

House Bill 134 (AS PASSED HOUSE AND SENATE)

By: Representatives Epps of the 144th, Brockway of the 102nd, Stephens of the 164th, Williams of the 168th, Watson of the 172nd, and others

A BILL TO BE ENTITLED
AN ACT

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

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 SECTION 1.

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

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

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

- 27 ~~(5)~~(4) 'Transportation purposes' means and includes:
- 28 (A) roads Roads, bridges, public transit, rails, airports, buses, seaports, including
- 29 without limitation road, street, and bridge purposes pursuant to paragraph (1) of
- 30 subsection (b) of Code Section 48-8-121, and all accompanying infrastructure and
- 31 services necessary to provide access to these transportation facilities, including new
- 32 general obligation debt and other multiyear obligations issued to finance such
- 33 purposes;
- 34 ~~(B) Such purposes shall also include the~~ The retirement of previously incurred general
- 35 obligation debt with respect only to such purposes as identified in subparagraph (A) of
- 36 this paragraph, but only if an intergovernmental agreement has been entered into under
- 37 this part;
- 38 (C) A capital outlay project or projects under subparagraph (a)(1)(M) of Code Section
- 39 48-8-111, with respect only to such purposes as identified in subparagraph (A) of this
- 40 paragraph; or
- 41 (D) Any combination of two or more of the foregoing."

42 **SECTION 2.**

43 Said part is further amended in Code Section 48-8-261, relating to special districts and

44 imposition of such tax, by revising subsections (b) and (c) as follows:

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

46 (1) That is not located within a special district levying a special sales and use tax

47 pursuant to Article 5 of this chapter;

48 (2) That is not defined as a metropolitan county special district that is governed by the

49 provisions of Part 2 of this article;

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

51 ~~(4)~~(3) In which a tax is currently being levied and collected pursuant to:

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

53 (B) A local constitutional amendment for purposes of a metropolitan area system of

54 public transportation set out at Ga. L. 1964, p. 1008, and the laws enacted pursuant to

55 such local constitutional amendment; or

56 (C) Code Section 48-8-96

57 may, by following the procedures required by this part, impose for a limited period of time

58 within the special district under this part a transportation special purpose local option sales

59 and use tax, the proceeds of which shall be used only for transportation purposes.

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

61 ~~(1) That is not located within a special district levying a special sales and use tax~~

62 ~~pursuant to Article 5 of this chapter;~~

63 ~~(2) That is not defined as a metropolitan county special district that is governed by the~~
 64 ~~provisions of Part 2 of this article; and~~
 65 ~~(3) In which a tax is currently being levied and collected pursuant to:~~
 66 ~~(A) Part 1 of Article 3 of this chapter;~~
 67 ~~(B) A local constitutional amendment for purposes of a metropolitan area system of~~
 68 ~~public transportation set out at Ga. L. 1964, p. 1008, and the laws enacted pursuant to~~
 69 ~~such local constitutional amendment; or~~
 70 ~~(C) Code Section 48-8-96~~
 71 may, by following the procedures required by this part, impose for a limited period of time
 72 ~~within the special district under this part a transportation special purpose local option sales~~
 73 ~~and use tax, the proceeds of which shall be used only for transportation purposes~~ At any
 74 time, more than one tax under this part shall be authorized to be imposed concurrently
 75 within a special district as long as the combined rate of the taxes does not exceed 1
 76 percent."

77 SECTION 3.

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

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

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

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

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

104 **SECTION 4.**

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

107 "48-8-263.

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

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

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

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

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

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

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

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

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

151 **SECTION 5.**

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

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

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

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

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

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

172 **SECTION 6.**

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

175 "48-8-269.2.

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

181 **SECTION 7.**

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

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

195 **SECTION 8.**

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

199 **SECTION 9.**

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