

The Senate Committee on Finance offered the following substitute to HB 134:

A BILL TO BE ENTITLED  
AN ACT

To amend Part 1 of Article 5A of Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to general provisions regarding the special district mass transportation sales and use tax, so as to change the definition of transportation purposes regarding such tax; to change certain provisions relating to special districts and the imposition of such tax; to change certain provisions relating to notice, intergovernmental agreements, and resolutions regarding such tax; to provide that a referendum on a regional transportation sales and use tax cannot be held at the same time as a referendum on a special district mass transportation sales and use tax; to change certain provisions relating to the commencement of imposition and the timing of cessation of such tax; to allow two taxes to be levied concurrently; to clarify the ability of counties and qualified municipalities to issue general obligation bonds as necessary; to provide for related matters; to provide for effective dates; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Part 1 of Article 5A of Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to general provisions regarding the special district mass transportation sales and use tax, is amended in Code Section 48-8-260, relating to definitions regarding such tax, by revising paragraphs (3), (4), and (5) as follows:

~~“(3) ‘Mass transportation regional system participant’ means any county within a special district created pursuant to Article 5 of this chapter in which mass transportation service is provided within such special district, to such special district, or from such special district by a multicounty regional transportation authority created by an Act of the General Assembly, including but not limited to the Georgia Regional Transportation Authority or the Metropolitan Atlanta Rapid Transit Authority.~~

~~(4) ‘Qualified municipality’ means a qualified municipality as defined in paragraph (4) of Code Section 48-8-110 which is located wholly or partly within a special district.~~

~~(5)~~(4) 'Transportation purposes' means and includes:

~~(A) roads~~ Roads, bridges, public transit, rails, airports, buses, seaports, including without limitation road, street, and bridge purposes pursuant to paragraph (1) of subsection (b) of Code Section 48-8-121, and all accompanying infrastructure and services necessary to provide access to these transportation facilities, including new general obligation debt and other multiyear obligations issued to finance such purposes;

~~(B) Such purposes shall also include the~~ The retirement of previously incurred general obligation debt with respect only to such purposes as identified in subparagraph (A) of this paragraph, but only if an intergovernmental agreement has been entered into under this part;

~~(C) A capital outlay project or projects under subparagraph (a)(1)(M) of Code Section 48-8-111, with respect only to such purposes as identified in subparagraph (A) of this paragraph; or~~

~~(D) Any combination of two or more of the foregoing."~~

## SECTION 2.

Said part is further amended in Code Section 48-8-261, relating to special districts and imposition of such tax, by revising subsections (b) and (c) as follows:

~~"(b) On or after July 1, 2016, any~~ Any county:

(1) That is not located within a special district levying a special sales and use tax pursuant to Article 5 of this chapter;

(2) That is not defined as a metropolitan county special district that is governed by the provisions of Part 2 of this article;

~~(3) That is a mass transportation regional system participant; and~~

~~(4)~~(3) In which a tax is currently being levied and collected pursuant to:

(A) Part 1 of Article 3 of this chapter;

(B) A local constitutional amendment for purposes of a metropolitan area system of public transportation set out at Ga. L. 1964, p. 1008, and the laws enacted pursuant to such local constitutional amendment; or

(C) Code Section 48-8-96

may, by following the procedures required by this part, impose for a limited period of time within the special district under this part a transportation special purpose local option sales and use tax, the proceeds of which shall be used only for transportation purposes.

~~(c) On or after July 1, 2017, any county:~~

~~(1) That is not located within a special district levying a special sales and use tax pursuant to Article 5 of this chapter;~~

(2) ~~That is not defined as a metropolitan county special district that is governed by the provisions of Part 2 of this article; and~~

(3) ~~In which a tax is currently being levied and collected pursuant to:~~

(A) ~~Part 1 of Article 3 of this chapter;~~

(B) ~~A local constitutional amendment for purposes of a metropolitan area system of public transportation set out at Ga. L. 1964, p. 1008, and the laws enacted pursuant to such local constitutional amendment; or~~

(C) ~~Code Section 48-8-96~~

may, by following the procedures required by this part, impose for a limited period of time ~~within the special district under this part a transportation special purpose local option sales and use tax, the proceeds of which shall be used only for transportation purposes~~ At any time, more than one tax under this part shall be authorized to be imposed concurrently within a special district as long as the combined rate of the taxes does not exceed 1 percent."

### SECTION 3.

Said part is further amended in Code Section 48-8-262, relating to notice, intergovernmental agreements, and resolutions regarding such tax, by revising subsection (a) and paragraph (1) of subsection (b) as follows:

"(a) Prior to the issuance of the call for the referendum required by Code Section 48-8-263, any county that desires to levy a tax under this part shall:

(1) Determine whether the region has proposed a referendum on a tax under Article 5 of this chapter. This determination shall be based on whether, pursuant to paragraphs (2) and (3) of subsection (c) of Code Section 48-8-245, a majority of the governing authorities of counties within the region containing the county proposing the tax have passed resolutions calling for the levy of a tax under Article 5 of this chapter. If a majority of the governing authorities of the counties in the region have passed such a resolution, the county proposing a tax under this part shall postpone the referendum under this part until the regional referendum has been decided. No ballot shall propose a tax under this part and under Article 5 of this chapter at the same election;

(2) After the determination under paragraph (1) of this subsection has been made, if a county is qualified to levy a tax under this part, deliver or mail a written notice to the mayor or chief elected official in each qualified municipality located within the special district. Such notice shall contain the date, time, place, and purpose of a meeting at which the governing authorities of the county and of each qualified municipality are to meet to discuss possible projects for inclusion in the referendum and the rate of tax. The

notice shall be delivered or mailed at least ten days prior to the date of the meeting. The meeting shall be held at least 30 days prior to the issuance of the call for the referendum. (b)(1) Following the meeting required by paragraph (2) of subsection (a) of this Code section and prior to any tax being imposed under this part, the county and all qualified municipalities therein may execute an intergovernmental agreement memorializing their agreement to the levy of a tax and the rate of such tax."

#### SECTION 4.

Said part is further amended by revising Code Section 48-8-263, relating to the ballot question, expenses of election, and general obligation debt, as follows:

"48-8-263.

(a)(1) The ballot submitting the question of the imposition of the tax to the voters within the special district shall have written or printed thereon the following:

'( ) YES    Shall a special \_\_\_\_ percent sales and use tax be imposed in the special district consisting of \_\_\_\_\_ County for a period of time not to exceed ( ) NO    \_\_\_\_\_ and for the raising of not more than an estimated amount of \$\_\_\_\_\_ for transportation purposes?'

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

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

(b) The election superintendent shall issue the call and conduct the election in the manner authorized by general law. The superintendent shall canvass the returns, declare the result of the election, and certify the result to the Secretary of State and to the commissioner. The expense of the election shall be paid from county funds. All persons desiring to vote in favor of imposing the tax shall vote 'Yes,' and all persons opposed to imposing the tax shall vote 'No.' If more than one-half of the votes cast throughout the entire special district are in favor of imposing the tax, then the tax shall be imposed as provided in this part.

(c) Where such question is not approved by the voters, the county may resubmit such question from time to time upon compliance with the requirements of this part.

(d)(1) If the intergovernmental agreement, if applicable, and proposal include the authority to issue general obligation debt and if more than one-half of the votes cast are in favor of the proposal, then the authority to issue such debt in accordance with Article IX, Section V, Paragraph I of the Constitution is given to the proper officers of the county or qualified municipality; otherwise, such debt shall not be issued. If the authority to

issue such debt is so approved by the voters, then such debt may be issued without further approval by the voters.

(2) If the issuance of general obligation debt is included and approved as provided in this Code section, then the governing authority of the county or qualified municipality may incur such debt either through the issuance and validation of general obligation bonds or through the execution of a promissory note or notes or other instrument or instruments. If such debt is incurred through the issuance of general obligation bonds, such bonds and their issuance and validation shall be subject to Articles 1 and 2 of Chapter 82 of Title 36 except as specifically provided otherwise in this part. If such debt is incurred through the execution of a promissory note or notes or other instrument or instruments, no validation proceedings shall be necessary, and such debt shall be subject to Code Sections 36-80-10 through 36-80-14 except as specifically provided otherwise in this part. In either event, such general obligation debt shall be payable first from the separate account in which are placed the proceeds received by the county or qualified municipality from the tax. Such general obligation debt shall, however, constitute a pledge of the full faith, credit, and taxing power of the county or qualified municipality; and any liability on such debt which is not satisfied from the proceeds of the tax shall be satisfied from the general funds of the county or qualified municipality."

## SECTION 5.

Said part is further amended in Code Section 48-8-264, relating to the commencement of imposition and the timing of cessation of such tax, by revising subsection (c) as follows:

"(c)(1)(A) At any time, ~~no~~ more than a single tax under this part ~~shall~~ may be imposed within a special district as long as the combined rate of such taxes does not exceed 1 percent.

(B) Any single tax imposed under this part may, subject to the requirements of subsection (c) of Code Section 48-8-262, be imposed at a rate of up to 1 percent but shall not exceed 1 percent.

(C) Any single tax imposed under this part at a rate of less than 1 percent shall be in an increment of ~~.05~~ 0.05 percent.

(2) In any special district in which a tax is in effect under this part, proceedings may be commenced, while the tax is in effect, calling for the reimposition of the tax upon the termination of the tax then in effect; and an election may be held at the next scheduled election for this purpose while the tax is in effect. Such proceedings for the reimposition of a tax under this part shall be in the same manner as proceedings for the initial imposition of the tax, but the newly authorized tax shall not be imposed until the expiration of the tax then in effect.

(3) Following the expiration of a tax under this part, proceedings for the reimposition of a tax under this part may be initiated in the same manner as provided in this part for initial imposition of such tax."

#### SECTION 6.

Said part is further amended by revising Code Section 48-8-269.2, relating to delivery outside of geographical area, as follows:

"48-8-269.2.

No tax shall be imposed upon the sale of tangible personal property which is ordered by and delivered to the purchaser at a point outside the geographical area of the ~~county~~ special district in which the tax is imposed regardless of the point at which title passes, if the delivery is made by the seller's vehicle, United States mail, or common carrier or by private or contract carrier."

#### SECTION 7.

Said part is further amended in Code Section 48-8-269.5, relating to accounting and record-keeping requirements, by revising subsection (b) as follows:

"(b) No general obligation debt shall be issued in conjunction with the imposition of the tax unless the county or qualified municipality governing authority determines that, and if the debt is to be validated it is demonstrated in the validation proceedings that, during each year in which any payment of principal or interest on the debt comes due, the county or qualified municipality will receive from the tax net proceeds sufficient to fully satisfy such liability. General obligation debt issued under this part shall be payable first from the separate account in which are placed the proceeds received by the county or qualified municipality from the tax. Such debt, however, shall constitute a pledge of the full faith, credit, and taxing power of the county or qualified municipality; and any liability on such debt which is not satisfied from the proceeds of the tax shall be satisfied from the general funds of the county or qualified municipality."

#### SECTION 8.

This section and Sections 1, 2, and 4 through 9 of this Act shall become effective upon its approval by the Governor or upon its becoming law without such approval. Section 3 of this Act shall become effective January 1, 2018.

#### SECTION 9.

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