

House Bill 195

By: Representative Setzler of the 35th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 5 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated,
2 relating to the special district transportation sales and use tax, so as to provide for a
3 legislative purpose; to provide for the method for creation of special districts for the purpose
4 of a special district transportation sales and use tax; to provide for the expiration of special
5 districts in certain instances; to revise and repeal certain definitions; to provide for a sunset
6 date for certain provisions; to provide for the election, ballot, imposition, collection, and
7 cessation of a special district transportation sales and use tax; to provide for related matters;
8 to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 Article 5 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to the
12 special district transportation sales and use tax, is amended by revising Code Section
13 48-8-240, relating to legislative purpose and findings, to read as follows:

14 "48-8-240.

15 The local governments of the State of Georgia are of vital importance to the state and its
16 citizens. The state has an essential public interest in promoting, developing, sustaining, and
17 assisting local governments. The General Assembly finds that the design and construction
18 of transportation projects is a critical local government service for which adequate funding
19 is not presently available. Many transportation projects cross multiple jurisdictional
20 boundaries and must be coordinated in their design and construction. The General
21 Assembly finds that the most efficient means to coordinate and fund such projects is
22 through the creation of special districts ~~that correspond with the boundaries of existing~~
23 ~~regional commissions~~. The purpose of this article is to provide for special districts that will
24 enable the coordinated design and construction of transportation projects that will develop
25 and promote the essential public interests of the state and its citizens at the state, regional,
26 and local levels. The General Assembly intends through the creation of such special

27 districts to enable the citizens within each district to decide in an election whether to
 28 authorize the imposition of a special district transportation sales and use tax to fund the
 29 projects on an investment list collaboratively developed by the affected local governments
 30 and the state. This article shall be construed liberally to achieve its purpose."

31 SECTION 2.

32 Said article is further amended in Code Section 48-8-241, relating to the creation of special
 33 districts, by revising subsections (a), (b), and (d) to read as follows:

34 "(a)(1) There are created within this state 12 special districts. The geographical boundary
 35 of each special district shall correspond with and shall be ~~coterminous~~ conterminous with
 36 the geographical boundary of the applicable region of the 12 regional commissions
 37 provided for in subsection (f) of Code Section 50-8-4.

38 (2)(A)(i) On or after July 1, 2013, any special district that rejected the imposition of
 39 the special district transportation sales and use tax in 2012 shall cease to exist.

40 (ii) Any special district that approved the imposition of the special district
 41 transportation sales and use tax in 2012 shall cease to exist on January 1, 2023.

42 (iii) On or after July 1, 2013, a new special district may be formed by two or more
 43 geographically contiguous counties.

44 (B) A special district created on or after July 1, 2013, shall require each of the
 45 following:

46 (i) Passage of a local Act calling for the creation of a special district and the
 47 conditions under which a special district shall operate by the legislative delegation of
 48 the General Assembly of each of the counties within the proposed special district;

49 (ii) A resolution by the county governing bodies approving the intergovernmental
 50 agreement described under subparagraph (C) of this paragraph; and

51 (iii) A resolution by any municipal governing body of any city containing more than
 52 50 percent of the county's entire population, as determined by the most recent
 53 decennial census published by the United States Bureau of the Census, approving the
 54 intergovernmental agreement described under subparagraph (C) of this paragraph.

55 (C) Intergovernmental agreements shall be drawn which shall include the specific
 56 transportation projects to be funded, the anticipated schedule of such projects, the
 57 approximate cost of such projects, and the estimated amount of net proceeds to be
 58 raised by the tax, including the amount of proceeds to be distributed to local
 59 governments pursuant to subsection (e) of Code Section 48-8-249.

60 (b) When the imposition of a special district sales and use tax is authorized according to
 61 the procedures provided in this article within a special district, subject to the requirement
 62 of referendum approval and the other requirements of this article, a special sales and use

63 tax shall be imposed within the special district for a period of not less than three, but no
 64 more than ten years which tax shall be known as the special district transportation sales and
 65 use tax."

66 "(d) Any tax imposed under this article shall be at the rate of up to 1 percent. Except as
 67 to rate, a tax imposed under this article shall correspond to the tax imposed by Article 1 of
 68 this chapter. No item or transaction which is not subject to taxation under Article 1 of this
 69 chapter shall be subject to a tax imposed under this article, except that a tax imposed under
 70 this article shall not apply to:

71 (1) The sale or use of any type of fuel used for off-road heavy-duty equipment, off-road
 72 farm or agricultural equipment, or locomotives;

73 (2) The sale or use of jet fuel to or by a qualifying airline at a qualifying airport;

74 (3) The sale or use of fuel that is used for propulsion of motor vehicles on the public
 75 highways. For purposes of this paragraph, a motor vehicle means a self-propelled vehicle
 76 designed for operation or required to be licensed for operation upon the public highways;

77 (4) The sale or use of energy used in the manufacturing or processing of tangible goods
 78 primarily for resale; or

79 (5) For motor fuel as defined under paragraph (9) of Code Section 48-9-2 for public mass
 80 transit.

81 The tax imposed pursuant to this article shall only be levied on the first \$5,000.00 of any
 82 transaction involving the sale or lease of a motor vehicle. The tax imposed pursuant to this
 83 article shall be subject to any sales and use tax exemption which is otherwise imposed by
 84 law; provided, however, that the tax levied by this article shall be applicable to the sale of
 85 food and food ingredients as provided for in paragraph (57) of Code Section 48-8-3."

86 **SECTION 3.**

87 Said article is further amended in Code Section 48-8-242, relating to definitions relative to
 88 the special district transportation sales and use tax, by revising paragraphs (11) and (12) to
 89 read as follows:

90 "(11) 'Regional transportation roundtable' or 'roundtable' means a conference of the local
 91 governments of a special district created prior to July 1, 2013, pursuant to this article held
 92 at a centralized location within the district as chosen by the director for the purpose of
 93 establishing the investment criteria and determining projects eligible for the investment
 94 list for the special district. ~~The regional transportation roundtable shall consist of the~~
 95 ~~chairperson, sole commissioner, mayor, or chief executive officer of the county~~
 96 ~~governing authority from each county in the special district. In the event any county in~~
 97 ~~the special district has a consolidated government, the consolidated government shall~~
 98 ~~elect a second elected member of the county consolidated government to the regional~~

99 roundtable. In counties without a consolidated government, the second member of the
 100 regional roundtable from that county shall be one mayor elected by the mayors of the
 101 county; provided, however, that, in the event such an election ends in a tie, the mayor of
 102 the municipal corporation with the highest population determined using the most recently
 103 completed United States decennial census shall be deemed to have been elected as a
 104 representative unless that mayor is already part of the roundtable. In such case, the
 105 mayor of the municipal corporation with the second highest population shall be deemed
 106 to have been elected as a representative. If a county has more than 90 percent of its
 107 population residing in municipal corporations, such county shall have the mayor of the
 108 municipal corporation with the highest population determined using the most recently
 109 completed United States decennial census as an additional representative. The regional
 110 transportation roundtable shall elect five representatives from among its members to
 111 serve as an executive committee. The executive committee shall also include two
 112 members of the House of Representatives selected by the chairperson of the House
 113 Transportation Committee and one member of the Senate selected by the chairperson of
 114 the Senate Transportation Committee. Each member of the General Assembly appointed
 115 to the executive committee shall be a nonvoting member of the executive committee and
 116 shall represent a district which lies wholly or partially within the region represented by
 117 the executive committee. The executive committee shall not have more than one
 118 representative from any one county, but any member of the General Assembly serving
 119 on the executive committee shall not count as a representative of his or her county.

120 (12) 'Special Regional Transportation Funding Election Act' means an Act specifically
 121 and exclusively enacted for the purpose of ordering that a referendum be held for the
 122 reimposition of the special district transportation sales and use tax within the region that
 123 includes the districts, in their entirety or any portion thereof, of the members from a local
 124 legislative delegation in the General Assembly. A majority of the signatures of the
 125 legislative delegation for a majority of the counties within the region shall be required for
 126 the bill to be placed upon the local calendar of each chamber. This method shall be
 127 exclusively used for this purpose and no other bill shall be placed or voted upon on the
 128 local calendar utilizing this method of qualification for placement thereon. This Act shall
 129 be treated procedurally by the General Assembly as a local Act and all counties within
 130 the region shall receive the legal notice requirements of a local Act. Reserved."

131 **SECTION 4.**

132 Said article is further amended by revising Code Section 48-8-243, relating to the
 133 development of project lists, reporting requirements, and gridlock, by inserting a new
 134 subsection to read as follows:

135 "(d) This Code section shall stand repealed on January 1, 2023."

136 **SECTION 5.**

137 Said article is further amended by revising Code Section 48-8-244, relating to the election
 138 and ballot for special district transportation sales and use tax voting, to read as follows:

139 ~~"(a) Simultaneously with the director's delivery of the approved investment list in~~
 140 ~~accordance with subsection (b) of Code Section 48-8-243, the roundtable~~ After creation of
 141 a special district in accordance with paragraph (2) of subsection (a) of Code Section
 142 48-8-241, the chairperson of each county commission shall deliver a notice to the election
 143 superintendents of each county within the respective special districts. Upon receipt of the
 144 notice, the election superintendents shall issue the call for an election for the purpose of
 145 submitting the question of the imposition of the tax to the voters within each special
 146 district. The election superintendents shall issue the call and shall conduct the election in
 147 the manner authorized under Code Section 21-2-540. The first election shall be held on the
 148 date of the general ~~state-wide primary~~ election following the signing of the
 149 intergovernmental agreements in 2012. The election superintendents shall cause the date
 150 and purpose of the election to be published once a week for four weeks immediately
 151 preceding the date of the election in the official organs of their respective counties.

152 (b) The ballot submitting the question of the levy of the special district transportation tax
 153 authorized by this article to the voters within each special district shall have written or
 154 printed thereon the following:

155 '() YES Shall _____ County's transportation system and the transportation
 156 network in this region and the state be improved by providing for a † __

157 () NO percent special district transportation sales and use tax for the purpose of
 158 transportation projects and programs for a period of ~~ten~~ __ years?'

159 (c) All persons desiring to vote in favor of levying the tax shall vote 'Yes' and all persons
 160 opposed to levying the tax shall vote 'No.' If more than one-half of the votes cast
 161 throughout the entire special district are in favor of levying the tax, then the tax shall be
 162 levied as provided in this article; otherwise the tax shall not be levied and the question of
 163 levying the tax shall not again be submitted to the voters of the special district until ~~after~~
 164 24 months immediately following the month in which the election was held the general
 165 election held two years later. Each election superintendent shall hold and conduct the
 166 election under the same rules and regulations as govern ~~special~~ general elections. Each

167 election superintendent shall canvass the returns from his or her county, declare the result
 168 of the election in that county, and certify the result to the Secretary of State. The Secretary
 169 of State shall compile the results from each county in the special district, declare the result
 170 of the election in the special district, and certify the result to the governing authority of
 171 each local government and MPO within the special district and the state revenue
 172 commissioner. The expense of the election in each county within each special district shall
 173 be paid from funds of each county.

174 (d)(1) ~~In the event~~ For a special district sales and use tax election which was is held in
 175 July, 2012, and in which the voters in a special district ~~do~~ did not approve the levy of the
 176 special district transportation sales and use tax, the local governments in such special
 177 district shall be required to provide a 30 percent match for any local maintenance and
 178 improvement grants by the Department of Transportation for transportation projects and
 179 programs ~~for at least 24 months and~~ until such time as a special district sales and use tax
 180 is approved. ~~In the event~~ or until December 31, 2022, whichever date occurs first.

181 (2) For an election held in July, 2012, in which the voters in a special district approved
 182 the levy of the special district transportation sales and use tax, the local governments in
 183 such special district shall be required to provide a 10 percent match for any local
 184 maintenance and improvement grants by the Department of Transportation for
 185 transportation projects and programs for the duration of the levy of the special district
 186 transportation sales and use tax.

187 (3) This subsection shall not apply to any special district created on or after July 1,
 188 2013."

189 SECTION 6.

190 Said article is further amended by revising Code Section 48-8-245, relating to the collection
 191 and cessation of the special district transportation sales and use tax, to read as follows:

192 "(a) If the imposition of the special district transportation sales and use tax is approved at
 193 the ~~special~~ general election, the collection of such tax shall begin on the first day of the
 194 next succeeding calendar quarter beginning no less than 45 ~~more than 80~~ days after the date
 195 of the election. With respect to services which are regularly billed on a monthly basis,
 196 however, the tax shall become effective with respect to and the tax shall apply to services
 197 billed on or after the effective date specified in the previous sentence.

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

- 199 (1) On the final day of the ~~ten-year~~ period of time specified for the imposition of the tax;
 200 or
 201 (2) As of the end of the calendar quarter during which the state revenue commissioner
 202 determines that the tax has raised revenues sufficient to provide to the special district net

203 proceeds equal to or greater than the amount specified as the estimated amount of net
204 proceeds to be raised by the special district transportation tax.

205 (c)(1) No more than up to a single 1 percent tax under this article may be collected at any
206 time within a special district.

207 ~~(2) Upon the enactment by the General Assembly of a Special Regional Transportation
208 Funding Election Act and the adoption of resolutions by the governing bodies of a
209 majority of the counties within a special district in which a tax authorized by this article
210 is in effect, an election may be held for the reimposition of the tax while the tax is in
211 effect. Proceedings for the development of an investment list and for the reimposition
212 of a tax shall be in the same manner as provided for in Code Section 48-8-243.~~

213 ~~(3) Following the expiration of the special district transportation sales and use tax under
214 this article, or following a special election in which voters in a special district rejected the
215 imposition of the tax, upon the passage by the General Assembly of a Special Regional
216 Transportation Funding Election Act and the adoption of resolutions by the governing
217 bodies of a majority of counties within a special district, an election may be held for the
218 imposition of a tax under this article in the same manner as provided in this article for the
219 initial imposition of such tax. Such subsequent election shall be held on the date of a
220 state-wide general primary. The development of the investment list for such special
221 district shall follow the dates established in Code Section 48-8-243 with the years
222 adjusted appropriately, and such schedule shall be posted on a website developed by the
223 state revenue commissioner to be used exclusively for matters related to the special
224 district transportation sales and use tax within 30 days of the later of the state revenue
225 commissioner's receipt of notice from the final county governing body required to adopt
226 a resolution or of the passage of the Special Regional Transportation Funding Election
227 Act by the General Assembly."~~

228

SECTION 7.

229 Said article is further amended in Code Section 48-8-249, relating to the use of tax proceeds
230 within a special district, by revising subsection (a) to read as follows:

231 "(a) For special districts created prior to July 1, 2013, the The proceeds received from the
232 tax authorized by this article shall be used within the special district receiving proceeds of
233 the tax exclusively for the projects on the approved investment list for such district as
234 provided in subsection (b) of Code Section 48-8-243. For special districts created on or
235 after July 1, 2013, the proceeds received from the tax authorized by this article shall be
236 used within the special district receiving proceeds of the tax exclusively for the projects
237 authorized under subparagraph (a)(2)(C) of Code Section 48-8-241. Authorized uses of

238 tax proceeds in connection with such projects shall include the cost of project defined in
239 paragraph (2) of Code Section 48-8-242."

240 **SECTION 8.**

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