

The House Committee on Ways and Means offers the following substitute to HB 390:

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 that in certain counties
4 all qualified municipalities must agree prior to the holding of a referendum in the county; to
5 provide for a maximum period of time certain local sales and use taxes may be levied; to
6 provide for related matters; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

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

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

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

27 the period the tax under said subparagraph (a)(1)(D) is in effect. The exception
 28 provided for under this subparagraph shall not apply in any county in which a tax is
 29 being imposed under Article 2A of this chapter; or

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

32 Such tax shall not apply to the following:

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

40 (ii) The sale of motor vehicles; or

41 (C) In a county in which a tax is levied and collected pursuant to Article 2A of Chapter
 42 8 of Title 48;"

43 **SECTION 2.**

44 Said chapter is further amended in Code Section 48-8-111, relating to the imposition of a
 45 county special purpose local option sales tax, by revising the introductory language and
 46 paragraphs (1) and (2) of subsection (a) to read as follows:

47 "(a) Prior to the issuance of the call for the referendum and prior to the vote of a county
 48 governing authority within a special district to impose the tax under this part, such
 49 governing authority may enter into an intergovernmental agreement with any or all of the
 50 qualified municipalities within the special district. Any county that desires to have a tax
 51 under this part levied within the special district shall deliver or mail a written notice to the
 52 mayor or chief elected official in each qualified municipality located within the special
 53 district. Such notice shall contain the date, time, place, and purpose of a meeting at which
 54 the governing authorities of the county and of each qualified municipality are to meet to
 55 discuss the possible projects for inclusion in the referendum, including municipally owned
 56 or operated projects. The notice shall be delivered or mailed at least ten days prior to the
 57 date of the meeting. The meeting shall be held at least 30 days prior to the issuance of the
 58 call for the referendum. Following such meeting, the governing authority of the county
 59 within the special district voting to impose the tax authorized by this part shall notify the
 60 county election superintendent by forwarding to the superintendent a copy of the resolution
 61 or ordinance of the governing authority calling for the imposition of the tax. Such
 62 ordinance or resolution shall specify eligible expenditures identified by the county and any

63 qualified municipality for use of proceeds distributed pursuant to subsection (b) of Code
 64 Section 48-8-115. In any county in which the provisions of subparagraph (a)(2)(C) of
 65 Code Section 48-8-6 are applicable, every qualified municipality within such county must
 66 expressly agree through an intergovernmental agreement with the county before a
 67 referendum is held in such county. If no such express agreement is reached, the tax shall
 68 not be levied or collected and the referendum shall not be conducted within the county.

69 Such ordinance or resolution shall also specify:

70 (1) The purpose or purposes for which the proceeds of the tax are to be used and may be
 71 expended, which purpose or purposes may consist of capital outlay projects located
 72 within or outside, or both within and outside, any incorporated areas in the county in the
 73 special district or outside the county, as authorized by subparagraph (B) of this paragraph
 74 for regional facilities, and which may include any of the following purposes:

75 (A) A capital outlay project consisting of road, street, and bridge purposes, which
 76 purposes may include sidewalks and bicycle paths;

77 (B) A capital outlay project or projects in the special district and consisting of a
 78 courthouse; administrative buildings; a civic center; a local or regional jail, correctional
 79 institution, or other detention facility; a library; a coliseum; local or regional solid waste
 80 handling facilities as defined under paragraph (27.1) or (35) of Code Section 12-8-22,
 81 as amended, excluding any solid waste thermal treatment technology facility, including,
 82 but not limited to, any facility for purposes of incineration or waste to energy direct
 83 conversion; local or regional recovered materials processing facilities as defined under
 84 paragraph (26) of Code Section 12-8-22, as amended; or any combination of such
 85 projects;

86 (C) A capital outlay project or projects which will be operated by a joint authority or
 87 authorities of the county and one or more qualified municipalities within the special
 88 district;

89 (D) A capital outlay project or projects, to be owned or operated or both either by the
 90 county, one or more qualified municipalities within the special district, one or more
 91 local authorities within the special district, or any combination thereof;

92 (E) A capital outlay project consisting of a cultural facility, a recreational facility, or
 93 a historic facility or a facility for some combination of such purposes;

94 (F) A water capital outlay project, a sewer capital outlay project, a water and sewer
 95 capital outlay project, or a combination of such projects, to be owned or operated or
 96 both by a county water and sewer district and one or more qualified municipalities in
 97 the county;

98 (G) The retirement of previously incurred general obligation debt of the county, one
 99 or more qualified municipalities within the special district, or any combination thereof;

- 100 (H) A capital outlay project or projects within the special district and consisting of
 101 public safety facilities, airport facilities, or related capital equipment used in the
 102 operation of public safety or airport facilities, or any combination of such purposes;
- 103 (I) A capital outlay project or projects within the special district, consisting of capital
 104 equipment for use in voting in official elections or referendums;
- 105 (J) A capital outlay project or projects within the special district consisting of any
 106 transportation facility designed for the transportation of people or goods, including but
 107 not limited to railroads, port and harbor facilities, mass transportation facilities, or any
 108 combination thereof;
- 109 (K) A capital outlay project or projects within the special district and consisting of a
 110 hospital or hospital facilities that are owned by a county, a qualified municipality, or
 111 a hospital authority within the special district and operated by such county,
 112 municipality, or hospital authority or by an organization which is tax exempt under
 113 Section 501(c)(3) of the Internal Revenue Code, which operates the hospital through
 114 a contract or lease with such county, municipality, or hospital authority; or
- 115 (L) Any combination of two or more of the foregoing;
- 116 (2) The maximum period of time, to be stated in calendar years or calendar quarters and
 117 not to exceed five years, unless:
- 118 (A) the The provisions of paragraph (1) of subsection (b) or subparagraph (b)(2)(A) of
 119 Code Section 48-8-115 are applicable, in which case the maximum period of time for
 120 which the tax may be levied shall not exceed six years; or
- 121 (B) The provisions of subparagraph (a)(2)(C) of Code Section 48-8-6 are applicable
 122 and the purpose of the tax is to fund transportation and related infrastructure projects,
 123 in which case the maximum period of time for which the tax may be levied shall not
 124 exceed ten years and upon the expiration of such tax it shall not be imposed again
 125 without approval of a joint resolution of the General Assembly;"

126

SECTION 3.

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