A BILL TO BE ENTITLED

AN ACT

To amend Article 2A of Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to homestead option sales and use tax, so as to provide for a revised homestead option sales tax; to provide for a revised distribution of the proceeds from the levy of an equalized homestead option sales and use tax; to provide for the levy of a special purpose local option sales and use tax in certain counties; to provide for elector petitions and referenda; to provide for procedures, conditions, and limitations; to provide for a short title; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 2A of Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to homestead option sales and use tax, is amended by adding a new part to read as follows:

"Part 3

48-8-109.15. This part shall be known and may be cited as the 'Revised Homestead Option Sales and Use Tax Act of 2020.'

48-8-109.16. In any county where a homestead option sales and use tax under Part 1 of this article is being levied, the question of whether to suspend the sales and use tax authorized by Code Section 48-8-102 and replace such tax with a sales and use tax authorized by this part shall be submitted to the electors of the special district in the manner provided for in Code Section 48-8-109.18. If the sales and use tax is not approved by the electors, then the
homestead option sales and use tax under Part 1 of this article shall continue in full force and effect.

48-8-109.17.
(a) Pursuant to the authority granted by Article IX, Section II, Paragraph VI of the Constitution of this state, there are created within this state 159 special districts. The geographical boundary of each county shall correspond with and shall be conterminous with the geographical boundary of one of the 159 special districts.
(b) When the imposition of a local sales and use tax is authorized according to the procedures provided in this part within a special district, the county whose geographical boundary is conterminous with that of the special district shall levy a local sales and use tax at the same rate as provided in Part 1 of this article. Except as otherwise provided in this part, the local sales and use tax shall correspond to the tax imposed and administered by Part 1 of this article. The local sales and use tax levied pursuant to this part shall apply to all items and transactions subject to taxation pursuant to Part 1 of this article. No item or transaction which is not subject to taxation pursuant to Part 1 of this article shall be subject to the tax levied pursuant to this part.
(c) No sales and use tax shall be levied in a special district under this part in which a tax is levied and collected under Article 2 of this chapter.

48-8-109.18.
(a) Whenever a petition is filed with the election superintendent of any county whose geographical boundary is conterminous with that of the special district and such petition is signed by at least 10 percent of the electors registered to vote in the last general election directing such election superintendent to submit to the electors of the special district the question of whether the sales and use tax authorized by this part shall be imposed, the election superintendent shall determine the validity of such petition within 60 days of its being filed. In the event the election superintendent determines that such petition is valid, it shall be the duty of the election superintendent to issue the call for an election for the purpose of submitting the question of the imposition of the sales and use tax to the voters of the special district for approval or rejection. The election superintendent shall issue the call and shall conduct the election on a date and in the manner authorized under Code Section 21-2-540. The election superintendent shall cause the date and purpose of the election to be published once a week for two weeks immediately preceding the date of the election in the official organ of such county. The ballot shall have written or printed thereon the following ballot question:

H. B. 1102
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Shall the homestead option sales and use tax be suspended within the
special district within _____________ County and a revised homestead
option sales and use tax be levied for the purpose of reducing the ad
valorem property tax millage rates levied by county and municipal
governments on homestead properties, with 99 percent of such tax being
used to roll back ad valorem property tax millage rates?"

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

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

(c) If the imposition of the sales and use tax provided in this part is approved in a
referendum election as provided by subsections (a) and (b) of this Code section, the
governing authority of the county whose geographical boundary is conterminous with that
of the special district shall adopt a resolution during the first 30 days following the
certification of the result of the election imposing the sales and use tax authorized in this
part on behalf of the county whose geographical boundary is conterminous with that of the
special district. The resolution shall be effective on the first day of the next succeeding
calendar quarter which begins more than 80 days after the adoption of the resolution. With
respect to services which are billed on a regular monthly basis, however, the resolution
shall become effective with the first regular billing period coinciding with or following the
otherwise effective date of the resolution. A certified copy of the resolution shall be
forwarded to the commissioner so that it will be received within five days after its
adoption.
48-8-109.19.

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

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

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

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

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

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

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

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

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

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

48-8-109.20.
Where a local sales or use tax has been paid with respect to tangible personal property by the purchaser either in another local tax jurisdiction within this state or in a tax jurisdiction outside this state, the sales and use tax may be credited against the sales and use tax authorized to be imposed by this part upon the same property. If the amount of sales or use tax so paid is less than the amount of the use tax due under this part, the purchaser shall pay an amount equal to the difference between the amount paid in the other tax jurisdiction and the amount due under this part. The commissioner may require such proof of payment in another local tax jurisdiction as the commissioner deems necessary and proper. No credit shall be granted, however, against the sales and use tax imposed under this part for tax paid in another jurisdiction if the sales and use tax paid in such other jurisdiction is used to obtain a credit against any other local sales and use tax levied in the special district or in the county which is conterminous with the special district; and sales and use taxes so paid in another jurisdiction shall be credited first against the sales and use tax levied under this part and then against the sales and use tax levied under Article 3 of this chapter, if applicable.

48-8-109.21.
(a) Whenever the governing authority of any county whose geographical boundary is conterminous with that of the special district in which the sales and use tax authorized by this part is being levied wishes to submit to the electors of the special district the question of whether the sales and use tax authorized by this part shall be discontinued, the governing authority shall notify the election superintendent of the county whose geographical boundary is conterminous with that of the special district by forwarding to the superintendent a copy of a resolution of the governing authority calling for the referendum election. Upon receipt of the resolution, it shall be the duty of the election superintendent
to issue the call for an election for the purpose of submitting the question of discontinuing
the levy of the sales and use tax to the voters of the special district for approval or rejection.
The election superintendent shall issue the call and shall conduct the election on a date and
in the manner authorized under Code Section 21-2-540. If such sales and use tax is
repealed, then the sales and use tax under Part 1 of this article shall replace the sales and
use tax that was imposed under this part. The election superintendent shall cause the date
and purpose of the election to be published once a week for two weeks immediately
preceding the date of the election in the official organ of such county. The ballot shall have
written or printed thereon the following:

'( ) YES  Shall the revised homestead option sales and use tax being levied within

( ) NO  the special district within _____________ County for the purpose of

reducing the ad valorem property tax millage rates levied by county and

municipal governments on homestead properties, with 99 percent of

such tax being used to roll back ad valorem property tax millage rates,

be terminated?'

(b) All persons desiring to vote in favor of discontinuing the sales and use tax shall vote

'Yes.' and those persons opposed to discontinuing the tax shall vote 'No.' If more than

one-half of the votes cast are in favor of discontinuing the sales and use tax, then the sales

and use tax shall cease to be levied on the last day of the taxable year following the taxable

year in which the commissioner receives the certification of the result of the election;

otherwise, the sales and use tax shall continue to be levied, and the question of

discontinuing the tax may not again be submitted to the voters of the special district until

after 24 months immediately following the month in which the election was held. It shall

be the duty of the election superintendent to hold and conduct such elections under the

same rules and regulations as govern special elections. It shall be the superintendent's

further duty to canvass the returns, declare and certify 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 borne by the county whose geographical boundary is conterminous with that of the

special district holding the election.

48-8-109.22.

No sales and use tax provided for in this part 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 special district in which the sales and use tax is imposed under this

part 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 licensed by
the Federal Motor Carrier Safety Administration or the Georgia Department of Public Safety.

48-8-109.23.
(a) As used in this Code section, the term 'building and construction materials' means all building and construction materials, supplies, fixtures, or equipment, any combination of such items, and any other leased or purchased articles when the materials, supplies, fixtures, equipment, or articles are to be utilized or consumed during construction or are to be incorporated into construction work pursuant to a bona fide written construction contract.
(b) No sales and use tax provided for in this part shall be imposed in a special district upon the sale or use of building and construction materials when the contract pursuant to which the materials are purchased or used was advertised for bid prior to approval of the levy of the sales and use tax by the county whose geographical boundary is conterminous with that of the special district and the contract was entered into as a result of a bid actually submitted in response to the advertisement prior to approval of the levy of the sales and use tax.

48-8-109.24.
The commissioner shall have the power and authority to promulgate such rules and regulations as shall be necessary for the effective and efficient administration and enforcement of the collection of the sales and use tax authorized to be imposed by this part.

SECTION 2.
This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 3.
All laws and parts of laws in conflict with this Act are repealed.