

House Bill 1214

By: Representatives O’Steen of the 169th, Burchett of the 176th, Williams of the 148th, Kelley of the 16th, Corbett of the 174th, and others

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 new special purpose local option sales tax dedicated to
3 certain healthcare purposes; to provide for definitions; to provide for authorization of tax and
4 applicability; to provide for local authorization and referenda; to provide for imposition and
5 termination of tax; to provide for administration and collection of tax; to provide for returns;
6 to provide for distribution of tax proceeds; to provide for personal property in other
7 jurisdictions; to prohibit taxation of products ordered and delivered outside of jurisdiction;
8 to prohibit taxation of certain construction materials; to provide for rules and regulations; to
9 provide for impact on other taxes; to provide for accountability and the withholding of funds
10 by the state; to provide for related matters; to provide an effective date; to repeal conflicting
11 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 by revising subparagraph (a)(1)(C) of Code Section 48-8-6, relating to

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16 prohibition of political subdivisions from imposing various taxes, ceiling on local sales and
17 use taxes, and taxation of mobile telecommunications, as follows:

18 "(C) Up to 1 percent in aggregate of any sales and use taxes authorized under Code
19 Section 48-8-96, Code Section 48-8-97, Article 2B of this chapter, Part 3 of Article 3
20 of this chapter, Part 4 of Article 3 of this chapter, and Article 4 of this chapter."

21 **SECTION 2.**

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

24 "Part 4

25 48-8-170.

26 As used in this part, the term:

27 (1) 'County special district' means the special district created for a county under Code
28 Section 48-8-166.

29 (2) 'Healthcare enhancement purposes' means capital outlay projects for hospitals,
30 providing for bad debt, indigent care, and any other shortfalls associated with providing
31 healthcare services to the community.

32 (3) 'Hospital' means a nonprofit hospital, a hospital owned or operated by a hospital
33 authority, or a nonprofit corporation formed, created, or operated by or on behalf of a
34 hospital authority.

35 48-8-171.

36 Pursuant to the authority granted by Article IX, Section II, Paragraph VI of the Constitution
37 of this state, there are created within this state 159 special districts. One such district shall

38 exist within the geographical boundaries of each county, and the territory of each district
39 shall include all of the territory within the county.

40 48-8-172.

41 (a) The governing authority of any municipality or any county whose geographic boundary
42 is coterminous with that of its county special district shall be authorized, subject to the
43 requirement of referendum approval and the other requirements of this part, to impose
44 within the municipality or the special district a special sales and use tax for a limited period
45 of time for healthcare enhancement purposes.

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

54 (c) Such sales and use tax levied on sales of motor fuels as defined in Code Section 48-9-2
55 shall be at the rate of 1 percent of the retail sales price of the motor fuel which is not more
56 than \$3.00 per gallon.

57 48-8-173.

58 (a) The governing authority of a municipality or county voting to impose the tax
59 authorized by this part within the municipality or special district shall notify the qualified
60 consolidated government election superintendent by forwarding to the superintendent a
61 copy of the resolution or ordinance of the governing authority calling for the imposition of

62 the tax. Such ordinance or resolution shall specify the maximum period of time of the tax,
 63 to be stated in calendar years or calendar quarters and not to exceed five years.

64 (b) Upon receipt of the resolution or ordinance, the election superintendent of the
 65 municipality or county shall issue the call for an election for the purpose of submitting the
 66 question of the imposition of the tax to the voters of the qualified consolidated government.
 67 Such election superintendent shall issue the call and shall conduct the election on a date
 68 and in the manner authorized under Code Section 21-2-540. Such election superintendent
 69 shall cause the date and purpose of the election to be published once a week for four weeks
 70 immediately preceding the date of the election in the legal organ of the municipality or
 71 county or in a newspaper having general circulation in the municipality or county at least
 72 equal to that of the legal organ.

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

74 '() YES Shall a special 1 percent sales and use tax be imposed in the special district
 75 of _____ for a period of time not to exceed _____ for
 76 () NO healthcare enhancement purposes?'

77 (d) All persons desiring to vote in favor of imposing the tax shall vote 'Yes' and all persons
 78 opposed to levying the tax shall vote 'No.' If more than one-half of the votes cast are in
 79 favor of imposing the tax, then the tax shall be imposed as provided in this part; otherwise,
 80 the tax shall not be imposed and the question of imposing the tax shall not again be
 81 submitted to the voters of the municipality or county until after 12 months immediately
 82 following the month in which the election was held; provided, however, that if an election
 83 date authorized under Code Section 21-2-540 occurs during the twelfth month immediately
 84 following the month in which such election was held, the question of imposing the tax may
 85 be submitted to the voters of the municipality or county on such date. The municipal or
 86 county election superintendent shall hold and conduct the election under the same rules and
 87 regulations as govern special elections. Such election superintendent shall canvass the

88 returns, declare the result of the election, and certify the result to the Secretary of State and
89 to the commissioner. The expense of the election shall be paid from municipal or county
90 funds.

91 48-8-174.

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

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

101 (b) The tax shall cease to be imposed on the final day of the maximum period of time
102 specified for the imposition of the tax.

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

105 (2) A qualified consolidated government in which a tax authorized by this part is in
106 effect may, while the tax is in effect, adopt a resolution or ordinance calling for a
107 reimposition of a tax as authorized by this part upon the termination of the tax then in
108 effect; and a referendum may be held for this purpose while the tax is in effect.
109 Proceedings for such reimposition shall be in the same manner as proceedings for the
110 initial imposition of the tax as provided for in Code Section 48-8-168 and shall be solely
111 within the discretion of the governing authority of the municipality or county. Such
112 newly authorized tax shall not be imposed until the expiration of the tax then in effect.

113 48-8-175.

114 A tax levied pursuant to this part shall be exclusively administered and collected by the
115 commissioner for the use and benefit of the municipality or county special district imposing
116 the tax. Such administration and collection shall be accomplished in the same manner and
117 subject to the same applicable provisions, procedures, and penalties provided in Article 1
118 of this chapter except that the sales and use tax provided in this part shall be applicable to
119 sales of motor fuels as prepaid local tax as such term is defined in Code Section 48-8-2;
120 provided, however, that all moneys collected from each taxpayer by the commissioner shall
121 be applied first to such taxpayer's liability for taxes owed the state; and provided, further,
122 that the commissioner may rely upon a representation by or in behalf of the qualified
123 consolidated government or the Secretary of State that such a tax has been validly imposed,
124 and the commissioner and the commissioner's agents shall not be liable to any person for
125 collecting any such tax which was not validly imposed. Dealers, as such term is defined
126 in Code Section 48-8-2, shall be allowed a percentage of the amount of the tax due and
127 accounted for and shall be reimbursed in the form of a deduction in submitting, reporting,
128 and paying the amount due if such amount is not delinquent at the time of payment. The
129 deduction shall be at the rate and subject to the requirements specified under
130 subsections (b) through (f) of Code Section 48-8-50.

131 48-8-176.

132 Each sales and use tax return remitting sales and use taxes collected under this part shall
133 separately identify the location of each retail establishment at which any of the sales and
134 use taxes remitted were collected and shall specify the amount of sales and the amount of
135 taxes collected at each establishment for the period covered by the return to facilitate the
136 determination by the commissioner that all sales and use taxes imposed by this part are
137 collected and distributed according to situs of sale.

138 48-8-177.

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

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

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

146 48-8-178.

147 Where a local sales or use tax has been paid with respect to tangible personal property by
148 the purchaser either in another local tax jurisdiction within the state or in a tax jurisdiction
149 outside the state, the tax may be credited against the tax authorized to be imposed by this
150 part upon the same property. If the amount of sales or use tax so paid is less than the
151 amount of the use tax due under this part, the purchaser shall pay an amount equal to the
152 difference between the amount paid in the other tax jurisdiction and the amount due under
153 this part. The commissioner may require such proof of payment in another local tax
154 jurisdiction as the commissioner deems necessary and proper. No credit shall be granted,
155 however, against the tax imposed under this part for tax paid in another jurisdiction if the
156 tax paid in such other jurisdiction is used to obtain a credit against any other local sales and
157 use tax levied in the qualified consolidated government or in a special district which
158 includes the qualified consolidated government; and taxes so paid in another jurisdiction
159 shall be credited first against the tax levied under Article 2 of this chapter, if applicable,
160 then against the tax levied under Part 1 of Article 3 of this chapter, if applicable, then
161 against the tax levied under Part 2 of Article 3 of this chapter, if applicable, and then
162 against the tax levied under this part.

163 48-8-179.

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

171 48-8-180.

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

177 48-8-181.

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

181 48-8-182.

182 The tax authorized by this part shall be in addition to any other local sales and use tax. The
183 imposition of any other local sales and use tax within a county, municipality, or special
184 district shall not affect the authority of a qualified consolidated government to impose the
185 tax authorized by this part and the imposition of the tax authorized by this part shall not

186 affect the imposition of any otherwise authorized local sales and use tax within a county,
187 municipality, or special district.

188 48-8-183.

189 (a) The proceeds received from the tax authorized by this part shall be used by a:

190 (1) Municipality exclusively for healthcare enhancement purposes within the
191 municipality; or

192 (2) County exclusively for healthcare enhancement purposes within the county special
193 district.

194 (b) All proceeds of the tax authorized by this part shall be kept in a separate account from
195 other funds of the municipality or county and shall not in any manner be commingled with
196 other funds of the municipality or county prior to expenditure. No amount of such funds
197 shall be used in any way to supplant or reduce other funding in place for healthcare
198 enhancement purposes as of the fiscal year of the municipality or county immediately prior
199 to the adoption of the resolution calling for the tax.

200 (c) The governing authority of each municipality and county levying the tax shall maintain
201 a record of every expenditure for which the proceeds of the tax have been used. Each
202 municipality or county that levies the tax authorized by this part shall include a
203 summarized accounting of all expenditures of such proceeds over the prior fiscal year in
204 such municipality's or county's regular annual audit otherwise required by law. The auditor
205 shall verify and test expenditures sufficient to provide assurances that the schedule is fairly
206 presented in relation to the financial statements. The auditor's report on the financial
207 statements shall include an opinion, or disclaimer of opinion, as to whether the accounting
208 is presented fairly in all material respects in relation to the financial statements taken as a
209 whole.

210 48-8-184.
211 If at any point it is determined by the commissioner or the state auditor that the proceeds
212 of the tax authorized by this part are not being used by a municipality or county for
213 healthcare enhancement purposes in accordance with this part, the commissioner shall
214 withhold the proceeds of the tax from the municipality or county until a plan is devised by
215 the municipality or county and approved by the commissioner as rectifying the failure to
216 comply with this part. If no such plan is devised and approved within 180 days, the tax
217 shall cease to be collected and such funds shall be held in trust by the state to use for
218 healthcare enhancement purposes to benefit the municipality or county special district."

219 **SECTION 3.**

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

222 **SECTION 4.**

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