

Senator Millar of the 40th offered the following substitute to HB 264:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 48 and Part 1 of Article 2 of Chapter 12 of Title 50 of the Official Code of  
2 Georgia Annotated, relating to revenue and taxation and general provisions relative to the  
3 Georgia Council for the Arts, so as to provide various measures relating to economic  
4 development and encouragement of the arts; to provide for a local option sales and use tax  
5 for local community support of economic development and quality of life; to establish  
6 special districts; to provide for legislative findings and intent; to provide for definitions,  
7 procedures, conditions, and limitations for the imposition, collection, disbursement, and  
8 termination of the tax; to provide for powers, duties, and authority of the state revenue  
9 commissioner; to change certain provisions regarding the ceiling on local sales and use taxes;  
10 to change certain provisions regarding aggregate limitations on excise taxes and sales and  
11 use taxes; to revise certain provisions as to the power, authority, duties, and related matters  
12 of the director of the Office of Planning and Budget and the Office of Planning and Budget  
13 so that such power, authority, duties, and related matters shall now be vested in and carried  
14 out by the commissioner of economic development and the Department of Economic  
15 Development; to provide for related matters; to repeal conflicting laws; and for other  
16 purposes.

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

18 SECTION 1.

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

21 "ARTICLE 6

22 48-8-280.

23 The General Assembly finds that:

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

29 (2) Strong and sustainable local cultural institutions are significant community assets  
 30 servicing important public functions by encouraging local economic development,  
 31 including tourism, improvement of student performance and achievement, growth of jobs  
 32 supporting a creative local economy, and access to a better quality of life, all of which  
 33 contribute to the overall economic development of the State of Georgia;

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

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

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

51 48-8-281.

52 As used in this article, the term:

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

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

58 (3) 'Building and construction materials' means all building and construction materials,  
 59 supplies, fixtures, or equipment, any combination of such items, and any other leased or

60 purchased articles when the materials, supplies, fixtures, equipment, or articles are to be  
61 utilized or consumed during construction or are to be incorporated into construction work  
62 pursuant to a bona fide written construction contract.

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

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

66 (6) 'Gross revenues' means the not for profit operating revenues from all sources earned  
67 by or funds paid or contributed to a qualified local cultural organization for performances,  
68 exhibitions, or cultural activities within a district open to the public, excluding capital  
69 construction fund income, designated funds raised for specific capital needs, capital  
70 funds, or in kind support or endowment corpus given to a separate cultural institution  
71 within a college or the University System of Georgia as shown by financial statements  
72 prepared in accordance with uniform accounting principles.

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

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

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

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

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

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

93 (E) Is open to the general public with or without fee, excluding projects, events, or  
94 organizations that provide or are extensions of academic programs for which more than  
95 50 percent of the participants receive academic credits;

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

99 (G) Except for cultural institutions within a unit of the University System of Georgia,  
 100 is not an agency of the state nor a political subdivision of the state and is also not an  
 101 organization with average annual gross revenues for each of its past three fiscal years  
 102 greater than \$300,000.00 which receives more than 30 percent of its annual gross  
 103 revenues from funding obtained from any governmental source, including any  
 104 allocation of funds received under this article, but excluding any governmental funds  
 105 provided for regranting to other qualified local cultural organizations.

106 Qualified local cultural organizations may include, without limitation, museums,  
 107 historical societies, visual and performing arts centers and visual and performing arts  
 108 organizations, botanical gardens, natural history organizations, and zoos, but do not  
 109 include aquariums.

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

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

122 (A) Law enforcement;

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

124 (C) Road and street construction or maintenance;

125 (D) Solid waste management;

126 (E) Water supply or distribution or both;

127 (F) Waste-water treatment;

128 (G) Storm-water collection and disposal;

129 (H) Electric or gas utility services;

130 (I) Enforcement of building, housing, plumbing, and electrical codes and other similar  
 131 codes;

132 (J) Planning and zoning;

133 (K) Recreational facilities; or

134 (L) Libraries.

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

137 48-8-282.

138 (a) Pursuant to the authority granted by Article IX, Section II, Paragraph VI of the  
 139 Constitution, a special district for local community support of economic development and  
 140 quality of life is created in each county. The geographical boundary of a special district  
 141 shall be conterminous with the boundary of the county.

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

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

157 48-8-283.

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

168 (b) Prior to the issuance of the call for the referendum and prior to the vote of any  
169 governing authority described in subsection (a) of this Code section to impose the tax under  
170 this article, any such governing authority that desires to have a tax under this article levied  
171 within the special district shall deliver or mail a written notice to the chief elected official  
172 or mayor in each qualified governing authority or municipality located within the special  
173 district. Such notice shall contain the date, time, place, and purpose of a meeting at which  
174 the governing authorities of the county and of each qualified municipality are to meet to  
175 discuss the possible qualified local initiatives to be funded by the proposed tax including  
176 any capital projects, public services, function, and uses of any tax moneys to be raised for  
177 qualified local initiatives in the event of approval of the referendum. The notice shall be  
178 delivered or mailed at least ten days prior to the date of the meeting. The meeting shall be  
179 held at least 120 days prior to the issuance of the call for the referendum. Any  
180 intergovernmental agreement shall be adopted at least 30 days prior to the issuance of the  
181 call for the referendum.

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

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

193 (B) Specify a rate and maximum duration of the tax, to be stated in calendar years or  
194 calendar quarters and not to exceed five years, in counties which contain qualified local  
195 cultural organizations that have combined annual gross revenues equal to or less than  
196 \$100 million;

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

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

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

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

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

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

228 48-8-284.

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

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

237 (c) At any time, no more than a single tax authorized by this article may be imposed within  
 238 a special district; provided, however, that during the pendency of a tax for less than 1  
 239 percent authorized by this article and a referendum approved by the voters in the special

240 district, a resolution may be adopted calling for another referendum seeking voter approval  
 241 to increase to not more than 1 percent the rate of such tax for additional local initiatives for  
 242 the remainder of the period initially approved by the voters. Proceedings for the increase  
 243 in such tax shall be in the same manner as proceedings for the initial imposition of the tax.

244 (d) The governing authority of the county within a special district in which a tax  
 245 authorized by this article is in effect may, while the tax is in effect, adopt a resolution  
 246 calling for the reimposition of a tax authorized by this article upon the termination of the  
 247 tax then in effect; and a special election may be held for this purpose while the tax is in  
 248 effect. Proceedings for the reimposition of a tax shall be in the same manner as  
 249 proceedings for the initial imposition of the tax, but the newly authorized tax shall not be  
 250 imposed until the expiration of the tax then in effect.

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

255 48-8-285.

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

271 48-8-286.

272 Each sales tax return remitting taxes collected under this article shall separately identify  
 273 the location of each retail establishment at which any of the taxes remitted were collected  
 274 and shall specify the amount of sales and the amount of taxes collected at each

275 establishment for the period covered by the return in order to facilitate the determination  
 276 by the commissioner that all taxes imposed by this article are collected and distributed  
 277 according to situs of sale.

278 48-8-287.

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

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

283 (2) Except for the percentage provided in paragraph (1) of this Code section, the  
 284 remaining proceeds of the tax shall be distributed to the governing authority of the county  
 285 within the special district for distribution as provided in Code Section 48-8-288.

286 48-8-288.

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

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

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

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

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

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

307 (II) To a group which includes the next largest 30 percent of qualified local cultural  
 308 organizations, excluding artist and support organizations, a total annual sum equal

309 to 17 percent of their combined average annual gross revenues for their past three  
310 fiscal years; and  
311 (III) To a group which includes the remaining 60 percent of qualified local cultural  
312 organizations, excluding artist and support organizations, a total annual sum equal  
313 to 19 percent of their combined average annual gross revenues for their past three  
314 fiscal years;  
315 (iii) Each such qualified local cultural organization funded under this Code section  
316 shall receive a sum equal to 80 percent of the sum specified in division (ii) of this  
317 subparagraph for such organization subject only to meeting uniform guidelines for  
318 financial reporting and stability established by the supervising organization. Each  
319 such qualified local cultural organization may compete with other such organizations  
320 in their size group for single or multiyear grants of the remaining 20 percent allocated  
321 to their group on the basis of criteria and guidelines for public access and  
322 collaboration issued by the supervising organization. If the collected amounts of  
323 incremental sales tax revenues available for distribution are insufficient to fund the  
324 total amount each qualified local cultural organization would receive under this  
325 article, then each qualified local cultural organization shall receive a pro rata share of  
326 the funds each would have received if sufficient funding were available;  
327 (iv) The balance of the proceeds from the first two-tenths of 1 percent levied shall be  
328 distributed to the governing authority of such county and to each of the incorporated  
329 municipalities within such county in proportion to the population of residents in the  
330 unincorporated county and residents in each municipality as determined in the most  
331 recent United States decennial census and shall be expended for qualified local  
332 initiatives to perform the specified public service and public functions and projects  
333 as determined by each governing authority and municipality as set forth in the  
334 resolution pursuant to paragraph (2) of subsection (c) of Code Section 48-8-283  
335 without the necessity for an intergovernmental agreement as set forth in subsection (b)  
336 of Code Section 48-8-283; and  
337 (v) Any sums received by the supervising organization from additional tenths of 1  
338 percent that may be levied within such district shall be distributed to qualified local  
339 initiatives to perform the specified capital projects, public services, and public  
340 functions as set forth in the resolution and intergovernmental agreement required  
341 under Code Section 48-8-283; or  
342 (B) In special districts in which are located one or more qualified local cultural  
343 organizations having combined annual gross revenues equal to or less than \$100  
344 million, a sum equal to 50 percent of the first one-tenth of 1 percent levied shall be  
345 distributed by the supervising organization to qualified local cultural organizations in

346 accordance with locally created and uniformly applied rules and guidelines. The  
 347 balance of such remaining proceeds shall be distributed to qualified local initiatives to  
 348 perform the specified capital projects, public services, and public functions as set forth  
 349 in the resolution and intergovernmental agreement required under Code Section  
 350 48-8-283.

351 (b) Any funding that may be allocated under this Code section pertaining to a qualified  
 352 local cultural organization shall be limited to an amount which when combined with all  
 353 other governmental funding of gross revenues of such organization shall not exceed 30  
 354 percent of the average annual gross revenues of such organization for its past three fiscal  
 355 years.

356 48-8-289.

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

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

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

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

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

- 382 (5) To determine and distribute the portion of the funds received from the tax imposed  
 383 under this article to the qualified local initiatives as provided under this article;
- 384 (6) To ensure that determinations on funding of any recipients shall be based not on  
 385 political expediency but rather on the organization's contribution to the general welfare  
 386 of its intended audience and the demonstration of its relative ability to provide benefits  
 387 to the citizens of the district and the state;
- 388 (7) To receive and review annual financial information from each qualified local cultural  
 389 organization and qualified local initiative and prepare an annual report to the public and  
 390 the governing authority of the county within the special district on all expenditures and  
 391 distributions; and
- 392 (8) To employ such staff and consultants as deemed necessary to fulfill its  
 393 responsibilities under this article and to perform such other tasks as may be appropriate  
 394 to fulfill its purposes under this article which are not inconsistent with this article.

395 48-8-290.

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

407 48-8-291.

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

414 48-8-292.

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

420 48-8-293.

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

424 48-8-294.

425 The tax authorized by this article shall be in addition to any other local sales and use tax.  
426 The imposition of any other local sales and use tax within a county, municipality, or special  
427 district shall not affect the authority of the governing authority of the county on behalf of  
428 the special district to impose the tax authorized by this article and the imposition of the tax  
429 authorized by this article shall not affect the imposition of any otherwise authorized local  
430 sales and use tax within the county, municipality, or special district.

431 48-8-295.

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

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

447 48-8-296.

448 (a) The governing authority of the county within the special district receiving any proceeds  
 449 from the tax under this article shall maintain a record of each and every recipient and  
 450 purpose for which the proceeds of the tax are used. Not later than December 31 of each  
 451 year, the governing authority of the county within the special district receiving any  
 452 proceeds from the tax under this article shall publish annually, in a newspaper of general  
 453 circulation in the boundaries of such special district, a simple, nontechnical report which  
 454 shows each recipient and the amounts received for the purposes in the resolution calling  
 455 for imposition of the tax, the original estimated cost for any capital item, the current  
 456 estimated cost if it is not the original estimated cost, amounts expended in prior years, and  
 457 amounts expended in the current year.

458 (b) The county and any municipality within the special district shall not be held liable for  
 459 an artist and support organization, qualified local cultural organization, qualified local  
 460 cultural initiative, or supervising organization that fails to meet or comply with any of the  
 461 requirements of this article. The county and any municipality within the special district  
 462 shall not be held liable if an artist and support organization, qualified local cultural  
 463 organization, qualified local cultural initiative, or supervising organization is not qualified  
 464 to receive funds under this article."

465

## SECTION 2.

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

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

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

477 (2) Any tax levied for purposes of a metropolitan area system of public transportation,  
 478 as authorized by the amendment to the Constitution set out at Georgia Laws, 1964, page  
 479 1008; the continuation of such amendment under Article XI, Section I, Paragraph IV(d)  
 480 of the Constitution; and the laws enacted pursuant to such constitutional amendment;  
 481 provided, however, that the exception provided for under this paragraph shall only apply:

482 (A) In a county in which a tax is being imposed under subparagraph (a)(1)(D) of Code  
 483 Section 48-8-111 in whole or in part for the purpose or purposes of a water capital  
 484 outlay project or projects, a sewer capital outlay project or projects, a water and sewer  
 485 capital outlay project or projects, water and sewer projects and costs as defined under  
 486 paragraph (4) of Code Section 48-8-200, or any combination thereof and with respect  
 487 to which the county has entered into an intergovernmental contract with a municipality,  
 488 in which the average waste-water system flow of such municipality is not less than 85  
 489 million gallons per day, allocating proceeds to such municipality to be used solely for  
 490 water and sewer projects and costs as defined under paragraph (4) of Code Section  
 491 48-8-200. The exception provided for under this subparagraph shall apply only during  
 492 the period the tax under said subparagraph (a)(1)(D) is in effect. The exception  
 493 provided for under this subparagraph shall not apply in any county in which a tax is  
 494 being imposed under Article 2A of this chapter; or

495 (B) In a county in which the tax levied for purposes of a metropolitan area system of  
 496 public transportation is first levied after January 1, 2010, and before November 1, 2012.  
 497 Such tax shall not apply to the following:

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

505 (ii) The sale of motor vehicles;

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

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

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

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

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

516 "(c.1) Where the exception specified in paragraph (2) of subsection (a) of this Code section  
 517 applies, 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 3.**

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

524 "(d) On and after July 1, 2007, the aggregate amount of all excise taxes imposed under  
 525 paragraph (5) of subsection (a) of Code Section 48-13-51 and all sales and use taxes shall  
 526 not exceed 14 percent. The aggregate amount limitation of this subsection shall not count  
 527 toward or include a sales and use tax levied under Article 6 of this chapter."

528 **SECTION 4.**

529 Said title is further amended in subsection (a) of Code Section 48-13-51, relating to county  
 530 and municipal excise taxes on public accommodations, by revising paragraphs (3.1) and  
 531 (4.1), as follows:

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

554 Amounts so expended shall be expended only through a contract or contracts with the  
555 state, a department of state government, a state authority, a convention and visitors  
556 bureau authority created by local Act of the General Assembly for a municipality, a local  
557 building authority created by local constitutional amendment, and a trade and convention  
558 center authority created by intergovernmental contract between a county and one or more  
559 municipalities located therein, or a private sector nonprofit organization or through a  
560 contract or contracts with some combination of such entities. The aggregate amount of  
561 all excise taxes imposed under this paragraph (3.1) and all sales and use taxes, and other  
562 taxes imposed by a county or municipality, or both, shall not exceed 13 percent;  
563 provided, however, that such aggregate amount limitation shall not count toward or  
564 include a sales and use tax under Article 6 of Chapter 8 of this title. Any tax levied  
565 pursuant to this paragraph (3.1) shall terminate not later than December 31, 2029,  
566 provided that during any period during which there remains outstanding any obligation  
567 issued to fund a facility as contemplated by this paragraph (3.1), secured in whole or in  
568 part by a pledge of a tax authorized under this Code section, the powers of the counties  
569 and municipalities to impose and distribute the tax imposed by this paragraph (3.1) shall  
570 not be diminished or impaired by the state and no county or municipality levying the tax  
571 imposed by this paragraph (3.1) shall cease to levy the tax in any manner that will impair  
572 the interests and rights of the holder of any such obligation. This proviso shall be for the  
573 benefit of the holder of any such obligation and, upon the issuance of any such obligation  
574 by a building authority created by local constitutional amendment, shall constitute a  
575 contract with the holder of such obligation. Notwithstanding any other provision of this  
576 Code section to the contrary, as used in this paragraph (3.1), the term: 'fund' or 'funding'  
577 shall include the cost and expense of all things deemed necessary by a building authority  
578 created by local constitutional amendment for the construction and operation of a facility  
579 or facilities including but not limited to the study, operation, marketing, acquisition,  
580 construction, financing, including the payment of principal and interest on any obligation  
581 of the building authority created by local constitutional amendment and any obligation  
582 of the building authority created by local constitutional amendment to refund any prior  
583 obligation of the building authority created by local constitutional amendment,  
584 development, extension, enlargement, or improvement of land, waters, property, streets,  
585 highways, buildings, structures, equipment, or facilities and the repayment of any  
586 obligation incurred by an authority in connection therewith; 'obligation' shall include  
587 bonds, notes, or any instrument creating an obligation to pay or reserve moneys and  
588 having an initial term of not more than 37 years; and 'facility' or 'facilities' shall mean any  
589 of the buildings, structures, and facilities described in subparagraph (B) of this paragraph  
590 (3.1) and any associated parking areas or improvements originally owned or operated

591 incident to the ownership or operation of such facility used for any purpose or purposes  
592 specified in subparagraph (B) of this paragraph (3.1) by a building authority created by  
593 local constitutional amendment."

594 "(4.1) Notwithstanding any other provision of this subsection, a county (within the  
595 territorial limits of the special district located within the county) or municipality within  
596 a county in which a coliseum authority has been created by local Act of the General  
597 Assembly and which authority is in existence on or before July 1, 1963, for the purpose  
598 of owning or operating a facility, may levy a tax under this Code section at a rate of 7  
599 percent. A county or municipality levying a tax pursuant to this paragraph shall expend  
600 (in each fiscal year during which the tax is collected under this paragraph (4.1)) an  
601 amount equal to at least 62 1/2 percent of the total taxes collected at the rate of 7 percent  
602 for the purpose of: (A) promoting tourism, conventions, and trade shows; (B) funding and  
603 supporting a facility owned or operated by such coliseum authority; or (C) for some  
604 combination of such purposes. Amounts so expended shall be expended only through a  
605 contract or contracts with the state, a department of state government, a state authority,  
606 a convention and visitors bureau authority created by local Act of the General Assembly  
607 for a municipality, a local coliseum authority, or a private sector nonprofit organization,  
608 or through a contract or contracts with some combination of such entities, except that  
609 amounts expended for purpose (B) may be so expended in any otherwise lawful manner  
610 without the necessity of a contract. The aggregate amount of all excise taxes imposed  
611 under this paragraph (4.1) and all sales and use taxes, and other taxes imposed by a  
612 county or municipality, or both, shall not exceed 12 percent; provided, however, that such  
613 aggregate amount limitation shall not count toward or include a sales and use tax under  
614 Article 6 of Chapter 8 of this title. Any tax levied pursuant to this paragraph (4.1) shall  
615 terminate not later than December 31, 2028, provided that during any period during  
616 which there remains outstanding any obligation which is incurred prior to January 1,  
617 1995, issued to fund a facility as contemplated by this paragraph (4.1), and secured in  
618 whole or in part by a pledge of a tax authorized under this Code section, the powers of  
619 the counties and municipalities to impose and distribute the tax imposed by this  
620 paragraph (4.1) shall not be diminished or impaired by the state and no county or  
621 municipality levying the tax imposed by this paragraph (4.1) shall cease to levy the tax  
622 in any manner that will impair the interest and rights of the holders of any such  
623 obligation. This proviso shall be for the benefit of the holder of any such obligation and,  
624 upon the issuance of any such obligation by a coliseum and exhibit hall authority, shall  
625 constitute a contract with the holder of such obligations. Notwithstanding any other  
626 provision of this Code section to the contrary, as used in this paragraph (4.1), the term:  
627 'fund' and 'funding' shall include the cost and expense of all things deemed necessary by

628 a local coliseum authority for the construction, renovation, and operation of a facility  
 629 including but not limited to the study, operation, marketing, acquisition, construction,  
 630 finance, development, extension, enlargement, or improvement of land, waters, property,  
 631 streets, highways, buildings, structures, equipment, or facilities, and the repayment of any  
 632 obligation incurred by a local coliseum authority in connection therewith; 'obligation'  
 633 shall include bonds, notes, or any instrument creating an obligation to pay or reserve  
 634 moneys incurred prior to January 1, 1995, and having an initial term of not more than 30  
 635 years; and 'facility' shall mean a coliseum or other facility and any associated parking  
 636 areas or improvements originally owned or operated incident to the ownership or  
 637 operation of a facility used for convention and trade show purposes or amusement  
 638 purposes, educational purposes, or a combination thereof and for fairs, expositions, or  
 639 exhibitions in connection therewith by a local coliseum authority."

640 **SECTION 5.**

641 Part 1 of Article 2 of Chapter 12 of Title 50 of the Official Code of Georgia Annotated,  
 642 relating to general provisions relative to the Georgia Council for the Arts, is amended by  
 643 revising subsection (b) of Code Section 50-12-22, relating to appointment of members,  
 644 terms, vacancies, expenses, removal, chairman, and meetings, as follows:

645 "(b) Members shall be entitled to reimbursement for expenses incurred in the work of the  
 646 council when authorized in advance by the ~~director of the Office of Planning and Budget~~  
 647 commissioner of economic development."

648 **SECTION 6.**

649 Said part is further amended by revising Code Section 50-12-23, relating to powers and  
 650 duties generally, as follows:

651 "50-12-23.

652 The council shall advise the Governor through the ~~Office of Planning and Budget~~  
 653 Department of Economic Development concerning methods and programs to:

- 654 (1) Stimulate and encourage the study and development of the arts as well as public  
 655 interest and participation therein;
- 656 (2) Encourage public interest in the cultural heritage of ~~the~~ this state;
- 657 (3) Expand ~~the~~ this state's cultural resources;
- 658 (4) Encourage and assist freedom of artistic expression essential for the well-being of the  
 659 arts;
- 660 (5) Assist the communities and organizations within ~~the~~ this state in originating and  
 661 creating their own cultural and artistic programs; and

662 (6) Survey public and private institutions engaged within ~~the~~ this state in cultural  
 663 activities, including, but not limited to, architecture, dance, folk arts and applied arts and  
 664 crafts, literature, music, painting, photography, sculpture, and theater."

665 **SECTION 7.**

666 Said part is further amended by revising Code Section 50-12-24, relating to the annual report,  
 667 as follows:

668 "50-12-24.

669 The council shall submit an annual report to the Governor and to the commissioner of  
 670 economic development concerning the appropriate methods to encourage participation in  
 671 and appreciation of the arts in order to meet the legitimate needs and aspirations of persons  
 672 in all parts of ~~the~~ this state."

673 **SECTION 8.**

674 Said part is further amended by revising Code Section 50-12-25, relating to the powers and  
 675 authority of the Office of Planning and Budget as to the council, as follows:

676 "50-12-25.

677 ~~The Office of Planning and Budget~~ Department of Economic Development shall have the  
 678 powers and authority necessary to carry out the purposes established by this article,  
 679 including, but not limited to, the powers:

680 (1) To establish overall policy for grant awards, evaluations, and programs recommended  
 681 by the council;

682 (2) To hold hearings, make and sign any agreements, and do and perform any acts which  
 683 may be necessary, desirable, or proper to carry out the purposes of this article;

684 (3) To request from any department, division, board, bureau, commission, or other  
 685 agency of the state such reasonable assistance and data as will enable it properly to carry  
 686 out its powers and duties;

687 (4) To accept, on behalf of the state, any federal funds granted by act of Congress or by  
 688 executive order for all or any of the purposes of this article; and, upon appropriation by  
 689 the General Assembly, to expend such funds for the purposes set forth in the  
 690 appropriations Act;

691 (5) To accept any grants, gifts, donations, or bequests for all or any of the purposes of  
 692 this article;

693 (6) To propose methods to encourage private initiative in the arts; and

694 (7) To advise and consult with the Governor; the General Assembly; national  
 695 foundations; and other local, state, and federal departments and agencies on methods to

696 coordinate and assist existing resources and facilities, with the purpose of fostering  
697 artistic and cultural endeavors generally."

698 **SECTION 9.**

699 Said part is further amended by revising Code Section 50-12-26, relating to the appointment  
700 of personnel for council, as follows:

701 "50-12-26.

702 The ~~director of the Office of Planning and Budget~~ commissioner of economic development  
703 shall select and appoint such personnel as the ~~director~~ commissioner shall determine to be  
704 necessary to support the council and the programs undertaken pursuant to this article."

705 **SECTION 10.**

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