

House Bill 390

By: Representatives Mayo of the 84<sup>th</sup>, Mitchell of the 88<sup>th</sup>, Drenner of the 85<sup>th</sup>, and Williams of the 87<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to sales  
2 and use taxes, so as to provide for an additional exemption to the ceiling on local sales and  
3 use taxes which may be levied by a political subdivision; to provide for a maximum period  
4 of time certain local sales and use taxes may be levied; to provide for the disbursement of tax  
5 proceeds; to provide for related matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to sales and use  
9 taxes, is amended in Code Section 48-8-6, related to the ceiling on local sales and use taxes,  
10 by revising paragraph (2) of subsection (a) to read as follows:

11 "(2) Any tax levied for purposes of a metropolitan area system of public transportation,  
12 as authorized by the amendment to the Constitution set out at Georgia Laws, 1964, page  
13 1008; the continuation of such amendment under Article XI, Section I, Paragraph IV(d)  
14 of the Constitution; and the laws enacted pursuant to such constitutional amendment;  
15 provided, however, that the exception provided for under this paragraph shall only apply:

16 (A) In a county in which a tax is being imposed under subparagraph (a)(1)(D) of Code  
17 Section 48-8-111 in whole or in part for the purpose or purposes of a water capital  
18 outlay project or projects, a sewer capital outlay project or projects, a water and sewer  
19 capital outlay project or projects, water and sewer projects and costs as defined under  
20 paragraph (4) of Code Section 48-8-200, or any combination thereof and with respect  
21 to which the county has entered into an intergovernmental contract with a municipality,  
22 in which the average waste-water system flow of such municipality is not less than 85  
23 million gallons per day, allocating proceeds to such municipality to be used solely for  
24 water and sewer projects and costs as defined under paragraph (4) of Code Section  
25 48-8-200. The exception provided for under this subparagraph shall apply only during  
26 the period the tax under said subparagraph (a)(1)(D) is in effect. The exception

27 provided for under this subparagraph shall not apply in any county in which a tax is  
 28 being imposed under Article 2A of this chapter; ~~or~~

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

31 Such tax shall not apply to the following:

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

39 (ii) The sale of motor vehicles; or

40 (C) In a county in which a tax is levied and collected pursuant to Article 2A of Chapter  
 41 8 of Title 48;"

#### 42 **SECTION 2.**

43 Said chapter is further amended in Code Section 48-8-111, relating to the imposition of a  
 44 county special purpose local option sales tax, by revising paragraph (2) of subsection (a) to  
 45 read as follows:

46 "(2) The maximum period of time, to be stated in calendar years or calendar quarters and  
 47 not to exceed five years, unless:

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

51 (B) The provisions of subparagraph (a)(2)(C) of Code Section 48-8-6 are applicable,  
 52 in which case the maximum period of time for which the tax may be levied shall not  
 53 exceed ten years;"

#### 54 **SECTION 3.**

55 Said chapter is further amended by revising Code Section 48-8-115, relating to the  
 56 disbursement of tax proceeds, to read as follows:

57 "48-8-115.

58 (a) The proceeds of the tax collected by the commissioner in each county within a special  
 59 district under this part shall be disbursed as soon as practicable after collection as follows:

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

62 (2) Except for the percentage provided in paragraph (1) of this Code section, the  
 63 remaining proceeds of the tax shall be distributed to the governing authority of the county  
 64 and any governing authority of qualified municipalities within the special district  
 65 imposing the tax as specified in subsection (b) of this Code section.

66 (b) ~~The county within the special district~~ governing authorities of a county or qualified  
 67 municipality shall distribute any such proceeds as follows:

68 (1) ~~To the county governing authority and any qualified municipalities as specified in an~~  
 69 ~~intergovernmental agreement.~~ Where an intergovernmental agreement has been entered  
 70 into, ~~the~~ as specified in the intergovernmental agreement. The agreement shall, at a  
 71 minimum, include the following:

72 (A) The specific capital outlay project or projects to be funded pursuant to the  
 73 agreement;

74 (B) The estimated or projected dollar amounts allocated for each project from tax  
 75 proceeds from the tax authorized by this part;

76 (C) The procedures for distributing proceeds from the tax authorized by this part ~~to~~  
 77 ~~qualified municipalities~~;

78 (D) A schedule for distributing proceeds from the tax authorized by this part ~~to~~  
 79 ~~qualified municipalities~~ which schedule shall include the priority or order in which  
 80 projects will be fully or partially funded;

81 (E) A provision that all capital outlay projects included in the agreement shall be  
 82 funded from proceeds from the tax authorized by this part except as otherwise agreed;

83 (F) A provision that proceeds from the tax authorized by this part shall be maintained  
 84 in separate accounts and utilized exclusively for the specified purposes;

85 (G) Record-keeping and audit procedures necessary to carry out the purposes of this  
 86 part; and

87 (H) Such other provisions as the county and participating municipalities choose to  
 88 address; or

89 (2) Where an intergovernmental agreement has not been entered into pursuant to  
 90 paragraph (1) of this subsection, ~~the county within the special district shall distribute the~~  
 91 ~~proceeds of the tax authorized by this part~~ as follows:

92 (A)(i) To the governing authority of the county for one or more level one  
 93 county-wide projects specified by the governing authority of the county in the  
 94 ordinance or resolution required by subsection (a) of Code Section 48-8-111;  
 95 provided, however, that any tax levied under this part that funds level one  
 96 county-wide projects where an intergovernmental agreement has not been entered into  
 97 pursuant to paragraph (1) of this subsection shall be levied for a five-year period. In  
 98 the event that any or all level one county-wide projects are estimated to cost an

99 amount which exceeds the proceeds projected to be collected during a 24 month  
100 period of the levy of the tax, the tax shall be levied for a six-year period.

101 (ii) In the event that no level one county-wide project is included in the ordinance or  
102 resolution required by subsection (a) of Code Section 48-8-111, to the governing  
103 authority of the county for one or more level two county-wide projects specified by  
104 the governing authority of the county in the ordinance or resolution required by  
105 subsection (a) of Code Section 48-8-111. In the event no level one county-wide  
106 project is included in the ordinance or resolution required by subsection (a) of Code  
107 Section 48-8-111 and the governing authority of the county has specified one or more  
108 municipal projects as level two county-wide projects in the ordinance or resolution  
109 required by subsection (a) of Code Section 48-8-111, to the governing authority of the  
110 appropriate municipality or municipalities for such level two county-wide projects  
111 specified in the ordinance or resolution required by subsection (a) of Code Section  
112 48-8-111. The total estimated cost of all level two county-wide projects specified  
113 under this division shall not exceed 20 percent of the proceeds projected to be  
114 collected during the period specified in the ordinance or resolution required by  
115 subsection (a) of Code Section 48-8-111; or

116 (B) In the event that no county-wide project is included in the resolution or ordinance  
117 calling for the imposition of the tax or in the event that tax proceeds exceed that amount  
118 required to fund the county-wide project or projects, the remaining proceeds shall be  
119 distributed in the following manner:

120 (i) As specified in an intergovernmental agreement other than the agreement  
121 specified in paragraph (1) of this subsection. The intergovernmental agreement shall  
122 include, at a minimum, the information required in paragraph (1) of this subsection;  
123 or

124 (ii) To the qualified municipalities within the special district based upon the ratio that  
125 the population of each qualified municipality bears to the total population of the  
126 county within the special district. If any qualified municipality is located in more than  
127 one county, only that portion of its population that is within the special district shall  
128 be counted. The remainder of such proceeds shall be distributed to the governing  
129 authority of the county within the special district. Capital outlay projects included in  
130 the referendum ballot by the county or any qualified municipalities within the special  
131 district shall be based upon the anticipated proceeds and distribution of the tax. ~~The~~  
132 ~~governing authority of the county within the special district shall distribute all~~  
133 ~~proceeds received by the county for the tax levied pursuant to this part to the qualified~~  
134 ~~municipalities within the special district on a monthly basis where proceeds are~~  
135 ~~distributed in accordance with this division."~~

136

**SECTION 4.**

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