

House Bill 230

By: Representatives Newton of the 127<sup>th</sup>, Prince of the 132<sup>nd</sup>, Frazier of the 126<sup>th</sup>, Gladney of the 130<sup>th</sup>, and Howard of the 129<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 a qualified consolidated government special purpose local  
3 option sales tax; to provide an exception to a ceiling on local sales and use taxes; to provide  
4 for definitions; to provide for authorization of tax and applicability; to provide for local  
5 authorization and referenda; to provide for imposition and termination of tax; to provide for  
6 administration and collection of tax; to provide for returns; to provide for distribution of tax  
7 proceeds; to provide for personal property in other jurisdictions; to prohibit taxation of  
8 products ordered and delivered outside of jurisdiction; to prohibit taxation of certain  
9 construction materials; to provide for rules and regulations; to provide for impact on other  
10 taxes; to provide for use of proceeds and general obligation debt; to provide for related  
11 matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 **SECTION 1.**

14 Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to sales and use  
15 taxes, is amended in Code Section 48-8-6, relating to prohibition of political subdivisions  
16 from imposing various taxes, ceiling on local sales and use taxes, and taxation of mobile

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17 telecommunications, by revising paragraphs (6) and (7) of subsection (a) and adding a new  
18 paragraph to read as follows:

- 19     “(6) A sales and use tax levied under Article 5A of this chapter; and  
20     (7) A sales and use tax levied under Article 2 of Chapter 9 of Title 32; and  
21     (8) A sales and use tax levied under Part 3 of Article 3 of this chapter.”

## 22   SECTION 2.

23 Said chapter is further amended by revising Article 3, relating to county sales and use taxes,  
24 by adding a new part to read as follows:

### 25   “Part 3

#### 26     48-8-145.

27 As used in this part, the term:

28     (1) 'Coliseum capital outlay project' means any capital outlay project or projects, as  
29 defined in paragraph (1) of Code Section 48-8-110, within the special district and  
30 consisting of the acquisition, construction, renovation, improvement, and equipping of  
31 buildings, structures, and facilities as a successor facility to a multiuse coliseum or civic  
32 center type of facility, or a combination of such facilities, in operation on the same site  
33 for a minimum of 35 years and that includes, among other facilities, an arena originally  
34 constructed with a minimum of 5,000 permanent seats, such successor facility to be  
35 owned or operated, or both, either by the qualified consolidated government, one or more  
36 local authorities within the special district, or any combination thereof.

37     (2) 'Project cost' means the cost of acquiring, constructing, reconstructing, renovating,  
38 repairing, improving, and installing any coliseum capital outlay project, or any  
39 combination of the foregoing.

40 (3) 'Qualified consolidated government' means a consolidated government created by the  
41 consolidation of a county and one or more municipalities and within the geographic  
42 boundaries of the county in which such consolidated government exists there exist on the  
43 date of the call of the election pursuant to subsection (b) of Code Section 48-8-147 two  
44 or more incorporated municipalities.

45 48-8-146.

46 (a) The governing authority of any qualified consolidated government whose geographic  
47 boundary is coterminous with that of the special district in which the sales and use tax  
48 authorized by Part 1 of Article 3 of this chapter is being levied may, subject to the  
49 requirement of referendum approval and the other requirements of this part, impose within  
50 the special district a special sales and use tax for a limited period of time for the purpose  
51 of funding coliseum capital outlay projects and project costs.

52 (b) Except as provided in subsection (c) of this Code section, any tax imposed under this  
53 part shall be at the rate of 0.5 percent. Except as to rate, a tax imposed under this part shall  
54 correspond to the tax imposed by Article 1 of this chapter. No item or transaction which  
55 is not subject to taxation under Article 1 of this chapter shall be subject to a tax imposed  
56 under this part, except that a tax imposed under this part shall apply to sales of motor fuels  
57 as prepaid local tax as that term is defined in Code Section 48-8-2 and shall be applicable  
58 to the sale of food and food ingredients and alcoholic beverages as provided for in Code  
59 Section 48-8-3.

60 (c) Such sales and use tax levied on sales of motor fuels as defined in Code Section 48-9-2  
61 shall be at the rate of 0.5 percent of the retail sales price of the motor fuel which is not  
62 more than \$3.00 per gallon.

63 48-8-147.

64 (a) The governing authority of a qualified consolidated government voting to impose the  
65 tax authorized by this part within the special district shall notify the qualified consolidated  
66 government election superintendent by forwarding to the superintendent a copy of the  
67 resolution or ordinance of the governing authority calling for the imposition of the tax.

68 Such ordinance or resolution shall specify:

69 (1) The maximum period of time of the tax, to be stated in calendar years or calendar  
70 quarters and not to exceed five years; provided however, that the tax authorized by this  
71 part shall not be subject to any maximum period of time for which the tax may be levied  
72 if general obligation debt is to be issued in conjunction with the imposition of the tax, in  
73 which case the resolution or ordinance calling for the imposition of the tax shall not be  
74 required to state a maximum period of time for which the tax is to be levied and the  
75 language relating to the maximum period of time for which to tax is to be levied may be  
76 omitted from the ballot;

77 (2) The aggregate maximum cost of the project or projects which shall be funded from  
78 the proceeds of the tax, which aggregate maximum cost shall also be the maximum  
79 amount of net proceeds to be raised by the tax; and

80 (3) If general obligation debt is to be issued in conjunction with the imposition of the tax,  
81 as authorized by this part, the principal amount of the debt to be issued, the interest rate  
82 or rates or the maximum interest rate or rates which such debt is to bear, and the amount  
83 of principal to be paid in each year during the life of the debt.

84 (b) Upon receipt of the resolution or ordinance, the qualified consolidated government  
85 election superintendent shall issue the call for an election for the purpose of submitting the  
86 question of the imposition of the tax to the voters of the qualified consolidated government.

87 The qualified consolidated government election superintendent shall issue the call and shall  
88 conduct the election on a date and in the manner authorized under Code Section 21-2-540.

89 The qualified consolidated government election superintendent shall cause the date and

90 purpose of the election to be published once a week for four weeks immediately preceding  
 91 the date of the election in the legal organ of the qualified consolidated government or in a  
 92 newspaper having general circulation in the qualified consolidated government at least  
 93 equal to that of the legal organ. If general obligation debt is to be issued in conjunction  
 94 with the imposition of the tax, the notice published by the qualified consolidated  
 95 government election superintendent shall also include, in such form as may be specified  
 96 by the qualified consolidated government governing authority, the principal amount of the  
 97 debt, the rate or rates of interest or the maximum rate or rates of interest the debt shall bear,  
 98 and the amount of principal to be paid in each year during the life of the debt; and such  
 99 publication of notice by the qualified consolidated government election superintendent  
 100 shall take the place of the notice otherwise required by Code Section 36-80-11 or by  
 101 subsection (b) of Code Section 36-82-1, which notice shall not be required.

102 (c)(1) The ballot shall have written or printed thereon the following:

103 '( ) YES Shall a special 0.5 percent sales and use tax be imposed in the special  
 104 district of \_\_\_\_\_ for a period of time not to exceed \_\_\_\_\_ and  
 105 ( ) NO for the raising of not more than \$ \_\_\_\_\_ for the purpose of funding  
 106 coliseum capital outlay projects and project costs?'

107 (2) If debt is to be issued, the ballot shall also have written or printed thereon, following  
 108 the language specified by paragraph (1) of this subsection, the following:

109 'If imposition of the tax is approved by the voters, such vote shall also constitute approval  
 110 of the issuance of general obligation debt of \_\_\_\_\_ in the principal amount of \$  
 111 \_\_\_\_\_ for the above purpose.'

112 (d) All persons desiring to vote in favor of imposing the tax shall vote 'Yes' and all persons  
 113 opposed to levying the tax shall vote 'No.' If more than one-half of the votes cast are in  
 114 favor of imposing the tax, then the tax shall be imposed as provided in this part; otherwise,  
 115 the tax shall not be imposed and the question of imposing the tax shall not again be  
 116 submitted to the voters of the qualified consolidated government until after 12 months

117 immediately following the month in which the election was held; provided, however, that  
118 if an election date authorized under Code Section 21-2-540 occurs during the twelfth month  
119 immediately following the month in which such election was held, the question of  
120 imposing the tax may be submitted to the voters of the qualified consolidated government  
121 on such date. The qualified consolidated government election superintendent shall hold  
122 and conduct the election under the same rules and regulations as govern special elections.  
123 The qualified consolidated government election superintendent shall canvass the returns,  
124 declare the result of the election, and certify the result to the Secretary of State and to the  
125 commissioner. The expense of the election shall be paid from qualified consolidated  
126 government funds.

127 (e)(1) If the proposal includes the authority to issue general obligation debt and if more  
128 than one-half of the votes cast are in favor of the proposal, then the authority to issue such  
129 debt in accordance with Article IX, Section V, Paragraph I of the Constitution is given  
130 to the proper officers of the qualified consolidated government; otherwise such debt shall  
131 not be issued. If the authority to issue such debt is so approved by the voters, then such  
132 debt may be issued without further approval by the voters.

133 (2) If the issuance of general obligation debt is included and approved as provided in this  
134 Code section, then the governing authority of the qualified consolidated government may  
135 incur such debt either through the issuance and validation of general obligation bonds or  
136 through the execution of a promissory note or notes or other instrument or instruments.  
137 If such debt is incurred through the issuance of general obligation bonds, such bonds and  
138 their issuance and validation shall be subject to Articles 1 and 2 of Chapter 82 of Title 36,  
139 except as specifically provided otherwise in this part. If such debt is incurred through the  
140 execution of a promissory note or notes or other instrument or instruments, no validation  
141 proceedings shall be necessary and such debt shall be subject to Code Sections 36-80-10  
142 through 36-80-14, except as specifically provided otherwise in this part. In either event,  
143 such general obligation debt shall be payable first from the separate account in which are

144 placed the proceeds received by the qualified consolidated government from the tax  
145 authorized by this part. Such general obligation debt shall, however, constitute a pledge  
146 of the full faith, credit, and taxing power of the qualified consolidated government; and  
147 any liability on such debt which is not satisfied from the proceeds of the tax authorized  
148 by this part shall be satisfied from the general funds of the qualified consolidated  
149 government.

150 48-8-148.

151 (a)(1) If the imposition of the tax is approved by referendum, the tax shall be imposed  
152 on the first day of the next succeeding calendar quarter which begins more than 80 days  
153 after the date of the election at which the tax was approved by the voters.

154 (2) With respect to services that are regularly billed on a monthly basis, however, the  
155 resolution or ordinance imposing the tax shall become effective and the tax shall apply  
156 to the first regular billing period coinciding with or following the effective date specified  
157 in paragraph (1) of this subsection. A certified copy of the ordinance or resolution  
158 imposing the tax shall be forwarded to the commissioner to ensure it is received within  
159 five business days after certification of the election results.

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

161 (1) If the resolution or ordinance calling for the imposition of the tax provided for the  
162 issuance of general obligation debt and such debt is the subject of validation proceedings,  
163 as of the end of the first calendar quarter ending more than 80 days after the date on  
164 which a court of competent jurisdiction enters a final order denying validation of such  
165 debt;

166 (2) On the final day of the maximum period of time specified for the imposition of the  
167 tax; or

168 (3) As of the end of the calendar quarter during which the commissioner determines that  
169 the tax raised revenues sufficient to provide to the qualified consolidated government net

170 proceeds equal to or greater than the amount specified as the maximum amount of net  
171 proceeds to be raised by the tax.

172 (c)(1) No qualified consolidated government shall at any time impose more than a single  
173 0.5 percent tax under this part.

174 (2) A qualified consolidated government in which a tax authorized by this part is in  
175 effect may, while the tax is in effect, adopt a resolution or ordinance calling for a  
176 reimposition of a tax as authorized by this part upon the termination of the tax then in  
177 effect; and a referendum may be held for this purpose while the tax is in effect.  
178 Proceedings for such reimposition shall be in the same manner as proceedings for the  
179 initial imposition of the tax as provided for in Code Section 48-8-147 and shall be solely  
180 within the discretion of the governing authority of the qualified consolidated government.  
181 Such newly authorized tax shall not be imposed until the expiration of the tax then in  
182 effect; provided, however, that in the event of emergency conditions under which a  
183 qualified consolidated government is unable to conduct a referendum so as to continue  
184 the tax then in effect without interruption, the commissioner may, if administratively  
185 feasible, waive the limitations of subsection (a) of this Code section to the minimum  
186 extent necessary so as to permit the reimposition of a tax, if otherwise approved as  
187 required under this Code section, without interruption, upon the expiration of the tax then  
188 in effect.

189 48-8-149.

190 A tax levied pursuant to this part shall be exclusively administered and collected by the  
191 commissioner for the use and benefit of the qualified consolidated government imposing  
192 the tax. Such administration and collection shall be accomplished in the same manner and  
193 subject to the same applicable provisions, procedures, and penalties provided in Article 1  
194 of this chapter except that the sales and use tax provided in this part shall be applicable to  
195 sales of motor fuels as prepaid local tax as that term is defined in Code Section 48-8-2;



196 provided, however, that all moneys collected from each taxpayer by the commissioner shall  
197 be applied first to such taxpayer's liability for taxes owed the state; and provided, further,  
198 that the commissioner may rely upon a representation by or in behalf of the qualified  
199 consolidated government or the Secretary of State that such a tax has been validly imposed,  
200 and the commissioner and the commissioner's agents shall not be liable to any person for  
201 collecting any such tax which was not validly imposed. Dealers shall be allowed a  
202 percentage of the amount of the tax due and accounted for and shall be reimbursed in the  
203 form of a deduction in submitting, reporting, and paying the amount due if such amount  
204 is not delinquent at the time of payment. The deduction shall be at the rate and subject to  
205 the requirements specified under subsections (b) through (f) of Code Section 48-8-50.

206 48-8-150.

207 Each sales and use tax return remitting sales and use taxes collected under this part shall  
208 separately identify the location of each retail establishment at which any of the sales and  
209 use taxes remitted were collected and shall specify the amount of sales and the amount of  
210 taxes collected at each establishment for the period covered by the return to facilitate the  
211 determination by the commissioner that all sales and use taxes imposed by this part are  
212 collected and distributed according to situs of sale.

213 48-8-151.

214 The proceeds of the tax collected by the commissioner in each qualified consolidated  
215 government under this part shall be disbursed as soon as practicable after collection as  
216 follows:

217 (1) One percent of the amount collected shall be paid into the general fund of the state  
218 treasury to defray the costs of administration; and

219 (2) The remaining proceeds of the tax shall be distributed to the governing authority of  
220 the qualified consolidated government imposing the tax.

221 48-8-152.

222 Where a local sales or use tax has been paid with respect to tangible personal property by  
223 the purchaser either in another local tax jurisdiction within the state or in a tax jurisdiction  
224 outside the state, the tax may be credited against the tax authorized to be imposed by this  
225 part upon the same property. If the amount of sales or use tax so paid is less than the  
226 amount of the use tax due under this part, the purchaser shall pay an amount equal to the  
227 difference between the amount paid in the other tax jurisdiction and the amount due under  
228 this part. The commissioner may require such proof of payment in another local tax  
229 jurisdiction as the commissioner deems necessary and proper. No credit shall be granted,  
230 however, against the tax imposed under this part for tax paid in another jurisdiction if the  
231 tax paid in such other jurisdiction is used to obtain a credit against any other local sales and  
232 use tax levied in the qualified consolidated government or in a special district which  
233 includes the qualified consolidated government; and taxes so paid in another jurisdiction  
234 shall be credited first against the tax levied under Article 2 of this chapter, if applicable,  
235 then against the tax levied under Part 1 of Article 3 of this chapter, if applicable, then  
236 against the tax levied under Part 2 of Article 3 of this chapter, if applicable, and then  
237 against the tax levied under this part.

238 48-8-153.

239 No tax provided for in this part shall be imposed upon the sale of tangible personal  
240 property which is ordered by and delivered to the purchaser at a point outside the  
241 geographical area of the qualified consolidated government in which the tax is imposed  
242 regardless of the point at which title passes, if the delivery is made by the seller's vehicle,  
243 and including United States mail or common carrier or by a private or contract carrier  
244 licensed by the Federal Motor Carrier Safety Administration or the Georgia Department  
245 of Public Safety.

246 48-8-154.

247 No tax provided for in this part shall be imposed upon the sale or use of building and  
248 construction materials when the contract pursuant for which the materials are purchased  
249 or used was advertised for bid prior to the voters' approval of the levy of the tax and the  
250 contract was entered into as a result of a bid actually submitted in response to the  
251 advertisement prior to approval of the levy of the tax.

252 48-8-155.

253 The commissioner shall have the power and authority to promulgate such rules and  
254 regulations as shall be necessary for the effective and efficient administration and  
255 enforcement of the collection of the tax authorized by this part.

256 48-8-156.

257 The tax authorized by this part shall be in addition to any other local sales and use tax. The  
258 imposition of any other local sales and use tax within a county, municipality, or special  
259 district shall not affect the authority of a qualified consolidated government to impose the  
260 tax authorized by this part and the imposition of the tax authorized by this part shall not  
261 affect the imposition of any otherwise authorized local sales and use tax within a county,  
262 municipality, or special district.

263 48-8-157.

264 (a) The proceeds received from the tax authorized by this part shall be used by the  
265 qualified consolidated government exclusively for:

266 (1) Coliseum capital outlay projects and project costs;

267 (2) The repayment of general obligation indebtedness incurred in conjunction with the  
268 imposition of the tax authorized by this part; or

269 (3) The repayment of any loans made to such qualified consolidated government with  
270 respect to such coliseum capital outlay projects and project costs.

271 Such proceeds shall be kept in a separate account from other funds of the qualified  
272 consolidated government and shall not in any manner be commingled with other funds of  
273 the qualified consolidated government prior to expenditure.

274 (b) The governing authority of the qualified consolidated government shall maintain a  
275 record of every project cost for which the proceeds of the tax are used. In each annual  
276 audit a schedule shall be included that shows for each ongoing such project the original  
277 estimated cost, the current estimated cost if it is not the original estimated cost, amounts  
278 expended in prior years, and amounts expended in the current year. The auditor shall  
279 verify and test expenditures sufficient to provide assurances that the schedule is fairly  
280 presented in relation to the financial statements. The auditor's report on the financial  
281 statements shall include an opinion, or disclaimer of opinion, as to whether the schedule  
282 is presented fairly in all material respects in relation to the financial statements taken as a  
283 whole.

284 (c) No general obligation debt shall be issued in conjunction with the imposition of the tax  
285 unless the qualified consolidated government governing authority determines that, and if  
286 the debt is to be validated it is demonstrated in the validation proceedings that, during each  
287 year in which any payment of principal or interest on the debt comes due the qualified  
288 consolidated government shall receive from the tax authorized by this part net proceeds  
289 sufficient to fully satisfy such liability. General obligation debt issued under this part shall  
290 be payable first from the separate account in which are placed the proceeds received by the  
291 qualified consolidated government from the tax authorized by this part. Such debt,  
292 however, shall constitute a pledge of the full faith, credit, and taxing power of the qualified  
293 consolidated government; and any liability on said debt which is not satisfied from the  
294 proceeds of the tax authorized by this part shall be satisfied from the general funds of the  
295 qualified consolidated government.

296 (d) The resolution or ordinance calling for imposition of the tax authorized by this part  
297 may specify that all proceeds from the tax shall be used for payment of general obligation  
298 debt issued in conjunction with the imposition of the tax. If the resolution or ordinance so  
299 provides, then such proceeds shall be used solely for such purpose except as provided in  
300 subsection (e) of this Code section. In such a case no part of the net proceeds from the tax  
301 received in any year shall be used for other project costs until all debt service requirements  
302 of the general obligation debt for that year have first been satisfied from the account in  
303 which the proceeds of the tax are placed.

304 (e)(1)(A) If the proceeds of the tax are specified to be used solely for the purpose of  
305 payment of general obligation debt issued in conjunction with the imposition of the tax,  
306 then any net proceeds of the tax in excess of the amount required for final payment of  
307 such debt shall be subject to and applied as provided in paragraph (2) of this subsection.

308 (B) If the qualified consolidated government receives from the tax net proceeds in  
309 excess of the maximum cost of the project or projects calling for the imposition of the  
310 tax or in excess of the actual cost of such project or projects, then such excess proceeds  
311 shall be subject to and applied as provided in paragraph (2) of this subsection.

312 (C) If the tax is terminated under paragraph (1) of subsection (b) of Code  
313 Section 48-8-148 by reason of denial of validation of debt, then all net proceeds  
314 received by the qualified consolidated government from the tax shall be excess  
315 proceeds subject to paragraph (2) of this subsection.

316 (2) Excess proceeds subject to this subsection shall be used solely for the purpose of  
317 reducing any indebtedness of the qualified consolidated government other than  
318 indebtedness incurred pursuant to this part. If there is no such other indebtedness or, if  
319 the excess proceeds exceed the amount of any such other indebtedness, then the excess  
320 proceeds shall next be paid into the general fund of the qualified consolidated  
321 government, it being the intent that any funds so paid into the general fund of the  
322 qualified consolidated government be used for the purpose of reducing ad valorem taxes."

323 **SECTION 3.**

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

326 **SECTION 4.**

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