

The House Committee on Ways and Means offers the following substitute to HB 560:

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 exempt from local taxes the sale or use of construction materials used
3 in certain capital outlay projects for educational purposes; to provide that such exemption
4 only applies to projects for local school systems that have in effect certain homestead
5 exemptions from property taxation; to provide for conditions, limitations, and definitions;
6 to provide for payment, collection, and refunds; to provide for an automatic repeal; to
7 provide for the maximum amount of local sales and use taxes that may be imposed; to revise
8 provisions related to a special district sales and use tax; to provide for conditions under
9 which such tax may be imposed; to provide for clarifications; to revise provisions related to
10 the joint county and municipal sales and use tax (LOST); to provide for the distribution of
11 tax proceeds under certain circumstances; to limit the application of certain requirements
12 with respect to absent counties; to provide for related matters; to provide for applicability;
13 to repeal conflicting laws; and for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

PART I
SECTION 1-1.

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Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to sales and use taxes, is amended in Code Section 48-8-3, relating to exemptions from sales and use taxes, by adding a new paragraph to read as follows:

“(10.1)(A) Notwithstanding any provision of Code Section 48-8-63 to the contrary, the sale or use of qualifying construction materials used in capital outlay projects for educational purposes.

(B) The exemption provided for in this paragraph shall only apply to local sales and use taxes.

(C)(i) Notwithstanding the exemption provided for in subparagraph (A) of this paragraph, all sales and use taxes imposed on the sale or use of qualifying construction materials shall be paid and collected pursuant to the requirements of this chapter.

(ii) The benefit of the exemption allowed by this paragraph may be claimed by the local school system for which the qualifying construction materials were used. To claim the exemption, the local school system shall file a request for refund in the manner prescribed by the department. The department shall refund to the local school system the amount of taxes paid on qualifying construction materials used in the capital outlay project for educational purposes. No refund made pursuant to this paragraph shall include interest.

(iii) Any refund received by a local school system pursuant to this paragraph shall be allocated to a fund or account for capital outlay projects and used in accordance with the requirements for sales taxes for educational purposes authorized pursuant to Article VIII, Section VI, Paragraph IV of the Constitution of Georgia.

(D) As used in this paragraph, the term:

41 (i) 'Capital outlay project for educational purposes' means a project that:

42 (I) Was approved and funded through a sales tax for educational purposes
 43 authorized pursuant to Article VIII, Section VI, Paragraph IV of the Constitution of
 44 Georgia; and

45 (II) Is for a local school system which has in effect a base year value or adjusted
 46 base year value homestead exemption from ad valorem taxation for educational
 47 purposes for all residents of the local school system.

48 (ii) 'Local sales and use taxes' mean sales taxes, use taxes, or local sales and use taxes
 49 levied or imposed at any time in any area consisting of less than the entire state,
 50 however authorized, including, but not limited to, such taxes authorized by or
 51 pursuant to a constitutional amendment; by or pursuant to Section 25 of an Act
 52 approved March 10, 1965 (Ga. L. 1965, p. 2243), as amended, the 'Metropolitan
 53 Atlanta Rapid Transit Authority Act of 1965'; and by or pursuant to Articles 2, 2A,
 54 2B, 3, 4, 5, 5A, and 5B of this chapter.

55 (iii) 'Qualifying construction materials' means any materials used in the construction
 56 of a capital outlay project for educational purposes that will remain as part of such
 57 project after completion of construction or that become incorporated into such
 58 project's real property. Such term shall not include any materials that remain in the
 59 possession of a contractor after the completion of construction.

60 (E) This paragraph shall stand repealed on December 31, 2033;"

61
 62 **PART II**

63 **SECTION 2-1.**

64 Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to sales and use
 65 taxes, is amended in Code Section 48-8-6, relating to prohibition of political subdivisions

66 from imposing various taxes, ceiling on local sales and use taxes, and taxation of mobile
67 telecommunications, by revising subsection (a) as follows:

68 "(a)(1) Except as provided in this subsection, on and after July 1, 2024, there shall not
69 be imposed in any jurisdiction in this state or on any transaction in this state local sales
70 taxes, local use taxes, or local sales and use taxes in excess of 2 percent. For purposes
71 of ~~this~~ such 2 percent limitation, the taxes affected are any sales tax, use tax, or sales and
72 use tax which is levied in an area consisting of less than the entire state, however
73 authorized, including such taxes authorized by or pursuant to constitutional amendment,
74 and regardless of whether another provision of law purports to the contrary; except for
75 the following:

76 (A) A 1 percent sales and use tax for educational purposes exempted from such
77 limitation under Article VIII, Section VI, Paragraph IV of the Constitution;

78 (B) Up to 1 percent in aggregate of any of the transportation related sales and use taxes
79 authorized under Articles 5, 5A, and 5B of this chapter and Article 2 of Chapter 9 of
80 Title 32, and in a county in which a tax is levied and collected pursuant to Part 2 of
81 Article 2A of this chapter, any tax levied for purposes of a metropolitan area system of
82 public transportation, as authorized by the amendment to the Constitution set out at
83 Georgia Laws, 1964, page 1008, the continuation of such amendment under Article XI,
84 Section I, Paragraph IV(d) of the Constitution, and the laws enacted pursuant to such
85 constitutional amendment; and

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

89 (2) Notwithstanding any provision of law to the contrary, any tax that does not comply
90 with the limitations provided in paragraph (1) of this subsection as of July 1, 2025, but
91 was initiated in compliance with the law in effect prior to January 1, 2025, shall be
92 allowed to continue as authorized under laws that existed prior to July 1, 2025; provided,

93 however, that, upon the expiration or termination of any such tax, ~~such tax shall not be~~
 94 ~~renewed~~ and the jurisdiction that levied such tax shall be fully subject to the limitations
 95 imposed by this subsection.

96 (3) This subsection shall not limit the imposition of any local excise tax, which is
 97 separately authorized under Chapter 13 of this title.

98 (4) ~~Except as provided in paragraph (2) of this subsection, if~~ If the imposition of any
 99 otherwise authorized local sales tax, local use tax, or local sales and use tax would result
 100 in a tax rate in excess of that authorized by this subsection, then such otherwise
 101 authorized tax shall not be imposed."

102 **SECTION 2-2.**

103 Said chapter is further amended by revising Code Section 48-8-109.31, relating to imposition
 104 of special sales and use tax within special district and limited time and purpose, as follows:

105 "48-8-109.31.

106 (a) Subject to the requirement of approval by local referendum and the other requirements
 107 of this article, ~~to impose~~ there may be imposed within any given special district a special
 108 sales and use tax for a limited period of time for the limited purpose of property tax relief.

109 (b) Except as to rate, a tax imposed under this part shall correspond to the tax imposed by
 110 Article 1 of this chapter. No item or transaction which is not subject to taxation under
 111 Article 1 of this chapter shall be subject to a tax imposed under this article, except that a
 112 tax imposed under this article shall apply to sales of motor fuels as prepaid local tax as
 113 defined in Code Section 48-8-2 and shall be applicable to the sale of food and food
 114 ingredients and alcoholic beverages as provided for in Code Section 48-8-3.

115 (c) The special sales and use tax provided for in subsection (a) of this Code section may
 116 be imposed by a special district in 0.05 percent increments, but in no event shall such tax
 117 exceed 1 percent in total. The levy of such tax upon sales of motor fuels as defined in

118 Code Section 48-9-2 shall only be imposed on the retail sales price of the motor fuel which
 119 is not more than \$3.00 per gallon.

120 (d)(1) As a condition precedent to the issuance of the call for the referendum:

121 (A)(1) The governing authority of the county whose geographical boundary is
 122 conterminous with that of the special district and the governing authority or authorities
 123 of all municipalities that levy an ad valorem tax on property, other than those
 124 municipalities that are excluded from the special district pursuant to ~~paragraph (3)~~
 125 subsection (f) of this subsection Code section, shall have in effect a base year value
 126 homestead exemption or adjusted base year value homestead exemption; and

127 (B)(2) The governing authority of the county whose geographical boundary is
 128 conterminous with that of the special district and the governing authority or authorities,
 129 if any, that represent at least 50 percent of the special district's residents of municipalities
 130 that levy an ad valorem tax on property, other than those municipalities that are excluded
 131 from the special district pursuant to ~~paragraph (3) of this subsection (f) of this Code~~
 132 section, shall enter into an intergovernmental agreement calling for the tax authorized
 133 under this article and specifying the proposed rate of the tax, the proposed maximum
 134 period of time that the tax is to be levied, and the proposed distribution of the tax.

135 (e)(1) As used in this subsection, the term 'absent municipality' means any municipality
 136 that levies an ad valorem tax on property, other than those municipalities that are
 137 excluded from the special district pursuant to subsection (f) of this Code section, and that
 138 did not enter into the intergovernmental agreement provided for in paragraph (2) of
 139 subsection (d) of this Code section.

140 (2) If the combined total of the populations of all ~~such~~ absent municipalities is less than
 141 one-half of the aggregate population of all municipalities located within the special
 142 district that levy an ad valorem tax on property, the ~~political subdivisions~~ governing
 143 authorities entering into ~~the such~~ intergovernmental agreement shall, ~~on~~ in behalf of such
 144 absent municipalities, specify a percentage of that portion of the remaining proceeds

145 which each municipality that levies an ad valorem tax on property shall receive, which
 146 percentage shall not be less than that proportion which each such absent municipality's
 147 population bears to the total population of all municipalities that levy ad valorem taxes
 148 on property within the special district multiplied by that portion of the remaining
 149 proceeds which are received by all such municipalities within the special district. No
 150 portion of the tax shall be apportioned to counties ~~and~~ or municipalities that do not levy
 151 an ad valorem tax on property or do not have a base year value homestead exemption or
 152 adjusted base year value homestead exemption in effect.

153 ~~(3)(f)~~ Subject to the limitation provided for in Code Section 48-8-6, any special district
 154 which wholly or partially contains a jurisdiction levying the tax provided for under
 155 Article 4 of this chapter is authorized to levy the tax authorized under this article. Such tax
 156 authorized under this article may only be levied in the areas of the special district outside
 157 of the jurisdiction levying the tax provided for under Article 4 of this chapter. Any
 158 jurisdiction levying the tax provided for under Article 4 of this chapter shall not be
 159 considered within the procedure necessary to levy the tax under this article and shall not
 160 be entitled to any portion of said tax."

161 **SECTION 2-3.**

162 Said chapter is further amended in Code Section 48-8-109.32, relating to maximum period
 163 of time of the tax, submission to voters to determine imposition of tax, ballot language, and
 164 expenses of election, by adding a new subsection to read as follows:

165 "(e) If no intergovernmental agreement is required pursuant to this article, the governing
 166 authority of the county or consolidated government whose geographical boundary is
 167 conterminous with that of the special district shall adopt a resolution which meets the
 168 requirements provided for in this Code section for intergovernmental agreements."

169 **SECTION 2-4.**

170 Said chapter is further amended in Code Section 48-8-109.33, relating to timing for
 171 imposition of tax following approval and termination of tax, by revising paragraph (2) of
 172 subsection (a) and subsection (c) as follows:

173 "(2) With respect to services that are regularly billed on a monthly basis, however, ~~the~~
 174 ~~resolution or ordinance imposing the tax shall become effective and~~ the tax shall apply
 175 to the first regular billing period coinciding with or following the effective date specified
 176 in paragraph (1) of this subsection. A certified copy of the ~~ordinance~~ intergovernmental
 177 agreement or resolution imposing required to impose the tax authorized by this article
 178 shall be forwarded to the commissioner to ensure it is received within five business days
 179 after certification of the election results."

180 "(c) For any special district in which a tax authorized by this article is in effect ~~may, while~~
 181 ~~such tax is in effect~~, the General Assembly may pass a local Act calling for a reimposition
 182 of a tax as authorized by this article upon the termination of the tax then in effect, and a
 183 referendum may be held for this purpose while the tax is in effect. Proceedings for such
 184 reimposition shall be in the same manner as proceedings for the initial imposition of the
 185 tax as provided for in Code ~~Section~~ Sections 48-8-109.31 and 48-8-109.32. Such newly
 186 authorized tax shall not be imposed until the expiration of the tax then in effect."

187 **PART III**

188 **SECTION 3-1.**

189 Said chapter is further amended in Article 2, relating to joint county and municipal sales and
 190 use tax (LOST), by revising Code Section 48-8-89, relating to distribution and use of
 191 proceeds, negotiated certificate of distribution for political subdivisions, absent
 192 municipalities, filing of certificates, and renegotiations, as follows:

193 "48-8-89.

194 (a) The proceeds of the tax collected by the commissioner in each special district under
195 this article shall be disbursed as soon as practicable after collection as follows:

196 (1) One percent of the amount collected shall be paid into the general fund of the state
197 treasury in order to defray the costs of administration; and

198 (2) Except for the percentage provided in paragraph (1) of this subsection, the remaining
199 proceeds of the tax shall be distributed to the governing authority of each qualified
200 municipality within the special district and to the governing authority of the county
201 whose geographical boundary is conterminous with that of the special district for the
202 purpose of assisting such political subdivisions in funding all or any portion of those
203 services which are to be provided by such governing authorities pursuant to and in
204 accordance with Article IX, Section II, Paragraph III of the Constitution of this state.

205 (b) It is the intent of the General Assembly that no agreement as to the distribution of the
206 proceeds of the tax shall enrich any political subdivision beyond a sum which in the
207 absence of the distribution would be raised through other sources of revenue. The
208 distribution shall be in accordance with a certificate which shall be executed in behalf of
209 each respective governing authority, except as otherwise provided in this subsection, and
210 which shall encompass all respective political subdivisions, shall be filed with the
211 commissioner, and shall specify by percentage that portion of the remaining proceeds of
212 the tax available for distribution which each such political subdivision shall receive. On
213 or after July 1, 1995, the distribution of proceeds of the tax as specified in the certificate
214 shall be based upon, but not be limited to, the following criteria:

215 (1) The service delivery responsibilities of each political subdivision to the population
216 served by the political jurisdiction and served during normal business hours, conventions,
217 trade shows, athletic events and the inherent value to a community of a central business
218 district and the unincorporated areas of the county and the obligation of all residents of

219 the county for the maintenance and prosperity of the central business district and the
220 unincorporated areas of the county;

221 (2) The service delivery responsibilities of each political subdivision to the resident
222 population of the subdivision;

223 (3) The existing service delivery responsibility of each political subdivision;

224 (4) The effect of a change in sales tax distribution on the ability of each political
225 subdivision to meet its short-term and long-term debt;

226 (5) The point of sale and use which generates the tax to be apportioned;

227 (6) The existence of intergovernmental agreements among and between the political
228 subdivisions;

229 (7) The use by any political subdivision of property taxes and other revenues from some
230 taxpayers to subsidize the cost of services provided to other taxpayers of the levying
231 subdivision; and

232 (8) Any coordinated plan of county and municipal service delivery and financing.

233 Notwithstanding the fact that a certificate shall not contain an execution in behalf of one
234 or more qualified municipalities within the special district or an execution of the county
235 whose boundaries are conterminous with that of the special district, if the combined total
236 of the populations of all such absent ~~municipalities~~ political subdivisions is less than
237 one-half of the aggregate population of ~~all qualified municipalities located within the~~
238 special district, the submitting political subdivisions shall, in behalf of the absent
239 ~~municipalities~~ political subdivisions, specify a percentage of that portion of the remaining
240 proceeds which each such municipality or county shall receive, which percentage shall not
241 be less than that proportion which each absent municipality's population or absent county's
242 unincorporated population bears to the total population of ~~all qualified municipalities~~
243 ~~within the special district~~ multiplied by that portion of the remaining proceeds which are
244 received by all ~~qualified municipalities~~ political subdivisions within the special district.
245 For the purpose of determining the population of the absent municipalities, only that

246 portion of the population of each such municipality which is located within the special
247 district shall be computed. No certificate may contain a total of specified percentages in
248 excess of 100 percent. The certificate shall be filed with the commissioner by March 1,
249 1980, for those special districts in which the tax authorized by this article is being levied
250 on January 1, 1980. For all other special districts in which the tax shall be imposed
251 subsequent to January 1, 1980, the certificate shall be filed with the commissioner within
252 60 days after the tax is imposed within the district. The commissioner shall continue to
253 distribute the proceeds of the tax as otherwise provided in this Code section until the first
254 day of the next calendar year following the month in which the commissioner receives a
255 certificate as provided in this Code section, which certificate shall provide other
256 percentages upon which the commissioner shall make the distribution to the political
257 subdivisions entitled to the proceeds of the tax. At such time, the commissioner shall
258 thereafter distribute the proceeds of the tax in accordance with the directions of the
259 certificate.

260 (c) If the certificate provided for in subsection (b) of this Code section is not received by
261 the commissioner by the required date, the authority to impose the tax authorized by Code
262 Section 48-8-82 shall cease on the first day of the second calendar month following the
263 month in which the tax was initially imposed and the tax shall not be levied in the special
264 district after such date unless the reimposition of the tax is subsequently authorized
265 pursuant to Code Section 48-8-85. When the imposition of the tax is so terminated, the
266 commissioner shall retain the proceeds of the tax which were to be distributed to the
267 governing authorities of the county and qualified municipalities within the special district
268 until he or she receives a certificate in behalf of each such governing authority specifying
269 the percentage of the proceeds which each such governing authority shall receive. If no
270 such certificate is received by the commissioner within 120 days of the date on which the
271 authority to levy the tax was terminated, the proceeds shall escheat to the state and the
272 commissioner shall transfer the proceeds to the state's general fund.

273 (d)(1) A certificate providing for the distribution of the proceeds of the tax authorized
274 by this article shall expire on December 31 of the second year following the year in which
275 the decennial census is conducted. No later than December 30 of the second year
276 following the year in which the census is conducted, a new distribution certificate
277 meeting the requirements for certificates specified by subsection (b) of this Code section
278 shall be filed with and received by the commissioner. The General Assembly recognizes
279 that the requirement for government services is not always in direct correlation with
280 population. Although a new distribution certificate is required within a time certain of
281 the decennial census, this requirement is not meant to convey an intent by the General
282 Assembly that population as a criterion should be more heavily weighted than other
283 criteria. It is the express intent of the General Assembly in requiring such renegotiation
284 that eligible political subdivisions shall analyze local service delivery responsibilities and
285 the existing allocation of proceeds made available to such governments under the
286 provisions of this article and make rational the allocation of such resources to meet such
287 service delivery responsibilities. Political subdivisions in their renegotiation of such
288 distributions shall at a minimum consider the criteria specified in subsection (b) of this
289 Code section.

290 (2) The commissioner shall be notified in writing of the commencement of renegotiation
291 proceedings by the county governing authority on behalf of all eligible political
292 subdivisions within the special district. The eligible political subdivisions shall
293 commence renegotiations at the call of the county governing authority before July 1 of
294 the second year following the year in which the census is conducted. If the county
295 governing authority does not issue the call by that date, any eligible municipality may
296 issue the call and so notify the commissioner and all eligible political subdivisions within
297 the special district.

298 (3) Following the commencement of such renegotiation, if the parties necessary to an
299 agreement fail to reach an agreement within 60 days, such parties shall submit the dispute

300 to nonbinding arbitration, mediation, or such other means of resolving conflicts in a
301 manner which attempts to reach a resolution of the dispute. Any renegotiation agreement
302 reached pursuant to this paragraph shall be in accordance with the requirements specified
303 in paragraph (1) of this subsection.

304 (4) Reserved.

305 (5) If a new distribution certificate as provided for in this Code section is not received
306 by the commissioner, the authority to impose the tax authorized by Code Section 48-8-82
307 shall cease, and the tax shall not be levied in the special district after such date unless the
308 reimposition of the tax is subsequently authorized pursuant to Code Section 48-8-85.
309 When the imposition of the tax is so terminated, the commissioner shall retain the
310 proceeds of the tax which were to be distributed to the governing authorities of the county
311 and qualified municipalities within the special district until the commissioner receives a
312 certificate on behalf of each such governing authority specifying the percentage of the
313 proceeds which each such governing authority shall receive. If no such certificate is
314 received by the commissioner within 120 days of the date on which the authority to levy
315 the tax was terminated, the proceeds shall escheat to the state, and the commissioner shall
316 transfer the proceeds to the state's general fund.

317 (6) If the commissioner receives a new distribution certificate by the required date, the
318 commissioner shall distribute the proceeds of the tax in accordance with the directions
319 of the new distribution certificate commencing on January 1 of the year immediately
320 following the year in which such certificate was executed by the parties or the judge or
321 the first day of the second calendar month following the month such certificate was
322 executed by the parties or the judge, whichever is sooner.

323 (7) Costs of any conflict resolution under paragraph (3) or (4) of this subsection shall be
324 borne proportionately by the affected political subdivisions in accordance with the final
325 percentage distributions of the proceeds of the tax as reflected by the new distribution
326 certificate.

327 (8) Political subdivisions shall be authorized, at their option, to renegotiate distribution
328 certificates on a more frequent basis than is otherwise required under this subsection.

329 (9) No provision of this subsection shall apply to any county which is authorized to levy
330 or which levies a local sales tax, local use tax, or local sales and use tax for educational
331 purposes pursuant to a local constitutional amendment or to any county which is
332 authorized to expend all or any portion of the proceeds of any sales tax, use tax, or sales
333 and use tax for educational purposes pursuant to a local constitutional amendment."

334 **SECTION 3-2.**

335 Said chapter is further amended in said article by revising subsection (c) of Code Section
336 48-8-89.1, relating to procedure for certifying additional qualified municipalities, issuance
337 of new distribution certificate, and cessation of authority to collect tax, as follows:

338 "(c) Except as otherwise provided in this subsection, a distribution certificate required by
339 this Code section must be executed by the governing authorities of the county within which
340 the special district is located and each qualified municipality located wholly or partially
341 within the special district, including the new qualified municipality. Notwithstanding the
342 fact that a certificate shall not contain an execution in behalf of the county within which
343 the special district is located or one or more qualified municipalities within the special
344 district, if the combined total of the populations of all such absent municipalities and the
345 absent county's unincorporated population is less than one-half of the aggregate population
346 of ~~all qualified municipalities located within~~ the special district, the submitting political
347 subdivisions shall, in behalf of the absent ~~municipalities~~ political subdivisions, specify a
348 percentage of that portion of the remaining proceeds which each such ~~municipality~~ political
349 subdivision shall receive, which percentage shall not be less than that proportion which
350 each absent municipality's and any absent county's unincorporated population bears to the
351 total population of ~~all qualified municipalities within~~ the special district multiplied by that
352 portion of the remaining proceeds which are received by all ~~qualified municipalities~~

353 political subdivisions within the special district. For the purpose of determining the
354 population of the absent municipalities, only that portion of the population of each such
355 municipality which is located within the special district shall be computed."

356 **SECTION 3-3.**

357 Said chapter is further amended in said article by adding a new subsection to Code Section
358 48-8-91, relating to condition precedent to authority to impose tax after first year, annual
359 adjustment of millage rate formula, and information required on tax bills, to read as follows:

360 "(c) This Code section shall not be applicable to the county whose geographical boundary
361 is conterminous with that of the special district for any period of time that such county is
362 treated as an absent county under Code Section 48-8-89 or 48-8-89.1."

363 **PART IV**

364 **SECTION 4-1.**

365 Part III of this Act shall only apply with respect to distribution certificates entered into on or
366 after January 1, 2028.

367 **SECTION 4-2.**

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