

Senate Bill 156

By: Senators Millar of the 40th, Albers of the 56th, Cowsert of the 46th, Shafer of the 48th and Mullis of the 53rd

AS PASSED

**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 certain restrictions with regard to equalized homestead option
3 sales and use taxes; to provide for limitations on the collection of certain other taxes while
4 such equalized homestead option sales and use tax is being levied; to provide for the sales
5 on which such tax may be levied; to change certain provisions relating to administration,
6 collection, and disbursement of the equalized homestead option sales tax; to eliminate a
7 provision providing for the per capita share of certain municipalities to be paid to the county
8 governing authority; to provide limitation on the use of special purpose local option sales
9 taxes which are levied in conjunction with an equalized homestead option sales and use tax;
10 to provide for related matters; to provide for effective dates and applicability; to repeal
11 conflicting 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 in Code Section 48-8-3, relating to exemptions, by revising
16 subparagraph (D) of paragraph (57) as follows:

17 "(D)(i) ~~The~~ Except in counties in which a tax authorized under Part 1 of Article 3 of
18 this chapter in connection with an equalized homestead option sales tax pursuant to
19 Part 2 of Article 2A of this chapter is imposed, the exemption provided for in this
20 paragraph shall not apply to any local sales and use tax levied or imposed at any time.
21 (ii) For the purposes of this subparagraph, the term 'local sales and use tax' shall
22 mean any sales tax, use tax, or local sales and use tax which is levied and imposed in
23 an area consisting of less than the entire state, however authorized, including, but not
24 limited to, such taxes authorized by or pursuant to constitutional amendment; by or
25 pursuant to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as
26 amended, the 'Metropolitan Atlanta Rapid Transit Authority Act of 1965'; or by or

27 pursuant to any article of this chapter but shall not mean a tax authorized under Part 1
 28 of Article 3 of this chapter in connection with an equalized homestead option sales tax
 29 pursuant to Part 2 of Article 2A of this chapter."

30 **SECTION 2.**

31 Said chapter is further amended in Code Section 48-8-109.5, relating to administration,
 32 collection, and disbursement of the equalized homestead option sales tax, by revising
 33 subsection (e) as follows:

34 "(e) Notwithstanding any provision of law to the contrary except subsection (f) of this
 35 Code section, in any county levying a tax under this part, a tax levied pursuant to the
 36 provisions of Part 1 of Article 3 of this chapter in a special district in such county shall be
 37 strictly divided between the unincorporated portions of the county whose geographical
 38 boundary is conterminous with that of the special district and the municipalities wholly or
 39 partially located within the special district on a per capita basis, based on the most recent
 40 decennial census, unless altered by an intergovernmental agreement between the county
 41 and all municipalities wholly located within the special district. ~~For as long as a~~
 42 ~~municipality located within the special district and incorporated after May 4, 2015, does~~
 43 ~~not maintain the roads, streets, sidewalks, and bicycle paths within its territorial boundaries~~
 44 ~~and relies upon the county governing authority for such maintenance, such municipality's~~
 45 ~~per capita share of the proceeds of the tax levied pursuant to Part 1 of Article 3 of this~~
 46 ~~chapter shall be paid to the county governing authority.~~ Notwithstanding any provision of
 47 law to the contrary, the department shall disburse directly to the county and each
 48 municipality its share of the proceeds of the tax levied pursuant to Part 1 of Article 3 of this
 49 chapter."

50 **SECTION 3.**

51 Said chapter is further amended by revising subsection (a) of Code Section 48-8-111, relating
 52 to procedure for imposition of tax, resolution or ordinance, notice to county election
 53 superintendent, and election with regard to county special purpose local option sales taxes,
 54 as follows:

55 "(a) Prior to the issuance of the call for the referendum and prior to the vote of a county
 56 governing authority within a special district to impose the tax under this part, such
 57 governing authority may enter into an intergovernmental agreement with any or all of the
 58 qualified municipalities within the special district. Any county that desires to have a tax
 59 under this part levied within the special district shall deliver or mail a written notice to the
 60 mayor or chief elected official in each qualified municipality located within the special
 61 district. Such notice shall contain the date, time, place, and purpose of a meeting at which

62 the governing authorities of the county and of each qualified municipality are to meet to
63 discuss the possible projects for inclusion in the referendum, including municipally owned
64 or operated projects. The notice shall be delivered or mailed at least ten days prior to the
65 date of the meeting. The meeting shall be held at least 30 days prior to the issuance of the
66 call for the referendum. Following such meeting, the governing authority of the county
67 within the special district voting to impose the tax authorized by this part shall notify the
68 county election superintendent by forwarding to the superintendent a copy of the resolution
69 or ordinance of the governing authority calling for the imposition of the tax. Such
70 ordinance or resolution shall specify eligible expenditures identified by the county and any
71 qualified municipality for use of proceeds distributed pursuant to subsection (b) of Code
72 Section 48-8-115. Such ordinance or resolution shall also specify:

73 (1) The purpose or purposes for which the proceeds of the tax are to be used and may be
74 expended, which purpose or purposes may consist of capital outlay projects located
75 within or outside, or both within and outside, any incorporated areas in the county in the
76 special district or outside the county, as authorized by subparagraph (B) of this paragraph
77 for regional facilities, and which may include any of the following purposes:

78 (A) A capital outlay project consisting of road, street, and bridge purposes, which
79 purposes may include sidewalks and bicycle paths;

80 (B) A capital outlay project or projects in the special district and consisting of a
81 courthouse; administrative buildings; a civic center; a local or regional jail, correctional
82 institution, or other detention facility; a library; a coliseum; local or regional solid waste
83 handling facilities as defined under paragraph (27.1) or (35) of Code Section 12-8-22,
84 as amended, excluding any solid waste thermal treatment technology facility, including,
85 but not limited to, any facility for purposes of incineration or waste to energy direct
86 conversion; local or regional recovered materials processing facilities as defined under
87 paragraph (26) of Code Section 12-8-22, as amended; or any combination of such
88 projects;

89 (C) A capital outlay project or projects which will be operated by a joint authority or
90 authorities of the county and one or more qualified municipalities within the special
91 district;

92 (D) A capital outlay project or projects, to be owned or operated or both either by the
93 county, one or more qualified municipalities within the special district, one or more
94 local authorities within the special district, or any combination thereof;

95 (E) A capital outlay project consisting of a cultural facility, a recreational facility, or
96 a historic facility or a facility for some combination of such purposes;

97 (F) A water capital outlay project, a sewer capital outlay project, a water and sewer
98 capital outlay project, or a combination of such projects, to be owned or operated or

99 both by a county water and sewer district and one or more qualified municipalities in
100 the county;

101 (G) The retirement of previously incurred general obligation debt of the county, one
102 or more qualified municipalities within the special district, or any combination thereof;

103 (H) A capital outlay project or projects within the special district and consisting of
104 public safety facilities, airport facilities, or related capital equipment used in the
105 operation of public safety or airport facilities, or any combination of such purposes;

106 (I) A capital outlay project or projects within the special district, consisting of capital
107 equipment for use in voting in official elections or referendums;

108 (J) A capital outlay project or projects within the special district consisting of any
109 transportation facility designed for the transportation of people or goods, including but
110 not limited to railroads, port and harbor facilities, mass transportation facilities, or any
111 combination thereof;

112 (K) A capital outlay project or projects within the special district and consisting of a
113 hospital or hospital facilities that are owned by a county, a qualified municipality, or
114 a hospital authority within the special district and operated by such county,
115 municipality, or hospital authority or by an organization which is tax exempt under
116 Section 501(c)(3) of the Internal Revenue Code, which operates the hospital through
117 a contract or lease with such county, municipality, or hospital authority;

118 (L) The repair of capital outlay projects, including, but not limited to, roads, streets,
119 and bridges, located, in part or in whole, within the special district that have been
120 damaged or destroyed by a natural disaster;

121 (M) A capital outlay project or projects that are owned, operated, or administered by
122 the state and located, in part or in whole, within the special district; or

123 (N) Any combination of two or more of the foregoing;

124 provided, however, that a tax authorized under this part which is submitted to the voters
125 for approval in connection with an equalized homestead option sales tax pursuant to
126 Part 2 of Article 2A of this chapter shall be used for transportation purposes which shall
127 include roads, bridges, public transit, rails, airports, buses, seaports, and including
128 without limitation road, street, and bridge purposes pursuant to paragraph (1) of
129 subsection (b) of Code Section 48-8-121, for public safety facilities and related capital
130 equipment used in the operation thereof, for debt service purposes for which a
131 municipality used proceeds from the homestead option sales and use tax, and for the
132 repair of capital outlay projects; provided, however, that the amount of proceeds used for
133 the repair of capital outlay projects shall not exceed 15 percent of the total proceeds
134 which are collected under this part for a capital outlay project or projects authorized
135 under this paragraph;

- 136 (2) The maximum period of time, to be stated in calendar years or calendar quarters and
 137 not to exceed five years, unless the provisions of paragraph (1) of subsection (b) or
 138 subparagraph (b)(2)(A) of Code Section 48-8-115 are applicable, in which case the
 139 maximum period of time for which the tax may be levied shall not exceed six years;
- 140 (3) The estimated cost of the project or projects which will be funded from the proceeds
 141 of the tax, which estimated cost shall also be the estimated amount of net proceeds to be
 142 raised by the tax, unless the provisions of paragraph (1) of subsection (b) or
 143 subparagraph (b)(2)(A) of Code Section 48-8-115 are applicable, in which case the final
 144 day of the tax shall be based upon the length of time for which the tax was authorized to
 145 be levied by the referendum; and
- 146 (4) If general obligation debt is to be issued in conjunction with the imposition of the tax,
 147 the principal amount of the debt to be issued, the purpose for which the debt is to be
 148 issued, the local government issuing the debt, the interest rate or rates or the maximum
 149 interest rate or rates which such debt is to bear, and the amount of principal to be paid in
 150 each year during the life of the debt."

151 **SECTION 4.**

- 152 (a) Except as otherwise provided in subsection (b) of this section, this Act shall become
 153 effective upon its approval by the Governor or upon its becoming law without such approval.
- 154 (b) Section 2 of this Act shall become effective on July 1, 2017.
- 155 (c) Sections 1 and 3 of this Act shall apply to all equalized homestead option sales and use
 156 taxes which are implemented on and after the effective date specified in subsection (a) of this
 157 section and to all county special purpose local option sales taxes which are implemented in
 158 conjunction with an equalized homestead option sales and use tax implemented on and after
 159 such date.

160 **SECTION 5.**

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