

House Bill 1102

By: Representatives Rutledge of the 109th and Kirby of the 114th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2A of Chapter 8 of Title 48 of the Official Code of Georgia Annotated,
2 relating to homestead option sales and use tax, so as to provide for a revised homestead
3 option sales tax; to provide for a revised distribution of the proceeds from the levy of an
4 equalized homestead option sales and use tax; to provide for the levy of a special purpose
5 local option sales and use tax in certain counties; to provide for elector petitions and
6 referenda; to provide for procedures, conditions, and limitations; to provide for a short title;
7 to provide for related matters; to provide for an effective date; 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 2A of Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to
12 homestead option sales and use tax, is amended by adding a new part to read as follows:

13 "Part 3

14 48-8-109.15.

15 This part shall be known and may be cited as the 'Revised Homestead Option Sales and
16 Use Tax Act of 2020.'

17 48-8-109.16.

18 In any county where a homestead option sales and use tax under Part 1 of this article is
19 being levied, the question of whether to suspend the sales and use tax authorized by Code
20 Section 48-8-109.3 and replace such tax with a sales and use tax authorized by this part
21 shall be submitted to the electors of the special district in the manner provided for in Code
22 Section 48-8-109.18. If the sales and use tax is not approved by the electors, then the

23 homestead option sales and use tax under Part 1 of this article shall continue in full force
24 and effect.

25 48-8-109.17.

26 (a) Pursuant to the authority granted by Article IX, Section II, Paragraph VI of the
27 Constitution of this state, there are created within this state 159 special districts. The
28 geographical boundary of each county shall correspond with and shall be conterminous
29 with the geographical boundary of one of the 159 special districts.

30 (b) When the imposition of a local sales and use tax is authorized according to the
31 procedures provided in this part within a special district, the county whose geographical
32 boundary is conterminous with that of the special district shall levy a local sales and use
33 tax at the same rate as provided in Part 1 of this article. Except as otherwise provided in
34 this part, the local sales and use tax shall correspond to the tax imposed and administered
35 by Part 1 of this article. The local sales and use tax levied pursuant to this part shall apply
36 to all items and transactions subject to taxation pursuant to Part 1 of this article. No item
37 or transaction which is not subject to taxation pursuant to Part 1 of this article shall be
38 subject to the tax levied pursuant to this part.

39 (c) No sales and use tax shall be levied in a special district under this part in which a tax
40 is levied and collected under Article 2 of this chapter.

41 48-8-109.18.

42 (a) Whenever a petition is filed with the election superintendent of any county whose
43 geographical boundary is conterminous with that of the special district and such petition
44 is signed by at least 10 percent of the electors registered to vote in the last general election
45 directing such election superintendent to submit to the electors of the special district the
46 question of whether the sales and use tax authorized by this part shall be imposed, the
47 election superintendent shall determine the validity of such petition within 60 days of its
48 being filed. In the event the election superintendent determines that such petition is valid,
49 it shall be the duty of the election superintendent to issue the call for an election for the
50 purpose of submitting the question of the imposition of the sales and use tax to the voters
51 of the special district for approval or rejection. The election superintendent shall issue the
52 call and shall conduct the election on a date and in the manner authorized under Code
53 Section 21-2-540. The election superintendent shall cause the date and purpose of the
54 election to be published once a week for two weeks immediately preceding the date of the
55 election in the official organ of such county. The ballot shall have written or printed
56 thereon the following ballot question:

57 '() YES Shall the homestead option sales and use tax be suspended within the
 58 () NO special district within _____ County and a revised homestead
 59 option sales and use tax be levied for the purpose of reducing the ad
 60 valorem property tax millage rates levied by county and municipal
 61 governments on homestead properties, with 99 percent of such tax being
 62 used to roll back ad valorem property tax millage rates?'

63 Notwithstanding any other provision of law to the contrary, the ballot question referred to
 64 in this subsection shall precede any and all other ballot questions which are to appear on
 65 the same ballot.

66 (b) All persons desiring to vote in favor of levying the sales and use tax shall vote 'Yes,'
 67 and those persons opposed to levying the tax shall vote 'No.' If more than one-half of the
 68 votes cast are in favor of levying the tax, then the tax shall be levied in accordance with this
 69 part; otherwise, the sales and use tax may not be levied, and the question of the imposition
 70 of the sales and use tax may not again be submitted to the voters of the special district until
 71 after 24 months immediately following the month in which the election was held. It shall
 72 be the duty of the election superintendent to hold and conduct such elections under the
 73 same rules and regulations as govern special elections. It shall be the superintendent's
 74 further duty to canvass the returns, declare the result of the election, and certify the result
 75 to the Secretary of State and to the commissioner. The expense of the election shall be
 76 borne by the county whose geographical boundary is conterminous with that of the special
 77 district holding the election.

78 (c) If the imposition of the sales and use tax provided in this part is approved in a
 79 referendum election as provided by subsections (a) and (b) of this Code section, the
 80 governing authority of the county whose geographical boundary is conterminous with that
 81 of the special district shall adopt a resolution during the first 30 days following the
 82 certification of the result of the election imposing the sales and use tax authorized in this
 83 part on behalf of the county whose geographical boundary is conterminous with that of the
 84 special district. The resolution shall be effective on the first day of the next succeeding
 85 calendar quarter which begins more than 80 days after the adoption of the resolution. With
 86 respect to services which are billed on a regular monthly basis, however, the resolution
 87 shall become effective with the first regular billing period coinciding with or following the
 88 otherwise effective date of the resolution. A certified copy of the resolution shall be
 89 forwarded to the commissioner so that it will be received within five days after its
 90 adoption.

91 48-8-109.19.
 92 (a) The sales and use tax levied pursuant to this part shall be exclusively administered and
 93 collected by the commissioner for the use and benefit of each county whose geographical
 94 boundary is conterminous with that of a special district. Such administration and collection
 95 shall be accomplished in the same manner and subject to the same applicable provisions,
 96 procedures, and penalties provided in Article 1 of this chapter except that the sales and use
 97 tax provided in this part shall be applicable to sales of motor fuels as prepaid local tax as
 98 such term is defined in Code Section 48-8-2, to the same extent that sales of motor fuels
 99 are subject to taxation pursuant to Part 1 of this article; provided, however, that all moneys
 100 collected from each taxpayer by the commissioner shall be applied first to such taxpayer's
 101 liability for taxes owed the state. Dealers shall be allowed a percentage of the amount of
 102 the sales and use tax due and accounted for and shall be reimbursed in the form of a
 103 deduction in submitting, reporting, and paying the amount due if such amount is not
 104 delinquent at the time of payment. The deduction shall be at the rate and subject to the
 105 requirements specified under subsections (b) through (f) of Code Section 48-8-50.
 106 (b) Each sales and use tax return remitting sales and use taxes collected under this part
 107 shall separately identify the location of each retail establishment at which any of the sales
 108 and use taxes remitted were collected and shall specify the amount of sales and the amount
 109 of taxes collected at each establishment for the period covered by the return in order to
 110 facilitate the determination by the commissioner that all sales and use taxes imposed by this
 111 part are collected and distributed according to situs of sale.
 112 (c) The proceeds of the sales and use tax collected by the commissioner in each special
 113 district under this part shall be disbursed as soon as practicable after collection as follows:
 114 (1) One percent of the amount collected shall be paid into the general fund of the state
 115 treasury in order to defray the costs of administration; and
 116 (2) The remaining proceeds shall be disbursed to the governing authority of the county
 117 whose geographical boundary is conterminous with that of the special district, and each
 118 municipality located wholly or partially therein, and shall be utilized as follows:
 119 (A) The proceeds shall be used to roll back, and eliminate if possible, the millage rates
 120 for any county ad valorem property tax line items levied uniformly throughout the
 121 county on homestead properties, including in all municipalities; and
 122 (B) Any remaining proceeds shall be used to roll back at an equal and uniform rate
 123 across both of the following categories, and eliminate if possible:
 124 (i) The millage rates for any county ad valorem property tax line items levied only
 125 in unincorporated portions of the county on homestead properties; and

126 (ii) The millage rates for any municipal ad valorem property tax line items levied in
 127 every municipality located wholly or partially in the county on homestead properties
 128 but not in unincorporated portions of the county.

129 If any municipality is located partially in the special district, then only that portion so
 130 located shall be considered in the calculations contained in this subsection.

131 (d) The form to collect ad valorem tax prepared by the county tax commissioner shall
 132 reflect the full amount owed by the taxpayer pursuant to the millage rates set by the county
 133 governing authority and any municipal governing authority. Under a separate heading, the
 134 form shall reflect the deductions from the gross ad valorem tax amount realized through
 135 the application of proceeds from the revised homestead option sales and use tax.

136 (e) Notwithstanding any provision of law to the contrary except subsection (f) of this Code
 137 section, in any county levying a tax under this part, a tax levied pursuant to the provisions
 138 of Part 1 of Article 3 of this chapter in a special district in such county shall be strictly
 139 divided between the unincorporated portions of the county whose geographical boundary
 140 is conterminous with that of the special district and the municipalities wholly or partially
 141 located within the special district on a per capita basis, based on the most recent decennial
 142 census, unless altered by an intergovernmental agreement between the county and all
 143 municipalities wholly located within the special district. Notwithstanding any provision
 144 of law to the contrary, the department shall disburse directly to the county and each
 145 municipality its share of the proceeds of the tax levied pursuant to Part 1 of Article 3 of this
 146 chapter.

147 (f) The tax levied in the special district under Part 1 of Article 3 of this chapter shall not
 148 be levied within the boundaries of any municipality wholly or partially located within the
 149 special district that is levying a tax pursuant to Article 4 of this chapter. No proceeds from
 150 the tax levied in the special district under Part 1 of Article 3 of this chapter shall be
 151 disbursed to any such municipality. Upon the expiration of the tax levied under Article 4
 152 of this chapter in such municipality, the tax in the special district under Part 1 of Article 3
 153 of this chapter shall be levied within such municipality and proceeds shall be disbursed to
 154 such municipality in accordance with this part.

155 48-8-109.20.

156 Where a local sales or use tax has been paid with respect to tangible personal property by
 157 the purchaser either in another local tax jurisdiction within this state or in a tax jurisdiction
 158 outside this state, the sales and use tax may be credited against the sales and use tax
 159 authorized to be imposed by this part upon the same property. If the amount of sales or use
 160 tax so paid is less than the amount of the use tax due under this part, the purchaser shall pay
 161 an amount equal to the difference between the amount paid in the other tax jurisdiction and

162 the amount due under this part. The commissioner may require such proof of payment in
 163 another local tax jurisdiction as the commissioner deems necessary and proper. No credit
 164 shall be granted, however, against the sales and use tax imposed under this part for tax paid
 165 in another jurisdiction if the sales and use tax paid in such other jurisdiction is used to
 166 obtain a credit against any other local sales and use tax levied in the special district or in
 167 the county which is conterminous with the special district; and sales and use taxes so paid
 168 in another jurisdiction shall be credited first against the sales and use tax levied under this
 169 part and then against the sales and use tax levied under Article 3 of this chapter, if
 170 applicable.

171 48-8-109.21.

172 (a) Whenever the governing authority of any county whose geographical boundary is
 173 conterminous with that of the special district in which the sales and use tax authorized by
 174 this part is being levied wishes to submit to the electors of the special district the question
 175 of whether the sales and use tax authorized by this part shall be discontinued, the governing
 176 authority shall notify the election superintendent of the county whose geographical
 177 boundary is conterminous with that of the special district by forwarding to the
 178 superintendent a copy of a resolution of the governing authority calling for the referendum
 179 election. Upon receipt of the resolution, it shall be the duty of the election superintendent
 180 to issue the call for an election for the purpose of submitting the question of discontinuing
 181 the levy of the sales and use tax to the voters of the special district for approval or rejection.
 182 The election superintendent shall issue the call and shall conduct the election on a date and
 183 in the manner authorized under Code Section 21-2-540. If such sales and use tax is
 184 repealed, then the sales and use tax under Part 1 of this article shall replace the sales and
 185 use tax that was imposed under this part. The election superintendent shall cause the date
 186 and purpose of the election to be published once a week for two weeks immediately
 187 preceding the date of the election in the official organ of such county. The ballot shall have
 188 written or printed thereon the following:

189 ' () YES Shall the revised homestead option sales and use tax being levied within
 190 () NO the special district within _____ County for the purpose of
 191 reducing the ad valorem property tax millage rates levied by county and
 192 municipal governments on homestead properties, with 99 percent of
 193 such tax being used to roll back ad valorem property tax millage rates,
 194 be terminated?'

195 (b) All persons desiring to vote in favor of discontinuing the sales and use tax shall vote
 196 'Yes,' and those persons opposed to discontinuing the tax shall vote 'No.' If more than
 197 one-half of the votes cast are in favor of discontinuing the sales and use tax, then the sales

198 and use tax shall cease to be levied on the last day of the taxable year following the taxable
199 year in which the commissioner receives the certification of the result of the election;
200 otherwise, the sales and use tax shall continue to be levied, and the question of
201 discontinuing the tax may not again be submitted to the voters of the special district until
202 after 24 months immediately following the month in which the election was held. It shall
203 be the duty of the election superintendent to hold and conduct such elections under the
204 same rules and regulations as govern special elections. It shall be the superintendent's
205 further duty to canvass the returns, declare and certify the result of the election, and certify
206 the result to the Secretary of State and to the commissioner. The expense of the election
207 shall be borne by the county whose geographical boundary is conterminous with that of the
208 special district holding the election.

209 48-8-109.22.

210 No sales and use tax provided for in this part shall be imposed upon the sale of tangible
211 personal property which is ordered by and delivered to the purchaser at a point outside the
212 geographical area of the special district in which the sales and use tax is imposed under this
213 part regardless of the point at which title passes, if the delivery is made by the seller's
214 vehicle, United States mail, or common carrier or by private or contract carrier licensed by
215 the Federal Motor Carrier Safety Administration or the Georgia Department of Public
216 Safety.

217 48-8-109.23.

218 (a) As used in this Code section, the term 'building and construction materials' means all
219 building and construction materials, supplies, fixtures, or equipment, any combination of
220 such items, and any other leased or purchased articles when the materials, supplies,
221 fixtures, equipment, or articles are to be utilized or consumed during construction or are
222 to be incorporated into construction work pursuant to a bona fide written construction
223 contract.

224 (b) No sales and use tax provided for in this part shall be imposed in a special district upon
225 the sale or use of building and construction materials when the contract pursuant to which
226 the materials are purchased or used was advertised for bid prior to approval of the levy of
227 the sales and use tax by the county whose geographical boundary is conterminous with that
228 of the special district and the contract was entered into as a result of a bid actually
229 submitted in response to the advertisement prior to approval of the levy of the sales and use
230 tax.

231 48-8-109.24.
232 The commissioner shall have the power and authority to promulgate such rules and
233 regulations as shall be necessary for the effective and efficient administration and
234 enforcement of the collection of the sales and use tax authorized to be imposed by this
235 part."

236 **SECTION 2.**

237 This Act shall become effective upon its approval by the Governor or upon its becoming law
238 without such approval.

239 **SECTION 3.**

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