

House Bill 902

By: Representatives Burkhalter of the 50th and Stephens of the 164th

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 36 of the Official Code of Georgia Annotated, relating to local government,
2 so as to provide for the establishment of convention and tourism special districts within
3 certain areas of the state; to provide criteria for the determination of such districts based on
4 the existence of convention and tourist attraction facilities; to authorize the levy of local
5 government sales and use taxation within such districts for the purpose of enhanced public
6 safety services, upon approval by the commissioner of community affairs; to provide an
7 exemption from other sales and use taxation for sales and uses subject to such local taxation;
8 to provide an exemption from state and local sales and use taxation for the construction of
9 new tourist attraction facilities in or adjacent to a special district; to amend said Title 36 and
10 Title 16 of the Official Code of Georgia Annotated, the "Criminal Code of Georgia," so as
11 to provide that a special district shall be a drug-free commercial zone and to provide for the
12 punishment of certain drug and controlled substance offenses within such zone; to provide
13 for heightened punishment of certain aggravated assaults and aggravated batteries within a
14 special district; to provide for other related matters; to provide for effective dates and
15 applicability; to repeal conflicting laws; and for other purposes.

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

17 SECTION 1.

18 Title 36 of the Official Code of Georgia Annotated, relating to local government, is amended
19 by adding a new Chapter 77 to read as follows:

20 "CHAPTER 77

21 36-77-1.

22 This chapter shall be known and may be cited as the 'Convention and Tourism Special
23 District Act of 2010.'

24 36-77-2.

25 As used in this chapter, the term:

26 (1) 'Convention and tourism special district' or 'special district' means a district
 27 established as provided in Code Section 36-77-3.

28 (2) 'Tourist attraction' means a cultural or historical site; a recreation or entertainment
 29 facility; a convention hotel; or an entertainment destination center designed to attract
 30 tourists or persons attending conventions which contains at least 30,000 square feet of
 31 floor space and attracts, or in the case of a proposed tourist attraction is reasonably
 32 calculated to attract, at least 400,000 visits per year by members of the public.

33 36-77-3.

34 (a) Under the authority of Article IX, Section II, Paragraph VI(a) of the Constitution there
 35 is created one or more convention and tourism special districts for the provision of local
 36 government services within each area of the state within which there can be drawn a
 37 boundary defining a territory of 4 square miles or less which contains:

38 (1) At least 1.3 million square feet of floor space used for convention hall purposes; and
 39 (2) Two or more tourist attractions.

40 (b)(1) If a special district created by this Code section is located entirely within a single
 41 municipal corporation, it shall be a special district for that municipal corporation. If a
 42 special district created by this Code section is located entirely within the unincorporated
 43 area of a single county, it shall be a special district for that county.

44 (2) If an area which would otherwise constitute a single special district is not located
 45 entirely within a single jurisdiction as described in paragraph (1) of this subsection, it
 46 shall be divided into two or more special subdistricts, such that each portion located
 47 within an unincorporated area shall be a special district for that county and each portion
 48 located within a municipal corporation shall be a special district for that municipal
 49 corporation.

50 (c) Within 90 days after the effective date of this chapter the commissioner of community
 51 affairs shall determine the existence of each such special district in the state and shall
 52 prepare a plat or plan reflecting the boundaries of each special district. In following years,
 53 the commissioner shall during the final calendar quarter of each calendar year similarly
 54 determine the existence and boundaries of any new special district having met the criteria
 55 of this Code section during that calendar year. In each following year, the commissioner
 56 shall likewise during the final calendar quarter of each calendar year determine whether
 57 each existing special district continues to meet the criteria of this Code section and, if so,
 58 shall make any adjustments to the boundaries of the special district required by the creation
 59 or removal of convention hall space or attractions.

60 (d) Each special district shall include:

61 (1) The entire tract or parcel of real property on which is located each convention facility
62 containing floor space used to meet the criteria of this Code section;

63 (2) The entire tract or parcel of real property on which is located each tourist attraction
64 used to meet the criteria of this Code section;

65 (3) The entire tract or parcel of real property on which is located any hotel where the
66 straight line distance between the hotel parcel and any parcel described in paragraph (1)
67 or (2) of this subsection is less than 1,500 feet;

68 (4) Any public park or public transit facility where the straight line distance between the
69 park or transit facility and any parcel described in paragraph (1) or (2) of this subsection
70 is less than 1,500 feet;

71 (5) All tracts or parcels of real property within 1,500 feet of any parcel described in
72 paragraphs (1), (2), (3), and (4) of this subsection; and

73 (6) Any real property which is within an area surrounded on all sides by parcels
74 described in paragraphs (1) through (5) of this subsection.

75 36-77-4.

76 (a) A local government for which a special district is created under this chapter may levy
77 within the special district a special sales and use tax. Except for the fact that such tax is a
78 special district tax rather than a state tax and the proceeds are local government tax
79 proceeds rather than state tax proceeds, the tax shall be identical to the state sales and use
80 tax, shall apply to the same subjects of taxation, and shall be administered and collected
81 in the same manner. The rate of any such tax shall be equal to the total state and local sales
82 tax rate which would be in effect within the special district but for the exemption specified
83 in Code Section 36-77-5, minus the amount of any sales tax for educational purposes under
84 Part 2 of Article 3 of Chapter 8 of Title 48.

85 (b) A local government imposing a tax under this chapter shall do so on a calendar year
86 basis and shall adopt a resolution or ordinance imposing or renewing the tax at least 30
87 days prior to the commencement of the calendar year.

88 (c) The proceeds of a tax imposed under this chapter shall be used by the levying local
89 government exclusively for the purpose of enhancing public safety services for the special
90 district. As a condition precedent to the imposition or renewal of a tax under this chapter,
91 the levying local government shall provide to the commissioner of community affairs a
92 certification that the proceeds will be so used and a detailed plan for the use of the
93 proceeds; and the commissioner shall certify his or her approval or disapproval of the
94 certification and plan to the local government and the state revenue commissioner.

95 36-77-5.

96 Any sale or use which is subject to the special district sales and use tax provided for in this
97 chapter shall be exempt from the state sales and use tax provided for in Article 1 of Chapter
98 8 of Title 48 and shall be exempt from any other local sales and use tax except for the sales
99 tax for educational purposes provided for in Part 2 of Article 3 of Chapter 8 of Title 48.

100 36-77-6.

101 (a) Any planned tourist attraction which is located in a special district or on a tract or
102 parcel of real property adjoining a special district shall, upon certification by the
103 commissioner of community affairs as meeting the requirements of this Code section,
104 receive an exemption from all state and local sales and use taxes during its construction.
105 The exemption shall apply to the sale and use of all tangible personal property used in or
106 for the new construction of the planned tourist attraction.

107 (b) Any person making a sale of tangible personal property for the purpose specified in
108 this Code section shall collect the tax imposed on this sale unless the purchaser furnishes
109 such person with an exemption determination letter issued by the commissioner certifying
110 that the purchaser is entitled to purchase the tangible personal property without paying the
111 tax.

112 (c) The exemption provided for under this Code section shall not apply to sales of tangible
113 personal property that occur after the tourist attraction is opened to the public.

114 36-77-7.

115 (a) A special district shall by operation of law be constituted as a drug-free commercial
116 zone under Code Section 16-13-32.6, without any necessity for adoption of a local
117 ordinance or further action by the General Assembly. The status of a special district as a
118 drug-free commercial zone shall not be subject to any expiration.

119 (b) In a prosecution under this Code section, a true copy of a map produced or reproduced
120 by the Department of Community Affairs depicting the location and boundaries of the
121 special district shall, if certified as a true copy by the custodian of such records at such
122 department, be admissible and shall constitute prima-facie evidence of the location and
123 boundaries of such special district.

124 35-77-8.

125 The offenses of aggravated assault with a firearm and aggravated battery within a special
126 district shall be subject to heightened sentencing as provided in subsection (l) of Code
127 Section 16-5-21 and subsection (i) of Code Section 16-5-24."

128 **SECTION 2.**

129 Title 16 of the Official Code of Georgia Annotated, the "Criminal Code of Georgia," is
130 amended in Code Section 16-5-21, relating to aggravated assault, by adding a new subsection
131 (l) to read as follows:

132 "(l) Any person who commits the offense of aggravated assault involving the use of a
133 firearm within a convention and tourism special district as defined in Code Section 36-77-2
134 shall, upon conviction thereof, be punished by imprisonment for not less than five nor more
135 than 20 years."

136 **SECTION 3.**

137 Said Title 16 is further amended in Code Section 16-5-24, relating to aggravated battery, by
138 adding a new subsection (i) to read as follows:

139 "(i) Any person who commits the offense of aggravated battery within a convention and
140 tourism special district as defined in Code Section 36-77-2 shall, upon conviction thereof,
141 be punished by imprisonment for not less than five nor more than 20 years."

142 **SECTION 4.**

143 Said Title 16 is further amended in Code Section 16-13-32.6, relating to drug-free
144 commercial zones, by adding a new subsection (g) to read as follows:

145 "(g) A special convention and tourism district established under Chapter 77 of Title 36
146 shall also constitute a drug-free commercial zone as provided for in Code Section 36-77-7."

147 **SECTION 5.**

148 (a) This Act shall become effective upon its approval by the Governor or upon its becoming
149 law without such approval for administrative purposes of determining and establishing
150 special districts and taking administrative actions in preparation for implementation of tax
151 provisions in calendar year 2011.

152 (b) Sections 2, 3, and 4 of this Act, relative to special criminal penalties within special
153 districts, shall become effective January 1, 2011, and shall apply with respect to offenses
154 committed on or after that date.

155 (c) The first tax year affected by this Act shall be the tax year beginning January 1, 2011.

156 **SECTION 6.**

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