

House Bill 73

By: Representatives Stephens of the 164th, Abrams of the 84th, Battles of the 15th, Peake of the 137th, and Fludd of the 66th

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 48 of the Official Code of Georgia Annotated, relating to revenue and
2 taxation, so as to provide for a local option sales and use tax for local community support of
3 economic development and quality of life; to establish special districts; to provide for
4 legislative findings and intent; to provide for definitions, procedures, conditions, and
5 limitations for the imposition, collection, disbursement, and termination of the tax; to provide
6 for powers, duties, and authority of the state revenue commissioner; to change certain
7 provisions regarding the ceiling on local sales and use taxes; to change certain provisions
8 regarding aggregate limitations on excise taxes and sales and use taxes; to provide for related
9 matters; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
13 amended in Chapter 8 by adding a new article to read as follows:

14 "ARTICLE 6

15 48-8-280.

16 The General Assembly finds that:

17 (1) Local communities throughout Georgia confront a continuing funding crisis. Local
18 communities have different and critically important needs and opportunities for local
19 economic growth and community development that the State of Georgia is unable to fund
20 but that could be supported using local community cultural assets, programs, and projects
21 with local voter approval;

22 (2) Strong and sustainable local cultural institutions are significant community assets
23 servicing important public functions by encouraging local economic development,
24 including tourism, improvement of student performance and achievement, growth of jobs

25 supporting a creative local economy, and access to a better quality of life, all of which
 26 contribute to the overall economic development of the State of Georgia;

27 (3) Local economic development initiatives and support of existing local cultural and
 28 community specific assets and qualified local projects are best identified and regulated
 29 by local communities who may best determine through a local referendum the amount,
 30 term, and scope of such support that should be provided by each local community;

31 (4) Cultural organizations exist in a variety of forms and sizes throughout the State of
 32 Georgia, and flexibility is required in funding support to meet the significant differences
 33 in the needs of such cultural organizations based on their size. While the Georgia
 34 Council for the Arts provides critically needed state-wide support for the arts, there is
 35 also a need for local community options to provide additional assistance to address the
 36 specific needs of local communities to sustain important local cultural assets and
 37 organizations. Nothing in this article is intended to replace or diminish the support for
 38 the funding or operations of the Georgia Council for the Arts; and

39 (5) Local governments in Georgia should have the option to present to their citizens for
 40 approval in a referendum an incremental sales tax of less than 1 percent within their
 41 special local community district to fund both capital projects and operating expenses that
 42 are tailored to local needs and priorities in support of local economic development and
 43 the quality of life within such district.

44 48-8-281.

45 As used in this article, the term:

46 (1) 'Allocation plan' means the formula for the division of funds raised by the tax under
 47 this article.

48 (2) 'Artist and support organization' means an organization which is a qualified local
 49 cultural organization that has average annual gross revenues of less than \$75,000.00 for
 50 each of its past three fiscal years.

51 (3) 'Building and construction materials' means all building and construction materials,
 52 supplies, fixtures, or equipment, any combination of such items, and any other leased or
 53 purchased articles when the materials, supplies, fixtures, equipment, or articles are to be
 54 utilized or consumed during construction or are to be incorporated into construction work
 55 pursuant to a bona fide written construction contract.

56 (4) 'Dealer' means a dealer as defined in Code Section 48-8-2.

57 (5) 'District' means a special district for community support of local economic
 58 development and quality of life created pursuant to Code Section 48-8-282.

59 (6) 'Gross revenues' means the not for profit operating revenues from all sources earned
 60 by or funds paid or contributed to a qualified local cultural organization for performances,

61 exhibitions, or cultural activities within a district open to the public, excluding capital
 62 construction fund income, designated funds raised for specific capital needs, capital
 63 funds, or in kind support or endowment corpus given to a separate cultural institution
 64 within a college or the University System of Georgia as shown by financial statements
 65 prepared in accordance with uniform accounting principles.

66 (7) 'Intergovernmental agreement' means a contract relating solely to the selection of
 67 qualified local initiatives to be funded under the tax authorized under this article and
 68 entered into pursuant to Article IX, Section III, Paragraph I of the Constitution between
 69 a county and one or more qualified municipalities located within the special district
 70 containing a combined total of no less than 60 percent of the aggregate municipal
 71 population located within the special district.

72 (8) 'Qualified local cultural organization' means a private not for profit arts and cultural
 73 organization or a separate cultural institution within a college or the University System
 74 of Georgia that:

75 (A) Has as its primary purpose the advancement of art, music, theater, dance, history,
 76 natural history, animal sciences, or botanical research or the advancement and
 77 preservation of plant sciences through horticultural display;

78 (B) Is serving the public and advancing local economic and cultural development and
 79 strengthening local education;

80 (C) Has been continuously producing or presenting seasons of cultural programs within
 81 the district for a period of not less than five years, and if operating in more than one
 82 district shall be deemed for the purposes of this article to operate in each such district
 83 pro rata on the basis of the service activity and budgets for operations in each district;

84 (D) Is qualified under Section 501(c)(3) of the Internal Revenue Code or a unit of the
 85 University System of Georgia;

86 (E) Is open to the general public with or without fee, excluding projects, events, or
 87 organizations that provide or are extensions of academic programs for which more than
 88 50 percent of the participants receive academic credits;

89 (F) Provides publicly available periodic financial information reflecting its cultural
 90 activities and fund raising and, if the organization has annual gross revenues greater
 91 than \$250,000.00, provides an audit; and

92 (G) Except for cultural institutions within a unit of the University System of Georgia,
 93 is not an agency of the state nor a political subdivision of the state and is also not an
 94 organization with average annual gross revenues for each of its past three fiscal years
 95 greater than \$300,000.00 which receives more than 30 percent of its annual gross
 96 revenues from funding obtained from any governmental source, including any

97 allocation of funds received under this article, but excluding any governmental funds
 98 provided for regranting to other qualified local cultural organizations.

99 Qualified local cultural organizations may include, without limitation, museums,
 100 historical societies, visual and performing arts centers and visual and performing arts
 101 organizations, botanical gardens, natural history organizations, and zoos, but do not
 102 include aquariums.

103 (9) 'Qualified local initiative' means a public authority, governmental entity, or private
 104 not for profit organization qualified under Section 501(c)(3) or Section 501(c)(6) of the
 105 Internal Revenue Code which has operated within the district for a period of not less than
 106 three years providing a public service or function by advancing local community
 107 development and improvement through the creation or operation of sports or recreational
 108 or tourism facilities or activities; after school or out of school programs to improve
 109 student performance, achievement, and graduation; improvements in public safety; crime
 110 prevention; the acquisition, development, and maintenance of public parks, trails, and
 111 bikeways; the maintenance and improvement of public roads or transportation; or the
 112 creation of jobs within the district.

113 (10) 'Qualified municipality' means only those incorporated municipalities which provide
 114 at least three of the following services, either directly or by contract:

115 (A) Law enforcement;

116 (B) Fire protection, which may be furnished by a volunteer fire force, and fire safety;

117 (C) Road and street construction or maintenance;

118 (D) Solid waste management;

119 (E) Water supply or distribution or both;

120 (F) Waste-water treatment;

121 (G) Storm-water collection and disposal;

122 (H) Electric or gas utility services;

123 (I) Enforcement of building, housing, plumbing, and electrical codes and other similar
 124 codes;

125 (J) Planning and zoning;

126 (K) Recreational facilities; or

127 (L) Libraries.

128 (11) 'Supervising organization' means the administrative entity established pursuant to
 129 Code Section 48-8-289 to manage, supervise, and distribute funds of a district.

130 48-8-282.

131 (a) Pursuant to the authority granted by Article IX, Section II, Paragraph VI of the
 132 Constitution, a special district for local community support of economic development and

133 quality of life is created in each county. The geographical boundary of a special district
134 shall be conterminous with the boundary of the county.

135 (b) When the imposition of a special district sales and use tax for the purpose of funding
136 either or both operating support and capital improvements of qualified local cultural
137 organizations and either or both operating support and capital improvements of other
138 specifically identified qualified local initiatives is authorized in accordance with the criteria
139 and procedures provided in this article within a special district, the governing authority of
140 the county and each qualified municipality located within the special district may, subject
141 to the requirement of referendum approval and the other requirements of this article,
142 impose within the special district for a limited period of time a special sales and use tax
143 under this article.

144 (c) Any tax imposed under this article shall be at the rate of up to 1 percent in increments
145 of one-tenth of 1 percent. Except as to rate, a tax imposed under this article shall
146 correspond to the tax imposed by Article 1 of this chapter. No item or transaction which
147 is not subject to taxation under Article 1 of this chapter shall be subject to a tax imposed
148 under this article, except that a tax imposed under this article shall apply to sales of motor
149 fuels as that term is defined by Code Section 48-9-2.

150 48-8-283.

151 (a) Whenever the governing authority of any county or the governing authority or
152 authorities of one or more qualified municipalities located wholly or partially within a
153 special district and containing a combined total of no less than 60 percent of the aggregate
154 municipal population located within the special district wish to submit to the electors of the
155 special district the question of whether the tax authorized under this article shall be
156 imposed, any such governing authority or authorities may adopt a resolution calling for a
157 referendum election provided that, except for the specific allocations provided in
158 subparagraphs (A) through (D) of paragraph (2) of Code Section 48-8-288, they shall first
159 enter into an intergovernmental agreement that details the allocation and use of any funds
160 proposed for qualified local initiatives within the special district.

161 (b) Prior to the issuance of the call for the referendum and prior to the vote of any
162 governing authority described in subsection (a) of this Code section to impose the tax under
163 this article, any such governing authority that desires to have a tax under this article levied
164 within the special district shall deliver or mail a written notice to the chief elected official
165 or mayor in each qualified governing authority or municipality located within the special
166 district. Such notice shall contain the date, time, place, and purpose of a meeting at which
167 the governing authorities of the county and of each qualified municipality are to meet to
168 discuss the possible qualified local initiatives to be funded by the proposed tax including

169 any capital projects, public services, function, and uses of any tax moneys to be raised for
170 qualified local initiatives in the event of approval of the referendum. The notice shall be
171 delivered or mailed at least ten days prior to the date of the meeting. The meeting shall be
172 held at least 120 days prior to the issuance of the call for the referendum. Any
173 intergovernmental agreement shall be adopted at least 30 days prior to the issuance of the
174 call for the referendum.

175 (c) After the adoption of any intergovernmental agreement required by subsection (a) of
176 this Code section, any governing authority described in subsection (a) of this Code section
177 shall notify the county election superintendent by forwarding to the superintendent a copy
178 of the resolution calling for the imposition of the tax. Such resolution shall specify the
179 criteria consistent with the provisions of this article by which qualified local cultural
180 organizations shall be determined to be funded under the tax and shall include a copy of
181 the intergovernmental agreement that shall specify any qualified local initiatives for which
182 the proceeds of the tax are to be used and may be expended and:

183 (1)(A) Specify a rate of not less than two-tenths of 1 percent and a 15 year duration of
184 the tax in counties which contain qualified local cultural organizations that have
185 combined annual gross revenues in excess of \$100 million; or

186 (B) Specify a rate and maximum duration of the tax, to be stated in calendar years or
187 calendar quarters and not to exceed 15 years, in counties which contain qualified local
188 cultural organizations that have combined annual gross revenues equal to or less than
189 \$100 million;

190 (2) Identify any capital projects and the public services, function, and uses of such
191 proposed tax moneys for any qualified local initiative selected by the governing
192 authorities that would be supported by such tax and the expected public benefits to be
193 received; and

194 (3) Specify the proposed allocation plan for distribution of net proceeds of the tax which
195 shall specifically identify the portion of the net proceeds of the tax allocated to qualified
196 cultural organizations and the portion allocated to qualified local initiatives.

197 (d) Upon receipt of the resolution, the election superintendent shall issue the call for an
198 election for the purpose of submitting the question of the imposition of the tax to the voters
199 of the special district. The election superintendent shall issue the call and shall conduct the
200 election on a date and in the manner authorized under Code Section 21-2-540; provided
201 however, that no such election for any tax to be imposed under this article shall be
202 conducted in July or August, 2012. The election superintendent shall cause the date and
203 purpose of the election to be published once per week for four weeks immediately
204 preceding the date of the election in the official organ of the county.

205 (e) If a sales tax for local community support of economic development and quality of life
 206 is to be imposed, the ballot shall have written or printed thereon the following:

207 '() YES Shall a sales and use tax for community support of local economic
 208 development and quality of life purposes in this special district of
 209 () NO _____ County be imposed at the rate of _____ percent (or
 210 _____ ¢ for each \$10.00) for a period of time not to exceed _____ ?'

211 (f) All persons desiring to vote in favor of imposing the tax shall vote 'Yes' and all persons
 212 opposed to levying the tax shall vote 'No.' If more than one-half of the votes cast are in
 213 favor of imposing the tax, then the tax shall be imposed as provided in this article;
 214 otherwise, the tax shall not be imposed and the question of imposing the tax shall not again
 215 be submitted to the voters of the special district until after 12 months immediately
 216 following the month in which the election was held. The election superintendent shall hold
 217 and conduct the election under the same rules and regulations as govern special elections.
 218 The superintendent shall canvass the returns, declare the result of the election, and certify
 219 the result to the Secretary of State and to the commissioner. The expense of the election
 220 shall be paid from the funds of the county within the special district.

221 48-8-284.

222 (a) If the imposition of the tax authorized by this article is approved at the special election,
 223 the tax shall be imposed on the first day of the next succeeding calendar quarter which
 224 begins more than 80 days after the date of the election at which the tax was approved by
 225 the voters; provided, however, that the resolution shall become effective for and the tax
 226 shall apply to services which are regularly billed on a monthly basis on or after such
 227 effective date.

228 (b) The tax authorized by this article shall cease to be imposed on the final day of the
 229 maximum period of time specified for the imposition of the tax.

230 (c) At any time, no more than a single tax authorized by this article may be imposed within
 231 a special district; provided, however, that during the pendency of a tax for less than 1
 232 percent authorized by this article and a referendum approved by the voters in the special
 233 district, a resolution may be adopted calling for another referendum seeking voter approval
 234 to increase to not more than 1 percent the rate of such tax for additional local initiatives for
 235 the remainder of the period initially approved by the voters. Proceedings for the increase
 236 in such tax shall be in the same manner as proceedings for the initial imposition of the tax.

237 (d) The governing authority of the county within a special district in which a tax
 238 authorized by this article is in effect may, while the tax is in effect, adopt a resolution
 239 calling for the reimposition of a tax authorized by this article upon the termination of the
 240 tax then in effect; and a special election may be held for this purpose while the tax is in

241 effect. Proceedings for the reimposition of a tax shall be in the same manner as
 242 proceedings for the initial imposition of the tax, but the newly authorized tax shall not be
 243 imposed until the expiration of the tax then in effect.

244 (e) Following the expiration of a tax authorized by this article, any governing authority
 245 described in subsection (a) of Code Section 48-8-283 may initiate proceedings for the
 246 reimposition of such tax in the same manner as provided in this article for initial imposition
 247 of such tax.

248 48-8-285.

249 A tax levied pursuant to this article shall be exclusively administered and collected by the
 250 commissioner for the use and benefit of the special district and the supervising organization
 251 within the special district imposing the tax. Such administration and collection shall be
 252 accomplished in the same manner and subject to the same applicable provisions,
 253 procedures, and penalties provided in Article 1 of this chapter; provided, however, that all
 254 moneys collected from each taxpayer by the commissioner shall be applied first to such
 255 taxpayer's liability for taxes owed the state; and provided, further, that the commissioner
 256 may rely upon a representation by or on behalf of the governing authority of the county
 257 within the special district or the Secretary of State that such a tax has been validly imposed,
 258 and the commissioner and the commissioner's agents shall not be liable to any person for
 259 collecting any such tax which was not validly imposed. Dealers shall be allowed a
 260 percentage of the amount of the tax due and accounted for and shall be reimbursed in the
 261 form of a deduction in submitting, reporting, and paying the amount due if such amount
 262 is not delinquent at the time of payment. The deduction shall be at the rate and subject to
 263 the requirements specified under subsections (b) through (f) of Code Section 48-8-50.

264 48-8-286.

265 Each sales tax return remitting taxes collected under this article shall separately identify
 266 the location of each retail establishment at which any of the taxes remitted were collected
 267 and shall specify the amount of sales and the amount of taxes collected at each
 268 establishment for the period covered by the return in order to facilitate the determination
 269 by the commissioner that all taxes imposed by this article are collected and distributed
 270 according to situs of sale.

271 48-8-287.

272 The proceeds of the tax collected by the commissioner in each special district under this
 273 article shall be disbursed as soon as practicable after collection as follows:

274 (1) One percent of the amount collected shall be paid into the general fund of the state
 275 treasury in order to defray the costs of administration; and
 276 (2) Except for the percentage provided in paragraph (1) of this Code section, the
 277 remaining proceeds of the tax shall be distributed to the governing authority of the county
 278 within the special district for distribution as provided in Code Section 48-8-288.

279 48-8-288.

280 (a) The proceeds specified in paragraph (2) of Code Section 48-8-287 shall be distributed
 281 by the governing authority of the county on behalf of the special district to the supervising
 282 organization of the district. The supervising organization shall distribute such proceeds
 283 quarterly pursuant to the allocation plan as follows:

284 (1) A sum equal to 1.5 percent of the sums received by the supervising organization shall
 285 be retained by the supervising organization to carry out the functions of the supervising
 286 organization; and

287 (2)(A) In special districts in which are located one or more qualified local cultural
 288 organizations having combined annual gross revenues in excess of \$100 million:

289 (i) A sum equal to 1 percent of the first two-tenths of 1 percent levied shall be
 290 distributed to the supervising organization for competitive awards of project funding
 291 to artist and support organizations on the basis of criteria and guidelines issued by the
 292 supervising organization;

293 (ii) A sum not to exceed 66 percent of the first two-tenths of 1 percent levied shall
 294 be distributed by the supervising organization to qualified local cultural organizations
 295 within such district as follows:

296 (I) To a group which includes the largest 10 percent of qualified local cultural
 297 organizations, excluding artist and support organizations, a total annual sum equal
 298 to 15 percent of their combined average annual gross revenues for their past three
 299 fiscal years;

300 (II) To a group which includes the next largest 30 percent of qualified local cultural
 301 organizations, excluding artist and support organizations, a total annual sum equal
 302 to 17 percent of their combined average annual gross revenues for their past three
 303 fiscal years; and

304 (III) To a group which includes the remaining 60 percent of qualified local cultural
 305 organizations, excluding artist and support organizations, a total annual sum equal
 306 to 19 percent of their combined average annual gross revenues for their past three
 307 fiscal years;

308 (iii) Each such qualified local cultural organization funded under this Code section
 309 shall receive a sum equal to 80 percent of the sum specified in division (ii) of this

310 subparagraph for such organization subject only to meeting uniform guidelines for
311 financial reporting and stability established by the supervising organization. Each
312 such qualified local cultural organization may compete with other such organizations
313 in their size group for single or multiyear grants of the remaining 20 percent allocated
314 to their group on the basis of criteria and guidelines for public access and
315 collaboration issued by the supervising organization. If the collected amounts of
316 incremental sales tax revenues available for distribution are insufficient to fund the
317 total amount each qualified local cultural organization would receive under this
318 article, then each qualified local cultural organization shall receive a pro rata share of
319 the funds each would have received if sufficient funding were available;
320 (iv) The balance of the proceeds from the first two-tenths of 1 percent levied shall be
321 distributed to the governing authority of such county and to each of the incorporated
322 municipalities within such county in proportion to the population of residents in the
323 unincorporated county and residents in each municipality as determined in the most
324 recent United States decennial census and shall be expended for qualified local
325 initiatives to perform the specified public service and public functions and projects
326 as determined by each governing authority and municipality as set forth in the
327 resolution pursuant to paragraph (2) of subsection (c) of Code Section 48-8-283
328 without the necessity for an intergovernmental agreement as set forth in subsection (b)
329 of Code Section 48-8-283; and
330 (v) Any sums received by the supervising organization from additional tenths of 1
331 percent that may be levied within such district shall be distributed to qualified local
332 initiatives to perform the specified capital projects, public services, and public
333 functions as set forth in the resolution and intergovernmental agreement required
334 under Code Section 48-8-283; or
335 (B) In special districts in which are located one or more qualified local cultural
336 organizations having combined annual gross revenues equal to or less than \$100
337 million, a sum equal to 50 percent of the first one-tenth of 1 percent levied shall be
338 distributed by the supervising organization to qualified local cultural organizations in
339 accordance with locally created and uniformly applied rules and guidelines. The
340 balance of such remaining proceeds shall be distributed to qualified local initiatives to
341 perform the specified capital projects, public services, and public functions as set forth
342 in the resolution and intergovernmental agreement required under Code Section
343 48-8-283.
344 (b) Any funding that may be allocated under this Code section pertaining to a qualified
345 local cultural organization shall be limited to an amount which when combined with all
346 other governmental funding of gross revenues of such organization shall not exceed 30

347 percent of the average annual gross revenues of such organization for its past three fiscal
 348 years.

349 48-8-289.

350 The management, supervision, and distribution of funds of a district under Code Section
 351 48-2-288 shall be vested in a supervising organization created by, appointed by, or
 352 contracted with by the governing authority of the county within the special district. Each
 353 supervising organization shall have a governing board or committee empowered to exercise
 354 the responsibilities of the supervising organization under this article that shall be appointed
 355 by the chairperson of the governing authority of the county and the mayor of each
 356 municipality within the special district that is party to any intergovernmental agreement or
 357 whose residents have voted by a majority in the called referendum to approve the tax under
 358 this article. Each eligible chairperson or mayor shall appoint two members, at least one of
 359 whom shall be a representative of a qualified local cultural organization, to the governing
 360 board or committee for terms of four years. All members of the governing board or
 361 committee shall recuse themselves and not participate in issues presenting a direct conflict
 362 of personal interest. The supervising organization shall elect its own chairperson and
 363 establish its own bylaws in conformance with the obligations imposed by this article and
 364 shall report annually on all expenditures and distributions to the governing authority of the
 365 county and each municipality within the special district. Supervising organizations shall
 366 have the following duties and responsibilities:

367 (1) To administer the funding of qualified local cultural organizations and qualified local
 368 initiatives in accordance with this article and as approved by the voters;

369 (2) To receive in trust and administer the distribution of all funds received from the tax
 370 imposed under this article;

371 (3) To properly determine and uniformly calculate the amounts to be received by each
 372 qualified local cultural organization under this article;

373 (4) To institute and administer competitive grant programs for the support of cultural
 374 organizations and artists in accordance with this article;

375 (5) To determine and distribute the portion of the funds received from the tax imposed
 376 under this article to the qualified local initiatives as provided under this article;

377 (6) To ensure that determinations on funding of any recipients shall be based not on
 378 political expediency but rather on the organization's contribution to the general welfare
 379 of its intended audience and the demonstration of its relative ability to provide benefits
 380 to the citizens of the district and the state;

381 (7) To receive and review annual financial information from each qualified local cultural
 382 organization and qualified local initiative and prepare an annual report to the public and

383 the governing authority of the county within the special district on all expenditures and
 384 distributions; and

385 (8) To employ such staff and consultants as deemed necessary to fulfill its
 386 responsibilities under this article and to perform such other tasks as may be appropriate
 387 to fulfill its purposes under this article which are not inconsistent with this article.

388 48-8-290.

389 Where a local sales or use tax has been paid on tangible personal property by the purchaser
 390 either in another local tax jurisdiction within this state or in a tax jurisdiction outside this
 391 state, the tax may be credited against the tax authorized to be imposed by this article upon
 392 the same property. If the amount of sales or use tax so paid is less than the amount of the
 393 use tax due under this article, the purchaser shall pay an amount equal to the difference
 394 between the amount paid in the other tax jurisdiction and the amount due under this article.
 395 The commissioner may require such proof of payment in another local tax jurisdiction as
 396 he or she deems necessary and proper. No credit shall be granted, however, against the tax
 397 imposed under this article for tax paid in another jurisdiction if the tax paid in such other
 398 jurisdiction is used to obtain a credit against any other local sales and use tax levied in the
 399 county or municipality or in a special district which includes the county or municipality.

400 48-8-291.

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

407 48-8-292.

408 No tax provided for in this article shall be imposed upon the sale or use of building and
 409 construction materials when the contract pursuant to which the materials are purchased or
 410 used was advertised for bid prior to the voters' approval of the levy of the tax and the
 411 contract was entered into as a result of a bid actually submitted in response to the
 412 advertisement prior to approval of the levy of the tax.

413 48-8-293.

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

417 48-8-294.

418 The tax authorized by this article shall be in addition to any other local sales and use tax.
419 The imposition of any other local sales and use tax within a county, municipality, or special
420 district shall not affect the authority of the governing authority of the county on behalf of
421 the special district to impose the tax authorized by this article and the imposition of the tax
422 authorized by this article shall not affect the imposition of any otherwise authorized local
423 sales and use tax within the county, municipality, or special district.

424 48-8-295.

425 (a) The proceeds received from the tax authorized by this article shall be used by the
426 authorized recipients within the special district exclusively for the purposes specified in the
427 resolution calling for imposition of the tax. Such proceeds shall be kept in a separate
428 account from other funds and shall not in any manner be commingled with other funds
429 prior to the expenditure.

430 (b) The authorized recipient receiving any proceeds from the tax shall maintain a record
431 of each and every purpose for which the proceeds of the tax are used. A schedule shall be
432 included in each annual audit which shows for each purpose in the resolution calling for
433 imposition of the tax the original estimated cost of any capital item, the current estimated
434 cost if it is not the original estimated cost, amounts expended in prior years, and amounts
435 expended in the current year. The auditor shall verify and test expenditures sufficient to
436 provide assurances that the schedule is fairly presented in relation to the financial
437 statements. The auditor's report on the financial statements shall include an opinion, or
438 disclaimer of opinion, as to whether the schedule is presented fairly in all material respects
439 in relation to the financial statements taken as a whole.

440 48-8-296.

441 (a) The governing authority of the county within the special district receiving any proceeds
442 from the tax under this article shall maintain a record of each and every recipient and
443 purpose for which the proceeds of the tax are used. Not later than December 31 of each
444 year, the governing authority of the county within the special district receiving any
445 proceeds from the tax under this article shall publish annually, in a newspaper of general
446 circulation in the boundaries of such special district, a simple, nontechnical report which

447 shows each recipient and the amounts received for the purposes in the resolution calling
 448 for imposition of the tax, the original estimated cost for any capital item, the current
 449 estimated cost if it is not the original estimated cost, amounts expended in prior years, and
 450 amounts expended in the current year.

451 (b) The county and any municipality within the special district shall not be held liable for
 452 an artist and support organization, qualified local cultural organization, qualified local
 453 cultural initiative, or supervising organization that fails to meet or comply with any of the
 454 requirements of this article. The county and any municipality within the special district
 455 shall not be held liable if an artist and support organization, qualified local cultural
 456 organization, qualified local cultural initiative, or supervising organization is not qualified
 457 to receive funds under this article."

458

SECTION 2.

459 Said title is further amended in Code Section 48-8-6, relating to a ceiling on local sales and
 460 use taxes, by revising subsections (a) and (c.1) as follows:

461 "(a) There shall not be imposed in any jurisdiction in this state or on any transaction in this
 462 state local sales taxes, local use taxes, or local sales and use taxes in excess of 2 percent.
 463 For purposes of this prohibition, the taxes affected are any sales tax, use tax, or sales and
 464 use tax which is levied in an area consisting of less than the entire state, however
 465 authorized, including such taxes authorized by or pursuant to constitutional amendment,
 466 except that the following taxes shall not count toward or be subject to such 2 percent
 467 limitation:

468 (1) A sales and use tax for educational purposes exempted from such limitation under
 469 Article VIII, Section VI, Paragraph IV of the Constitution;

470 (2) Any tax levied for purposes of a metropolitan area system of public transportation,
 471 as authorized by the amendment to the Constitution set out at Georgia Laws, 1964, page
 472 1008; the continuation of such amendment under Article XI, Section I, Paragraph IV(d)
 473 of the Constitution; and the laws enacted pursuant to such constitutional amendment;
 474 provided, however, that the exception provided for under this paragraph shall only apply:

475 (A) In a county in which a tax is being imposed under subparagraph (a)(1)(D) of Code
 476 Section 48-8-111 in whole or in part for the purpose or purposes of a water capital
 477 outlay project or projects, a sewer capital outlay project or projects, a water and sewer
 478 capital outlay project or projects, water and sewer projects and costs as defined under
 479 paragraph (4) of Code Section 48-8-200, or any combination thereof and with respect
 480 to which the county has entered into an intergovernmental contract with a municipality,
 481 in which the average waste-water system flow of such municipality is not less than 85
 482 million gallons per day, allocating proceeds to such municipality to be used solely for

483 water and sewer projects and costs as defined under paragraph (4) of Code Section
 484 48-8-200. The exception provided for under this subparagraph shall apply only during
 485 the period the tax under said subparagraph (a)(1)(D) is in effect. The exception
 486 provided for under this subparagraph shall not apply in any county in which a tax is
 487 being imposed under Article 2A of this chapter; or

488 (B) In a county in which the tax levied for purposes of a metropolitan area system of
 489 public transportation is first levied after January 1, 2010, and before November 1, 2012.

490 Such tax shall not apply to the following:

491 (i) The sale or use of jet fuel to or by a qualifying airline at a qualifying airport. For
 492 purposes of this division, a 'qualifying airline' means any person which is authorized
 493 by the Federal Aviation Administration or another appropriate agency of the United
 494 States to operate as an air carrier under an air carrier operating certificate and which
 495 provides regularly scheduled flights for the transportation of passengers or cargo for
 496 hire. For purposes of this division, a 'qualifying airport' means any airport in the state
 497 that has had more than 750,000 takeoffs and landings during a calendar year; and

498 (ii) The sale of motor vehicles;

499 (3) In the event of a rate increase imposed pursuant to Code Section 48-8-96, only the
 500 amount in excess of the initial 1 percent sales and use tax and in the event of a newly
 501 imposed tax pursuant to Code Section 48-8-96, only the amount in excess of a 1 percent
 502 sales and use tax;

503 (4) A sales and use tax levied under Article 4 of this chapter; ~~and~~

504 (5) A sales and use tax levied under Article 5 of this chapter; and

505 (6) A sales and use tax levied under Article 6 of this chapter.

506 If the imposition of any otherwise authorized local sales tax, local use tax, or local sales
 507 and use tax would result in a tax rate in excess of that authorized by this subsection, then
 508 such otherwise authorized tax may not be imposed."

509 "(c.1) Where the exception specified in paragraph (2) of subsection (a) of this Code section
 510 applies, on and after July 1, 2007, the aggregate amount of all excise taxes imposed under
 511 paragraph (5) of subsection (a) of Code Section 48-13-51 and all sales and use taxes shall
 512 not exceed 14 percent. The aggregate amount limitation of this subsection shall not count
 513 toward or include a sales and use tax levied under Article 6 of this chapter."

514 SECTION 3.

515 Said title is further amended by revising subsection (d) of Code Section 48-8-201, relating
 516 to distribution of proceeds of the water and sewer projects and costs tax, as follows:

517 "(d) On and after July 1, 2007, the aggregate amount of all excise taxes imposed under
 518 paragraph (5) of subsection (a) of Code Section 48-13-51 and all sales and use taxes shall

519 not exceed 14 percent. The aggregate amount limitation of this subsection shall not count
 520 toward or include a sales and use tax levied under Article 6 of this chapter."

521 **SECTION 4.**

522 Said title is further amended in subsection (a) of Code Section 48-13-51, relating to county
 523 and municipal excise taxes on public accommodations, by revising paragraphs (3.1) and
 524 (4.1), as follows:

525 "(3.1) Notwithstanding any other provision of this subsection, a county (within the
 526 territorial limits of the special district located within the county) and the municipalities
 527 within a county in which a trade and convention center authority has been created by
 528 intergovernmental contract between a county and one or more municipalities located
 529 therein, and which trade and convention center authority is in existence on or before
 530 March 21, 1988, and which trade and convention center authority has not constructed or
 531 operated any facility before March 21, 1988, may levy a tax under this Code section at
 532 a rate of 6 percent. A county or municipality levying a tax pursuant to this paragraph
 533 shall expend (in each fiscal year during which the tax is collected under this paragraph
 534 (3.1)) an amount equal to at least 62 1/2 percent of the total taxes collected at the rate of
 535 6 percent for the purpose of: (A) promoting tourism, conventions, and trade shows; (B)
 536 funding, supporting, acquiring, constructing, renovating, improving, and equipping
 537 buildings, structures, and facilities, including, but not limited to, a trade and convention
 538 center, exhibit hall, conference center, performing arts center, accommodations facilities
 539 including food service, or any combination thereof, for convention, trade show, athletic,
 540 musical, theatrical, cultural, civic, and performing arts purposes and other events and
 541 activities for similar and related purposes, acquiring the necessary property therefor, both
 542 real and personal, and funding all expenses incident thereto, and supporting, maintaining,
 543 and promoting such facilities owned, operated, or leased by or to the local trade and
 544 convention center authority; or (C) for some combination of such purposes; provided,
 545 however, that at least 50 percent of the total taxes collected at the rate of 6 percent shall
 546 be expended for the purposes specified in subparagraph (B) of this paragraph (3.1).
 547 Amounts so expended shall be expended only through a contract or contracts with the
 548 state, a department of state government, a state authority, a convention and visitors
 549 bureau authority created by local Act of the General Assembly for a municipality, a local
 550 building authority created by local constitutional amendment, and a trade and convention
 551 center authority created by intergovernmental contract between a county and one or more
 552 municipalities located therein, or a private sector nonprofit organization or through a
 553 contract or contracts with some combination of such entities. The aggregate amount of
 554 all excise taxes imposed under this paragraph (3.1) and all sales and use taxes, and other

555 taxes imposed by a county or municipality, or both, shall not exceed 13 percent;
556 provided, however, that such aggregate amount limitation shall not count toward or
557 include a sales and use tax under Article 6 of Chapter 8 of this title. Any tax levied
558 pursuant to this paragraph (3.1) shall terminate not later than December 31, 2029,
559 provided that during any period during which there remains outstanding any obligation
560 issued to fund a facility as contemplated by this paragraph (3.1), secured in whole or in
561 part by a pledge of a tax authorized under this Code section, the powers of the counties
562 and municipalities to impose and distribute the tax imposed by this paragraph (3.1) shall
563 not be diminished or impaired by the state and no county or municipality levying the tax
564 imposed by this paragraph (3.1) shall cease to levy the tax in any manner that will impair
565 the interests and rights of the holder of any such obligation. This proviso shall be for the
566 benefit of the holder of any such obligation and, upon the issuance of any such obligation
567 by a building authority created by local constitutional amendment, shall constitute a
568 contract with the holder of such obligation. Notwithstanding any other provision of this
569 Code section to the contrary, as used in this paragraph (3.1), the term: 'fund' or 'funding'
570 shall include the cost and expense of all things deemed necessary by a building authority
571 created by local constitutional amendment for the construction and operation of a facility
572 or facilities including but not limited to the study, operation, marketing, acquisition,
573 construction, financing, including the payment of principal and interest on any obligation
574 of the building authority created by local constitutional amendment and any obligation
575 of the building authority created by local constitutional amendment to refund any prior
576 obligation of the building authority created by local constitutional amendment,
577 development, extension, enlargement, or improvement of land, waters, property, streets,
578 highways, buildings, structures, equipment, or facilities and the repayment of any
579 obligation incurred by an authority in connection therewith; 'obligation' shall include
580 bonds, notes, or any instrument creating an obligation to pay or reserve moneys and
581 having an initial term of not more than 37 years; and 'facility' or 'facilities' shall mean any
582 of the buildings, structures, and facilities described in subparagraph (B) of this paragraph
583 (3.1) and any associated parking areas or improvements originally owned or operated
584 incident to the ownership or operation of such facility used for any purpose or purposes
585 specified in subparagraph (B) of this paragraph (3.1) by a building authority created by
586 local constitutional amendment."

587 "(4.1) Notwithstanding any other provision of this subsection, a county (within the
588 territorial limits of the special district located within the county) or municipality within
589 a county in which a coliseum authority has been created by local Act of the General
590 Assembly and which authority is in existence on or before July 1, 1963, for the purpose
591 of owning or operating a facility, may levy a tax under this Code section at a rate of 7

592 percent. A county or municipality levying a tax pursuant to this paragraph shall expend
593 (in each fiscal year during which the tax is collected under this paragraph (4.1)) an
594 amount equal to at least 62 1/2 percent of the total taxes collected at the rate of 7 percent
595 for the purpose of: (A) promoting tourism, conventions, and trade shows; (B) funding and
596 supporting a facility owned or operated by such coliseum authority; or (C) for some
597 combination of such purposes. Amounts so expended shall be expended only through a
598 contract or contracts with the state, a department of state government, a state authority,
599 a convention and visitors bureau authority created by local Act of the General Assembly
600 for a municipality, a local coliseum authority, or a private sector nonprofit organization,
601 or through a contract or contracts with some combination of such entities, except that
602 amounts expended for purpose (B) may be so expended in any otherwise lawful manner
603 without the necessity of a contract. The aggregate amount of all excise taxes imposed
604 under this paragraph (4.1) and all sales and use taxes, and other taxes imposed by a
605 county or municipality, or both, shall not exceed 12 percent; provided, however, that such
606 aggregate amount limitation shall not count toward or include a sales and use tax under
607 Article 6 of Chapter 8 of this title. Any tax levied pursuant to this paragraph (4.1) shall
608 terminate not later than December 31, 2028, provided that during any period during
609 which there remains outstanding any obligation which is incurred prior to January 1,
610 1995, issued to fund a facility as contemplated by this paragraph (4.1), and secured in
611 whole or in part by a pledge of a tax authorized under this Code section, the powers of
612 the counties and municipalities to impose and distribute the tax imposed by this
613 paragraph (4.1) shall not be diminished or impaired by the state and no county or
614 municipality levying the tax imposed by this paragraph (4.1) shall cease to levy the tax
615 in any manner that will impair the interest and rights of the holders of any such
616 obligation. This proviso shall be for the benefit of the holder of any such obligation and,
617 upon the issuance of any such obligation by a coliseum and exhibit hall authority, shall
618 constitute a contract with the holder of such obligations. Notwithstanding any other
619 provision of this Code section to the contrary, as used in this paragraph (4.1), the term:
620 'fund' and 'funding' shall include the cost and expense of all things deemed necessary by
621 a local coliseum authority for the construction, renovation, and operation of a facility
622 including but not limited to the study, operation, marketing, acquisition, construction,
623 finance, development, extension, enlargement, or improvement of land, waters, property,
624 streets, highways, buildings, structures, equipment, or facilities, and the repayment of any
625 obligation incurred by a local coliseum authority in connection therewith; 'obligation'
626 shall include bonds, notes, or any instrument creating an obligation to pay or reserve
627 moneys incurred prior to January 1, 1995, and having an initial term of not more than 30
628 years; and 'facility' shall mean a coliseum or other facility and any associated parking

629 areas or improvements originally owned or operated incident to the ownership or
630 operation of a facility used for convention and trade show purposes or amusement
631 purposes, educational purposes, or a combination thereof and for fairs, expositions, or
632 exhibitions in connection therewith by a local coliseum authority."

633

SECTION 5.

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