

House Bill 215 (AS PASSED HOUSE AND SENATE)

By: Representatives Jacobs of the 80th, Mayo of the 84th, Mosby of the 83rd, Taylor of the 79th, Drenner of the 85th, 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 an additional exemption to the ceiling on local sales and
3 use taxes which may be levied by a political subdivision; to provide for a revised distribution
4 of the proceeds from the levy of an equalized homestead option sales and use tax; to provide
5 for the levy of a special purpose local options sales and use tax in certain counties; to provide
6 for procedures, conditions, and limitations; to provide for a short title; to provide for related
7 matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 style="text-align:center">**SECTION 1.**

10 Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to sales and use
11 taxes, is amended in Code Section 48-8-6, relating to the ceiling on local sales and use taxes,
12 by revising paragraph (2) of subsection (a) as follows:

13 "(2) Any tax levied for purposes of a metropolitan area system of public transportation,
14 as authorized by the amendment to the Constitution set out at Georgia Laws, 1964, page
15 1008; the continuation of such amendment under Article XI, Section I, Paragraph IV(d)
16 of the Constitution; and the laws enacted pursuant to such constitutional amendment;
17 provided, however, that the exception provided for under this paragraph shall only apply:

18 (A) In a county in which a tax is being imposed under subparagraph (a)(1)(D) of Code
19 Section 48-8-111 in whole or in part for the purpose or purposes of a water capital
20 outlay project or projects, a sewer capital outlay project or projects, a water and sewer
21 capital outlay project or projects, water and sewer projects and costs as defined under
22 paragraph (4) of Code Section 48-8-200, or any combination thereof and with respect
23 to which the county has entered into an intergovernmental contract with a municipality,
24 in which the average waste-water system flow of such municipality is not less than 85
25 million gallons per day, allocating proceeds to such municipality to be used solely for
26 water and sewer projects and costs as defined under paragraph (4) of Code Section

27 48-8-200. The exception provided for under this subparagraph shall apply only during
 28 the period the tax under ~~said~~ such subparagraph (a)(1)(D) is in effect. The exception
 29 provided for under this subparagraph shall not apply in any county in which a tax is
 30 being imposed under Article 2A of this chapter; ~~or~~

31 (B) In a county in which the tax levied for purposes of a metropolitan area system of
 32 public transportation is first levied after January 1, 2010, and before November 1, 2016.

33 Such tax shall not apply to the following:

34 (i) The sale or use of jet fuel to or by a qualifying airline at a qualifying airport. For
 35 purposes of this division, a 'qualifying airline' means any person which is authorized
 36 by the Federal Aviation Administration or another appropriate agency of the United
 37 States to operate as an air carrier under an air carrier operating certificate and which
 38 provides regularly scheduled flights for the transportation of passengers or cargo for
 39 hire. For purposes of this division, a 'qualifying airport' means any airport in ~~the~~ this
 40 state that has had more than 750,000 takeoffs and landings during a calendar year; and

41 (ii) The sale of motor vehicles; or

42 (C) In a county in which a tax is levied and collected pursuant to Part 2 of Article 2A
 43 of this chapter;”

44 SECTION 2.

45 Said chapter is further amended by revising Article 2A, relating to the homestead option
 46 sales and use tax, as follows:

47 Part 1

48 48-8-100.

49 This ~~article~~ part shall be known and may be cited as the 'Homestead Option Sales and Use
 50 Tax Act.'

51 48-8-101.

52 As used in this ~~article~~ part, the term:

53 (1) 'Ad valorem taxes for county purposes' means any and all ad valorem taxes for
 54 county maintenance and operation purposes levied by, for, or on behalf of the county,
 55 excluding taxes to retire general obligation bonded indebtedness of the county.

56 (2) 'Existing municipality' means a municipality created prior to January 1, 2007, lying
 57 wholly within or partially within a county.

58 (3) 'Homestead' means homestead as defined and qualified in Code Section 48-5-40, with
 59 the additional qualification that it shall include only the primary residence and not more
 60 than five contiguous acres of land immediately surrounding such residence.

61 (4) 'Qualified municipality' means a municipality created on or after January 1, 2007,
 62 lying wholly within or partially within a county.

63 48-8-101.1.

64 It is the intent of the General Assembly that the proceeds of the homestead option sales and
 65 use tax be distributed equitably to the counties and qualified municipalities such that the
 66 residents of a new incorporated municipality will continue to receive a benefit from that
 67 tax substantially equal to the benefit they would have received if the area covered by the
 68 municipality had not incorporated. The provisions of this ~~article~~ part shall be liberally
 69 construed to effectuate such intent.

70 48-8-102.

71 (a) Pursuant to the authority granted by Article IX, Section II, Paragraph VI of the
 72 Constitution of this state, there are created within this state 159 special districts. The
 73 geographical boundary of each county shall correspond with and shall be conterminous
 74 with the geographical boundary of one of the 159 special districts.

75 (b) When the imposition of a local sales and use tax is authorized according to the
 76 procedures provided in this ~~article~~ part within a special district, the county whose
 77 geographical boundary is conterminous with that of the special district shall levy a local
 78 sales and use tax at the rate of 1 percent. Except as to rate, the local sales and use tax shall
 79 correspond to the tax imposed and administered by Article 1 of this chapter. No item or
 80 transaction which is not subject to taxation by Article 1 of this chapter shall be subject to
 81 the sales and use tax levied pursuant to this ~~article~~ part, except that the sales and use tax
 82 provided in this ~~article~~ part shall be applicable to sales of motor fuels as prepaid local tax
 83 as ~~that~~ such term is defined in Code Section 48-8-2 and shall be applicable to the sale of
 84 food and food ingredients and alcoholic beverages only to the extent provided for in
 85 paragraph (57) of Code Section 48-8-3.

86 (c)(1) Except as otherwise provided in paragraph (2) of this subsection, the proceeds of
 87 the sales and use tax levied and collected under this ~~article~~ part shall be used only for the
 88 purposes of funding capital outlay projects and of funding services within a special
 89 district equal to the revenue lost to the homestead exemption as provided in Code Section
 90 48-8-104 and, in the event excess funds remain following the expenditure for such
 91 purposes, such excess funds shall be expended as provided in subparagraph (c)(2)(C) of
 92 Code Section 48-8-104.

93 (2) Prior to January 1 of the year immediately following the first complete calendar year
 94 in which the sales and use tax under this ~~article~~ part is imposed, such proceeds may be
 95 used for funding all or any portion of those services which are to be provided by the
 96 governing authority of the county whose geographic boundary is conterminous with that
 97 of the special district pursuant to and in accordance with Article IX, Section II, Paragraph
 98 III of the Constitution of this state.

99 (d) Such sales and use tax shall only be levied in a special district following the enactment
 100 of a local Act which provides for a homestead exemption of an amount to be determined
 101 from the amount of sales and use tax collected under this ~~article~~ part. Such exemption shall
 102 commence with taxable years beginning on or after January 1 of the year immediately
 103 following the first complete calendar year in which the sales and use tax under this ~~article~~
 104 part is levied. Any such local Act shall incorporate by reference the terms and conditions
 105 specified under this ~~article~~ part. Any such local Act shall not be subject to the provisions
 106 of Code Section 1-3-4.1. Any such homestead exemption under this ~~article~~ part shall be
 107 in addition to and not in lieu of any other homestead exemption applicable to county taxes
 108 for county purposes within the special district. Notwithstanding any provision of such
 109 local Act to the contrary, the referendum which shall otherwise be required to be conducted
 110 under such local Act shall only be conducted if the resolution required under subsection (a)
 111 of Code Section 48-8-103 is adopted prior to the issuance of the call for the referendum
 112 under the local Act by the election superintendent. If such ordinance is not adopted by that
 113 date, the referendum otherwise required to be conducted under the local Act shall not be
 114 conducted.

115 (e) No sales and use tax shall be levied in a special district under this ~~article~~ part in which
 116 a tax is levied and collected under Article 2 of this chapter.

117 48-8-103.

118 (a) Whenever the governing authority of any county whose geographic boundary is
 119 conterminous with that of the special district wishes to submit to the electors of the special
 120 district the question of whether the sales and use tax authorized by Code Section 48-8-102
 121 shall be imposed, any such governing authority shall notify the election superintendent of
 122 the county whose geographical boundary is conterminous with that of the special district
 123 by forwarding to the superintendent a copy of a resolution of the governing authority
 124 calling for a referendum election. Upon receipt of the resolution, it shall be the duty of the
 125 election superintendent to issue the call for an election for the purpose of submitting the
 126 question of the imposition of the sales and use tax to the voters of the special district for
 127 approval or rejection. The election superintendent shall issue the call and shall conduct the
 128 election on a date and in the manner authorized under Code Section 21-2-540. Such

129 election shall only be conducted on the date of and in conjunction with a referendum
 130 provided for by local Act on the question of whether to impose a homestead exemption
 131 within such county and based on the amount of proceeds from the sales and use tax levied
 132 and collected pursuant to this ~~article~~ part. The election superintendent shall cause the date
 133 and purpose of the election to be published once a week for two weeks immediately
 134 preceding the date of the election in the official organ of such county. The ballot shall have
 135 written or printed thereon the following statement which shall precede the ballot question
 136 specified in this subsection and the ballot question specified by the required local Act:

137 'NOTICE TO ELECTORS: Unless **BOTH** the homestead exemption **AND** the retail
 138 homestead option sales and use tax are approved, then neither the exemption nor the sales
 139 and use tax shall become effective.'

140 Such statement shall be followed by the following:

141 '() YES Shall a retail homestead option sales and use tax of 1 percent be levied
 142 within the special district within _____ County for the
 143 () NO purposes of funding capital outlay projects and of funding services to
 144 replace revenue lost to an additional homestead exemption of up to 100
 145 percent of the assessed value of homesteads from county taxes for
 146 county purposes?'

147 Notwithstanding any other provision of law to the contrary, the statement, ballot question,
 148 and local Act ballot question referred to in this subsection shall precede any and all other
 149 ballot questions calling for the levy or imposition of any other sales and use tax which are
 150 to appear on the same ballot.

151 (b) All persons desiring to vote in favor of levying the sales and use tax shall vote 'Yes,'
 152 and those persons opposed to levying the tax shall vote 'No.' If more than one-half of the
 153 votes cast are in favor of levying the tax and approving the local Act providing such
 154 homestead exemption, then the tax shall be levied in accordance with this ~~article~~ part;
 155 otherwise, the sales and use tax may not be levied, and the question of the imposition of
 156 the sales and use tax may not again be submitted to the voters of the special district until
 157 after 24 months immediately following the month in which the election was held. It shall
 158 be the duty of the election superintendent to hold and conduct such elections under the
 159 same rules and regulations as govern special elections. It shall be the superintendent's
 160 further duty to canvass the returns, declare the result of the election, and certify the result
 161 to the Secretary of State and to the commissioner. The expense of the election shall be
 162 borne by the county whose geographical boundary is conterminous with that of the special
 163 district holding the election.

164 (c) If the imposition of the sales and use tax provided in Code Section 48-8-102 is
 165 approved in a referendum election as provided by subsections (a) and (b) of this Code

166 section, the governing authority of the county whose geographical boundary is
 167 conterminous with that of the special district shall adopt a resolution during the first 30
 168 days following the certification of the result of the election imposing the sales and use tax
 169 authorized by Code Section 48-8-102 on behalf of the county whose geographical
 170 boundary is conterminous with that of the special district. The resolution shall be effective
 171 on the first day of the next succeeding calendar quarter which begins more than 80 days
 172 after the adoption of the resolution. With respect to services which are billed on a regular
 173 monthly basis, however, the resolution shall become effective with the first regular billing
 174 period coinciding with or following the otherwise effective date of the resolution. A
 175 certified copy of the resolution shall be forwarded to the commissioner so that it will be
 176 received within five days after its adoption.

177 48-8-104.

178 (a) The sales and use tax levied pursuant to this ~~article~~ part shall be exclusively
 179 administered and collected by the commissioner for the use and benefit of each county
 180 whose geographical boundary is conterminous with that of a special district. Such
 181 administration and collection shall be accomplished in the same manner and subject to the
 182 same applicable provisions, procedures, and penalties provided in Article 1 of this chapter
 183 except that the sales and use tax provided in this ~~article~~ part shall be applicable to sales of
 184 motor fuels as prepaid local tax as ~~that~~ such term is defined in Code Section 48-8-2;
 185 provided, however, that all moneys collected from each taxpayer by the commissioner shall
 186 be applied first to such taxpayer's liability for taxes owed the state. Dealers shall be
 187 allowed a percentage of the amount of the sales and use tax due and accounted for and shall
 188 be reimbursed in the form of a deduction in submitting, reporting, and paying the amount
 189 due if such amount is not delinquent at the time of payment. The deduction shall be at the
 190 rate and subject to the requirements specified under subsections (b) through (f) of Code
 191 Section 48-8-50.

192 (b) Each sales and use tax return remitting sales and use taxes collected under this ~~article~~
 193 part shall separately identify the location of each retail establishment at which any of the
 194 sales and use taxes remitted were collected and shall specify the amount of sales and the
 195 amount of taxes collected at each establishment for the period covered by the return in
 196 order to facilitate the determination by the commissioner that all sales and use taxes
 197 imposed by this ~~article~~ part are collected and distributed according to situs of sale.

198 (c) The proceeds of the sales and use tax collected by the commissioner in each special
 199 district under this ~~article~~ part shall be disbursed as soon as practicable after collection as
 200 follows:

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

203 (2) Except for the percentage provided in paragraph (1) of this subsection and the
204 amount determined under subsections (d) and (e) of this Code section, the remaining
205 proceeds of the sales and use tax shall be distributed to the governing authority of the
206 county whose geographical boundary is conterminous with that of the special district;
207 provided, however, that a county and any qualified municipality shall be authorized by
208 intergovernmental agreement to waive the equalization amount otherwise required under
209 subsections (d) and (e) of this Code section and provide for a different distribution
210 amount. In the event of such waiver, except for the percentage provided in paragraph (1)
211 of this subsection, the remaining proceeds of the sales and use tax shall be distributed to
212 the governing authority of the county whose geographical boundary is conterminous with
213 that of the special district. As a condition precedent for the authority to levy the sales and
214 use tax or to collect any proceeds from the tax authorized by this ~~article~~ part for the year
215 following the first complete calendar year in which it is levied and for all subsequent
216 years except the year following the year in which the sales and use tax is terminated
217 under Code Section 48-8-106, the county whose geographical boundary is conterminous
218 with that of the special district shall, except as otherwise provided in subsection (c) of
219 Code Section 48-8-102, expend such proceeds as follows:

220 (A) A portion of such proceeds shall be expended for the purpose of funding capital
221 outlay projects as follows:

222 (i) The governing authority of the county whose geographical boundary is
223 conterminous with that of the special district shall establish the capital factor which
224 shall not exceed .200 and, for a county in which a qualified municipality is located,
225 shall not be less than the level required by subsection (d) of this Code section;
226 therefore, at a minimum, the county shall set the capital factor at a level that yields an
227 amount of capital outlay proceeds that is equal to or greater than the sum of all
228 equalization amounts due qualified municipalities and existing municipalities under
229 subsection (e) of this Code section; and

230 (ii) Capital outlay projects shall be funded in an amount equal to the product of the
231 capital factor multiplied by the net amount of the sales and use tax proceeds collected
232 under this ~~article~~ part during the previous calendar year, and this amount shall be
233 referred to as capital outlay proceeds in subsections (d) and (e) of this Code section;

234 (B) A portion of such proceeds shall be expended for the purpose of funding services
235 within the special district equal to the revenue lost to the homestead exemption as
236 provided in this Code section as follows:

237 (i) The homestead factor shall be calculated by multiplying the quantity 1.000 minus
 238 the capital factor times an amount equal to the net amount of sales and use tax
 239 collected in the special district pursuant to this ~~article~~ part for the previous calendar
 240 year, and then dividing by the taxes levied for county purposes on only that portion
 241 of the county tax digest that represents net assessments on qualified homestead
 242 property after all other homestead exemptions have been applied, rounding the result
 243 to three decimal places;

244 (ii) If the homestead factor is less than or equal to 1.000, the amount of homestead
 245 exemption created under this ~~article~~ part on qualified homestead property shall be
 246 equal to the product of the homestead factor multiplied times the net assessment of
 247 each qualified homestead remaining after all other homestead exemptions have been
 248 applied; and

249 (iii) If the homestead factor is greater than 1.000, the homestead exemption created
 250 by this ~~article~~ part on qualified homestead property shall be equal to the net
 251 assessment of each homestead remaining after all other homestead exemptions have
 252 been applied; and

253 (C) If any of such proceeds remain following the distribution provided for in
 254 subparagraphs (A) and (B) of this paragraph and subsections (d) and (e) of this Code
 255 section:

256 (i) The millage rate levied for county purposes shall be rolled back in an amount
 257 equal to such excess divided by the net taxable digest for county purposes after
 258 deducting all homestead exemptions including the exemption under this ~~article~~ part;
 259 and

260 (ii) In the event the rollback created by division (i) of this subparagraph exceeds the
 261 millage rate for county purposes, the governing authority of the county whose
 262 boundary is conterminous with the special district shall be authorized to expend the
 263 surplus funds for funding all or any portion of those services which are to be provided
 264 by such governing authorities pursuant to and in accordance with Article IX, Section
 265 II, Paragraph III of the Constitution of this state.

266 (d)(1) The commissioner shall distribute to the governing authority of each qualified
 267 municipality located in the special district a share of the capital outlay proceeds
 268 calculated as provided in this subsection and subsection (e) of this Code section which
 269 proceeds shall be expended for the purpose of funding capital outlay projects of such
 270 municipality.

271 (2) Both the tax commissioner and the governing authority for the county in which a
 272 qualified municipality is located shall cooperate with and assist the commissioner in the
 273 calculation of the equalization amounts under subsection (e) of this Code section and

274 shall, on or before July 1 of each year, provide to the commissioner and the governing
275 authority of each qualified municipality written certification of the following:

276 (A) The capital factor set by the county for the current calendar year; provided,
277 however, that the capital factor may not exceed 0.200;

278 (B) The total amount, if any, due to be paid to existing municipalities from the capital
279 outlay proceeds as required by any intergovernmental agreement between the county
280 and such municipalities;

281 (C) The incorporated county millage rate in each qualified municipality;

282 (D) The net homestead digest for each qualified municipality;

283 (E) The total homestead digest; and

284 (F) The unincorporated county millage rate.

285 If the tax commissioner and the governing authority of the county fail to provide such
286 certification on or before July 1, the commissioner shall not distribute to such county any
287 additional proceeds of the sales and use tax collected after July 1 unless and until such
288 certification is provided.

289 (3) The commissioner shall then calculate the equalization amount due each qualified
290 municipality based on the certifications provided by the tax commissioner and the
291 governing authority of the county and pay such amount to the governing authority of each
292 qualified municipality in six equal monthly payments as soon as practicable during or
293 after each of the last six months of the current calendar year. In the event an existing
294 municipality that has entered into an intergovernmental agreement with a county at any
295 time before January 1, 2007, to receive capital outlay proceeds of the homestead option
296 sales and use tax and such intergovernmental agreement has become or does become null
297 and void for any reason, such existing municipality shall be treated under this ~~article~~ part
298 the same as if it were a qualified municipality as defined in paragraph (4) of Code Section
299 48-8-101 and therefore receive payment of equalization amounts under this ~~article~~ part
300 as provided for under this ~~article~~ part. The commissioner shall distribute to the governing
301 authority of the county each month the net sales and use tax remaining after payment of
302 equalization amounts to the qualified municipalities.

303 (e)(1) As used in this subsection, the term:

304 (A) 'Equalization amount' means for a qualified municipality the product of the
305 equalization millage times the net homestead digest for that qualified municipality.

306 (B) 'Equalization millage' means for each qualified municipality the product of the
307 homestead factor calculated pursuant to division (c)(2)(B)(i) of this Code section
308 times the difference between the unincorporated county millage rate and the
309 incorporated county millage rate for that qualified municipality.

310 (C) 'Incorporated county millage rate' means the millage rate for all ad valorem taxes
 311 for county purposes levied by the county in each of the qualified municipalities in the
 312 county.

313 (D) 'Net homestead digest' means for each qualified municipality the total net
 314 assessed value of all qualified homestead property located in that portion of the
 315 qualified municipality located in the county remaining after all other homestead
 316 exemptions are applied.

317 (E) 'Total homestead digest' means the total net assessed value of all qualified
 318 homestead property located in the county remaining after all other homestead
 319 exemptions are applied.

320 (F) 'Unincorporated county millage rate' means the millage rate for all ad valorem
 321 taxes for county purposes levied by the county in the unincorporated areas of the
 322 county.

323 (2) For illustration purposes, a hypothetical example of the calculation of the
 324 equalization amount is provided below.

325 First, calculate the homestead factor in accordance with
 326 division (c)(2)(B)(i) of this Code section as follows:

327	(A) Capital factor certified by county as required by	0.150
328	subsection (d) of this Code section	
329	(B) Net amount of sales and use tax collected in the	\$ 50 million
330	special district pursuant to this article <u>part</u> for the	
331	previous calendar year	
332	(C) Taxes levied for county purposes on only that portion	\$100 million
333	of the county tax digest that represents net assessments on	
334	qualified homestead property after all other homestead	
335	exemptions have been applied	
336	(D) Calculation of homestead factor using figures above	.425
337	= [(1-.0150)(\$50 million/\$100 million)]	

338 Next, calculate the equalization amount in accordance with
 339 paragraph (1) of this subsection as follows:

340	(E) Unincorporated county millage rate	15.0 mills
341	(F) Minus the incorporated county millage rate for	(10.0 mills)
342	qualified municipality 'Y'	
343	Difference:	= 5.0 mills

344	(G) Times homestead factor (calculated above)	x .425
345	(H) Equals the equalization millage:	= 2.125 mills
346	(I) Times net homestead digest for qualified municipality 'Y'	\$200 million
348	(J) Equals the equalization amount payable to municipality 'Y'	\$ 425,000.00

350 (3) In the event the total amount payable in a calendar year to all existing municipalities
 351 as certified by the county pursuant to subparagraph (d)(2)(B) of this Code section plus
 352 the total equalization amount payable to all qualified municipalities in the special district
 353 exceeds the capital outlay proceeds calculated based on a maximum capital factor of
 354 0.200, the commissioner shall pay to the governing authority of each qualified
 355 municipality a share of such proceeds calculated as follows:

356 (A) Determine the capital outlay proceeds based on a maximum capital factor of 0.200;

357 (B) Subtract the amount certified by the county as payable to existing municipalities
 358 pursuant to subparagraph (d)(2)(B) of this Code section;

359 (C) The remaining amount equals the portion of the capital outlay proceeds that may
 360 be used by the commissioner to pay equalization amounts to qualified municipalities.

361 The commissioner shall calculate each qualified municipality's share of such remaining
 362 amount by dividing the net homestead digest for each qualified municipality by the total
 363 homestead digest for all municipalities.

364 (4) In the event the incorporated county millage rate for a qualified municipality is
 365 greater than the unincorporated county millage rate, no payment shall be due from the
 366 governing authority of the qualified municipality to the governing authority of the county.

367 (5) In the event the amount of capital outlay proceeds exceeds the sum of the
 368 equalization amounts due all qualified municipalities plus the total amount certified under
 369 subparagraph (d)(2)(B) of this Code section as due all existing municipalities, the
 370 commissioner shall distribute to each qualified municipality a portion of such excess
 371 equal to the net homestead digest for such municipality divided by the total homestead
 372 digest.

373 (6) If any qualified municipality is located partially in the county then only that portion
 374 so located shall be considered in the calculations contained in this subsection.

375 48-8-105.

376 Where a local sales or use tax has been paid with respect to tangible personal property by
 377 the purchaser either in another local tax jurisdiction within ~~the~~ this state or in a tax
 378 jurisdiction outside ~~the~~ this state, the sales and use tax may be credited against the sales and

379 use tax authorized to be imposed by this ~~article~~ part upon the same property. If the amount
380 of sales or use tax so paid is less than the amount of the use tax due under this ~~article~~ part,
381 the purchaser shall pay an amount equal to the difference between the amount paid in the
382 other tax jurisdiction and the amount due under this ~~article~~ part. The commissioner may
383 require such proof of payment in another local tax jurisdiction as the commissioner deems
384 necessary and proper. No credit shall be granted, however, against the sales and use tax
385 imposed under this ~~article~~ part for tax paid in another jurisdiction if the sales and use tax
386 paid in such other jurisdiction is used to obtain a credit against any other local sales and use
387 tax levied in the special district or in the county which is conterminous with the special
388 district; and sales and use taxes so paid in another jurisdiction shall be credited first against
389 the sales and use tax levied under this ~~article~~ part and then against the sales and use tax
390 levied under Article 3 of this chapter, if applicable.

391 48-8-106.

392 (a) Whenever the governing authority of any county whose geographic boundary is
393 conterminous with that of the special district in which the sales and use tax authorized by
394 this ~~article~~ part is being levied wishes to submit to the electors of the special district the
395 question of whether the sales and use tax authorized by Code Section 48-8-102 shall be
396 discontinued, the governing authority shall notify the election superintendent of the county
397 whose geographical boundary is conterminous with that of the special district by
398 forwarding to the superintendent a copy of a resolution of the governing authority calling
399 for the referendum election. Upon receipt of the resolution, it shall be the duty of the
400 election superintendent to issue the call for an election for the purpose of submitting the
401 question of discontinuing the levy of the sales and use tax to the voters of the special
402 district for approval or rejection. The election superintendent shall issue the call and shall
403 conduct the election on a date and in the manner authorized under Code Section 21-2-540.
404 Such election shall ~~only~~ be conducted only on the date of and in conjunction with a
405 referendum provided for by local Act on the question of whether to repeal the homestead
406 exemption within such county which is funded from the proceeds of the sales and use tax
407 levied and collected pursuant to this ~~article~~ part. The election superintendent shall cause
408 the date and purpose of the election to be published once a week for two weeks
409 immediately preceding the date of the election in the official organ of such county. The
410 ballot shall have written or printed thereon the following:

411 ' () YES Shall the 1 percent retail homestead option sales and use tax being levied
 412 within the special district within _____ County for the purposes
 413 () NO of funding capital outlay projects and of funding services to replace
 414 revenue lost to an additional homestead exemption of up to 100 percent
 415 of the assessed value of homesteads from county taxes for county
 416 purposes be terminated?'

417 (b) All persons desiring to vote in favor of discontinuing the sales and use tax shall vote
 418 'Yes,' and those persons opposed to discontinuing the tax shall vote 'No.' If more than
 419 one-half of the votes cast are in favor of discontinuing the sales and use tax and repealing
 420 the local Act providing for such homestead exemption, then the sales and use tax shall
 421 cease to be levied on the last day of the taxable year following the taxable year in which
 422 the commissioner receives the certification of the result of the election; otherwise, the sales
 423 and use tax shall continue to be levied, and the question of the discontinuing of the tax may
 424 not again be submitted to the voters of the special district until after 24 months immediately
 425 following the month in which the election was held. It shall be the duty of the election
 426 superintendent to hold and conduct such elections under the same rules and regulations as
 427 govern special elections. It shall be the superintendent's further duty to canvass the returns,
 428 declare and certify the result of the election, and certify the result to the Secretary of State
 429 and to the commissioner. The expense of the election shall be borne by the county whose
 430 geographical boundary is conterminous with that of the special district holding the election.

431 48-8-107.

432 No sales and use tax provided for in Code Section 48-8-102 shall be imposed upon the sale
 433 of tangible personal property which is ordered by and delivered to the purchaser at a point
 434 outside the geographical area of the special district in which the sales and use tax is
 435 imposed under this ~~article~~ part regardless of the point at which title passes, if the delivery
 436 is made by the seller's vehicle, United States mail, or common carrier or by private or
 437 contract carrier licensed by the Federal Motor Carrier Safety Administration or the Georgia
 438 Department of Public Safety.

439 48-8-108.

440 (a) As used in this Code section, the term 'building and construction materials' means all
 441 building and construction materials, supplies, fixtures, or equipment, any combination of
 442 such items, and any other leased or purchased articles when the materials, supplies,
 443 fixtures, equipment, or articles are to be utilized or consumed during construction or are
 444 to be incorporated into construction work pursuant to a bona fide written construction
 445 contract.

446 (b) No sales and use tax provided for in Code Section 48-8-102 shall be imposed in ~~such~~
 447 a special district upon the sale or use of building and construction materials when the
 448 contract pursuant to which the materials are purchased or used was advertised for bid prior
 449 to approval of the levy of the sales and use tax by the county whose geographical boundary
 450 is conterminous with that of the special district and the contract was entered into as a result
 451 of a bid actually submitted in response to the advertisement prior to approval of the levy
 452 of the sales and use tax.

453 48-8-109.

454 The commissioner shall have the power and authority to promulgate such rules and
 455 regulations as shall be necessary for the effective and efficient administration and
 456 enforcement of the collection of the sales and use tax authorized to be imposed by this
 457 ~~article~~ part.

458 Part 2

459 48-8-109.1.

460 This part shall be known and may be cited as the 'Equalized Homestead Option Sales Tax
 461 Act of 2015.'

462 48-8-109.2.

463 In any county where a homestead option sales and use tax under Part 1 of this article and
 464 a sales tax for purposes of a metropolitan area system of public transportation, as
 465 authorized by the amendment to the Constitution set out at Georgia Laws, 1964, page 1008;
 466 the continuation of such amendment under Article XI, Section I, Paragraph IV(d) of the
 467 Constitution; and the laws enacted pursuant to such constitutional amendment, are being
 468 levied, the county governing authority may choose to submit to the electors of the special
 469 district the question of whether to suspend the sales and use tax authorized by Code Section
 470 48-8-102 and replace such tax with a sales and use tax authorized by this part. Such
 471 referendum shall only be held in conjunction with a referendum submitting to the electors
 472 of the special district the question of whether to approve a special purpose local option
 473 sales and use tax pursuant to the provisions of Part 1 of Article 3 of this chapter. The
 474 electors of the special district must approve both of the sales and use taxes in order for
 475 either of them to be implemented. If either of the sales and use taxes is not approved by
 476 the electors, the homestead option sales and use tax under Part 1 of this article shall be
 477 continued in full force and effect.

478 48-8-109.3.

479 (a) Pursuant to the authority granted by Article IX, Section II, Paragraph VI of the
480 Constitution of this state, there are created within this state 159 special districts. The
481 geographical boundary of each county shall correspond with and shall be conterminous
482 with the geographical boundary of one of the 159 special districts.

483 (b) When the imposition of a local sales and use tax is authorized according to the
484 procedures provided in this part within a special district, the county whose geographical
485 boundary is conterminous with that of the special district shall levy a local sales and use
486 tax at the same rate as provided in Part 1 of this article. Except as otherwise provided in
487 this part, the local sales and use tax shall correspond to the tax imposed and administered
488 by Part 1 of this article. The local sales and use tax levied pursuant to this part shall apply
489 to all items and transactions subject to taxation pursuant to Part 1 of this article. No item
490 or transaction which is not subject to taxation pursuant to Part 1 of this article shall be
491 subject to the tax levied pursuant to this part.

492 (c) No sales and use tax shall be levied in a special district under this part in which a tax
493 is levied and collected under Article 2 of this chapter.

494 48-8-109.4.

495 (a) Whenever the governing authority of any county whose geographic boundary is
496 conterminous with that of the special district wishes to submit to the electors of the special
497 district the question of whether the sales and use tax authorized by this part shall be
498 imposed, any such governing authority shall notify the election superintendent of the
499 county whose geographical boundary is conterminous with that of the special district by
500 forwarding to the superintendent a copy of a resolution of the governing authority calling
501 for a referendum election. Upon receipt of the resolution, it shall be the duty of the election
502 superintendent to issue the call for an election for the purpose of submitting the question
503 of the imposition of the sales and use tax to the voters of the special district for approval
504 or rejection. The election superintendent shall issue the call and shall conduct the election
505 on a date and in the manner authorized under Code Section 21-2-540. Such election shall
506 only be held in conjunction with a referendum submitting to the electors of the special
507 district the question of whether to approve a special purpose local option sales and use tax
508 pursuant to the provisions of Part 1 of Article 3 of this chapter. The electors of the special
509 district must approve both of the sales and use taxes in order for either of them to be
510 implemented. If either of the taxes is not approved by the electors, the homestead option
511 sales and use tax under Part 1 of this article shall be continued in full force and effect. If
512 the sales and use tax under Part 1 of Article 3 of this chapter is not renewed, the sales and
513 use tax under Part 1 of this article shall replace the sales and use tax under this part upon

514 expiration of the sales and use tax under Part 1 of Article 3 of this chapter. The election
 515 superintendent shall cause the date and purpose of the election to be published once a week
 516 for two weeks immediately preceding the date of the election in the official organ of such
 517 county. The ballot shall have written or printed thereon the following statement which
 518 shall precede the ballot question specified in this subsection:

519 'NOTICE TO ELECTORS: Unless **BOTH** the equalized homestead option sales and use
 520 tax **AND** the special purpose local option sales and use tax are approved, then neither
 521 sales and use tax shall become effective.'

522 Such statement shall be followed by the following:

523 '() YES Shall an equalized homestead option sales and use tax be levied and the
 524 regular homestead option sales and use tax be suspended within the
 525 () NO special district within _____ County for the purposes of
 526 reducing the ad valorem property tax millage rates levied by county and
 527 municipal governments on homestead properties?'

528 Notwithstanding any other provision of law to the contrary, the statement and ballot
 529 question referred to in this subsection shall precede any and all other ballot questions which
 530 are to appear on the same ballot.

531 (b) All persons desiring to vote in favor of levying the sales and use tax shall vote 'Yes,'
 532 and those persons opposed to levying the tax shall vote 'No.' If more than one-half of the
 533 votes cast are in favor of levying the tax, then the tax shall be levied in accordance with this
 534 part; otherwise, the sales and use tax may not be levied, and the question of the imposition
 535 of the sales and use tax may not again be submitted to the voters of the special district until
 536 after 24 months immediately following the month in which the election was held. It shall
 537 be the duty of the election superintendent to hold and conduct such elections under the
 538 same rules and regulations as govern special elections. It shall be the superintendent's
 539 further duty to canvass the returns, declare the result of the election, and certify the result
 540 to the Secretary of State and to the commissioner. The expense of the election shall be
 541 borne by the county whose geographical boundary is conterminous with that of the special
 542 district holding the election.

543 (c) If the imposition of the sales and use tax provided in this part is approved in a
 544 referendum election as provided by subsections (a) and (b) of this Code section, the
 545 governing authority of the county whose geographical boundary is conterminous with that
 546 of the special district shall adopt a resolution during the first 30 days following the
 547 certification of the result of the election imposing the sales and use tax authorized in this
 548 part on behalf of the county whose geographical boundary is conterminous with that of the
 549 special district. The resolution shall be effective on the first day of the next succeeding
 550 calendar quarter which begins more than 80 days after the adoption of the resolution. With

551 respect to services which are billed on a regular monthly basis, however, the resolution
552 shall become effective with the first regular billing period coinciding with or following the
553 otherwise effective date of the resolution. A certified copy of the resolution shall be
554 forwarded to the commissioner so that it will be received within five days after its
555 adoption.

556 48-8-109.5.

557 (a) The sales and use tax levied pursuant to this part shall be exclusively administered and
558 collected by the commissioner for the use and benefit of each county whose geographical
559 boundary is conterminous with that of a special district. Such administration and collection
560 shall be accomplished in the same manner and subject to the same applicable provisions,
561 procedures, and penalties provided in Article 1 of this chapter except that the sales and use
562 tax provided in this part shall be applicable to sales of motor fuels as prepaid local tax as
563 such term is defined in Code Section 48-8-2, to the same extent that sales of motor fuels
564 are subject to taxation pursuant to Part 1 of this article; provided, however, that all moneys
565 collected from each taxpayer by the commissioner shall be applied first to such taxpayer's
566 liability for taxes owed the state. Dealers shall be allowed a percentage of the amount of
567 the sales and use tax due and accounted for and shall be reimbursed in the form of a
568 deduction in submitting, reporting, and paying the amount due if such amount is not
569 delinquent at the time of payment. The deduction shall be at the rate and subject to the
570 requirements specified under subsections (b) through (f) of Code Section 48-8-50.

571 (b) Each sales and use tax return remitting sales and use taxes collected under this part
572 shall separately identify the location of each retail establishment at which any of the sales
573 and use taxes remitted were collected and shall specify the amount of sales and the amount
574 of taxes collected at each establishment for the period covered by the return in order to
575 facilitate the determination by the commissioner that all sales and use taxes imposed by this
576 part are collected and distributed according to situs of sale.

577 (c) The proceeds of the sales and use tax collected by the commissioner in each special
578 district under this part shall be disbursed as soon as practicable after collection as follows:

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

581 (2) The remaining proceeds shall be disbursed to the governing authority of the county
582 whose geographical boundary is conterminous with that of the special district, and each
583 municipality located wholly or partially therein, and shall be utilized as follows:

584 (A) First, the proceeds shall be used to roll back, and eliminate if possible, the millage
585 rates for any county ad valorem property tax line items levied uniformly throughout the
586 county on homestead properties, including in all municipalities; and

587 (B) Next, any remaining proceeds shall be used to roll back at an equal and uniform
 588 rate across both of the following categories, and eliminate if possible:

589 (i) The millage rates for any county ad valorem property tax line items levied only
 590 in unincorporated portions of the county on homestead properties; and

591 (ii) The millage rates for any municipal ad valorem property tax line items levied in
 592 every municipality located wholly or partially in the county on homestead properties
 593 but not in unincorporated portions of the county.

594 If any municipality is located partially in the special district, then only that portion so
 595 located shall be considered in the calculations contained in this subsection.

596 (d) The form to collect ad valorem tax prepared by the county tax commissioner shall
 597 reflect the full amount owed by the taxpayer pursuant to the millage rates set by the county
 598 governing authority and any municipal governing authority. Under a separate heading, the
 599 form shall reflect the deductions from the gross ad valorem tax amount realized through
 600 the application of proceeds from the equalized homestead option sales and use tax.

601 (e) Notwithstanding any provision of law to the contrary except subsection (f) of this Code
 602 section, in any county levying a tax under this part, a tax levied pursuant to the provisions
 603 of Part 1 of Article 3 of this chapter in a special district in such county shall be strictly
 604 divided between the unincorporated portions of the county whose geographical boundary
 605 is conterminous with that of the special district and the municipalities wholly or partially
 606 located within the special district on a per capita basis, based on the most recent decennial
 607 census, unless altered by an intergovernmental agreement between the county and all
 608 municipalities wholly located within the special district. For as long as a municipality
 609 located within the special district and incorporated after the effective date of this Code
 610 section does not maintain the roads, streets, sidewalks, and bicycle paths within its
 611 territorial boundaries and relies upon the county governing authority for such maintenance,
 612 such municipality's per capita share of the proceeds of the tax levied pursuant to Part 1 of
 613 Article 3 of this chapter shall be paid to the county governing authority. Notwithstanding
 614 any provision of law to the contrary, the department shall disburse directly to the county
 615 and each municipality its share of the proceeds of the tax levied pursuant to Part 1 of
 616 Article 3 of this chapter.

617 (f) The tax levied in the special district under Part 1 of Article 3 of this chapter shall not
 618 be levied within the boundaries of any municipality wholly or partially located within the
 619 special district that is levying a tax pursuant to Article 4 of this chapter. No proceeds from
 620 the tax levied in the special district under Part 1 of Article 3 of this chapter shall be
 621 disbursed to any such municipality. Upon the expiration of the tax levied under Article 4
 622 of this chapter in such municipality, the tax in the special district under Part 1 of Article 3

623 of this chapter shall be levied within such municipality and proceeds shall be disbursed to
624 such municipality in accordance with this part.

625 48-8-109.6.

626 Where a local sales or use tax has been paid with respect to tangible personal property by
627 the purchaser either in another local tax jurisdiction within this state or in a tax jurisdiction
628 outside this state, the sales and use tax may be credited against the sales and use tax
629 authorized to be imposed by this part upon the same property. If the amount of sales or use
630 tax so paid is less than the amount of the use tax due under this part, the purchaser shall pay
631 an amount equal to the difference between the amount paid in the other tax jurisdiction and
632 the amount due under this part. The commissioner may require such proof of payment in
633 another local tax jurisdiction as the commissioner deems necessary and proper. No credit
634 shall be granted, however, against the sales and use tax imposed under this part for tax paid
635 in another jurisdiction if the sales and use tax paid in such other jurisdiction is used to
636 obtain a credit against any other local sales and use tax levied in the special district or in
637 the county which is conterminous with the special district; and sales and use taxes so paid
638 in another jurisdiction shall be credited first against the sales and use tax levied under this
639 part and then against the sales and use tax levied under Article 3 of this chapter, if
640 applicable.

641 48-8-109.7.

642 (a) Whenever the governing authority of any county whose geographic boundary is
643 conterminous with that of the special district in which the sales and use tax authorized by
644 this part is being levied wishes to submit to the electors of the special district the question
645 of whether the sales and use tax authorized by this part shall be discontinued, the governing
646 authority shall notify the election superintendent of the county whose geographical
647 boundary is conterminous with that of the special district by forwarding to the
648 superintendent a copy of a resolution of the governing authority calling for the referendum
649 election. Upon receipt of the resolution, it shall be the duty of the election superintendent
650 to issue the call for an election for the purpose of submitting the question of discontinuing
651 the levy of the sales and use tax to the voters of the special district for approval or rejection.
652 The election superintendent shall issue the call and shall conduct the election on a date and
653 in the manner authorized under Code Section 21-2-540. Such election shall be conducted
654 only on the date of and in conjunction with an election to repeal the special purpose local
655 option sales and use tax pursuant to the provisions of Part 1 of Article 3 of this chapter. If
656 either such sales and use tax is repealed, then both such sales and use taxes shall be
657 repealed and the sales and use tax under Part 1 of this article shall replace the sales and use

658 tax that was imposed under this part. The election superintendent shall cause the date and
 659 purpose of the election to be published once a week for two weeks immediately preceding
 660 the date of the election in the official organ of such county. The ballot shall have written
 661 or printed thereon the following:

662 ' () YES Shall the equalized homestead option sales and use tax being levied
 663 within the special district within _____ County for the
 664 () NO purposes of reducing the ad valorem property tax millage rates levied by
 665 county and municipal governments on homestead properties be
 666 terminated?'

667 (b) All persons desiring to vote in favor of discontinuing the sales and use tax shall vote
 668 'Yes,' and those persons opposed to discontinuing the tax shall vote 'No.' If more than
 669 one-half of the votes cast are in favor of discontinuing the sales and use tax, then the sales
 670 and use tax shall cease to be levied on the last day of the taxable year following the taxable
 671 year in which the commissioner receives the certification of the result of the election;
 672 otherwise, the sales and use tax shall continue to be levied, and the question of
 673 discontinuing the tax may not again be submitted to the voters of the special district until
 674 after 24 months immediately following the month in which the election was held. It shall
 675 be the duty of the election superintendent to hold and conduct such elections under the
 676 same rules and regulations as govern special elections. It shall be the superintendent's
 677 further duty to canvass the returns, declare and certify the result of the election, and certify
 678 the result to the Secretary of State and to the commissioner. The expense of the election
 679 shall be borne by the county whose geographical boundary is conterminous with that of the
 680 special district holding the election.

681 48-8-109.8.

682 No sales and use tax provided for in this part shall be imposed upon the sale of tangible
 683 personal property which is ordered by and delivered to the purchaser at a point outside the
 684 geographical area of the special district in which the sales and use tax is imposed under this
 685 part regardless of the point at which title passes, if the delivery is made by the seller's
 686 vehicle, United States mail, or common carrier or by private or contract carrier licensed by
 687 the Federal Motor Carrier Safety Administration or the Georgia Department of Public
 688 Safety.

689 48-8-109.9.

690 (a) As used in this Code section, the term 'building and construction materials' means all
 691 building and construction materials, supplies, fixtures, or equipment, any combination of
 692 such items, and any other leased or purchased articles when the materials, supplies,

693 fixtures, equipment, or articles are to be utilized or consumed during construction or are
694 to be incorporated into construction work pursuant to a bona fide written construction
695 contract.

696 (b) No sales and use tax provided for in this part shall be imposed in a special district upon
697 the sale or use of building and construction materials when the contract pursuant to which
698 the materials are purchased or used was advertised for bid prior to approval of the levy of
699 the sales and use tax by the county whose geographical boundary is conterminous with that
700 of the special district and the contract was entered into as a result of a bid actually
701 submitted in response to the advertisement prior to approval of the levy of the sales and use
702 tax.

703 48-8-109.10.

704 The commissioner shall have the power and authority to promulgate such rules and
705 regulations as shall be necessary for the effective and efficient administration and
706 enforcement of the collection of the sales and use tax authorized to be imposed by this
707 part."

708 **SECTION 3.**

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

711 **SECTION 4.**

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