

The Senate Finance Committee offered the following substitute to HB 56:

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 taxation, so as to revise provisions of law relating to local sales and use taxation; to  
3 revise and change procedures and requirements regarding the renegotiation of distribution  
4 certificates for the joint county and municipal sales and use tax; to change certain provisions  
5 regarding failure to file a new certificate; to change certain provisions regarding  
6 discontinuation of said tax; to change certain provisions regarding limitations on imposition  
7 of certain local taxes; to authorize the imposition of a local option sales and use tax for  
8 transportation projects and costs within special districts; to establish special districts; to  
9 provide for definitions, procedures, conditions, and limitations for the imposition, collection,  
10 disbursement, and termination of the tax; to provide for powers, duties, and authority of the  
11 state revenue commissioner; to provide for related matters; to provide an effective date; to  
12 repeal conflicting laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

14 Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to sales and use  
15 taxation, is amended by revising subsection (d) of Code Section 48-8-89, relating to the  
16 distribution of proceeds of the joint county and municipal sales and use tax and the  
17 renegotiation of distribution certificates, as follows:  
18

19 ~~“(d)(1) Except as otherwise provided in paragraph (7) of this subsection, a certificate~~  
20 ~~providing for the distribution of the proceeds of the tax authorized by this article shall~~  
21 ~~expire on December 31 of the second year following the year in which the decennial~~  
22 ~~census is conducted.~~ No later than December 30 of the second year following the year in  
23 which the census is conducted, a renegotiated certificate meeting the requirements for  
24 certificates specified by subsection (b) of this Code section shall be filed with and  
25 received by the commissioner. The General Assembly recognizes that the requirement  
26 for government services is not always in direct correlation with population. Although a

27 renegotiated certificate is required within a time certain of the decennial census, this  
 28 requirement is not meant to convey an intent by the General Assembly that population  
 29 as a criterion should be more heavily weighted than other criteria. It is the express intent  
 30 of the General Assembly in requiring such renegotiation that eligible political  
 31 subdivisions shall analyze local service delivery responsibilities and the existing  
 32 allocation of proceeds made available to such governments under the provisions of this  
 33 article and make rational the allocation of such resources to meet such service delivery  
 34 responsibilities. Political subdivisions in their renegotiation of such distributions shall at  
 35 a minimum consider the criteria specified in subsection (b) of this Code section.

36 (2) The commissioner shall be notified in writing of the commencement of renegotiation  
 37 proceedings by the county governing authority ~~in~~ on behalf of all eligible political  
 38 subdivisions within the special district. The eligible political subdivisions shall  
 39 commence renegotiations at the call of the county governing authority ~~but no later than~~  
 40 before July 1 of the second year following the year in which the census is conducted. If  
 41 the county governing authority does not issue the call by that date, any eligible  
 42 municipality may issue the call and so notify the commissioner and all eligible political  
 43 subdivisions in the special district.

44 (3)(A) Following the commencement of ~~such~~ renegotiation, if the parties necessary to  
 45 an agreement fail to reach an agreement within 60 days, such parties shall ~~agree to~~  
 46 submit the dispute to nonbinding arbitration, mediation, or such other means of  
 47 resolving conflicts in a manner which, ~~in the judgment of the commissioner,~~ reflects a  
 48 good faith effort to resolve the dispute. Any renegotiation agreement reached pursuant  
 49 to this paragraph shall be in accordance with the requirements specified in paragraph  
 50 (1) of this subsection. If the parties fail to reach an agreement within 60 days of  
 51 submitting the dispute to nonbinding arbitration, mediation, or such other means of  
 52 resolving conflicts, any party necessary to an agreement may file a petition in superior  
 53 court of the county seeking resolution of the items remaining in dispute. Such petition  
 54 shall be assigned to a judge pursuant to Code Section 15-1-9.1 or 15-6-13 who is not  
 55 a judge in the circuit in which the county is located. The judge selected may also be a  
 56 senior judge pursuant to Code Section 15-1-9.2 who resides in another circuit.

57 (B) The county and qualified municipalities representing at least one-half of the  
 58 aggregate municipal population of all qualified municipalities located wholly or  
 59 partially within the special district shall separately submit to the judge and the other  
 60 parties a written best and final offer as to the distribution of the tax proceeds. There  
 61 shall be one such offer from the county and one from qualified municipalities  
 62 representing at least one-half of the aggregate municipal population of all qualified  
 63 municipalities located wholly or partially within the special district. The offer from the

64 county may be an offer representing the county and any municipalities that are not  
 65 represented in the offer from the qualified municipalities representing at least one-half  
 66 of the aggregate municipal population of all qualified municipalities located wholly or  
 67 partially within the special district.

68 (C) Any qualified municipality or municipalities located wholly or partially within the  
 69 special district who are not a party to an offer under subparagraph (B) of this paragraph  
 70 and representing at least one-half of the aggregate municipal population of all qualified  
 71 municipalities who are not a party to an offer under subparagraph (B) of this paragraph  
 72 shall be authorized to separately submit to the judge and the other parties a written best  
 73 and final offer as to the distribution of the tax proceeds. There shall be one such offer  
 74 from such qualified municipality or municipalities.

75 (D) Each offer under subparagraphs (B) and (C) of this paragraph shall take into  
 76 account the allocation required for any absent municipalities in accordance with  
 77 subsection (b) of this Code section. The visiting or senior judge shall conduct such  
 78 hearings as the judge deems necessary and shall render a decision based on, but not  
 79 limited to, the criteria in subsection (b) of this Code section and in paragraph (1) of this  
 80 subsection. The judge's decision as to the allocation of the tax proceeds shall adopt the  
 81 best and final offer of one of the parties under subparagraphs (B) and (C) of this  
 82 paragraph but shall also include findings of fact. The judge shall enter a final order  
 83 containing a new distribution certificate and transmit a copy of it to the commissioner.  
 84 Appeal shall be by application and the decision of the judge shall be disturbed only for  
 85 the judge's disregard of the law, for partiality of the judge, or for corruption, fraud, or  
 86 misconduct by the judge or a party.

87 (4) If the renegotiated certificate provided for in paragraph (1) of this subsection is not  
 88 received by the commissioner by the required date, ~~the authority to impose the tax~~  
 89 ~~authorized by Code Section 48-8-82 shall cease on December 31 of the second year~~  
 90 ~~following the year in which the decennial census is conducted and the tax shall not be~~  
 91 ~~levied in the special district after such date unless the reimposition of the tax is~~  
 92 ~~subsequently authorized pursuant to Code Section 48-8-85. When the imposition of the~~  
 93 ~~tax is so terminated, the commissioner shall retain the proceeds of the tax which were to~~  
 94 ~~be distributed to the governing authorities of the county and qualified municipalities~~  
 95 ~~within the special district until the commissioner receives a certificate in behalf of each~~  
 96 ~~such governing authority specifying the percentage of the proceeds which each such~~  
 97 ~~governing authority shall receive. If no such certificate is received by the commissioner~~  
 98 ~~within 120 days of the date on which the authority to levy the tax was terminated, the~~  
 99 ~~proceeds shall escheat to the state and the commissioner shall transfer the proceeds to the~~  
 100 ~~state's general fund~~ the commissioner shall continue to distribute the sales tax proceeds

101 according to the percentages specified in the existing certificate or in accordance with  
 102 subsection (f) of Code Section 48-8-89.1, as applicable, until a new certificate is properly  
 103 filed.

104 (5) If the commissioner receives ~~the~~ a renegotiated certificate by the required date, the  
 105 commissioner shall distribute the proceeds of the tax in accordance with the directions  
 106 of the renegotiated certificate commencing on January 1 of the year immediately  
 107 following the year in which such certificate was renegotiated or the first day of the  
 108 second calendar month following the month such certificate was renegotiated, whichever  
 109 is sooner.

110 (6) Costs of any conflict resolution under paragraph (3) of this subsection shall be borne  
 111 proportionately by the affected political subdivisions in accordance with the final  
 112 percentage distributions of the proceeds of the tax as reflected by the renegotiated  
 113 certificate or as otherwise ordered by the court.

114 ~~(7) All distribution certificates on file with the commissioner on July 1, 1994, which~~  
 115 ~~were not renegotiated in accordance with the 1990 decennial census figures or~~  
 116 ~~renegotiated on or after January 1, 1992, shall expire on December 31, 1995.~~  
 117 ~~Renegotiations with respect to such certificates shall be commenced in accordance with~~  
 118 ~~the requirements of this subsection on or before July 1, 1994. If a renegotiated certificate~~  
 119 ~~is not received by the commissioner by July 1, 1995, the authority to impose the tax~~  
 120 ~~authorized by Code Section 48-8-82 shall cease on December 31, 1995, and the tax shall~~  
 121 ~~not be levied in the special district after that date unless reimposition of the tax is~~  
 122 ~~subsequently authorized pursuant to Code Section 48-8-85. The commissioner shall retain~~  
 123 ~~and distribute the proceeds of such terminated tax in accordance with paragraph (4) of~~  
 124 ~~this subsection.~~

125 ~~(8) No qualified municipality within the special district whose population is less than 5~~  
 126 ~~percent of the population in the special district according to the United States decennial~~  
 127 ~~census of 1990 shall receive a reduced percentage of distribution than presently being~~  
 128 ~~received under the existing certificate prior to renegotiations required in paragraph (7) of~~  
 129 ~~this subsection unless the new agreement is executed by the qualified municipality. This~~  
 130 ~~paragraph shall apply only to the negotiations required by paragraph (7) of this subsection~~  
 131 ~~and shall not apply to any subsequent renegotiations required by this subsection.~~

132 ~~(9)~~(7) Political subdivisions shall be authorized, at their option, to renegotiate  
 133 distribution certificates on a more frequent basis than is otherwise required under this  
 134 subsection.

135 (8) Notwithstanding any other provision of this article to the contrary, the imposition of  
 136 this tax shall not terminate based on a failure to file a new or renegotiated certificate.

137 ~~(10)(9)~~ No provision of this subsection shall apply to any county which is authorized to  
 138 levy or which levies a local sales tax, local use tax, or local sales and use tax for  
 139 educational purposes pursuant to a local constitutional amendment or to any county  
 140 which is authorized to expend all or any portion of the proceeds of any sales tax, use tax,  
 141 or sales and use tax for educational purposes pursuant to a local constitutional  
 142 amendment."

143 **SECTION 2.**

144 Said chapter is further amended by revising subsection (d) of Code Section 48-8-89.1,  
 145 relating to lapsing of said tax due to failure to file a new certificate, as follows:

146 "(d) ~~If a new certificate is not filed for any special district as required by this Code section,~~  
 147 ~~the authority to impose the tax authorized by Code Section 48-8-82 within that special~~  
 148 ~~district shall cease on the first day of January of the year following the year in which the~~  
 149 ~~required distribution certificate could last have been timely filed. In any special district in~~  
 150 ~~which the authority to impose the tax is terminated pursuant to this subsection, the tax may~~  
 151 ~~thereafter be reimposed only pursuant to the procedures specified in Code Sections 48-8-84~~  
 152 ~~through 48-8-86~~ Reserved."

153 **SECTION 3.**

154 Said chapter is further amended by revising Code Section 48-8-92, relating to the referendum  
 155 election on discontinuing imposition of said tax, as follows:

156 "48-8-92.

157 (a) Whenever the governing authority of any county ~~or~~ and the governing authorities of  
 158 at least one-half of qualified ~~municipality~~ municipalities located wholly or partially within  
 159 a special district in which the tax authorized by this article is being levied ~~wishes~~ wish to  
 160 submit to the electors of the special district the question of whether the tax authorized by  
 161 Code Section 48-8-82 shall be discontinued, ~~the~~ such governing ~~authority~~ authorities shall  
 162 notify the election superintendent of the county whose geographical boundary is  
 163 conterminous with that of the special district by forwarding to the superintendent a copy  
 164 of a joint resolution of the governing ~~authority~~ authorities calling for the referendum  
 165 election. Upon receipt of the resolution, it shall be the duty of the election superintendent  
 166 to issue the call for an election for the purpose of submitting the question of discontinuing  
 167 the levy of the tax to the voters of the special district for approval or rejection. The election  
 168 superintendent shall ~~set the date of the election for a day not less than 30 nor more than 45~~  
 169 ~~days after the date of the issuance of the call~~ issue the call and shall conduct the election  
 170 on a date and in the manner authorized under Code Section 21-2-540. The election  
 171 superintendent shall cause the date and purpose of the election to be published once a week

172 for two weeks immediately preceding the date of the election in the official organ of the  
173 county. The ballot shall have written or printed thereon the following:

174 '( ) YES Shall the 1 percent retail sales and use tax being levied within the special  
175 ( ) NO district within \_\_\_\_\_ County be terminated?'

176 (b) All persons desiring to vote in favor of discontinuing the tax shall vote 'Yes,' and all  
177 persons opposed to discontinuing the tax shall vote 'No.' If more than one-half of the votes  
178 cast are in favor of discontinuing the tax, then the tax shall cease to be levied on the first  
179 day of the second calendar quarter following the month in which the commissioner receives  
180 the certification of the result of the election; otherwise, the tax shall continue to be levied,  
181 and the question of the discontinuing of the tax may not again be submitted to the voters  
182 of the special district until after 24 months immediately following the month in which the  
183 election was held. It shall be the duty of the election superintendent to hold and conduct  
184 such elections under the same rules and regulations as govern special elections. It shall be  
185 ~~his~~ such superintendent's further duty to canvass the returns, declare and certify the result  
186 of the election, and certify the result to the Secretary of State and to the commissioner. The  
187 expense of the election shall be borne by the county whose geographical boundary is  
188 conterminous with that of the special district holding the election."

189 **SECTION 4.**

190 Said chapter is further amended by revising subsection (b) of Code Section 48-8-6, relating  
191 to limitations on imposition of certain local taxes, by deleting "and" at the end of paragraph  
192 (3), by deleting the period at the end of paragraph (4) and replacing it with "; and", and by  
193 adding a new paragraph to read as follows:

194 "(5) A sales and use tax levied under Article 5 of this chapter."

195 **SECTION 5.**

196 Said chapter is further amended by adding a new article to read as follows:

197 "ARTICLE 6

198 48-8-250.

199 As used in this article, the term:

200 (1) 'Cost of project' or 'project costs' means the cost of construction, including without  
201 limitation relocation or adjustments of utilities; the cost of all lands, properties, rights,  
202 easements, and franchises acquired; relocation expenses; the cost of all machinery and  
203 equipment necessary for the operation of the project, the cost of engineering, legal  
204 expenses, plans and specifications, and other expenses necessary or incident to

205 determining the feasibility or practicability of the project; administrative expenses; and  
 206 such other expenses as may be necessary or incident to the construction of any project,  
 207 the placing of the same in operation, or the maintenance and operation of the same.

208 (2) 'Dealer' means a dealer as defined in paragraph (3) of Code Section 48-8-2.

209 (3) 'Intergovernmental agreement' means a contract entered into pursuant to Article IX,  
 210 Section III, Paragraph I of the Constitution between a county and one or more qualified  
 211 municipalities located within the special district containing a combined total of no less  
 212 than 50 percent of the aggregate municipal population located within the special district.  
 213 Such an agreement shall include the elements specified in subparagraphs (b)(1)(A)  
 214 through (b)(1)(H) of Code Section 48-8-115.

215 (4) 'Project' means existing or future land public transportation systems, including  
 216 without limitation: (A) one or more roads or bridges or a system of roads, bridges, and  
 217 tunnels or maintenance and operations thereof, with access limited or unlimited, and such  
 218 buildings, structures, parking areas, appurtenances, and facilities related thereto,  
 219 including but not limited to approaches, cross streets, roads, bridges, tunnels, and avenues  
 220 of access for such system; and (B) any program for mass public transportation or mass  
 221 public transportation facilities or maintenance and operations thereof and such buildings,  
 222 structures, parking areas, appurtenances, and facilities related thereto, including but not  
 223 limited to approaches, cross streets, roads, bridges, tunnels, and avenues of access for  
 224 such facilities.

225 (5) 'Qualified municipality' has the same meaning as in paragraph (4) of Code  
 226 Section 48-8-110.

227 48-8-251.

228 (a) Pursuant to the authority granted by Article IX, Section II, Paragraph VI of the  
 229 Constitution of this state, there are created within this state 159 special districts. The  
 230 geographical boundary of each county shall correspond with and shall be conterminous  
 231 with the geographical boundary of the 159 special districts.

232 (b) When the imposition of a special district sales and use tax is authorized according to  
 233 the procedures provided in this article within a special district, the governing authority of  
 234 any county in this state may, subject to the requirement of referendum approval and the  
 235 other requirements of this article, impose within the special district a special sales and use  
 236 tax for a limited period of time which tax shall be known as the special district  
 237 transportation projects and costs local option sales tax.

238 (c) Any tax imposed under this article shall be at the rate of 1 percent. Except as to rate,  
 239 a tax imposed under this article shall correspond to the tax imposed by Article 1 of this  
 240 chapter. No item or transaction which is not subject to taxation under Article 1 of this

241 chapter shall be subject to a tax imposed under this article, except that a tax imposed under  
 242 this article shall apply to sales of motor fuels as that term is defined by Code Section  
 243 48-9-2 and shall be applicable to the sale of food and beverages as provided for in division  
 244 (57)(D)(i) of Code Section 48-8-3.

245 (d) No sales and use tax shall be levied in a special district under this article in which a tax  
 246 is levied and collected under Article 2 of this chapter.

247 48-8-252.

248 (a) Prior to the issuance of the call for the referendum and prior to the vote of a county  
 249 governing authority within a special district to impose the tax under this article, such  
 250 governing authority shall enter into an intergovernmental agreement with any or all of the  
 251 qualified municipalities within the special district and shall deliver or mail a written notice  
 252 to the mayor or chief elected official in each municipality located within the county. Such  
 253 notice shall contain the date, time, place, and purpose of a meeting at which the governing  
 254 authorities of the county and of each municipality are to meet to discuss the proposed tax  
 255 levy. The notice shall be delivered or mailed at least ten days prior to the date of the  
 256 meeting. The meeting shall be held at least 30 days prior to the issuance of the call for the  
 257 referendum. Following such meeting, a county governing authority voting to impose the  
 258 tax authorized by this article within the special district shall notify the county election  
 259 superintendent by forwarding to the superintendent a copy of the resolution or ordinance  
 260 of the governing authority calling for the imposition of the tax. Such ordinance or  
 261 resolution shall specify the transportation projects and costs, separately identified by the  
 262 county and by each qualified municipality expending proceeds of the tax, for which the  
 263 proceeds of the tax are to be used and may be expended and specify:

264 (1) The maximum period of time, to be stated in calendar years or calendar quarters and  
 265 not to exceed five years;

266 (2) The maximum cost of the transportation projects and costs which will be funded from  
 267 the proceeds of the tax, which maximum cost shall also be the maximum amount of net  
 268 proceeds to be raised by the tax; and

269 (3) If general obligation debt is to be issued in conjunction with the imposition of the tax,  
 270 the principal amount of the debt to be issued, the purpose for which the debt is to be  
 271 issued, the interest rate or rates or the maximum interest rate or rates which such debt is  
 272 to bear, and the amount of principal to be paid in each year during the life of the debt.

273 (b) Upon receipt of the resolution or ordinance, the election superintendent shall issue the  
 274 call for an election for the purpose of submitting the question of the imposition of the tax  
 275 to the voters of the county. The election superintendent shall issue the call and shall  
 276 conduct the election on a date and in the manner authorized under Code Section 21-2-540.

277 The election superintendent shall cause the date and purpose of the election to be published  
 278 once a week for four weeks immediately preceding the date of the election in the official  
 279 organ of the county. If general obligation debt is to be issued in conjunction with the  
 280 imposition of the tax, the notice published by the election superintendent shall also include,  
 281 in such form as may be specified by the county governing authority, the principal amount  
 282 of the debt, the purpose for which the debt is to be issued, the rate or rates of interest or the  
 283 maximum rate or rates of interest the debt will bear, and the amount of principal to be paid  
 284 in each year during the life of the debt; and such publication of notice by the election  
 285 superintendent shall take the place of the notice otherwise required by Code Section  
 286 36-80-11 or by subsection (b) of Code Section 36-82-1, which notice shall not be required.

287 (c)(1) If the tax is to be imposed and if no debt is to be issued, the ballot shall have  
 288 written or printed thereon the following:

289 '( ) YES Shall a special 1 percent sales and use tax be imposed in \_\_\_\_\_  
 290 County for a period of time not to exceed \_\_\_\_\_ and for the  
 291 ( ) NO raising of not more than \$ \_\_\_\_\_ for the following transportation  
 292 projects and costs: \_\_\_\_\_?'

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

295 'If imposition of the tax is approved by the voters, such vote shall also constitute  
 296 approval of the issuance of general obligation debt of \_\_\_\_\_ County in the  
 297 principal amount of \$ \_\_\_\_\_ for the above purpose.'

298 (d) All persons desiring to vote in favor of imposing the tax shall vote 'Yes' and all persons  
 299 opposed to levying the tax shall vote 'No.' If more than one-half of the votes cast are in  
 300 favor of imposing the tax then the tax shall be imposed as provided in this article;  
 301 otherwise the tax shall not be imposed and the question of imposing the tax shall not again  
 302 be submitted to the voters of the county until after 12 months immediately following the  
 303 month in which the election was held. The election superintendent shall hold and conduct  
 304 the election under the same rules and regulations as govern special elections. The  
 305 superintendent shall canvass the returns, declare the result of the election, and certify the  
 306 result to the Secretary of State and to the commissioner. The expense of the election shall  
 307 be paid from county funds.

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

314 (2) If the issuance of general obligation debt is included and approved as provided in this  
315 Code section, then the governing authority of the county may incur such debt either  
316 through the issuance and validation of general obligation bonds or through the execution  
317 of a promissory note or notes or other instrument or instruments. If such debt is incurred  
318 through the issuance of general obligation bonds, such bonds and their issuance and  
319 validation shall be subject to Articles 1 and 2 of Chapter 82 of Title 36 except as  
320 specifically provided otherwise in this article. If such debt is incurred through the  
321 execution of a promissory note or notes or other instrument or instruments, no validation  
322 proceedings shall be necessary and such debt shall be subject to Code Sections 36-80-10  
323 through 36-80-14 except as specifically provided otherwise in this article. In either event,  
324 such general obligation debt shall be payable first from the separate account in which are  
325 placed the proceeds received by the county from the tax authorized by this article. Such  
326 general obligation debt shall, however, constitute a pledge of the full faith, credit, and  
327 taxing power of the county; and any liability on such debt which is not satisfied from the  
328 proceeds of the tax authorized by this article shall be satisfied from the general funds of  
329 the county.

330 48-8-253.

331 With respect to any consolidated government created by the consolidation of a county and  
332 one or more municipalities, the levy of a tax under this article by a consolidated  
333 government shall be in the same manner as the levy of the tax by any other county.

334 48-8-254.

335 (a) If the imposition of the tax is approved at the special election, the tax shall be imposed  
336 on the first day of the next succeeding calendar quarter which begins more than 80 days  
337 after the date of the election at which the tax was approved by the voters. With respect to  
338 services which are regularly billed on a monthly basis, however, the resolution shall  
339 become effective with respect to and the tax shall apply to services billed on or after the  
340 effective date specified in the previous sentence.

341 (b) The tax shall cease to be imposed on the earliest of the following dates:

342 (1) If the resolution or ordinance calling for the imposition of the tax provided for the  
343 issuance of general obligation debt and such debt is the subject of validation proceedings,  
344 as of the end of the first calendar quarter ending more than 80 days after the date on  
345 which a court of competent jurisdiction enters a final order denying validation of such  
346 debt;

347 (2) On the final day of the maximum period of time specified for the imposition of the  
348 tax; or

349 (3) As of the end of the calendar quarter during which the commissioner determines that  
350 the tax will have raised revenues sufficient to provide to the county net proceeds equal  
351 to or greater than the amount specified as the maximum amount of net proceeds to be  
352 raised by the tax.

353 (c)(1) At any time, no more than a single 1 percent tax under this article may be imposed  
354 within a special district.

355 (2) The governing authority of a county within a special district in which a tax authorized  
356 by this article is in effect may, while the tax is in effect, adopt a resolution or ordinance  
357 calling for the reimposition of a tax as authorized by this article upon the termination of  
358 the tax then in effect; and a special election may be held for this purpose while the tax is  
359 in effect. Proceedings for the reimposition of a tax shall be in the same manner as  
360 proceedings for the initial imposition of the tax, but the newly authorized tax shall not be  
361 imposed until the expiration of the tax then in effect; provided, however, that in the event  
362 of emergency conditions under which a county is unable to conduct a referendum so as  
363 to continue the tax then in effect without interruption, the commissioner may, if feasible  
364 administratively, waive the limitations of subsection (a) of this Code section to the  
365 minimum extent necessary so as to permit the reimposition of a tax, if otherwise  
366 approved as required under this Code section, without interruption, upon the expiration  
367 of the tax then in effect.

368 (3) Following the expiration of a tax under this article, a county may initiate proceedings  
369 for the reimposition of a tax under this article in the same manner as provided in this  
370 article for initial imposition of such tax.

371 48-8-255.

372 A tax levied pursuant to this article shall be exclusively administered and collected by the  
373 commissioner for the use and benefit of the county and qualified municipalities within the  
374 special district imposing the tax. Such administration and collection shall be accomplished  
375 in the same manner and subject to the same applicable provisions, procedures, and  
376 penalties provided in Article 1 of this chapter; provided, however, that all moneys collected  
377 from each taxpayer by the commissioner shall be applied first to such taxpayer's liability  
378 for taxes owed the state; and provided, further, that the commissioner may rely upon a  
379 representation by or in behalf of the county or the Secretary of State that such a tax has  
380 been validly imposed, and the commissioner and the commissioner's agents shall not be  
381 liable to any person for collecting any such tax which was not validly imposed. Dealers  
382 shall be allowed a percentage of the amount of the tax due and accounted for and shall be  
383 reimbursed in the form of a deduction in submitting, reporting, and paying the amount due  
384 if such amount is not delinquent at the time of payment. The deduction shall be at the rate

385 and subject to the requirements specified under subsections (b) through (f) of Code Section  
386 48-8-50.

387 48-8-256.

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

394 48-8-257.

395 The proceeds of the tax collected by the commissioner in each county under this article  
396 shall be disbursed as soon as practicable after collection as follows:

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

399 (2) Except for the percentage provided in paragraph (1) of this Code section, the  
400 remaining proceeds of the tax shall be distributed to the governing authority of the county  
401 within the special district for distribution pursuant to the terms of the intergovernmental  
402 agreement.

403 48-8-258.

404 Where a local sales or use tax has been paid with respect to tangible personal property by  
405 the purchaser either in another local tax jurisdiction within the state or in a tax jurisdiction  
406 outside the state, the tax may be credited against the tax authorized to be imposed by this  
407 article upon the same property. If the amount of sales or use tax so paid is less than the  
408 amount of the use tax due under this article, the purchaser shall pay an amount equal to the  
409 difference between the amount paid in the other tax jurisdiction and the amount due under  
410 this article. The commissioner may require such proof of payment in another local tax  
411 jurisdiction as he or she deems necessary and proper. No credit shall be granted, however,  
412 against the tax imposed under this article for tax paid in another jurisdiction if the tax paid  
413 in such other jurisdiction is used to obtain a credit against any other local sales and use tax  
414 levied in the county or in a special district which includes the county.

415 48-8-259.

416 No tax provided for in this article shall be imposed upon the sale of tangible personal  
417 property which is ordered by and delivered to the purchaser at a point outside the

418 geographical area of the county in which the tax is imposed regardless of the point at which  
419 title passes, if the delivery is made by the seller's vehicle, United States mail, or common  
420 carrier or by private or contract carrier licensed by the Interstate Commerce Commission  
421 or the Georgia Public Service Commission.

422 48-8-260.

423 (a) As used in this Code section, the term 'building and construction materials' means all  
424 building and construction materials, supplies, fixtures, or equipment, any combination of  
425 such items, and any other leased or purchased articles when the materials, supplies,  
426 fixtures, equipment, or articles are to be utilized or consumed during construction or are  
427 to be incorporated into construction work pursuant to a bona fide written construction  
428 contract.

429 (b) No tax provided for in this article shall be imposed upon the sale or use of building and  
430 construction materials when the contract pursuant to which the materials are purchased or  
431 used was advertised for bid prior to the voters' approval of the levy of the tax and the  
432 contract was entered into as a result of a bid actually submitted in response to the  
433 advertisement prior to approval of the levy of the tax.

434 48-8-261.

435 The commissioner shall have the power and authority to promulgate such rules and  
436 regulations as shall be necessary for the effective and efficient administration and  
437 enforcement of the collection of the tax authorized to be imposed by this article.

438 48-8-262.

439 Except as provided in Code Section 48-8-6 and subsection (d) of Code Section 48-8-251,  
440 the tax authorized by this article shall be in addition to any other local sales and use tax.  
441 Except as provided in Code Section 48-8-6 and subsection (d) of Code Section 48-8-251,  
442 the imposition of any other local sales and use tax within a county shall not affect the  
443 authority of a county to impose the tax authorized by this article and the imposition of the  
444 tax authorized by this article shall not affect the imposition of any otherwise authorized  
445 local sales and use tax within the county.

446 48-8-263.

447 (a)(1) The proceeds received from the tax authorized by this article shall be used by the  
448 county and qualified municipalities within the special district exclusively for the  
449 transportation projects and costs specified in the resolution or ordinance calling for  
450 imposition of the tax. Such proceeds shall be kept in a separate account from other funds

451 of the county and qualified municipalities receiving proceeds of the tax and shall not in  
452 any manner be commingled with other funds of such county or qualified municipalities  
453 prior to the expenditure.

454 (2) The governing authority of the county and the governing authority of each qualified  
455 municipality receiving any proceeds from the tax pursuant to a contract with the county  
456 shall maintain a record of each and every purpose for which the proceeds of the tax are  
457 used. A schedule shall be included in each annual audit which shows for each purpose  
458 in the resolution or ordinance calling for imposition of the tax the original estimated cost,  
459 the current estimated cost if it is not the original estimated cost, amounts expended in  
460 prior years, and amounts expended in the current year. The auditor shall verify and test  
461 expenditures sufficient to provide assurances that the schedule is fairly presented in  
462 relation to the financial statements. The auditor's report on the financial statements shall  
463 include an opinion, or disclaimer of opinion, as to whether the schedule is presented fairly  
464 in all material respects in relation to the financial statements taken as a whole.

465 (b) No general obligation debt shall be issued in conjunction with the imposition of the tax  
466 authorized by this article unless the county governing authority determines that, and if the  
467 debt is to be validated it is demonstrated in the validation proceedings that, during each  
468 year in which any payment of principal or interest on the debt comes due the county will  
469 receive from the tax authorized by this article net proceeds sufficient to fully satisfy such  
470 liability. General obligation debt issued under this article shall be payable first from the  
471 separate account in which are placed the proceeds received by the county from the tax  
472 authorized by this article. Such debt, however, shall constitute a pledge of the full faith,  
473 credit, and taxing power of the county; and any liability on said debt which is not satisfied  
474 from the proceeds of the tax authorized by this article shall be satisfied from the general  
475 funds of the county.

476 (c) The intergovernmental agreement and resolution or ordinance calling for imposition  
477 of the tax authorized by this article may specify that all of the proceeds of the tax will be  
478 used for payment of general obligation debt issued in conjunction with the imposition of  
479 the tax. If the intergovernmental agreement and resolution or ordinance so provide, then  
480 such proceeds shall be used solely for such purpose except as provided in subsection (f) of  
481 this Code section.

482 (d) The intergovernmental agreement and resolution or ordinance calling for the  
483 imposition of the tax authorized by this article may specify that a part of the proceeds of  
484 the tax will be used for payment of general obligation debt issued in conjunction with the  
485 imposition of the tax. If the intergovernmental agreement and ordinance or resolution so  
486 provide, they shall specifically state the other purposes for which such proceeds will be  
487 used. In such a case no part of the net proceeds from the tax received in any year shall be

488 used for such other purposes until all debt service requirements of the general obligation  
489 debt for that year have first been satisfied from the account in which the proceeds of the  
490 tax are placed.

491 (e) The resolution or ordinance calling for the imposition of the tax may specify that no  
492 general obligation debt is to be issued in conjunction with the imposition of the tax. If the  
493 ordinance or resolution so provides, it shall specifically state the purpose or purposes for  
494 which the proceeds will be used.

495 (f)(1)(A) If the proceeds of the tax are specified to be used solely for the purpose of  
496 payment of general obligation debt issued in conjunction with the imposition of the tax,  
497 then any net proceeds of the tax in excess of the amount required for final payment of  
498 such debt shall be subject to and applied as provided in paragraph (2) of this subsection.

499 (B) If the county as agent for the special district receives from the tax net proceeds in  
500 excess of the maximum cost of the transportation projects and costs stated in the  
501 resolution or ordinance calling for the imposition of the tax or in excess of the actual  
502 cost of such purpose or purposes, then such excess proceeds shall be subject to and  
503 applied as provided in paragraph (2) of this subsection unless otherwise specified in the  
504 intergovernmental agreement.

505 (C) If the tax is terminated under paragraph (1) of subsection (b) of Code Section  
506 48-8-253 by reason of denial of validation of debt, then all net proceeds received by the  
507 county as agent of the special district from the tax shall be excess proceeds subject to  
508 paragraph (2) of this subsection.

509 (2) Excess proceeds subject to this subsection shall be used solely for the purpose of  
510 reducing any indebtedness of the county within the special district other than  
511 indebtedness incurred pursuant to this article. If there is no such other indebtedness or,  
512 if the excess proceeds exceed the amount of any such other indebtedness, then the excess  
513 proceeds shall next be paid into the general fund of the county, it being the intent that any  
514 funds so paid into the general fund of the county be used for the purpose of reducing ad  
515 valorem taxes.

516 48-8-264.

517 The governing authority of the county and the governing authority of each qualified  
518 municipality receiving any proceeds from the tax under this article shall maintain a record  
519 of each and every purpose for which the proceeds of the tax are used. Not later than  
520 December 31 of each year, the governing authority of each local government receiving any  
521 proceeds from the tax under this article shall publish annually, in a newspaper of general  
522 circulation in the boundaries of such local government, a simple, nontechnical report which  
523 shows for each purpose in the resolution or ordinance calling for imposition of the tax the

524 original estimated cost, the current estimated cost if it is not the original estimated cost,  
525 amounts expended in prior years, and amounts expended in the current year. The report  
526 shall also include a statement of what corrective action the local government intends to  
527 implement with respect to each purpose which is underfunded or behind schedule and a  
528 statement of any surplus funds which have not been expended for a purpose."

529 **SECTION 6.**

530 (a) Except as otherwise provided in subsection (b) of this section, this Act shall become  
531 effective upon its approval by the Governor or upon its becoming law without such approval.

532 (b) Section 4 of this Act shall become effective January 1, 2011.

533 **SECTION 7.**

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