

Senate Bill 39

By: Senators Mullis of the 53rd, Stoner of the 6th, Williams of the 19th, Reed of the 35th,
Rogers of the 21st 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 provide for a 1 percent sales tax to be used to fund transportation
3 projects in special transportation districts within the state; to provide for the creation of such
4 districts, the governance thereof, and the development of a list of transportation projects by
5 the district; to provide that each county may opt out of the district; to provide for the district
6 to pass a resolution calling for a referendum within the district; to provide for the tax to be
7 levied by the participating counties; to provide for the funds collected to be deposited in trust
8 accounts; to provide for contracting and constructing of the transportation projects on the
9 regional lists; to provide for exemptions; to provide for related matters; to provide for a
10 conditional effective date; to provide for automatic repeal; to repeal conflicting laws; and for
11 other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

14 Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to sales and use
15 taxes, is amended by adding a new article to read as follows:

16 style="text-align:center">"ARTICLE 5

17 48-8-220.

18 As used in this article, the term:

19 (1) 'District' means the metropolitan transportation district and special transportation
20 districts created in subsections (b) and (c) of Code Section 48-8-221.

21 (2) 'Levy' means the district-wide sales and use tax authorized by Code Section
22 48-8-221.

23 (3) 'Qualified municipality' means a qualified municipality as defined in Code Section
24 48-8-110 situated wholly or partly within a district.

25 (4) 'Transportation agency' means a Georgia department or authority authorized by
 26 general law to engage in activities relating to transportation projects or purposes.

27 (5) 'Transportation project' or 'transportation purpose' means, without limitation, roads
 28 and bridges, freight and passenger rail, airports, public transit, buses, seaports, and all
 29 activities and structures useful and incident to providing, operating, and maintaining the
 30 same; provided, however, that 'transportation project' or 'transportation purpose' shall not
 31 include projects which are inconsistent with any state-wide strategic transportation plan
 32 adopted by the General Assembly.

33 48-8-221.

34 (a) In accordance with the provisions of Article IX, Section IV, Paragraph V of the
 35 Constitution, on or after January 1, 2011, a single sales and use tax of up to 1 percent may
 36 be levied as provided in this article to fund transportation projects in a district.

37 (b) There is created within this state a metropolitan transportation district encompassing
 38 the geographical area as of January 1, 2009, of each metropolitan area planning and
 39 development commission that was activated prior to January 1, 1972, pursuant to Article
 40 4 of Chapter 8 of Title 50. The management and supervision of such district shall be
 41 vested in the metropolitan area planning and development commission provided for by
 42 Code Section 50-8-82.

43 (c) In addition to the metropolitan transportation district created in subsection (b) of this
 44 Code section, other special transportation districts may be created:

45 (1) By agreement of two or more contiguous counties; or

46 (2) By resolution of the governing authority of a county with concurrence by resolution
 47 of the governing authorities of qualified municipalities representing more than 50 percent
 48 of the municipal population of such county according to the United States decennial
 49 census of 2000 or any future such census.

50 The management and supervision of each such district shall be vested in the chief elected
 51 official of each county governing authority in the district and one elected official from one
 52 municipality in each county in the district. If the chief elected official for a county is
 53 unable to serve, he or she shall appoint another elected county official. In the case of a
 54 consolidated government where there is not another municipality located within the
 55 boundaries of the county, a second member of such consolidated government shall be
 56 appointed.

57 (d) A county shall be wholly within one special transportation district, and no county shall
 58 be divided among more than one district. Except as provided in subsection (b) of this Code
 59 section, the boundaries of special transportation districts shall be determined by the
 60 constituent counties. After the formation of a district, but prior to the passage of the

61 resolution provided for by paragraph (1) of subsection (a) of Code Section 48-8-222, any
62 county sharing a boundary with any county within a special transportation district may opt
63 into such district by (1) passing a resolution for such purpose, (2) upon the affirmative vote
64 on resolutions for such purpose by a majority of the governing authorities of qualified
65 municipalities representing more than 50 percent of the municipal population of such
66 county according to the United States decennial census of 2000 or any future such census,
67 and (3) with the concurrence of the counties within the district. Notice of the intention of
68 a county to opt into the district shall be transmitted by the governing authority of such
69 county to the district, to the governing authority of each qualified municipality within such
70 county, and to the governing authority of each county within such district not less than ten
71 days prior to a vote on a resolution for such purpose.

72 (e) Each district shall enact bylaws governing its own operation.

73 (f) Each district shall select one or more Georgia transportation agencies to be responsible
74 for designing, planning, and contracting for the construction of district projects.

75 48-8-222.

76 (a) A district may authorize the levy provided for by this article as follows:

77 (1) The district, in cooperation with its constituent counties and qualified municipalities
78 and its designated transportation agency or agencies, shall propound by resolution a list
79 of transportation projects to be funded by a district levy. Approval of such resolution
80 shall require the affirmative vote of a majority of the voting members for the district.
81 Such resolution shall include:

82 (A) A list of the specific transportation projects to be funded;

83 (B) The approximate cost of such projects, which shall also be the maximum amount
84 of net proceeds to be raised by the levy;

85 (C) The rate of the levy; and

86 (D) The maximum period of time, to be stated in calendar years, for which the levy
87 may be levied;

88 (2) The district resolution provided for by paragraph (1) of this subsection shall be
89 immediately transmitted to the governing authority of each county and qualified
90 municipality within the district. Each such governing authority shall thereafter have 45
91 days from the date of such submission to vote to opt the county out of such district. A
92 county shall opt out of the district upon the affirmative vote of the county governing
93 authority on a resolution for such purpose and upon the affirmative vote on resolutions
94 for such purpose by a majority of the governing authorities of qualified municipalities
95 representing more than 50 percent of the municipal population of such county according
96 to the United States decennial census of 2000 or any future such census. Notice of the

97 opting out of a county shall be immediately transmitted by the governing authority of
98 such county to the governing authority of each other county within the district, to the
99 governing authority of each qualified municipality within the county, and to the
100 governing authority of each county sharing a border with any county within the district;
101 (3) Upon any county opting out of a district pursuant to paragraph (2) of this subsection,
102 any remaining constituent county shall have 30 days from the expiration of the 45 day
103 period provided for in paragraph (2) of this subsection to opt out of such district by the
104 same mechanism and with the same notice provided for in paragraph (2) of this
105 subsection;
106 (4) Those counties that do not opt out of a district within the time limits prescribed in this
107 subsection and those which opt in pursuant to the provisions subsection (d) of Code
108 Section 48-8-221 shall thereafter constitute the special transportation district. The voting
109 officials of the district shall be reconstituted to include, pursuant to subsection (c) of
110 Code Section 48-8-221, only the elected officials of those counties and qualified
111 municipalities included in the special transportation district;
112 (5) The voting officials of the district as reconstituted pursuant to paragraph (4) of this
113 subsection shall meet as soon as practicable after the reconstitution of the district. The
114 district in cooperation with its constituent counties and qualified municipalities and the
115 designated transportation agency or agencies may revise by resolution the list of
116 transportation projects, if necessary or advisable, to remove or amend any project planned
117 for an area no longer within the district and to add or amend any project for an area that
118 was added to the district; and
119 (6) As soon as practicable after the expiration of the time for removal of counties from
120 a district and after any revision of such resolution after the removal of any constituent
121 counties from the district, the voting officials of the district may by a majority vote
122 submit to electors of the district the transportation project list and the question of whether
123 the levy provided for by this article should be approved.
124 (b) Except as otherwise provided in this Code section, the procedures for conducting the
125 referendum on the question of imposing the levy shall correspond generally to the
126 procedures provided for by Part 1 of Article 3 of this chapter, relating to the special county
127 1 percent sales and use tax, as now or hereafter amended, except that the transportation
128 project list provided for by this Code section, or a digest thereof, shall be published
129 together with the notice of such election and shall be printed on or adjacent to the ballot
130 thereof; provided, however, that if such question is not approved, the district may resubmit
131 such question from time to time and may amend such project list or digest thereof.
132 Proceedings for the reimposition of such levy shall be conducted in the same manner as

133 proceedings for the initial imposition of the tax, but the newly authorized tax shall not be
134 imposed until the expiration of the tax then in effect.

135 (c) Whenever the levy provided for by this article is authorized, the counties within the
136 district shall levy a sales and use tax as provided for by this article, to be collected as
137 provided by law. The proceeds of such levy shall be transferred to a trust fund maintained
138 on behalf of such district by the designated transportation agency to be expended as
139 provided for by this article. The designated transportation agency or agencies, in
140 cooperation with the district and its constituent counties and qualifying municipalities, shall
141 be responsible for designing, planning, and contracting for the construction of the
142 transportation projects.

143 (d)(1) Nothing in this article shall be construed to prohibit counties and municipalities
144 located in a district from imposing as additional taxes local sales and use taxes otherwise
145 authorized by general law.

146 (2) The levy authorized by this article shall not be imposed in any jurisdiction where the
147 electors were not eligible to vote in an election called to approve such levy.

148 (3) The levy imposed pursuant to this article shall not be subject to any allocation or
149 balancing of state and federal funds provided for by general law, nor may such proceeds
150 be considered or taken into account in any such allocation or balancing.

151 (e) The levy provided for by this article shall only be levied on the first \$5,000.00 of any
152 transaction subject to the levy. The levy provided for by this article shall not apply to and
153 shall not be levied on:

154 (1) The sale or use of any type of fuel used for off-road heavy-duty equipment, off-road
155 farm or agricultural equipment, locomotives, aircraft, or watercraft;

156 (2) The sale or use of fuel that is used for propulsion of motor vehicles on the public
157 highways. For purposes of this paragraph, 'motor vehicle' means a self-propelled vehicle
158 designed for operation or required to be licensed for operation upon the public highways;

159 (3) The sale or use of tangible personal property used in the production or generation of
160 energy; or

161 (4) The sale or use of energy used in the manufacturing or processing of tangible goods
162 primarily for resale.

163 (f) Except as otherwise specifically provided in this Code section, the levy authorized by
164 this article shall be subject to any sales and use tax exemption which is otherwise imposed
165 by general law; provided, however, that such levy shall be levied on the sale of food or
166 beverages as provided for in paragraph (57) of Code Section 48-8-3."

167

SECTION 2.

168 This Act shall become effective on January 1, 2011; provided, however, that this Act shall
169 only become effective on January 1, 2011, upon the ratification of a resolution at the
170 November, 2010, state-wide general election, which resolution amends the Constitution so
171 as to authorize regional funding sources for transportation purposes. If such resolution is not
172 so ratified, this Act shall not become effective and shall stand repealed in its entirety on
173 January 1, 2011.

174

SECTION 3.

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