

Senate Bill 375

By: Senators Fort of the 39th, Lucas of the 26th, Ramsey, Sr. of the 43rd, Tate of the 38th, Henson of the 41st and others

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 exemptions to such tax; to revise and repeal certain
6 definitions; to provide for a sunset date for certain provisions; to provide for the election,
7 ballot, imposition, collection, and cessation of a special district transportation sales and use
8 tax; to provide for related matters; 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, 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) 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 conterminous with the
 36 geographical boundary of the applicable region of the 12 regional commissions provided
 37 for in subsection (f) of Code Section 50-8-4.

38 (2)(A)(i) On or after July 1, 2014, 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, 2024.

42 (iii) On or after July 1, 2014, a new special district may be formed by two or more
 43 geographically contiguous counties, a municipality and one or more counties which
 44 share a boundary line with the county in which such municipality lies, two or more
 45 municipalities that are located in contiguous counties, or any combination thereof, so
 46 long as all counties are contiguous.

47 (B) A special district created on or after July 1, 2014, shall require each of the
 48 following:

49 (i) Passage of a local Act creating a special district and the conditions under which
 50 such special district shall operate by those members of the General Assembly whose
 51 respective districts are embraced or partly embraced within the proposed special
 52 district; and

53 (ii) A resolution approving the intergovernmental agreement described under
 54 subparagraph (C) of this paragraph by:

55 (I) The governing bodies of each county that desires to be included in a special
 56 district; or

57 (II) The governing bodies of each municipality that desires to be included in a
 58 special district when such municipalities are not within a participating county.

59 (C) Intergovernmental agreements shall be drawn which shall include the specific
 60 transportation projects to be funded, the anticipated schedule of such projects, the
 61 approximate cost of such projects, and the estimated amount of net proceeds to be

62 raised by the tax, and the amount of proceeds to be distributed to each participating
 63 governing body for such projects.

64 (b) When the imposition of a special district sales and use tax is authorized according to
 65 the procedures provided in this article within a special district, subject to the requirement
 66 of referendum approval and the other requirements of this article, a special sales and use
 67 tax shall be imposed within the special district for a period of not less than three, but no
 68 more than ten years which tax shall be known as the special district transportation sales and
 69 use tax."

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

75 (1) ~~The sale or use of any type of fuel used for off-road heavy-duty equipment, off-road~~
 76 ~~farm or agricultural equipment, or locomotives~~ of food, food ingredients, and prepared
 77 food;

78 (2) ~~The sale or use of jet fuel to or by a qualifying airline at a qualifying airport of~~
 79 ~~over-the-counter drugs;~~

80 (3) ~~The sale or use of fuel that is used for propulsion of motor vehicles on the public~~
 81 ~~highways. For purposes of this paragraph, a motor vehicle means a self-propelled vehicle~~
 82 ~~designed for operation or required to be licensed for operation upon the public highways~~
 83 ~~of drugs lawfully dispensable by prescription by a physician, clinic, dentist, or hospital;~~
 84 or

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

87 ~~(5)~~(4) The sale or use of For motor fuel as defined under paragraph (9) of Code Section
 88 48-9-2 for public mass transit.

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

94 SECTION 3.

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

98 “(11) 'Regional transportation roundtable' or 'roundtable' means a conference of the local
99 governments of a special district created prior to July 1, 2014, pursuant to this article held
100 at a centralized location within the district as chosen by the director for the purpose of
101 establishing the investment criteria and determining projects eligible for the investment
102 list for the special district. ~~The regional transportation roundtable shall consist of the~~
103 ~~chairperson, sole commissioner, mayor, or chief executive officer of the county~~
104 ~~governing authority from each county in the special district. In the event any county in~~
105 ~~the special district has a consolidated government, the consolidated government shall~~
106 ~~elect a second elected member of the county consolidated government to the regional~~
107 ~~roundtable. In counties without a consolidated government, the second member of the~~
108 ~~regional roundtable from that county shall be one mayor elected by the mayors of the~~
109 ~~county; provided, however, that, in the event such an election ends in a tie, the mayor of~~
110 ~~the municipal corporation with the highest population determined using the most recently~~
111 ~~completed United States decennial census shall be deemed to have been elected as a~~
112 ~~representative unless that mayor is already part of the roundtable. In such case, the~~
113 ~~mayor of the municipal corporation with the second highest population shall be deemed~~
114 ~~to have been elected as a representative. If a county has more than 90 percent of its~~
115 ~~population residing in municipal corporations, such county shall have the mayor of the~~
116 ~~municipal corporation with the highest population determined using the most recently~~
117 ~~completed United States decennial census as an additional representative. The regional~~
118 ~~transportation roundtable shall elect five representatives from among its members to~~
119 ~~serve as an executive committee. The executive committee shall also include two~~
120 ~~members of the House of Representatives selected by the chairperson of the House~~
121 ~~Transportation Committee and one member of the Senate selected by the chairperson of~~
122 ~~the Senate Transportation Committee. Each member of the General Assembly appointed~~
123 ~~to the executive committee shall be a nonvoting member of the executive committee and~~
124 ~~shall represent a district which lies wholly or partially within the region represented by~~
125 ~~the executive committee. The executive committee shall not have more than one~~
126 ~~representative from any one county, but any member of the General Assembly serving~~
127 ~~on the executive committee shall not count as a representative of his or her county.~~
128 (12) 'Special Regional Transportation Funding Election Act' means an Act specifically
129 and exclusively enacted for the purpose of ordering that a referendum be held for the
130 reimposition of the special district transportation sales and use tax within the region that
131 includes the districts, in their entirety or any portion thereof, of the members from a local
132 legislative delegation in the General Assembly. A majority of the signatures of the
133 legislative delegation for a majority of the counties within the region shall be required for
134 the bill to be placed upon the local calendar of each chamber. This method shall be

135 ~~exclusively used for this purpose and no other bill shall be placed or voted upon on the~~
 136 ~~local calendar utilizing this method of qualification for placement thereon. This Act shall~~
 137 ~~be treated procedurally by the General Assembly as a local Act and all counties within~~
 138 ~~the region shall receive the legal notice requirements of a local Act. Reserved."~~

139 **SECTION 4.**

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

143 "(d) This Code section shall stand repealed on January 1, 2024."

144 **SECTION 5.**

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

147 ~~"(a) Simultaneously with the director's delivery of the approved investment list in~~
 148 ~~accordance with subsection (b) of Code Section 48-8-243, the roundtable After creation of~~
 149 ~~a special district in accordance with paragraph (2) of subsection (a) of Code Section~~
 150 ~~48-8-241, the chairperson of each county commission and municipal governing body if~~
 151 ~~such municipality is not located within a participating county shall deliver a notice to the~~
 152 ~~election superintendents of each county or municipality if such municipality is not located~~
 153 ~~within a participating county within the respective special districts. Upon receipt of the~~
 154 ~~notice, the election superintendents shall issue the call for an election for the purpose of~~
 155 ~~submitting the question of the imposition of the tax to the voters within each special~~
 156 ~~district. The election superintendents shall issue the call and shall conduct the election in~~
 157 ~~the manner authorized under Code Section 21-2-540. The ~~first~~ election shall be held on the~~
 158 ~~date of the general ~~state-wide primary~~ election following the signing of the~~
 159 ~~intergovernmental agreements in 2012. The election superintendents shall cause the date~~
 160 ~~and purpose of the election to be published once a week for four weeks immediately~~
 161 ~~preceding the date of the election in the official organs of their respective counties or~~
 162 ~~municipalities when such municipality is not located within a participating county.~~

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

166 '() YES Shall _____ County's the transportation system of (name of county or
 167 municipality) and the transportation network in this region and the state
 168 () NO be improved by providing for a † __ percent special district transportation
 169 sales and use tax for the purpose of transportation projects and programs
 170 for a period of ~~ten~~ __ years?'

171 (c) All persons desiring to vote in favor of levying the tax shall vote 'Yes' and all persons
 172 opposed to levying the tax shall vote 'No.' If more than one-half of the votes cast
 173 throughout the entire special district are in favor of levying the tax, then the tax shall be
 174 levied as provided in this article; otherwise the tax shall not be levied and the question of
 175 levying the tax shall not again be submitted to the voters of the special district until ~~after~~
 176 ~~24 months immediately following the month in which the election was held~~ the general
 177 election held two years later. Each election superintendent shall hold and conduct the
 178 election under the same rules and regulations as govern ~~special~~ general elections. Each
 179 election superintendent shall canvass the returns from his or her county or municipality,
 180 declare the result of the election in that county or municipality, and certify the result to the
 181 Secretary of State. The Secretary of State shall compile the results from each county or
 182 municipality in the special district, declare the result of the election in the special district,
 183 and certify the result to the governing authority of each local government and MPO within
 184 the special district and the state revenue commissioner. The expense of the election in each
 185 county or municipality within each special district shall be paid from funds of each county
 186 or municipality when such municipality is not located within a participating county.

187 (d)(1) ~~In the event~~ For a special district sales and use tax election which was is held in
 188 July, 2012, and in which the voters in a special district ~~do~~ did not approve the levy of the
 189 special district transportation sales and use tax, the local governments in such special
 190 district shall be required to provide a 30 percent match for any local maintenance and
 191 improvement grants by the Department of Transportation for transportation projects and
 192 programs ~~for at least 24 months and until such time as a special district sales and use tax~~
 193 ~~is approved. In the event~~ or until December 31, 2023, whichever date occurs first.

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

200 (3) This subsection shall not apply to any special district created on or after July 1,
 201 2014."

202

SECTION 6.

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

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

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

212 (1) On the final day of the ~~ten-year~~ period of time specified for the imposition of the tax;
213 or

214 (2) As of the end of the calendar quarter during which the state revenue commissioner
215 determines that the tax has raised revenues sufficient to provide to the special district net
216 proceeds equal to or greater than the amount specified as the estimated amount of net
217 proceeds to be raised by the special district transportation tax.

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

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

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

239 ~~a resolution or of the passage of the Special Regional Transportation Funding Election~~
 240 ~~Act by the General Assembly."~~

241 **SECTION 7.**

242 Said article is further amended in Code Section 48-8-249, relating to the use of tax proceeds
 243 within a special district, by revising subsections (a) and (e) as follows:

244 "(a) For special districts created prior to July 1, 2014, the ~~The~~ proceeds received from the
 245 tax authorized by this article shall be used within the special district receiving proceeds of
 246 the tax exclusively for the projects on the approved investment list for such district as
 247 provided in subsection (b) of Code Section 48-8-243. For special districts created on or
 248 after July 1, 2014, the proceeds received from the tax authorized by this article shall be
 249 used within the special district receiving proceeds of the tax exclusively for the projects
 250 authorized under subparagraph (a)(2)(C) of Code Section 48-8-241. Authorized uses of
 251 tax proceeds in connection with such projects shall include the cost of project defined in
 252 paragraph (2) of Code Section 48-8-242."

253 "(e) For purposes of this subsection, the term 'special district' means a special district that
 254 was created prior to July 1, 2014. Twenty-five percent of the proceeds received from the
 255 tax authorized by this article shall be distributed to the local governments within the special
 256 district in which the tax is imposed if such special district's boundaries are not
 257 conterminous with an MPO. Fifteen percent of the proceeds received from the tax
 258 authorized by this article shall be distributed to the local governments within the special
 259 district in which the tax is imposed if such special district's boundaries are wholly
 260 contained within a single MPO. Such percentages shall be allocated to each local
 261 government by multiplying the LARP factor of each local government by the total amount
 262 of funds to be distributed to all the local governments in the special district. Proceeds
 263 described in this subsection shall be distributed to the local governments on an ongoing
 264 basis as they are received by the commission. Such proceeds shall be used by the local
 265 governments only for transportation projects as defined in paragraph (10) of Code Section
 266 48-8-242 and may also serve as the local match as required for state transportation projects
 267 and grants. If a special district receives from the tax net proceeds in excess of the
 268 investment list approved by the roundtable for the imposition of the tax or in excess of the
 269 actual cost of the project or projects on such investment list, then such excess proceeds
 270 shall be distributed among the local governments within the special district in accordance
 271 with this subsection."

272 **SECTION 8.**

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