

House Bill 1100

By: Representatives Bell of the 75<sup>th</sup>, Frye of the 122<sup>nd</sup>, Berry of the 56<sup>th</sup>, Jones of the 60<sup>th</sup>, Stinson of the 150<sup>th</sup>, 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 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:

30 (A) The hiring and continued employment of new healthcare providers to the extent  
31 that it provides a net increase in the total number of healthcare providers employed by  
32 a jurisdiction;

33 (B) Programs, benefits, and training aimed at the recruitment, retention, or  
34 development of healthcare providers;

35 (C) The purchase, maintenance, and operation of new healthcare facilities, equipment,  
36 technology, or software;

37 (D) The repair, renovation, restoration, or improvement of existing healthcare facilities,  
38 equipment, technology, or software;

39 (E) The examination or treatment of persons for the prevention of illness or the  
40 correction or treatment of any physical or mental condition resulting from illness,  
41 injury, or other human physical problem by a healthcare provider; or

42 (F) Any combination of the foregoing.

43 (3) 'Healthcare provider' or 'provider' means any physician, dentist, podiatrist,  
44 pharmacist, optometrist, psychologist, clinical social worker, advanced practice nurse,  
45 registered optician, licensed professional counselor, physical therapist, marriage and  
46 family therapist, chiropractor, athletic trainer qualified pursuant to Code Section 43-5-8,  
47 occupational therapist, speech language pathologist, audiologist, dietitian, or physician  
48 assistant.

49 48-8-171.

50 Pursuant to the authority granted by Article IX, Section II, Paragraph VI of the Constitution  
51 of this state, there are created within this state 159 special districts. One such district shall  
52 exist within the geographical boundaries of each county, and the territory of each district  
53 shall include all of the territory within the county.

54 48-8-172.

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

60 (b) Except as provided in subsection (c) of this Code section, any tax imposed under this  
61 part shall be at the rate of 1 percent. Except as to rate, a tax imposed under this part shall  
62 correspond to the tax imposed by Article 1 of this chapter. No item or transaction which  
63 is not subject to taxation under Article 1 of this chapter shall be subject to a tax imposed

64 under this part, except that a tax imposed under this part shall apply to sales of motor fuels  
65 as prepaid local tax as such term is defined in Code Section 48-8-2 and shall be applicable  
66 to the sale of food and food ingredients and alcoholic beverages as provided for in Code  
67 Section 48-8-3.

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

71 48-8-173.

72 (a) The governing authority of a municipality or county voting to impose the tax  
73 authorized by this part within the municipality or special district shall notify the qualified  
74 consolidated government election superintendent by forwarding to the superintendent a  
75 copy of the resolution or ordinance of the governing authority calling for the imposition of  
76 the tax. Such ordinance or resolution shall specify the maximum period of time of the tax,  
77 to be stated in calendar years or calendar quarters and not to exceed five years.

78 (b) Upon receipt of the resolution or ordinance, the election superintendent of the  
79 municipality or county shall issue the call for an election for the purpose of submitting the  
80 question of the imposition of the tax to the voters of the qualified consolidated government.  
81 Such election superintendent shall issue the call and shall conduct the election on a date  
82 and in the manner authorized under Code Section 21-2-540. Such election superintendent  
83 shall cause the date and purpose of the election to be published once a week for four weeks  
84 immediately preceding the date of the election in the legal organ of the municipality or  
85 county or in a newspaper having general circulation in the municipality or county at least  
86 equal to that of the legal organ.

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

88 '( ) YES Shall a special 1 percent sales and use tax be imposed in the special district  
 89 of \_\_\_\_\_ for a period of time not to exceed \_\_\_\_\_ for  
 90 ( ) NO healthcare enhancement purposes?'

91 (d) All persons desiring to vote in favor of imposing the tax shall vote 'Yes' and all persons  
 92 opposed to levying the tax shall vote 'No.' If more than one-half of the votes cast are in  
 93 favor of imposing the tax, then the tax shall be imposed as provided in this part; otherwise,  
 94 the tax shall not be imposed and the question of imposing the tax shall not again be  
 95 submitted to the voters of the municipality or county until after 12 months immediately  
 96 following the month in which the election was held; provided, however, that if an election  
 97 date authorized under Code Section 21-2-540 occurs during the twelfth month immediately  
 98 following the month in which such election was held, the question of imposing the tax may  
 99 be submitted to the voters of the municipality or county on such date. The municipal or  
 100 county election superintendent shall hold and conduct the election under the same rules and  
 101 regulations as govern special elections. Such election superintendent shall canvass the  
 102 returns, declare the result of the election, and certify the result to the Secretary of State and  
 103 to the commissioner. The expense of the election shall be paid from municipal or county  
 104 funds.

105 48-8-174.

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

109 (2) With respect to services that are regularly billed on a monthly basis, however, the  
 110 resolution or ordinance imposing the tax shall become effective and the tax shall apply  
 111 to the first regular billing period coinciding with or following the effective date specified  
 112 in paragraph (1) of this subsection. A certified copy of the ordinance or resolution

113 imposing the tax shall be forwarded to the commissioner to ensure it is received within  
114 five business days after certification of the election results.

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

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

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

127 48-8-175.

128 A tax levied pursuant to this part shall be exclusively administered and collected by the  
129 commissioner for the use and benefit of the municipality or county special district imposing  
130 the tax. Such administration and collection shall be accomplished in the same manner and  
131 subject to the same applicable provisions, procedures, and penalties provided in Article 1  
132 of this chapter except that the sales and use tax provided in this part shall be applicable to  
133 sales of motor fuels as prepaid local tax as such term is defined in Code Section 48-8-2;  
134 provided, however, that all moneys collected from each taxpayer by the commissioner shall  
135 be applied first to such taxpayer's liability for taxes owed the state; and provided, further,  
136 that the commissioner may rely upon a representation by or in behalf of the qualified  
137 consolidated government or the Secretary of State that such a tax has been validly imposed,  
138 and the commissioner and the commissioner's agents shall not be liable to any person for

139 collecting any such tax which was not validly imposed. Dealers, as such term is defined  
140 in Code Section 48-8-2, shall be allowed a percentage of the amount of the tax due and  
141 accounted for and shall be reimbursed in the form of a deduction in submitting, reporting,  
142 and paying the amount due if such amount is not delinquent at the time of payment. The  
143 deduction shall be at the rate and subject to the requirements specified under  
144 subsections (b) through (f) of Code Section 48-8-50.

145 48-8-176.

146 Each sales and use tax return remitting sales and use taxes collected under this part shall  
147 separately identify the location of each retail establishment at which any of the sales and  
148 use taxes remitted were collected and shall specify the amount of sales and the amount of  
149 taxes collected at each establishment for the period covered by the return to facilitate the  
150 determination by the commissioner that all sales and use taxes imposed by this part are  
151 collected and distributed according to situs of sale.

152 48-8-177.

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

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

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

160 48-8-178.

161 Where a local sales or use tax has been paid with respect to tangible personal property by  
162 the purchaser either in another local tax jurisdiction within the state or in a tax jurisdiction

163 outside the state, the tax may be credited against the tax authorized to be imposed by this  
164 part upon the same property. If the amount of sales or use tax so paid is less than the  
165 amount of the use tax due under this part, the purchaser shall pay an amount equal to the  
166 difference between the amount paid in the other tax jurisdiction and the amount due under  
167 this part. The commissioner may require such proof of payment in another local tax  
168 jurisdiction as the commissioner deems necessary and proper. No credit shall be granted,  
169 however, against the tax imposed under this part for tax paid in another jurisdiction if the  
170 tax paid in such other jurisdiction is used to obtain a credit against any other local sales and  
171 use tax levied in the qualified consolidated government or in a special district which  
172 includes the qualified consolidated government; and taxes so paid in another jurisdiction  
173 shall be credited first against the tax levied under Article 2 of this chapter, if applicable,  
174 then against the tax levied under Part 1 of Article 3 of this chapter, if applicable, then  
175 against the tax levied under Part 2 of Article 3 of this chapter, if applicable, and then  
176 against the tax levied under this part.

177 48-8-179.

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

185 48-8-180.

186 No tax provided for in this part shall be imposed upon the sale or use of building and  
187 construction materials when the contract for which the materials are purchased or used was

188 advertised for bid prior to the voters' approval of the levy of the tax and the contract was  
189 entered into as a result of a bid actually submitted in response to the advertisement prior  
190 to approval of the levy of the tax.

191 48-8-181.

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

195 48-8-182.

196 The tax authorized by this part shall be in addition to any other local sales and use tax. The  
197 imposition of any other local sales and use tax within a county, municipality, or special  
198 district shall not affect the authority of a qualified consolidated government to impose the  
199 tax authorized by this part and the imposition of the tax authorized by this part shall not  
200 affect the imposition of any otherwise authorized local sales and use tax within a county,  
201 municipality, or special district.

202 48-8-183.

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

204 (1) Municipality exclusively for healthcare enhancement purposes within the  
205 municipality; or

206 (2) County exclusively for healthcare enhancement purposes within the county special  
207 district.

208 (b) All proceeds of the tax authorized by this part shall be kept in a separate account from  
209 other funds of the municipality or county and shall not in any manner be commingled with  
210 other funds of the municipality or county prior to expenditure. No amount of such funds  
211 shall be used in any way to supplant or reduce other funding in place for healthcare

212 enhancement purposes as of the fiscal year of the municipality or county immediately prior  
213 to the adoption of the resolution calling for the tax.

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

224 48-8-184.

225 If at any point it is determined by the commissioner or the state auditor that the proceeds  
226 of the tax authorized by this part are not being used by a municipality or county for  
227 healthcare enhancement purposes in accordance with this part, the commissioner shall  
228 withhold the proceeds of the tax from the municipality or county until a plan is devised by  
229 the municipality or county and approved by the commissioner as rectifying the failure to  
230 comply with this part. If no such plan is devised and approved within 180 days, the tax  
231 shall cease to be collected and such funds shall be held in trust by the state to use for  
232 healthcare enhancement purposes to benefit the municipality or county special district."

233 **SECTION 3.**

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

236

**SECTION 4.**

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