

House Bill 34

By: Representative Setzler of the 35th

A BILL TO BE ENTITLED
AN ACT

To amend Article 3 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to county sales and use taxes, so as to authorize use and expenditure of county special purpose local option tax proceeds for tax credit reduction of ad valorem tax liability of qualified homestead property and to authorize use and expenditure of proceeds of the sales tax for educational purpose for tax credit reduction of ad valorem tax liability of qualified homestead property; to provide for procedures, conditions, and limitations; to provide effective dates and a contingency; to provide for applicability; to provide for automatic repeal under certain circumstances; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

PART I
SECTION 1-1.

Article 3 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to county sales and use taxes, is amended by revising Code Section 48-8-110, relating to definitions regarding the county special purpose local option sales tax, by adding a new paragraphs to read as follows:

"(1) 'Ad valorem taxes' means any and all ad valorem taxes for maintenance and operation purposes of the political subdivision levied by, for, or on behalf of the political subdivision, excluding taxes to retire bonded indebtedness of the political subdivision. Such term shall also include ad valorem taxes for any special district purposes."

"(3.1) 'Qualified homestead' means a homestead qualified for any exemption, state, county, or school, authorized under Code Section 48-5-44."

SECTION 1-2.

Said article is further amended by revising Code Section 48-8-111, relating to procedures for the imposition of such tax, to read as follows:

25 "48-8-111.

26 (a) Prior to the issuance of the call for the referendum and prior to the vote of a county
27 governing authority within a special district to impose the tax under this part, such
28 governing authority may enter into an intergovernmental agreement with any or all of the
29 qualified municipalities within the special district. Any county that desires to have a tax
30 under this part levied within the special district shall deliver or mail a written notice to the
31 mayor or chief elected official in each qualified municipality located within the special
32 district. Such notice shall contain the date, time, place, and purpose of a meeting at which
33 the governing authorities of the county and of each qualified municipality are to meet to
34 discuss the possible projects for inclusion in the referendum, including municipally owned
35 or operated projects. The notice shall be delivered or mailed at least ten days prior to the
36 date of the meeting. The meeting shall be held at least 30 days prior to the issuance of the
37 call for the referendum. Following such meeting, the governing authority of the county
38 within the special district voting to impose the tax authorized by this part shall notify the
39 county election superintendent by forwarding to the superintendent a copy of the resolution
40 or ordinance of the governing authority calling for the imposition of the tax. Such
41 ordinance or resolution shall specify eligible expenditures identified by the county and any
42 qualified municipality for use of proceeds distributed pursuant to subsection (b) of Code
43 Section 48-8-115. Such ordinance or resolution shall also specify:

44 (1) The purpose or purposes for which the proceeds of the tax are to be used and may be
45 expended, which purpose or purposes may consist of capital outlay projects located
46 within or outside, or both within and outside, any incorporated areas in the county in the
47 special district or outside the county, as authorized by subparagraph (B) of this paragraph
48 for regional facilities, and which may include any of the following purposes:

49 (A) A capital outlay project consisting of road, street, and bridge purposes, which
50 purposes may include sidewalks and bicycle paths;

51 (B) A capital outlay project or projects in the special district and consisting of a
52 courthouse; administrative buildings; a civic center; a local or regional jail, correctional
53 institution, or other detention facility; a library; a coliseum; local or regional solid waste
54 handling facilities as defined under paragraph (27.1) or (35) of Code Section 12-8-22,
55 as amended, excluding any solid waste thermal treatment technology facility, including,
56 but not limited to, any facility for purposes of incineration or waste to energy direct
57 conversion; local or regional recovered materials processing facilities as defined under
58 paragraph (26) of Code Section 12-8-22, as amended; or any combination of such
59 projects;

(C) A capital outlay project or projects which will be operated by a joint authority or authorities of the county and one or more qualified municipalities within the special district;

(D) A capital outlay project or projects, to be owned or operated or both either by the county, one or more qualified municipalities within the special district, one or more local authorities within the special district, or any combination thereof;

(E) A capital outlay project consisting of a cultural facility, a recreational facility, or a historic facility or a facility for some combination of such purposes;

(F) A water capital outlay project, a sewer capital outlay project, a water and sewer capital outlay project, or a combination of such projects, to be owned or operated or both by a county water and sewer district and one or more qualified municipalities in the county;

(G) The retirement of previously incurred general obligation debt of the county, one or more qualified municipalities within the special district, or any combination thereof;

(H) A capital outlay project or projects within the special district and consisting of public safety facilities, airport facilities, or related capital equipment used in the operation of public safety or airport facilities, or any combination of such purposes;

(I) A capital outlay project or projects within the special district, consisting of capital equipment for use in voting in official elections or referendums;

(J) A capital outlay project or projects within the special district consisting of any transportation facility designed for the transportation of people or goods, including but not limited to railroads, port and harbor facilities, mass transportation facilities, or any combination thereof;

(K) A capital outlay project or projects within the special district and consisting of a hospital or hospital facilities that are owned by a county, a qualified municipality, or a hospital authority within the special district and operated by such county, municipality, or hospital authority or by an organization which is tax exempt under Section 501(c)(3) of the Internal Revenue Code, which operates the hospital through a contract or lease with such county, municipality, or hospital authority; ~~or~~

(L) A credit amount to reduce the ad valorem tax liability for county or qualified municipal purposes, as applicable, of qualified homestead property within the special district in which such tax is levied; or

(M) Any combination of two or more of the foregoing;

(2) The maximum period of time, to be stated in calendar years or calendar quarters and not to exceed five years, unless the provisions of paragraph (1) of subsection (b) or subparagraph (b)(2)(A) of Code Section 48-8-115 are applicable, in which case the maximum period of time for which the tax may be levied shall not exceed six years;

(3) The estimated cost of the project or projects which will be funded from the proceeds of the tax, which estimated cost shall also be the estimated amount of net proceeds to be raised by the tax, unless the provisions of paragraph (1) of subsection (b) or subparagraph (b)(2)(A) of Code Section 48-8-115 are applicable, in which case the final day of the tax shall be based upon the length of time for which the tax was authorized to be levied by the referendum; and

(4) If general obligation debt is to be issued in conjunction with the imposition of the tax, the principal amount of the debt to be issued, the purpose for which the debt is to be issued, the local government issuing the debt, the interest rate or rates or the maximum interest rate or rates which such debt is to bear, and the amount of principal to be paid in each year during the life of the debt; and

(5) If proceeds are to be expended for tax credit purposes by a county or qualified municipality, the percentage of net proceeds to be applied to such tax credit.

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

(c)(1) The ballot submitting the question of the imposition of the tax authorized by this part to the voters of the county within the special district shall have written or printed thereon the following:

'() YES Shall a special 1 percent sales and use tax be imposed in the special district of _____ County for a period of time not to exceed _____
() NO and for the raising of an estimated amount of \$_____ for the purpose of _____?'

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

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

(3) If the tax is to be imposed in part for tax credit purposes, the ballot shall have written or printed thereon, following the language specified by paragraph (2) of this subsection, the following:

'If imposition of the tax is approved by the voters, such vote shall also constitute approval of applying _____ percent of the proceeds in (_____ County) (the City of _____) for tax credit reduction in the ad valorem tax liability of qualified homestead property.'

(d) All persons desiring to vote in favor of imposing the tax shall vote 'Yes' and all persons opposed to levying the tax shall vote 'No.' If more than one-half of the votes cast are in favor of imposing the tax then the tax shall be imposed as provided in this part; otherwise the tax shall not be imposed and the question of imposing the tax shall not again be submitted to the voters of the county within the special district until after 12 months immediately following the month in which the election was held; provided, however, that if an election date authorized under Code Section 21-2-540 occurs during the twelfth month immediately following the month in which such election was held, the question of imposing the tax may be submitted to the voters of the county within the special district on such date. The election superintendent shall hold and conduct the election under the same rules and regulations as govern special elections. The superintendent shall canvass the returns, declare the result of the election, and certify the result to the Secretary of State and to the commissioner. The expense of the election shall be paid from county funds.

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

(2) If the issuance of general obligation debt is included and approved as provided in this Code section, then the governing authority of the county or qualified municipality within the special district issuing such debt may incur such debt either through the issuance and validation of general obligation bonds or through the execution of a promissory note or notes or other instrument or instruments. If such debt is incurred through the issuance of

general obligation bonds, such bonds and their issuance and validation shall be subject to Articles 1 and 2 of Chapter 82 of Title 36 except as specifically provided otherwise in this part. If such debt is incurred through the execution of a promissory note or notes or other instrument or instruments, no validation proceedings shall be necessary and such debt shall be subject to Code Sections 36-80-10 through 36-80-14 except as specifically provided otherwise in this part. In either event, such general obligation debt shall be payable first from the separate account in which are placed the proceeds received by the county or qualified municipality within the special district issuing such debt from the tax authorized by this part. Such general obligation debt shall, however, constitute a pledge of the full faith, credit, and taxing power of the county or qualified municipality within the special district issuing such debt; and any liability on such debt which is not satisfied from the proceeds of the tax authorized by this part shall be satisfied from the general funds of the county or qualified municipality within the special district issuing such debt."

SECTION 1-3.

Said article is further amended by adding a new Code section to read as follows:

"48-8-112.1.

(a) If the tax authorized by this part is to be used for tax credit purposes then, for the year following the initial year in which it is levied and for all subsequent years of such levy, the county whose geographical boundary is conterminous with that of the special district and each qualified municipality therein receiving any proceeds of the tax shall annually reduce the otherwise applicable ad valorem tax of qualified homestead property within such political subdivisions as provided in this subsection. The governing authority of each such political subdivision shall compute the amount of proceeds set aside the preceding year for such purpose. The amount so ascertained shall then be used to reduce the otherwise applicable tax liability on a proportional percentage of each qualified homestead property within the political subdivision. The tax authority of each such political subdivision shall cause to be shown in a prominent manner on the tax bill of each ad valorem taxpayer of qualified homestead property the dollar amount of reduction of ad valorem property taxes which the taxpayer has received as a result of the political subdivision's sharing in the proceeds of the tax authorized to be imposed by this part.

(b) In the event the taxpayer's ad valorem tax liability of qualified homestead property has been reduced to zero and there is unused credit due the taxpayer as a result of the reduction under this Code section, such excess credit shall be applied to any other ad valorem liability of the taxpayer on that tax bill."

PART II
SECTION 2-1.

Said article is further amended by adding a new Code section to read as follows:

"48-8-145.

(a) As used in this Code section, the term:

(1) 'Ad valorem taxes' means any and all ad valorem taxes for school district maintenance and operation purposes levied by, for, or on behalf of the school district, excluding taxes to retire bonded indebtedness of the school district.

(2) 'Qualified homestead' means a homestead qualified for any exemption, state, county or school, authorized under Code Section 48-5-44.

(b) If the tax authorized by this part is to be imposed in part for tax credit purposes, the ballot shall have written or printed thereon the following:

'If imposition of the tax is approved by the voters, such vote shall also constitute approval of applying _____ percent of the proceeds in the (_____ County School District) (independent school district of the City of _____) for tax credit reduction in the ad valorem tax liability of qualified homestead property.'

(c) If the tax authorized by this part is to be used for tax credit purposes then, for the year following the initial year in which it is levied and for all subsequent years of the levy, the board of education of a school district receiving any proceeds of the tax shall annually reduce the otherwise applicable ad valorem tax of qualified homestead property within such school district as provided in this Code section. The board of education shall compute the amount of proceeds set aside the preceding year for such purpose. The amount so ascertained shall then be used to reduce the otherwise applicable tax liability on a proportional percentage of each qualified homestead property within the school district. The tax authority of such school district shall cause to be shown in a prominent manner on the tax bill of each ad valorem taxpayer of qualified homestead property the dollar amount of reduction of ad valorem property taxes which the taxpayer has received as a result of the tax authorized to be imposed by this part.

(d) In the event the taxpayer's ad valorem tax liability of qualified homestead property has been reduced to zero and there is unused credit due the taxpayer as a result of the reduction under this Code section, such excess credit shall be applied to any other ad valorem liability of the taxpayer on that tax bill."

237

PART III

238

SECTION 3-1.

239 (a) Part I of this Act shall become effective upon its approval by the Governor or upon its
240 becoming law without such approval, and shall apply with respect to taxes imposed or to be
241 imposed under resolutions or ordinances adopted on or after that date.

242 (b) Part II of this Act shall become effective on January 1, 2013; provided, however, that this
243 Act shall only become effective on January 1, 2013, upon the ratification of a resolution at
244 the November, 2012, state-wide general election, which resolution amends the Constitution
245 of the State of Georgia so as to authorize the sales and use tax for educational purposes to be
246 imposed in whole or in part for tax credit reduction of the ad valorem tax liability for
247 education purposes of qualified homestead property or other ad valorem tax liability of
248 qualified homestead property. If such resolution is not ratified, this Act shall not become
249 effective and shall stand repealed in its entirety on January 1, 2013.

250 (c) Part II of this Act shall apply with respect to taxes imposed or to be imposed under any
251 resolution adopted by a board of education on or after January 1, 2013; and this Act shall not
252 apply with respect to taxes imposed or to be imposed under such resolutions adopted prior
253 to January 1, 2013.

254

SECTION 3-2.

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