

House Bill 1393 (AS PASSED HOUSE AND SENATE)

By: Representatives Abdul-Salaam of the 74<sup>th</sup>, Jordan of the 77<sup>th</sup>, Sinkfield of the 60<sup>th</sup>, Glanton of the 76<sup>th</sup>, Talton of the 145<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 48 of the Official Code of Georgia Annotated, relating to revenue and  
2 taxation, so as to change limitations upon the authority of local governments to levy sales and  
3 use taxes and other similar taxes and provide for an exemption to the total local sales and use  
4 tax cap otherwise applicable; to provide such exemption for a certain tax levied for purposes  
5 of a metropolitan area system of public transportation which is first levied after January 1,  
6 2010, and before November 1, 2012; to provide for nonapplicability of such certain tax; to  
7 extend the expiration date for the exemption from the motor fuel tax for certain public transit  
8 and public campus transportation systems; to provide for related matters; to provide for an  
9 effective date; 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 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is  
13 amended in Code Section 48-8-6, relating to limitations upon the authority of local  
14 governments to levy sales and use taxes and other similar taxes, by revising subsection (b)  
15 as follows:

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

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

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

28 IV(d) of the Constitution; and the laws enacted pursuant to such constitutional  
 29 amendment; provided, however, that the exception provided for under this paragraph  
 30 shall only apply in:

31 (A) In a county in which a tax is being imposed under subparagraph (a)(1)(D) of Code  
 32 Section 48-8-111 in whole or in part for the purpose or purposes of a water capital  
 33 outlay project or projects, a sewer capital outlay project or projects, a water and sewer  
 34 capital outlay project or projects, water and sewer projects and costs as defined under  
 35 paragraph ~~(3)~~ (4) of Code Section 48-8-200, or any combination thereof and with  
 36 respect to which the county has entered into an intergovernmental contract with a  
 37 municipality, in which the average waste-water system flow of such municipality is not  
 38 less than 85 million gallons per day, allocating proceeds to such municipality to be used  
 39 solely for water and sewer projects and costs as defined under paragraph ~~(3)~~ (4) of Code  
 40 Section 48-8-200. The exception provided for under this ~~paragraph~~ subparagraph shall  
 41 apply only during the period the tax under said subparagraph (a)(1)(D) is in effect. The  
 42 exception provided for under this ~~paragraph~~ subparagraph shall not apply in any county  
 43 in which a tax is being imposed under Article 2A of this chapter; or

44 (B) In a county in which the tax levied for purposes of a metropolitan area system of  
 45 public transportation is first levied after January 1, 2010, and before November 1, 2012.  
 46 Such tax shall not apply to the following:

47 (i) The sale or use of jet fuel to or by a qualify airline at a qualifying airport. For  
 48 purposes of this division, a 'qualifying airline' means any person which is authorized  
 49 by the Federal Aviation Administration or appropriate agency of the United States to  
 50 operate as an air carrier under an air carrier operating certificate and which provides  
 51 regularly scheduled flights for the transportation of passengers or cargo for hire. For  
 52 purposes of this division, a 'qualifying airport' means any airport in the state that has  
 53 had more than 750,000 takeoffs and landings during a calendar year; and

54 (ii) The sale of motor vehicles;

55 (3) In the event of a rate increase imposed pursuant to Code Section 48-8-96, only the  
 56 amount in excess of the initial 1 percent sales and use tax and in the event of a newly  
 57 imposed tax pursuant to Code Section 48-8-96, only the amount in excess of a 1 percent  
 58 sales and use tax; and

59 (4) A sales and use tax levied under Article 4 of this chapter.

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

63

**SECTION 2.**

64 Said title is further amended in Code Section 48-9-3, relating to the motor fuel tax, by  
65 revising subparagraphs (A) and (B) of paragraph (10) of subsection (b) as follows:

66 "(10)(A) During the period of July 1, ~~2008~~ 2010, through June 30, ~~2010~~ 2012, sales of  
67 motor fuel, as defined in paragraph (9) of Code Section 48-9-2, for public mass transit  
68 vehicles which are owned by public transportation systems which receive or are eligible  
69 to receive funds pursuant to 49 U.S.C. Sections 5307 and 5311 for which passenger  
70 fares are routinely charged and which vehicles are used exclusively for revenue  
71 generating purposes which motor fuel sales occur at bulk purchase facilities approved  
72 by the department.

73 (B) During the period of July 1, ~~2008~~ 2010, through June 30, ~~2010~~ 2012, sales of motor  
74 fuel, as defined in paragraph (9) of Code Section 48-9-2, for vehicles operated by a  
75 public campus transportation system, provided that such system has a policy which  
76 provides for free transfer of passengers from the public transportation system operated  
77 by the jurisdiction in which the campus is located; makes the general public aware of  
78 such free transfer policy; and receives no state or federal funding to assist in the  
79 operation of such public campus transportation system and which motor fuel sales  
80 occur at bulk purchase facilities approved by the department."

81

**SECTION 3.**

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

84

**SECTION 4.**

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