in another state. This subsection shall not be
2 construed to require a duplication in the payment of the tax.

3 (f)(1) Every person purchasing or receiving any service within this state, the purchase
4 of which is a retail sale, shall be liable for tax on the purchase at the rate of ~~4~~ 5 percent
5 of the gross charge or charges made for the purchase. The tax shall be paid by the person
6 purchasing or receiving the service to the person furnishing the service. The person
7 furnishing the service, as a dealer under this article, shall remit the tax to the
8 commissioner, ~~as provided in this article;~~ and, when received by the commissioner, the
9 tax shall be a credit against the tax imposed on the person furnishing the service. Every
10 person furnishing a service, the purchase of which is a retail sale, shall be a dealer and
11 shall be liable for a tax on the sale at the rate of ~~4~~ 5 percent of the gross charge or charges
12 made for furnishing the service, or the amount of taxes collected by him or her from the
13 person to whom the service is furnished, whichever is greater.

14 (2) No sale of services shall be taxable to the person furnishing the service which is not
15 taxable to the purchaser of the service.

16 (g) Whenever a purchaser of tangible personal property under subsection (b) or (c.1) of
17 this Code section, a lessee or renter of the property under subsection (d) or (e.1) of this
18 Code section, or a purchaser of taxable services under subsection (f) of this Code section
19 does not pay the tax imposed upon him or her to the retailer, lessor, or dealer who is
20 involved in the taxable transaction, ~~the~~ such purchaser, lessee, or renter shall be a dealer
21 himself or herself and the commissioner, whenever he or she has reason to believe that a
22 purchaser or lessee has not so paid the tax, may assess and collect the tax directly against
23 and from ~~the~~ such purchaser, lessee, or renter, unless ~~the~~ such purchaser, lessee, or renter
24 shows that the retailer, lessor, or dealer who is involved in the transaction has nevertheless
25 remitted to the commissioner the tax imposed on the transaction. If payment is received
26 directly from the purchaser, lessee, or renter, it shall not be collected a second time from
27 the retailer, lessor, or dealer who is involved.

28 (h) The tax imposed by this Code section shall be collected from the dealer and paid at the
29 time and in the manner provided in this article. Any person engaging or continuing in
30 business as a retailer and wholesaler or jobber shall pay the tax imposed on the gross
31 proceeds of retail sales of the business at the rate specified when proper books are kept
32 showing separately the gross proceeds of sales for each business. If the records are not
33 kept separately, the tax shall be paid as a retailer or dealer on the gross sales of the
34 business. For the purpose of this Code section, all sales through any one vending machine
35 shall be treated as a single sale. The gross proceeds for reporting vending sales shall be
36 treated as if the tax is included in the sale, and the taxable proceeds shall be net of the tax
37 included in the sale.

1 (i) The tax levied by this Code section is in addition to all other taxes, whether levied in
2 the form of excise, license, or privilege taxes, and shall be in addition to all other fees and
3 taxes levied.

4 (j) In the event any distributor licensed under Chapter 9 of this title purchases any motor
5 fuel on which the prepaid state tax or prepaid local tax or both have been imposed pursuant
6 to this Code section and resells the same to a governmental entity that is totally or partially
7 exempt from such tax under paragraph (1) of Code Section 48-8-3, such distributor shall
8 be entitled to either a credit or refund. The amount of the credit or refund shall be the
9 prepaid state tax or prepaid local tax or both rates for which such governmental entity is
10 exempt multiplied by the gallons of motor fuel purchased for its exclusive use. To be
11 eligible for the credit or refund, the distributor shall reduce the amount such distributor
12 charges for the fuel sold to such governmental entity by an amount equal to the tax from
13 which such governmental entity is exempt. Should a distributor have a liability under this
14 Code section, the distributor may elect to take a credit for those sales against such liability.

15 (k) The prepaid local tax shall be imposed at the time tax is imposed under
16 subparagraph (b)(2)(B) of Code Section 48-9-14."

17 **SECTION 4.**

18 Said chapter is further amended by adding a new Code section to read as follows:

19 "48-8-30.1.

20 (a) The General Assembly finds that the State of Georgia is currently lacking the necessary
21 permanent funding to maintain and build a viable transportation network to meet the
22 demands created by the growing population in metropolitan Atlanta and the rest of this
23 state. It is necessary in order to sustain public safety, mobility, economic development,
24 and a high quality of life in Georgia that a reliable method for financing transportation
25 projects throughout this state be established. In order to provide current and future
26 Georgians with an efficient, free flowing transportation network for the foreseeable future,
27 the General Assembly hereby determines that 1 percent of the amount of state-wide sales
28 and use tax collected shall be used for transportation purposes. Transportation purposes
29 shall include, but not be limited to, roads, bridges, airports, public transit, buses, seaports,
30 and all accompanying infrastructure and services necessary to provide access to these
31 transportation facilities. The 1 percent increase in the state-wide sales and use tax shall
32 only become effective if a state-wide referendum approves a constitutional amendment to
33 dedicate 1 percent of the state-wide sales and use taxes for transportation purposes. If the
34 state-wide referendum fails, the 1 percent increase shall not be implemented.

35 (b) If the state-wide referendum provided for in subsection (a) of this Code section is
36 approved, the funds collected for transportation purposes shall be distributed according to

1 the provisions of this subsection. The total amount of funds collected for transportation
 2 purposes under this Code section shall be deposited with the Department of Transportation
 3 and shall be disbursed by the department as follows:

4 (1) Ninety percent of the funds collected in a region shall be returned to that region and
 5 shall be used for transportation purposes. Each region, in cooperation with the
 6 Department of Transportation, shall establish a list of transportation projects to be
 7 funded; and

8 (2) Ten percent of the funds deposited with the department shall be dedicated to
 9 constructing, maintaining, and improving state-wide transportation. These funds shall
 10 be appropriated by the General Assembly for specified state-wide transportation projects.
 11 A region, for purposes of this subsection, shall consist of the regional commissions created
 12 under the provisions of Article 2 of Chapter 8 of Title 50."

13 SECTION 5.

14 Said chapter is further amended by revising Code Section 48-8-32, relating to collection of
 15 tax from dealers, as follows:

16 "48-8-32.

17 The tax at the rate of ~~4~~ 5 percent of the retail sales price at the time of sale or ~~4~~ 5 percent
 18 of the cost price at the time of purchase, as the case may be, shall be collectable from all
 19 persons engaged as dealers in the sale at retail; or in the use, consumption, distribution, or
 20 storage for use or consumption in this state of tangible personal property."

21 SECTION 6.

22 Said chapter is further amended by revising Code Section 48-8-43, relating to the disposition
 23 of certain excess taxes, as follows:

24 "48-8-43.

25 When the tax collected for any period is in excess of ~~4~~ 5 percent, the total tax collected
 26 shall be paid over to the commissioner less the compensation to be allowed the dealer."

27 SECTION 7.

28 Said chapter is further amended by revising subsection (e) of Code Section 48-8-63, relating
 29 to the payment of tax by certain contractors, as follows:

30 "(e)(1) Any subcontractor who enters into a construction contract with a general or prime
 31 contractor shall be liable under this article as a general or prime contractor. Any general
 32 or prime contractor who enters into any construction contract or contracts with any
 33 nonresident subcontractor, where the total amount of such contract or contracts between
 34 such general or prime contractor and any nonresident subcontractors on any given project

1 equals or exceeds \$250,000.00, shall withhold up to ~~4~~ 5 percent of the payments due ~~the~~
 2 such subcontractor in satisfaction of any sales or use taxes owed this state.

3 (2) The prime or general contractor shall withhold payments on all contracts that meet
 4 the criteria specified in paragraph (1) of this subsection until the nonresident
 5 subcontractor furnishes such prime or general contractor with a certificate issued by the
 6 commissioner showing that all sales taxes accruing by reason of the contract between ~~the~~
 7 such nonresident subcontractor and ~~the~~ such general or prime contractor have been paid
 8 and satisfied. If ~~the~~ such prime or general contractor for any reason fails to withhold up
 9 to ~~4~~ 5 percent of the payments due ~~the~~ such nonresident subcontractor under their
 10 contract, such prime or general contractor shall become liable for any sales or use taxes
 11 due or owed this state by ~~the~~ such nonresident subcontractor."

12 SECTION 8.

13 Said chapter is further amended by revising subsection (d) of Code Section 48-8-201, relating
 14 to the intergovernmental contract implementing a water and sewer projects costs tax, as
 15 follows:

16 "(d) On and after ~~July 1, 2007~~ January 1, 2009, the aggregate amount of all excise taxes
 17 imposed under paragraph (5) of subsection (a) of Code Section 48-13-51 and all sales and
 18 use taxes shall not exceed ~~4~~ 15 percent."

19 SECTION 9.

20 Chapter 13 of Title 48 of the Official Code of Georgia Annotated, relating to specific,
 21 business, and occupation taxes, is amended by revising paragraphs (3.1), (4.1), and (5.1) of
 22 subsection (a) of Code Section 48-13-51, relating to the excise tax on rooms, lodgings, and
 23 accommodations, as follows:

24 "(3.1) Notwithstanding any other provision of this subsection, a county (within the
 25 territorial limits of the special district located within the county) and the municipalities
 26 within a county in which a trade and convention center authority has been created by
 27 intergovernmental contract between a county and one or more municipalities located
 28 therein, and which trade and convention center authority is in existence on or before
 29 March 21, 1988, and which trade and convention center authority has not constructed or
 30 operated any facility before March 21, 1988, may levy a tax under this Code section at
 31 a rate of 6 percent. A county or municipality levying a tax pursuant to this paragraph
 32 shall expend (in each fiscal year during which the tax is collected under this paragraph
 33 (3.1)) an amount equal to at least $6\frac{1}{2}$ percent of the total taxes collected at the rate of
 34 6 percent for the purpose of: (A) promoting tourism, conventions, and trade shows; (B)
 35 funding, supporting, acquiring, constructing, renovating, improving, and equipping

1 buildings, structures, and facilities, including, but not limited to, a trade and convention
 2 center, exhibit hall, conference center, performing arts center, accommodations facilities
 3 including food service, or any combination thereof, for convention, trade show, athletic,
 4 musical, theatrical, cultural, civic, and performing arts purposes and other events and
 5 activities for similar and related purposes, acquiring the necessary property therefor, both
 6 real and personal, and funding all expenses incident thereto, and supporting, maintaining,
 7 and promoting such facilities owned, operated, or leased by or to the local trade and
 8 convention center authority; or (C) for some combination of such purposes; provided,
 9 however, that at least 50 percent of the total taxes collected at the rate of 6 percent shall
 10 be expended for the purposes specified in subparagraph (B) of this paragraph (3.1).
 11 Amounts so expended shall be expended only through a contract or contracts with the
 12 state, a department of state government, a state authority, a convention and visitors
 13 bureau authority created by local Act of the General Assembly for a municipality, a local
 14 building authority created by local constitutional amendment, and a trade and convention
 15 center authority created by intergovernmental contract between a county and one or more
 16 municipalities located therein, or a private sector nonprofit organization or through a
 17 contract or contracts with some combination of such entities. The aggregate amount of
 18 all excise taxes imposed under this paragraph (3.1) and all sales and use taxes, and other
 19 taxes imposed by a county or municipality, or both, shall not exceed ~~13~~ 14 percent. Any
 20 tax levied pursuant to this paragraph (3.1) shall terminate not later than December 31,
 21 2029, provided that during any period during which there remains outstanding any
 22 obligation issued to fund a facility as contemplated by this paragraph (3.1), secured in
 23 whole or in part by a pledge of a tax authorized under this Code section, the powers of
 24 the counties and municipalities to impose and distribute the tax imposed by this
 25 paragraph (3.1) shall not be diminished or impaired by the state, and no county or
 26 municipality levying the tax imposed by this paragraph (3.1) shall cease to levy the tax
 27 in any manner that will impair the interests and rights of the holder of any such
 28 obligation. This proviso shall be for the benefit of the holder of any such obligation and,
 29 upon the issuance of any such obligation by a building authority created by local
 30 constitutional amendment, shall constitute a contract with the holder of such obligation.
 31 Notwithstanding any other provision of this Code section to the contrary, as used in this
 32 paragraph (3.1), the term: 'fund' or 'funding' shall include the cost and expense of all
 33 things deemed necessary by a building authority created by local constitutional
 34 amendment for the construction and operation of a facility or facilities, including, but not
 35 limited to, the study, operation, marketing, acquisition, construction, financing, including
 36 the payment of principal and interest on any obligation of the building authority created
 37 by local constitutional amendment and any obligation of the building authority created

1 by local constitutional amendment to refund any prior obligation of the building authority
 2 created by local constitutional amendment, development, extension, enlargement, or
 3 improvement of land, waters, property, streets, highways, buildings, structures,
 4 equipment, or facilities and the repayment of any obligation incurred by an authority in
 5 connection therewith; 'obligation' shall include bonds, notes, or any instrument creating
 6 an obligation to pay or reserve moneys and having an initial term of not more than 37
 7 years; and 'facility' or '~~facilities~~' ~~shall mean~~ means any of the buildings, structures, and
 8 facilities described in subparagraph (B) of this paragraph (3.1) and any associated parking
 9 areas or improvements originally owned or operated incident to the ownership or
 10 operation of such facility used for any purpose or purposes specified in subparagraph (B)
 11 of this paragraph (3.1) by a building authority created by local constitutional
 12 amendment."

13 "(4.1) Notwithstanding any other provision of this subsection, a county (within the
 14 territorial limits of the special district located within the county) or municipality within
 15 a county in which a coliseum authority has been created by local Act of the General
 16 Assembly and which authority is in existence on or before July 1, 1963, for the purpose
 17 of owning or operating a facility, may levy a tax under this Code section at a rate of 7
 18 percent. A county or municipality levying a tax pursuant to this paragraph shall expend
 19 (in each fiscal year during which the tax is collected under this paragraph (4.1)) an
 20 amount equal to at least 62 1/2 percent of the total taxes collected at the rate of 7 percent
 21 for the purpose of: (A) promoting tourism, conventions, and trade shows; (B) funding and
 22 supporting a facility owned or operated by such coliseum authority; or (C) for some
 23 combination of such purposes. Amounts so expended shall be expended only through a
 24 contract or contracts with the state, a department of state government, a state authority,
 25 a convention and visitors bureau authority created by local Act of the General Assembly
 26 for a municipality, a local coliseum authority, or a private sector nonprofit organization,
 27 or through a contract or contracts with some combination of such entities, except that
 28 amounts expended for the purpose described in subparagraph (B) of this paragraph may
 29 be so expended in any otherwise lawful manner without the necessity of a contract. The
 30 aggregate amount of all excise taxes imposed under this paragraph (4.1) and all sales and
 31 use taxes, and other taxes imposed by a county or municipality, or both, shall not exceed
 32 ~~12~~ 13 percent. Any tax levied pursuant to this paragraph (4.1) shall terminate not later
 33 than December 31, 2028, provided that during any period during which there remains
 34 outstanding any obligation which is incurred prior to January 1, 1995, issued to fund a
 35 facility as contemplated by this paragraph (4.1), and secured in whole or in part by a
 36 pledge of a tax authorized under this Code section, the powers of the counties and
 37 municipalities to impose and distribute the tax imposed by this paragraph (4.1) shall not

1 be diminished or impaired by the state, and no county or municipality levying the tax
 2 imposed by this paragraph (4.1) shall cease to levy the tax in any manner that will impair
 3 the interest and rights of the holders of any such obligation. This proviso shall be for the
 4 benefit of the holder of any such obligation and, upon the issuance of any such obligation
 5 by a coliseum and exhibit hall authority, shall constitute a contract with the holder of such
 6 obligations. Notwithstanding any other provision of this Code section to the contrary, as
 7 used in this paragraph (4.1), the term: 'fund' and 'funding' shall include the cost and
 8 expense of all things deemed necessary by a local coliseum authority for the construction,
 9 renovation, and operation of a facility, including but not limited to the study, operation,
 10 marketing, acquisition, construction, finance, development, extension, enlargement, or
 11 improvement of land, waters, property, streets, highways, buildings, structures,
 12 equipment, or facilities, and the repayment of any obligation incurred by a local coliseum
 13 authority in connection therewith; 'obligation' shall include bonds, notes, or any
 14 instrument creating an obligation to pay or reserve moneys incurred prior to January 1,
 15 1995, and having an initial term of not more than 30 years; and 'facility' ~~shall mean~~ means
 16 a coliseum or other facility and any associated parking areas or improvements originally
 17 owned or operated incident to the ownership or operation of a facility used for convention
 18 and trade show purposes or amusement purposes, educational purposes, or a combination
 19 thereof and for fairs, expositions, or exhibitions in connection therewith by a local
 20 coliseum authority."

21 "(5.1) Notwithstanding any other provision of this subsection, a county (within the
 22 territorial limits of the special district located within the county) and the municipalities
 23 within a county in which a coliseum and exhibit hall authority has been created by local
 24 Act of the General Assembly for a county and one or more municipalities therein, and
 25 which local coliseum and exhibit hall authority is in existence on or before January 1,
 26 1991, and which local coliseum and exhibit hall authority has not constructed or operated
 27 any facility before January 1, 1991, may levy a tax under this Code section at a rate of 8
 28 percent. A county or municipality levying a tax pursuant to this paragraph shall expend
 29 (in each fiscal year during which the tax is collected under this paragraph (5.1)) an
 30 amount equal to at least 62 1/2 percent of the total taxes collected at the rate of 8 percent
 31 for the purpose of: (A) promoting tourism, conventions, and trade shows; (B) funding,
 32 supporting, acquiring, constructing, renovating, improving, and equipping buildings,
 33 structures, and facilities, including, but not limited to, a coliseum, exhibit hall, conference
 34 center, performing arts center, or any combination thereof, for convention, trade show,
 35 athletic, musical, theatrical, cultural, civic, and performing arts purposes and other events
 36 and activities for similar and related purposes, acquiring the necessary property therefor,
 37 both real and personal, and funding all expenses incident thereto, and supporting,

1 maintaining, and promoting such facilities owned, operated, or leased by or to the local
 2 coliseum and exhibit hall authority or a downtown development authority; or (C) for
 3 some combination of such purposes; provided, however, that at least 50 percent of the
 4 total taxes collected at the rate of 8 percent shall be expended for the purposes specified
 5 in subparagraph (B) of this paragraph (5.1). Amounts so expended shall be expended
 6 only through a contract or contracts with the state, a department of state government, a
 7 state authority, a convention and visitors bureau authority created by local Act of the
 8 General Assembly for a municipality, a local coliseum and exhibit hall authority, a
 9 downtown development authority, or a private sector nonprofit organization or through
 10 a contract or contracts with some combination of such entities, notwithstanding any
 11 provision of paragraph (8) of this subsection to the contrary. The aggregate amount of
 12 all excise taxes imposed under this paragraph (5.1) and all sales and use taxes, and other
 13 taxes imposed by a county or municipality, or both, shall not exceed ~~13~~ 14 percent;
 14 provided, however, that any sales tax for educational purposes which is imposed pursuant
 15 to Article VIII, Section VI, Paragraph IV of the Constitution shall not be included in
 16 calculating such limitation. Any tax levied pursuant to this paragraph (5.1) shall
 17 terminate not later than December 31, 2028, provided that during any period during
 18 which there remains outstanding any obligation issued to fund a facility as contemplated
 19 by this paragraph (5.1), secured in whole or in part by a pledge of a tax authorized under
 20 this Code section, the powers of the counties and municipalities to impose and distribute
 21 the tax imposed by this paragraph (5.1) shall not be diminished or impaired by the state,
 22 and no county or municipality levying the tax imposed by this paragraph (5.1) shall cease
 23 to levy the tax in any manner that will impair the interests and rights of the holder of any
 24 such obligation. This proviso shall be for the benefit of the holder of any such obligation
 25 and, upon the issuance of any such obligation by a local coliseum and exhibit hall
 26 authority or a downtown development authority, shall constitute a contract with the
 27 holder of such obligation. Notwithstanding any other provision of this Code section to
 28 the contrary, as used in this paragraph (5.1), the term: 'fund' or 'funding' shall include the
 29 cost and expense of all things deemed necessary by a local coliseum and exhibit hall
 30 authority or a downtown development authority for the construction and operation of a
 31 facility or facilities, including but not limited to the study, operation, marketing,
 32 acquisition, construction, financing, including the payment of principal and interest on
 33 any obligation of the local coliseum and exhibit hall authority or the downtown
 34 development authority and any obligation of the local coliseum and exhibit hall authority
 35 or the downtown development authority to refund any prior obligation of the local
 36 coliseum and exhibit hall authority or the downtown development authority,
 37 development, extension, enlargement, or improvement of land, waters, property, streets,

1 highways, buildings, structures, equipment, or facilities and the repayment of any
2 obligation incurred by an authority in connection therewith; 'obligation' shall include
3 bonds, notes, or any instrument creating an obligation to pay or reserve moneys and
4 having an initial term of not more than 37 years; 'facility' or 'facilities' ~~shall mean~~ means
5 any of the buildings, structures, and facilities described in subparagraph (B) of this
6 paragraph (5.1) and any associated parking areas or improvements originally owned or
7 operated incident to the ownership or operation of such facility used for any purpose or
8 purposes specified in subparagraph (B) of this paragraph (5.1) by a local coliseum and
9 exhibit hall authority or a downtown development authority; and 'downtown development
10 authority' ~~shall mean~~ means a downtown development authority created by local Act of
11 the General Assembly for a municipality pursuant to a local constitutional amendment."

12 **SECTION 10.**

13 This Act shall become effective on January 1, 2009; provided, however, that this Act shall
14 only become effective on January 1, 2009, upon the ratification of a resolution at the
15 November, 2008, state-wide general election, which resolution amends the Constitution so
16 as to authorize use of 1 percent of the state-wide sales and use tax for transportation
17 purposes. If such resolution is not so ratified, this Act shall not become effective and shall
18 stand repealed in its entirety on January 1, 2009.

19 **SECTION 11.**

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