

SENATE SUBSTITUTE TO HB 56:

ADOPTED SENATE

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 an up to 1 percent sales tax to be used to fund
 12 transportation projects in special transportation districts within the state; to provide for the
 13 creation of such districts, the governance thereof, and the development of a list of
 14 transportation projects of the district; to provide that each county may opt out of the district;
 15 to provide for the district to pass a resolution calling for a referendum within the district; to
 16 provide for the tax to be levied by the participating counties; to provide for the funds
 17 collected to be deposited in trust accounts; to provide for contracting and constructing of the
 18 transportation projects on the regional lists; to provide for exemptions; to provide for related
 19 matters; to change certain provisions regarding limitations on imposition of certain local
 20 taxes; to provide for the use of proceeds of certain local sales and use taxes for metropolitan
 21 rapid transit purposes; to provide for a referendum; to provide for applicability; to provide
 22 for effective dates; to provide for automatic repeal of certain provisions under certain
 23 circumstances; to repeal conflicting laws; and for other purposes.

24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

25

PART I

26

SECTION 1-1.

27

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

31

~~“(d)(1) Except as otherwise provided in paragraph (7) of this subsection, a certificate providing for the distribution of the proceeds of the tax authorized by this article shall expire on December 31 of the second year following the year in which the decennial census is conducted. No later than December 30 of the second year following the year in which the census is conducted, a renegotiated certificate meeting the requirements for certificates specified by subsection (b) of this Code section shall be filed with and received by the commissioner. The General Assembly recognizes that the requirement for government services is not always in direct correlation with population. Although a renegotiated certificate is required within a time certain of the decennial census, this requirement is not meant to convey an intent by the General Assembly that population as a criterion should be more heavily weighted than other criteria. It is the express intent of the General Assembly in requiring such renegotiation that eligible political subdivisions shall analyze local service delivery responsibilities and the existing allocation of proceeds made available to such governments under the provisions of this article and make rational the allocation of such resources to meet such service delivery responsibilities. Political subdivisions in their renegotiation of such distributions shall at a minimum consider the criteria specified in subsection (b) of this Code section.~~

48

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

56

(3)(A) Following the commencement of ~~such~~ renegotiation, if the parties necessary to an agreement fail to reach an agreement within 60 days, such parties shall ~~agree to~~ submit the dispute to nonbinding arbitration, mediation, or such other means of resolving conflicts in a manner which, ~~in the judgment of the commissioner,~~ reflects a good faith effort to resolve the dispute. Any renegotiation agreement reached pursuant

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61 to this paragraph shall be in accordance with the requirements specified in paragraph
62 (1) of this subsection. If the parties fail to reach an agreement within 60 days of
63 submitting the dispute to nonbinding arbitration, mediation, or such other means of
64 resolving conflicts, any party necessary to an agreement may file a petition in superior
65 court of the county seeking resolution of the items remaining in dispute. Such petition
66 shall be assigned to a judge pursuant to Code Section 15-1-9.1 or 15-6-13 who is not
67 a judge in the circuit in which the county is located. The judge selected may also be a
68 senior judge pursuant to Code Section 15-1-9.2 who resides in another circuit.

69 (B) The county and qualified municipalities representing at least one-half of the
70 aggregate municipal population of all qualified municipalities located wholly or
71 partially within the special district shall separately submit to the judge and the other
72 parties a written best and final offer as to the distribution of the tax proceeds. There
73 shall be one such offer from the county and one from qualified municipalities
74 representing at least one-half of the aggregate municipal population of all qualified
75 municipalities located wholly or partially within the special district. The offer from the
76 county may be an offer representing the county and any municipalities that are not
77 represented in the offer from the qualified municipalities representing at least one-half
78 of the aggregate municipal population of all qualified municipalities located wholly or
79 partially within the special district.

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

87 (D) Each offer under subparagraphs (B) and (C) of this paragraph shall take into
88 account the allocation required for any absent municipalities in accordance with
89 subsection (b) of this Code section. The visiting or senior judge shall conduct such
90 hearings as the judge deems necessary and shall render a decision based on, but not
91 limited to, the criteria in subsection (b) of this Code section and in paragraph (1) of this
92 subsection. The judge's decision as to the allocation of the tax proceeds shall adopt the
93 best and final offer of one of the parties under subparagraphs (B) and (C) of this
94 paragraph but shall also include findings of fact. The judge shall enter a final order
95 containing a new distribution certificate and transmit a copy of it to the commissioner.
96 Appeal shall be by application and the decision of the judge shall be disturbed only for

97 the judge's disregard of the law, for partiality of the judge, or for corruption, fraud, or
98 misconduct by the judge or a party.

99 (4) If the renegotiated certificate provided for in paragraph (1) of this subsection is not
100 received by the commissioner by the required date, ~~the authority to impose the tax~~
101 ~~authorized by Code Section 48-8-82 shall cease on December 31 of the second year~~
102 ~~following the year in which the decennial census is conducted and the tax shall not be~~
103 ~~levied in the special district after such date unless the reimposition of the tax is~~
104 ~~subsequently authorized pursuant to Code Section 48-8-85. When the imposition of the~~
105 ~~tax is so terminated, the commissioner shall retain the proceeds of the tax which were to~~
106 ~~be distributed to the governing authorities of the county and qualified municipalities~~
107 ~~within the special district until the commissioner receives a certificate in behalf of each~~
108 ~~such governing authority specifying the percentage of the proceeds which each such~~
109 ~~governing authority shall receive. If no such certificate is received by the commissioner~~
110 ~~within 120 days of the date on which the authority to levy the tax was terminated, the~~
111 ~~proceeds shall escheat to the state and the commissioner shall transfer the proceeds to the~~
112 ~~state's general fund~~ the commissioner shall continue to distribute the sales tax proceeds
113 according to the percentages specified in the existing certificate or in accordance with
114 subsection (f) of Code Section 48-8-89.1, as applicable, until a new certificate is properly
115 filed.

116 (5) If the commissioner receives ~~the~~ a renegotiated certificate by the required date, the
117 commissioner shall distribute the proceeds of the tax in accordance with the directions
118 of the renegotiated certificate commencing on January 1 of the year immediately
119 following the year in which such certificate was renegotiated or the first day of the
120 second calendar month following the month such certificate was renegotiated, whichever
121 is sooner.

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

126 ~~(7) All distribution certificates on file with the commissioner on July 1, 1994, which~~
127 ~~were not renegotiated in accordance with the 1990 decennial census figures or~~
128 ~~renegotiated on or after January 1, 1992, shall expire on December 31, 1995.~~
129 ~~Renegotiations with respect to such certificates shall be commenced in accordance with~~
130 ~~the requirements of this subsection on or before July 1, 1994. If a renegotiated certificate~~
131 ~~is not received by the commissioner by July 1, 1995, the authority to impose the tax~~
132 ~~authorized by Code Section 48-8-82 shall cease on December 31, 1995, and the tax shall~~
133 ~~not be levied in the special district after that date unless reimposition of the tax is~~

134 ~~subsequently authorized pursuant to Code Section 48-8-85. The commissioner shall retain~~
 135 ~~and distribute the proceeds of such terminated tax in accordance with paragraph (4) of~~
 136 ~~this subsection.~~

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

144 ~~(9)~~(7) Political subdivisions shall be authorized, at their option, to renegotiate
 145 distribution certificates on a more frequent basis than is otherwise required under this
 146 subsection.

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

149 ~~(10)~~(9) No provision of this subsection shall apply to any county which is authorized to
 150 levy or which levies a local sales tax, local use tax, or local sales and use tax for
 151 educational purposes pursuant to a local constitutional amendment or to any county
 152 which is authorized to expend all or any portion of the proceeds of any sales tax, use tax,
 153 or sales and use tax for educational purposes pursuant to a local constitutional
 154 amendment."

155 **SECTION 1-2.**

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

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

165 **SECTION 1-3.**

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

168 "48-8-92.

169 (a) Whenever the governing authority of any county ~~or~~ and the governing authorities of
 170 at least one-half of qualified municipality municipalities located wholly or partially within
 171 a special district in which the tax authorized by this article is being levied ~~wishes~~ wish to
 172 submit to the electors of the special district the question of whether the tax authorized by
 173 Code Section 48-8-82 shall be discontinued, ~~the such~~ governing ~~authority~~ authorities shall
 174 notify the election superintendent of the county whose geographical boundary is
 175 conterminous with that of the special district by forwarding to the superintendent a copy
 176 of a joint resolution of the governing ~~authority~~ authorities calling for the referendum
 177 election. Upon receipt of the resolution, it shall be the duty of the election superintendent
 178 to issue the call for an election for the purpose of submitting the question of discontinuing
 179 the levy of the tax to the voters of the special district for approval or rejection. The election
 180 superintendent shall ~~set the date of the election for a day not less than 30 nor more than 45~~
 181 ~~days after the date of the issuance of the call~~ issue the call and shall conduct the election
 182 on a date and in the manner authorized under Code Section 21-2-540. The election
 183 superintendent shall cause the date and purpose of the election to be published once a week
 184 for two weeks immediately preceding the date of the election in the official organ of the
 185 county. The ballot shall have written or printed thereon the following:

186 '() YES Shall the 1 percent retail sales and use tax being levied within the special
 187 () NO district within _____ County be terminated?'

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

201 **SECTION 1-4.**

202 Said chapter is further amended by revising subsection (b) of Code Section 48-8-6, relating
 203 to limitations on imposition of certain local taxes, by deleting "and" at the end of paragraph

204 (3), by deleting the period at the end of paragraph (4) and replacing it with "; and", and by
 205 adding a new paragraph to read as follows:

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

207 **SECTION 1-5.**

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

209 "ARTICLE 6

210 48-8-250.

211 As used in this article, the term:

212 (1) 'Cost of project' or 'project costs' means the cost of construction, including without
 213 limitation relocation or adjustments of utilities; the cost of all lands, properties, rights,
 214 easements, and franchises acquired; relocation expenses; the cost of all machinery and
 215 equipment necessary for the operation of the project, the cost of engineering, legal
 216 expenses, plans and specifications, and other expenses necessary or incident to
 217 determining the feasibility or practicability of the project; administrative expenses; and
 218 such other expenses as may be necessary or incident to the construction of any project,
 219 the placing of the same in operation, or the maintenance and operation of the same.

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

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

227 (4) 'Project' means existing or future land public transportation systems, including
 228 without limitation: (A) one or more roads or bridges or a system of roads, bridges, and
 229 tunnels or maintenance and operations thereof, with access limited or unlimited, and such
 230 buildings, structures, parking areas, appurtenances, and facilities related thereto,
 231 including but not limited to approaches, cross streets, roads, bridges, tunnels, and avenues
 232 of access for such system; and (B) any program for mass public transportation or mass
 233 public transportation facilities or maintenance and operations thereof and such buildings,
 234 structures, parking areas, appurtenances, and facilities related thereto, including but not
 235 limited to approaches, cross streets, roads, bridges, tunnels, and avenues of access for
 236 such facilities.

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

239 48-8-251.

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

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

250 (c) Any tax imposed under this article shall be at the rate of 1 percent. Except as to rate,
251 a tax imposed under this article shall correspond to the tax imposed by Article 1 of this
252 chapter. No item or transaction which is not subject to taxation under Article 1 of this
253 chapter shall be subject to a tax imposed under this article, except that a tax imposed under
254 this article shall apply to sales of motor fuels as that term is defined by Code Section
255 48-9-2 and shall be applicable to the sale of food and beverages as provided for in division
256 (57)(D)(i) of Code Section 48-8-3.

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

259 48-8-252.

260 (a) Prior to the issuance of the call for the referendum and prior to the vote of a county
261 governing authority within a special district to impose the tax under this article, such
262 governing authority shall enter into an intergovernmental agreement with any or all of the
263 qualified municipalities within the special district and shall deliver or mail a written notice
264 to the mayor or chief elected official in each municipality located within the county. Such
265 notice shall contain the date, time, place, and purpose of a meeting at which the governing
266 authorities of the county and of each municipality are to meet to discuss the proposed tax
267 levy. The notice shall be delivered or mailed at least ten days prior to the date of the
268 meeting. The meeting shall be held at least 30 days prior to the issuance of the call for the
269 referendum. Following such meeting, a county governing authority voting to impose the
270 tax authorized by this article within the special district shall notify the county election
271 superintendent by forwarding to the superintendent a copy of the resolution or ordinance

272 of the governing authority calling for the imposition of the tax. Such ordinance or
 273 resolution shall specify the transportation projects and costs, separately identified by the
 274 county and by each qualified municipality expending proceeds of the tax, for which the
 275 proceeds of the tax are to be used and may be expended and specify:

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

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

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

285 (b) Upon receipt of the resolution or ordinance, the election superintendent shall issue the
 286 call for an election for the purpose of submitting the question of the imposition of the tax
 287 to the voters of the county. The election superintendent shall issue the call and shall
 288 conduct the election on a date and in the manner authorized under Code Section 21-2-540.
 289 The election superintendent shall cause the date and purpose of the election to be published
 290 once a week for four weeks immediately preceding the date of the election in the official
 291 organ of the county. If general obligation debt is to be issued in conjunction with the
 292 imposition of the tax, the notice published by the election superintendent shall also include,
 293 in such form as may be specified by the county governing authority, the principal amount
 294 of the debt, the purpose for which the debt is to be issued, the rate or rates of interest or the
 295 maximum rate or rates of interest the debt will bear, and the amount of principal to be paid
 296 in each year during the life of the debt; and such publication of notice by the election
 297 superintendent shall take the place of the notice otherwise required by Code Section
 298 36-80-11 or by subsection (b) of Code Section 36-82-1, which notice shall not be required.

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

301 '() YES Shall a special 1 percent sales and use tax be imposed in _____
 302 County for a period of time not to exceed _____ and for the
 303 () NO raising of not more than \$ _____ for the following transportation
 304 projects and costs: _____?'

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

307 'If imposition of the tax is approved by the voters, such vote shall also constitute
308 approval of the issuance of general obligation debt of _____ County in the
309 principal amount of \$ _____ for the above purpose.'

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

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

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

342 48-8-253.

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

346 48-8-254.

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

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

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

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

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

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

367 (2) The governing authority of a county within a special district in which a tax authorized
368 by this article is in effect may, while the tax is in effect, adopt a resolution or ordinance
369 calling for the reimposition of a tax as authorized by this article upon the termination of
370 the tax then in effect; and a special election may be held for this purpose while the tax is
371 in effect. Proceedings for the reimposition of a tax shall be in the same manner as
372 proceedings for the initial imposition of the tax, but the newly authorized tax shall not be
373 imposed until the expiration of the tax then in effect; provided, however, that in the event
374 of emergency conditions under which a county is unable to conduct a referendum so as
375 to continue the tax then in effect without interruption, the commissioner may, if feasible
376 administratively, waive the limitations of subsection (a) of this Code section to the
377 minimum extent necessary so as to permit the reimposition of a tax, if otherwise

378 approved as required under this Code section, without interruption, upon the expiration
379 of the tax then in effect.

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

383 48-8-255.

384 A tax levied pursuant to this article shall be exclusively administered and collected by the
385 commissioner for the use and benefit of the county and qualified municipalities within the
386 special district imposing the tax. Such administration and collection shall be accomplished
387 in the same manner and subject to the same applicable provisions, procedures, and
388 penalties provided in Article 1 of this chapter; provided, however, that all moneys collected
389 from each taxpayer by the commissioner shall be applied first to such taxpayer's liability
390 for taxes owed the state; and provided, further, that the commissioner may rely upon a
391 representation by or in behalf of the county or the Secretary of State that such a tax has
392 been validly imposed, and the commissioner and the commissioner's agents shall not be
393 liable to any person for collecting any such tax which was not validly imposed. Dealers
394 shall be allowed a percentage of the amount of the tax due and accounted for and shall be
395 reimbursed in the form of a deduction in submitting, reporting, and paying the amount due
396 if such amount is not delinquent at the time of payment. The deduction shall be at the rate
397 and subject to the requirements specified under subsections (b) through (f) of Code Section
398 48-8-50.

399 48-8-256.

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

406 48-8-257.

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

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

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

415 48-8-258.

416 Where a local sales or use tax has been paid with respect to tangible personal property by
417 the purchaser either in another local tax jurisdiction within the state or in a tax jurisdiction
418 outside the state, the tax may be credited against the tax authorized to be imposed by this
419 article upon the same property. If the amount of sales or use tax so paid is less than the
420 amount of the use tax due under this article, the purchaser shall pay an amount equal to the
421 difference between the amount paid in the other tax jurisdiction and the amount due under
422 this article. The commissioner may require such proof of payment in another local tax
423 jurisdiction as he or she deems necessary and proper. No credit shall be granted, however,
424 against the tax imposed under this article for tax paid in another jurisdiction if the tax paid
425 in such other jurisdiction is used to obtain a credit against any other local sales and use tax
426 levied in the county or in a special district which includes the county.

427 48-8-259.

428 No tax provided for in this article shall be imposed upon the sale of tangible personal
429 property which is ordered by and delivered to the purchaser at a point outside the
430 geographical area of the county in which the tax is imposed regardless of the point at which
431 title passes, if the delivery is made by the seller's vehicle, United States mail, or common
432 carrier or by private or contract carrier licensed by the Interstate Commerce Commission
433 or the Georgia Public Service Commission.

434 48-8-260.

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

441 (b) No tax provided for in this article shall be imposed upon the sale or use of building and
442 construction materials when the contract pursuant to which the materials are purchased or
443 used was advertised for bid prior to the voters' approval of the levy of the tax and the

444 contract was entered into as a result of a bid actually submitted in response to the
445 advertisement prior to approval of the levy of the tax.

446 48-8-261.

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

450 48-8-262.

451 Except as provided in Code Section 48-8-6 and subsection (d) of Code Section 48-8-251,
452 the tax authorized by this article shall be in addition to any other local sales and use tax.
453 Except as provided in Code Section 48-8-6 and subsection (d) of Code Section 48-8-251,
454 the imposition of any other local sales and use tax within a county shall not affect the
455 authority of a county to impose the tax authorized by this article and the imposition of the
456 tax authorized by this article shall not affect the imposition of any otherwise authorized
457 local sales and use tax within the county.

458 48-8-263.

459 (a)(1) The proceeds received from the tax authorized by this article shall be used by the
460 county and qualified municipalities within the special district exclusively for the
461 transportation projects and costs specified in the resolution or ordinance calling for
462 imposition of the tax. Such proceeds shall be kept in a separate account from other funds
463 of the county and qualified municipalities receiving proceeds of the tax and shall not in
464 any manner be commingled with other funds of such county or qualified municipalities
465 prior to the expenditure.

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

477 (b) No general obligation debt shall be issued in conjunction with the imposition of the tax
478 authorized by this article unless the county governing authority determines that, and if the
479 debt is to be validated it is demonstrated in the validation proceedings that, during each
480 year in which any payment of principal or interest on the debt comes due the county will
481 receive from the tax authorized by this article net proceeds sufficient to fully satisfy such
482 liability. General obligation debt issued under this article shall be payable first from the
483 separate account in which are placed the proceeds received by the county from the tax
484 authorized by this article. Such debt, however, shall constitute a pledge of the full faith,
485 credit, and taxing power of the county; and any liability on said debt which is not satisfied
486 from the proceeds of the tax authorized by this article shall be satisfied from the general
487 funds of the county.

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

494 (d) The intergovernmental agreement and resolution or ordinance calling for the
495 imposition of the tax authorized by this article may specify that a part of the proceeds of
496 the tax will be used for payment of general obligation debt issued in conjunction with the
497 imposition of the tax. If the intergovernmental agreement and ordinance or resolution so
498 provide, they shall specifically state the other purposes for which such proceeds will be
499 used. In such a case no part of the net proceeds from the tax received in any year shall be
500 used for such other purposes until all debt service requirements of the general obligation
501 debt for that year have first been satisfied from the account in which the proceeds of the
502 tax are placed.

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

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

511 (B) If the county as agent for the special district receives from the tax net proceeds in
512 excess of the maximum cost of the transportation projects and costs stated in the
513 resolution or ordinance calling for the imposition of the tax or in excess of the actual

514 cost of such purpose or purposes, then such excess proceeds shall be subject to and
 515 applied as provided in paragraph (2) of this subsection unless otherwise specified in the
 516 intergovernmental agreement.

517 (C) If the tax is terminated under paragraph (1) of subsection (b) of Code Section
 518 48-8-253 by reason of denial of validation of debt, then all net proceeds received by the
 519 county as agent of the special district from the tax shall be excess proceeds subject to
 520 paragraph (2) of this subsection.

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

528 48-8-264.

529 The governing authority of the county and the governing authority of each qualified
 530 municipality receiving any proceeds from the tax under this article shall maintain a record
 531 of each and every purpose for which the proceeds of the tax are used. Not later than
 532 December 31 of each year, the governing authority of each local government receiving any
 533 proceeds from the tax under this article shall publish annually, in a newspaper of general
 534 circulation in the boundaries of such local government, a simple, nontechnical report which
 535 shows for each purpose in the resolution or ordinance calling for imposition of the tax the
 536 original estimated cost, the current estimated cost if it is not the original estimated cost,
 537 amounts expended in prior years, and amounts expended in the current year. The report
 538 shall also include a statement of what corrective action the local government intends to
 539 implement with respect to each purpose which is underfunded or behind schedule and a
 540 statement of any surplus funds which have not been expended for a purpose."

541 **PART II**

542 **SECTION 2-1.**

543 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
 544 amended in Chapter 8, relating to sales and use taxes, by adding a new article to read as
 545 follows:

546

"ARTICLE 5

547

48-8-220.

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This article shall be known and may be cited as the 'Regional Transportation Local Option

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Sales Tax Act.'

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48-8-221.

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As used in this article, the term:

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(1) 'District' means the metropolitan transportation district and special transportation districts created in Code Sections 48-8-223 and 48-8-224.

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(2) 'Levy' means the district-wide sales and use tax authorized by Code Section 48-8-222.

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

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

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

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(6) 'Voting officials of the district' means the elected officials representing the county, counties, or qualified municipalities in a district.

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48-8-222.

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(a) On or after January 1, 2011, a sales and use tax of up to 1 percent may be levied as provided in this article to fund transportation projects in a district. Except as to rate and except as otherwise provided in this article, a tax imposed under this article shall correspond to the tax imposed by Article 1 of this chapter.

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(b) A county shall be wholly within one transportation district. No county shall be divided among more than one district. The boundaries of the districts shall be otherwise as determined by the constituent counties.

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(c) After the formation of a special transportation district, but prior to the passage of the resolution calling for imposition of the tax authorized by this article, the governing authority of any county sharing a boundary with any county within a district may by resolution opt into such district. Prior to the county governing authority's vote to opt into

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580 the district, the county shall follow the procedures of paragraph (2) of subsection (a) of
 581 Code Section 48-8-224 for meeting with all of the qualified municipalities. In order to add
 582 the county to the district, the governing authorities of the counties within the district must
 583 concur. Not less than ten days prior to a vote on a resolution for such purpose, notice of
 584 the intention of a county to opt into the district shall be transmitted by the governing
 585 authority of such county to the metropolitan transportation district board if created pursuant
 586 to Code Section 48-8-223, to the governing authority of each qualified municipality within
 587 the county proposing to opt into the district, and to the governing authority of each other
 588 county within such district.

589 (d) District projects undertaken pursuant to this article shall not be subject to review or
 590 approval by the Georgia Regional Transportation Authority.

591 48-8-223.

592 (a) There is created within this state a metropolitan transportation district encompassing
 593 and being coterminous with the geographical area consisting of Cherokee, Cobb, Douglas,
 594 Fulton, DeKalb, Fayette, Clayton, Henry, Rockdale, and Gwinnett counties, which
 595 comprise the metropolitan area planning and development commission pursuant to Article
 596 4 of Chapter 8 of Title 50. The management and supervision of such district shall be
 597 vested in a district board to consist of those members of the council of the metropolitan
 598 area planning and development commission as provided for by Code Section 50-8-84
 599 holding elective public office, to serve during their service as members of the commission
 600 and until their successors are duly elected and qualified.

601 (b) Each county in a district may select one or more district transportation agencies to be
 602 responsible for designing, planning, and contracting for the construction of district projects.

603 (c) The metropolitan transportation district may authorize the levy provided for by this
 604 article as follows:

605 (1) The district, in cooperation with its constituent counties and qualified municipalities
 606 and its designated transportation agency or agencies, shall propound by resolution a list
 607 of transportation projects to be funded by a district levy. Approval of such resolution
 608 shall require the affirmative vote of a majority of the voting members of the district.

609 Such resolution shall include:

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

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

613 (C) The rate of the levy; and

614 (D) The maximum period of time, to be stated in calendar years, for which the levy
 615 may be imposed.

616 (2) The district resolution provided for by paragraph (1) of this subsection shall be
617 immediately transmitted to the governing authority of each county and qualified
618 municipality within the district. Each such governing authority shall thereafter have 45
619 days from the date of such submission to vote to opt the county out of such district. A
620 county shall opt out of the district upon:

621 (A) The affirmative vote of the county governing authority on a resolution for such
622 purpose; and

623 (B) If there are one or more municipalities within the county whose area within the
624 county contains more than 50 percent of the population of the county, the affirmative vote
625 on resolutions for such purpose by the governing authorities of qualified municipalities
626 representing more than 50 percent of the population of the county.

627 Only the vote described in subparagraph (A) of this paragraph shall be required for the
628 opt-out if the county is not described in subparagraph (B) of this paragraph. For a county
629 described in subparagraph (B) of this paragraph, the votes described in subparagraphs (A)
630 and (B) of this paragraph shall be required for the opt-out. All measurements of population
631 for purposes of this paragraph shall be according to the United States decennial census of
632 2000 or any future such census. Notice of the opting out of a county shall be immediately
633 transmitted by the governing authority of such county to the governing authority of each
634 other county within the district, to the governing authority of each qualified municipality
635 within the county, and to the governing authority of each county sharing a border with any
636 county within the district;

637 (3) Upon any county opting out of a district pursuant to paragraph (2) of this subsection,
638 any remaining constituent county shall have 30 days from the expiration of the 45 day
639 period provided for in paragraph (2) of this subsection to opt out of such district by the
640 same mechanism and with the same notice provided for in paragraph (2) of this
641 subsection;

642 (4) Those counties that do not opt out of a district within the time limits prescribed in this
643 subsection and those which opt in pursuant to the provisions subsection (c) of Code
644 Section 48-8-222 shall thereafter constitute the special transportation district. The voting
645 officials of the district shall be reconstituted to include, pursuant to subsection (c) of
646 Code Section 48-8-222, only the elected officials of those counties and qualified
647 municipalities included in the special transportation district;

648 (5) The voting officials of the district as reconstituted pursuant to paragraph (4) of this
649 subsection shall meet as soon as practicable after the reconstitution of the district. The
650 district in cooperation with its constituent counties and qualified municipalities and the
651 designated transportation agency or agencies may revise by resolution the list of
652 transportation projects, if necessary or advisable, to remove or amend any project planned

653 for an area no longer within the district and to add or amend any project for an area that
 654 was added to the district; and
 655 (6) As soon as practicable after the expiration of the time for removal of counties from
 656 a district and after any revision of such resolution after the removal of any counties from
 657 the district, the voting officials of the district may by a majority vote submit to electors
 658 of the district the transportation project list and the question of whether the levy provided
 659 for by this article should be approved.

660 48-8-224.

661 (a)(1) Special transportation districts not encompassing any part of the metropolitan
 662 transportation district created pursuant to Code Section 48-8-223 may be created by the
 663 governing authorities of two or more contiguous counties or by the governing authority
 664 of a single county.

665 (2) Prior to the issuance of the call for the referendum required by subsection (d) of this
 666 Code section, the county or counties that desire to levy a tax under this article within the
 667 special transportation district created pursuant to this Code section shall deliver or mail
 668 a written notice to the mayor or chief elected official in each municipality located within
 669 the district. Such notice shall contain the date, time, place, and purpose of a meeting at
 670 which the governing authorities of the county and of each qualified municipality are to
 671 meet to discuss possible projects for inclusion in the referendum. The notice shall be
 672 delivered or mailed at least ten days prior to the date of the meeting. The meeting shall
 673 be held at least 30 days prior to the issuance of the call for the referendum.

674 (b)(1) Following the meeting required by paragraph (2) of subsection (a) of this Code
 675 section, the governing authority or authorities of the county or counties within the district
 676 may enter into an intergovernmental agreement with each other and with one or more
 677 qualified municipalities within the district containing a combined total of no less than 50
 678 percent of the aggregate municipal population located within the district.

679 (2) At a minimum, the intergovernmental agreement authorized by paragraph (1) of this
 680 subsection shall include the following:

681 (A) A list of the projects and proposals qualifying as transportation purposes proposed
 682 to be funded from the levy;

683 (B) The estimated or projected dollar amounts allocated for each project from proceeds
 684 from the levy authorized by this article;

685 (C) The procedures for distributing proceeds from the levy authorized by this article
 686 to qualified municipalities;

687 (D) A schedule for distributing proceeds from the levy authorized by this article to
688 qualified municipalities which shall include the priority or order in which projects will
689 be fully or partially funded;

690 (E) A provision that all transportation projects included in the agreement shall be
691 funded from proceeds from the levy authorized by this article except as otherwise
692 agreed;

693 (F) A provision that proceeds from the levy authorized by this article shall be
694 maintained in separate accounts and utilized exclusively for the specified purposes;

695 (G) Record-keeping and audit procedures necessary to carry out the purposes of this
696 article; and

697 (H) Such other provisions as the county, counties, and participating municipalities
698 choose to address.

699 (c)(1) Following the commencement of negotiation, if the parties necessary to an
700 agreement fail to reach an agreement within 60 days, such parties shall submit the dispute
701 to nonbinding arbitration, mediation, or such other means of resolving conflicts in a
702 manner which reflects a good faith effort to resolve the dispute. Any negotiation
703 agreement reached pursuant to this paragraph shall be in accordance with the
704 requirements specified in paragraph (2) of this subsection. If the parties fail to reach an
705 agreement within 60 days of submitting the dispute to nonbinding arbitration, mediation,
706 or such other means of resolving conflicts, any party necessary to an agreement may file
707 a petition in superior court of the county seeking resolution of the items remaining in
708 dispute. Such petition shall be assigned to a judge pursuant to Code Section 15-1-9.1 or
709 15-6-13 who is not a judge in the circuit in which the county is located. The judge
710 selected may also be a senior judge pursuant to Code Section 15-1-9.2 who resides in
711 another circuit. The county and qualified municipalities representing at least 50 percent
712 of the aggregate municipal population of all qualified municipalities located wholly or
713 partially within the district shall separately submit to the judge and the other parties a
714 written best and final offer as to the distribution of the tax proceeds. There shall be one
715 such offer from the county and one from qualified municipalities representing at least 50
716 percent of the aggregate municipal population of all qualified municipalities located
717 wholly or partially within the district. The offer from the county may be an offer
718 representing the county and any municipalities that are not represented in the offer from
719 the qualified municipalities representing at least 50 percent of the aggregate municipal
720 population of all qualified municipalities located wholly or partially within the district.
721 The visiting or senior judge shall conduct such hearings as the judge deems necessary and
722 shall render a decision based on, but not limited to, the criteria in paragraph (2) of this
723 subsection. The judge's decision on the allocation of the levy proceeds shall adopt the

724 best and final offer of one of the parties but shall also include findings of fact. The judge
 725 shall enter a final order containing a distribution certificate and transmit a copy of it to
 726 the commissioner of revenue. Appeal shall be by application and the decision of the
 727 judge shall be altered only for the judge's disregard of the law, for partiality of the judge,
 728 or for corruption, fraud, or misconduct by the judge or a party.

729 (2) The judge's decision on the allocation of the levy proceeds shall be based upon, but
 730 not be limited to, the following criteria:

731 (A) Assurance of future trip reliability and competitive travel times;

732 (B) Navigation around metropolitan area congestion;

733 (C) Connection of major freight origins and destinations;

734 (D) Creation of limited access facilities for trucks connecting other origins and
 735 destinations;

736 (E) Creation of new capacity for freight rail;

737 (F) Addressing of major bottlenecks;

738 (G) Improvement or grade separation of major at-grade rail crossings;

739 (H) Expansion of access to jobs and linkage of labor markets;

740 (I) Implementation of current transportation plans;

741 (J) Creation of a high-speed or commuter rail network;

742 (K) Enhancement of public mass transit operations and capacity;

743 (L) Maintenance and improvement of existing roads and bridges; and

744 (M) Each jurisdiction's mileage of public roads and vehicle mileage traveled as
 745 determined by the Georgia Department of Transportation.

746 (3) Costs of any conflict resolution under paragraph (1) of this subsection shall be borne
 747 proportionately by the affected political subdivisions in accordance with the final
 748 percentage distributions of the proceeds of the levy as reflected by the renegotiated
 749 certificate or as otherwise ordered by the court.

750 (d)(1) As soon as practicable after the meeting between the governing authorities of the
 751 county, counties, and qualified cities and the execution of an intergovernmental
 752 agreement, if applicable, the governing authorities of the counties of the district may by
 753 a majority vote on a resolution offered for such purpose submit the project list and the
 754 question of whether the levy provided for by this article should be approved to electors
 755 of the district in an election called for such purpose and shall notify each county election
 756 superintendent within the district by forwarding to the superintendent a copy of such
 757 resolution calling for the imposition of the levy.

758 (2) The resolution authorized by paragraph (1) of this subsection shall describe:

759 (A) The specific transportation projects to be funded;

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

762 (C) The maximum period of time, to be stated in calendar years, for which the levy
 763 may be levied and the rate thereof.

764 (e) Each county in a district may select one or more district transportation agencies to be
 765 responsible for designing, planning, and contracting for the construction of district projects.

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767 48-8-225.

768 (a) Except as otherwise provided in this Code section, the procedures for conducting the
 769 referendum on the question of imposing the levy shall correspond generally to the
 770 procedures provided for by Part 1 of Article 3 of this chapter, except that the project or
 771 proposal list provided for by Code Sections 48-8-223 and 48-8-224, or a digest thereof,
 772 shall be available during regular business hours in the office of the county clerk of each
 773 county that has authorized the levy.

774 (b) The ballot submitting the question of the imposition of the levy authorized by this
 775 article to the voters within the special district shall have written or printed thereon the
 776 following:

777 ' () YES Shall a special _____ percent sales and use tax be imposed in the special
 778 transportation district consisting of _____ County (or Counties) for a
 779 () NO period of time not to exceed _____ and for the raising of not more than
 780 an estimated amount of \$ _____ for the purpose of transportation?'

781 (c) The election superintendent shall hold and conduct the election under the same rules
 782 and regulations as govern special elections. The superintendent shall canvass the returns,
 783 declare the result of the election, and certify the result to the Secretary of State and to the
 784 commissioner. The expense of the election shall be paid from county funds. All persons
 785 desiring to vote in favor of imposing the levy shall vote 'Yes' and all persons opposed to
 786 imposing the levy shall vote 'No.' If more than one-half of the votes cast throughout the
 787 entire district are in favor of imposing the levy, then the levy shall be imposed as provided
 788 in this article.

789 (d) Where such question is not approved by the voters, the county or counties of the
 790 district may resubmit such question from time to time and may amend such project or
 791 proposal list or digest thereof. Proceedings for the reimposition of such levy shall be in the
 792 same manner as proceedings for the initial imposition of the levy, but the newly authorized
 793 levy shall not be imposed until the expiration of the levy then in effect.

794 (e) Whenever the levy is authorized pursuant to the provisions of this article, the counties
 795 within the approving district shall levy a sales and use tax as provided for by this article,
 796 to be collected as provided by law.

797 48-8-226.

798 The proceeds of a levy authorized by this article shall be transferred to a trust fund
799 maintained on behalf of the district by the metropolitan district board if created pursuant
800 to Code Section 48-8-223 or by one of the counties that created the district, a regional
801 commission, or some other public body agreed to by the county or counties that created the
802 district if the district was created pursuant to Code Section 48-8-224. Such proceeds are to
803 be expended as provided for by this article and shall be used exclusively for the purpose
804 or purposes specified in the resolution calling for imposition of the levy and shall not be
805 commingled in any manner with any other funds held or received by any county,
806 municipality, or metropolitan district board.

807 48-8-227.

808 Upon request of the metropolitan district board, if the district was created pursuant to Code
809 Section 48-8-223, or upon request of the county or counties that created the district, if the
810 district was created pursuant to Code Section 48-8-224, the district transportation agency
811 or agencies and the Department of Community Affairs shall cooperate with the district and
812 its constituent counties and qualifying municipalities, and upon request of such parties shall
813 be responsible for designing, planning, and contracting for the construction of the projects.

814 48-8-228.

815 Nothing in this article shall be construed to prohibit counties and municipalities located in
816 a district from imposing as additional taxes local sales and use taxes otherwise authorized
817 by general law.

818 48-8-229.

819 The levy authorized by this article shall not be imposed in any jurisdiction the electors of
820 which were not eligible to vote in an election called to approve such levy.

821 48-8-230.

822 The levy authorized by this article shall not be subject to any allocation or balancing of
823 state and federal funds provided for by general law, nor may such proceeds be considered
824 or taken into account in any such allocation or balancing.

825 48-8-231.

826 (a) The levy provided for by this article shall only be levied on the first \$5,000.00 of any
827 transaction regarding a motor vehicle, watercraft, or aircraft.

828 (b) The levy provided for by this article shall not apply to and shall not be levied on:

- 829 (1) The sale or use of any type of fuel used for off-road heavy-duty equipment, off-road
 830 farm or agricultural equipment, or locomotives;
 831 (2) The sale or use of fuel that is used for propulsion of motor vehicles on the public
 832 highways. For purposes of this paragraph, 'motor vehicle' means a self-propelled vehicle
 833 designed for operation or required to be licensed for operation upon the public highways;
 834 (3) The sale or use of tangible personal property used in the production or generation of
 835 energy; or
 836 (4) The sale or use of energy used in the manufacturing or processing of tangible goods
 837 primarily for resale.

838 48-8-232.

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

843 48-8-233.

- 844 (a) A record of projects on which levy proceeds are used shall be maintained by each
 845 county and municipality receiving proceeds from the levy authorized by this article, and
 846 a report shall prepared not later than December 31 of each year. Such record and report
 847 shall conform to the requirements of Code Section 48-8-122.
 848 (b) The Department of Transportation shall conduct continuing studies and monitoring of
 849 the status of economic parity throughout the State of Georgia for the contracting of
 850 transportation projects with particular emphasis on its procurement practices."

851 **SECTION 2-2.**

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

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

857 **PART III**

858 **SECTION 3-1.**

859 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
 860 amended by adding a new chapter to read as follows:

861

"CHAPTER 8A862 48-8A-1.

863 Notwithstanding any provision of law to the contrary, any metropolitan rapid transit
864 authority created by local constitutional amendment shall be authorized to expand and use
865 proceeds of the tax levied pursuant to such local constitutional amendment and
866 implementing laws as provided in this chapter.

867 48-8A-2.

868 (a) The proceeds of any metropolitan rapid transit authority tax levied pursuant to local
869 constitutional amendment and implementing laws shall be used solely by each local
870 government to fulfill the obligations incurred in the contracts entered into with such
871 metropolitan rapid transit authority as contemplated in the local constitutional amendment
872 and implementing laws. For the period beginning on the effective date of this Code
873 section, there shall be no restriction on the use of the proceeds of the tax. The board of the
874 metropolitan rapid transit authority shall file with the applicable metropolitan rapid transit
875 overview committee annually, the original and 14 copies of a report of the findings of a
876 completed management performance audit of the authority's current operations, which audit
877 was performed under contract with and at the expense of the authority, along with any
878 auditor's recommendations based thereon and the auditor's signed written verification that
879 the metropolitan rapid transit authority fully cooperated with such audit and allowed access
880 to all its books, records, and documents to the extent the auditor deemed necessary.
881 Commencing on the effective date of this Code section and only if expressly authorized by
882 the board, interest earned on reserve funds set aside for rebuilding, repairing, or renovating
883 facilities of the rapid transit system; for replacing, repairing, or renovating equipment or
884 other capital assets thereof; or from the sale or other disposition of real property may,
885 without regard to the original source of the funds so reserved, be used to pay the operating
886 costs of the system.

887 (b) Any limitation contained in such implementing laws to the contrary notwithstanding,
888 the board of such authority may, in its sole discretion, and for any fiscal year commencing
889 July 1, 2009, or thereafter, use any interest earned on any self-insurance reserve established
890 pursuant to such implementing laws to pay the operating costs of the system."

891

PART IV

892

SECTION 4-1.

893

Unless prohibited by the federal Voting Rights Act of 1965, as amended, the Secretary of

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State shall call and conduct an election as provided in this section for the purpose of

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submitting Part II of this Act to the electors of the State of Georgia for approval or rejection.

896

The Secretary of State shall conduct that election on the date of the November, 2010,

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state-wide general election. The Secretary of State shall issue the call and conduct that

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special election as provided by general law. The Secretary of State shall cause the date and

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purpose of the special election to be published in the official organ of each county in the state

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once a week for two weeks immediately preceding the date of the referendum. The ballot

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shall have written or printed thereon the following:

902

"() YES Shall the Regional Transportation Local Option Sales Tax be approved

903

() NO which allows a regional local option sales tax of up to 1 percent to be used

904

to fund transportation projects within the region from which the funds are

905

collected?"

906

All persons desiring to vote for approval of Part II of the Act shall vote "Yes," and all

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persons desiring to vote for rejection of Part II of the Act shall vote "No." If more than

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one-half of the votes cast on such question are for approval of Part II of the Act, then Part II

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of this Act shall become effective on January 1, 2011. If Part II of this Act is not so

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approved or if the election is not conducted as provided in this section, Part II of this Act

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shall not become effective and Part II of this Act and this part shall be automatically repealed

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on the first day of January immediately following that election date.

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PART V

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SECTION 5-1.

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(a) Sections 1-1 through 1-3 of this Act shall become effective upon its approval by the

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Governor or upon its becoming law without such approval.

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

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(c) Part II of this Act shall only become effective as provided in Part III of this Act.

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(d) Parts III and IV of this Act and this part shall become effective upon its approval by the

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Governor or upon its becoming law without such approval.

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SECTION 5-2.

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