

House Bill 230 (AS PASSED HOUSE AND SENATE)

By: Representatives Newton of the 127th, Prince of the 132nd, Frazier of the 126th, Gladney of the 130th, and Howard of the 129th

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 a qualified consolidated government special purpose local
3 option sales tax; to provide an exception to a ceiling on local sales and use taxes; to provide
4 for definitions; to provide for authorization of tax and applicability; to provide for local
5 authorization and referenda; to provide for imposition and termination of tax; to provide for
6 limitations; to provide for administration and collection of tax; to provide for returns; to
7 provide for distribution of tax proceeds; to provide for personal property in other
8 jurisdictions; to prohibit taxation of products ordered and delivered outside of jurisdiction;
9 to prohibit taxation of certain construction materials; to provide for rules and regulations; to
10 provide for impact on other taxes; to provide for use of proceeds and general obligation debt;
11 to provide for related matters; to provide an effective date; to repeal conflicting laws; and for
12 other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 **SECTION 1.**

15 Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to sales and use
16 taxes, is amended in Code Section 48-8-6, relating to prohibition of political subdivisions

17 from imposing various taxes, ceiling on local sales and use taxes, and taxation of mobile
 18 telecommunications, by revising paragraphs (6) and (7) of subsection (a) and adding a new
 19 paragraph to read as follows:

20 "(6) A sales and use tax levied under Article 5A of this chapter; and
 21 (7) A sales and use tax levied under Article 2 of Chapter 9 of Title 32; and
 22 (8) A sales and use tax levied under Part 3 of Article 3 of this chapter."

23 **SECTION 2.**

24 Said chapter is further amended by revising Article 3, relating to county sales and use taxes,
 25 by adding a new part to read as follows:

26 "Part 3

27 48-8-145.

28 As used in this part, the term:

29 (1) 'Coliseum capital outlay project' means any capital outlay project or projects, as
 30 defined in paragraph (1) of Code Section 48-8-110, within the special district and
 31 consisting of the acquisition, construction, renovation, improvement, and equipping of
 32 buildings, structures, and facilities as a successor facility to a multiuse coliseum or civic
 33 center type of facility, or a combination of such facilities, in operation on the same site
 34 for a minimum of 35 years and that includes, among other facilities, an arena originally
 35 constructed with a minimum of 5,000 permanent seats, such successor facility to be
 36 owned or operated, or both, either by the qualified consolidated government, one or more
 37 local authorities within the special district, or any combination thereof.

38 (2) 'Project cost' means the cost of acquiring, constructing, reconstructing, renovating,
 39 repairing, improving, and installing any coliseum capital outlay project, or any
 40 combination of the foregoing.

41 (3) 'Qualified consolidated government' means a consolidated government created by the
42 consolidation of a county and one or more municipalities and within the geographic
43 boundaries of the county in which such consolidated government exists there exist on the
44 date of the call of the election pursuant to subsection (b) of Code Section 48-8-147 two
45 or more incorporated municipalities.

46 48-8-146.

47 (a) The governing authority of any qualified consolidated government whose geographic
48 boundary is coterminous with that of the special district in which the sales and use tax
49 authorized by Part 1 of Article 3 of this chapter is being levied may, subject to the
50 requirement of referendum approval and the other requirements of this part, impose within
51 the special district a special sales and use tax for a limited period of time for the purpose
52 of funding coliseum capital outlay projects and project costs.

53 (b) Except as provided in subsection (c) of this Code section, any tax imposed under this
54 part shall be at the rate of 0.5 percent. Except as to rate, a tax imposed under this part shall
55 correspond to the tax imposed by Article 1 of this chapter. No item or transaction which
56 is not subject to taxation under Article 1 of this chapter shall be subject to a tax imposed
57 under this part, except that a tax imposed under this part shall apply to sales of motor fuels
58 as prepaid local tax as that term is defined in Code Section 48-8-2 and shall be applicable
59 to the sale of food and food ingredients and alcoholic beverages as provided for in Code
60 Section 48-8-3.

61 (c) Such sales and use tax levied on sales of motor fuels as defined in Code Section 48-9-2
62 shall be at the rate of 0.5 percent of the retail sales price of the motor fuel which is not
63 more than \$3.00 per gallon.

64 48-8-147.

65 (a) The governing authority of a qualified consolidated government voting to impose the
66 tax authorized by this part within the special district shall notify the qualified consolidated
67 government election superintendent by forwarding to the superintendent a copy of the
68 resolution or ordinance of the governing authority calling for the imposition of the tax.

69 Such ordinance or resolution shall specify:

70 (1) The aggregate maximum cost of the project or projects which shall be funded from
71 the proceeds of the tax;

72 (2) The maximum amount of net proceeds to be raised by the tax, which shall be equal
73 to the amount specified in paragraph (1) of this subsection; and

74 (3) If general obligation debt is to be issued in conjunction with the imposition of the tax,
75 as authorized by this part, the principal amount of the debt to be issued, which shall not
76 exceed \$250 million; the interest rate or rates or the maximum interest rate or rates which
77 such debt is to bear; and the amount of principal to be paid in each year during the life
78 of the debt.

79 (b) Upon receipt of the resolution or ordinance, the qualified consolidated government
80 election superintendent shall issue the call for an election for the purpose of submitting the
81 question of the imposition of the tax to the voters of the qualified consolidated government.

82 The qualified consolidated government election superintendent shall issue the call and shall
83 conduct the election on a date and in the manner authorized under Code Section 21-2-540.

84 The qualified consolidated government election superintendent shall cause the date and
85 purpose of the election to be published once a week for four weeks immediately preceding
86 the date of the election in the legal organ of the qualified consolidated government or in a
87 newspaper having general circulation in the qualified consolidated government at least
88 equal to that of the legal organ. If general obligation debt is to be issued in conjunction
89 with the imposition of the tax, the notice published by the qualified consolidated
90 government election superintendent shall also include, in such form as may be specified

91 by the qualified consolidated government governing authority, the principal amount of the
 92 debt which shall not exceed \$250 million, the rate or rates of interest or the maximum rate
 93 or rates of interest the debt shall bear, and the amount of principal to be paid in each year
 94 during the life of the debt; and such publication of notice by the qualified consolidated
 95 government election superintendent shall take the place of the notice otherwise required
 96 by Code Section 36-80-11 or by subsection (b) of Code Section 36-82-1, which notice shall
 97 not be required.

98 (c)(1) The ballot shall have written or printed thereon the following:

99 '() YES Shall a special 0.5 percent sales and use tax be imposed in the special
 100 district of _____ in order to raise \$ _____ to fund coliseum

101 () NO capital outlay projects and related project costs?

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

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

107 (d) All persons desiring to vote in favor of imposing the tax shall vote 'Yes' and all persons
 108 opposed to levying the tax shall vote 'No.' If more than one-half of the votes cast are in
 109 favor of imposing the tax, then the tax shall be imposed as provided in this part; otherwise,
 110 the tax shall not be imposed and the question of imposing the tax shall not again be
 111 submitted to the voters of the qualified consolidated government until after 12 months
 112 immediately following the month in which the election was held; provided, however, that
 113 if an election date authorized under Code Section 21-2-540 occurs during the twelfth month
 114 immediately following the month in which such election was held, the question of
 115 imposing the tax may be submitted to the voters of the qualified consolidated government
 116 on such date. The qualified consolidated government election superintendent shall hold
 117 and conduct the election under the same rules and regulations as govern special elections.

118 The qualified consolidated government election superintendent shall canvass the returns,
119 declare the result of the election, and certify the result to the Secretary of State and to the
120 commissioner. The expense of the election shall be paid from qualified consolidated
121 government funds.

122 (e)(1) If the proposal includes the authority to issue general obligation debt and if more
123 than one-half of the votes cast are in favor of the proposal, then the authority to issue such
124 debt in accordance with Article IX, Section V, Paragraph I of the Constitution is given
125 to the proper officers of the qualified consolidated government; otherwise such debt shall
126 not be issued. If the authority to issue such debt is so approved by the voters, then such
127 debt may be issued without further approval by the voters.

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

145 48-8-148.

146 (a)(1) If the imposition of the tax is approved by referendum, the tax shall be imposed
147 on the first day of the next succeeding calendar quarter which begins more than 80 days
148 after the date of the election at which the tax was approved by the voters.

149 (2) With respect to services that are regularly billed on a monthly basis, however, the
150 resolution or ordinance imposing the tax shall become effective and the tax shall apply
151 to the first regular billing period coinciding with or following the effective date specified
152 in paragraph (1) of this subsection. A certified copy of the ordinance or resolution
153 imposing the tax shall be forwarded to the commissioner to ensure it is received within
154 five business days after certification of the election results.

155 (b) The tax shall cease to be imposed on the earliest of the following:

156 (1) If the resolution or ordinance calling for the imposition of the tax provided for the
157 issuance of general obligation debt and such debt is the subject of validation proceedings,
158 as of the end of the first calendar quarter ending more than 80 days after the date on
159 which a court of competent jurisdiction enters a final order denying validation of such
160 debt; or

161 (2) As of the end of the calendar quarter during which the commissioner determines that
162 the tax raised revenues sufficient to provide to the qualified consolidated government net
163 proceeds equal to or greater than the amount specified as the maximum amount of net
164 proceeds to be raised by the tax.

165 (c)(1) In no event shall the principal amount of general obligation bonds issued under
166 this part by a qualified consolidated government exceed \$250 million.

167 (2) No qualified consolidated government shall at any time impose more than a single
168 0.5 percent tax under this part.

169 (3) In no event shall the tax authorized by this part be renewed or reauthorized. Each
170 qualified consolidated government shall be limited to one imposition of the tax authorized
171 by this part.

172 48-8-149.

173 A tax levied pursuant to this part shall be exclusively administered and collected by the
174 commissioner for the use and benefit of the qualified consolidated government imposing
175 the tax. Such administration and collection shall be accomplished in the same manner and
176 subject to the same applicable provisions, procedures, and penalties provided in Article 1
177 of this chapter except that the sales and use tax provided in this part shall be applicable to
178 sales of motor fuels as prepaid local tax as that term is defined in Code Section 48-8-2;
179 provided, however, that all moneys collected from each taxpayer by the commissioner shall
180 be applied first to such taxpayer's liability for taxes owed the state; and provided, further,
181 that the commissioner may rely upon a representation by or in behalf of the qualified
182 consolidated government or the Secretary of State that such a tax has been validly imposed,
183 and the commissioner and the commissioner's agents shall not be liable to any person for
184 collecting any such tax which was not validly imposed. Dealers shall be allowed a
185 percentage of the amount of the tax due and accounted for and shall be reimbursed in the
186 form of a deduction in submitting, reporting, and paying the amount due if such amount
187 is not delinquent at the time of payment. The deduction shall be at the rate and subject to
188 the requirements specified under subsections (b) through (f) of Code Section 48-8-50.

189 48-8-150.

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

196 48-8-151.

197 The proceeds of the tax collected by the commissioner in each qualified consolidated
198 government under this part shall be disbursed as soon as practicable after collection as
199 follows:

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

202 (2) The remaining proceeds of the tax shall be distributed to the governing authority of
203 the qualified consolidated government imposing the tax.

204 48-8-152.

205 Where a local sales or use tax has been paid with respect to tangible personal property by
206 the purchaser either in another local tax jurisdiction within the state or in a tax jurisdiction
207 outside the state, the tax may be credited against the tax authorized to be imposed by this
208 part upon the same property. If the amount of sales or use tax so paid is less than the
209 amount of the use tax due under this part, the purchaser shall pay an amount equal to the
210 difference between the amount paid in the other tax jurisdiction and the amount due under
211 this part. The commissioner may require such proof of payment in another local tax
212 jurisdiction as the commissioner deems necessary and proper. No credit shall be granted,
213 however, against the tax imposed under this part for tax paid in another jurisdiction if the
214 tax paid in such other jurisdiction is used to obtain a credit against any other local sales and
215 use tax levied in the qualified consolidated government or in a special district which
216 includes the qualified consolidated government; and taxes so paid in another jurisdiction
217 shall be credited first against the tax levied under Article 2 of this chapter, if applicable,
218 then against the tax levied under Part 1 of Article 3 of this chapter, if applicable, then
219 against the tax levied under Part 2 of Article 3 of this chapter, if applicable, and then
220 against the tax levied under this part.

221 48-8-153.

222 No tax provided for in this part shall be imposed upon the sale of tangible personal
223 property which is ordered by and delivered to the purchaser at a point outside the
224 geographical area of the qualified consolidated government in which the tax is imposed
225 regardless of the point at which title passes, if the delivery is made by the seller's vehicle,
226 and including United States mail or common carrier or by a private or contract carrier
227 licensed by the Federal Motor Carrier Safety Administration or the Georgia Department
228 of Public Safety.

229 48-8-154.

230 No tax provided for in this part shall be imposed upon the sale or use of building and
231 construction materials when the contract pursuant for which the materials are purchased
232 or used was advertised for bid prior to the voters' approval of the levy of the tax and the
233 contract was entered into as a result of a bid actually submitted in response to the
234 advertisement prior to approval of the levy of the tax.

235 48-8-155.

236 The commissioner shall have the power and authority to promulgate such rules and
237 regulations as shall be necessary for the effective and efficient administration and
238 enforcement of the collection of the tax authorized by this part.

239 48-8-156.

240 The tax authorized by this part shall be in addition to any other local sales and use tax. The
241 imposition of any other local sales and use tax within a county, municipality, or special
242 district shall not affect the authority of a qualified consolidated government to impose the
243 tax authorized by this part and the imposition of the tax authorized by this part shall not

244 affect the imposition of any otherwise authorized local sales and use tax within a county,
245 municipality, or special district.

246 48-8-157.

247 (a) The proceeds received from the tax authorized by this part shall be used by the
248 qualified consolidated government exclusively for:

249 (1) Coliseum capital outlay projects and project costs;

250 (2) The repayment of general obligation indebtedness incurred in conjunction with the
251 imposition of the tax authorized by this part; or

252 (3) The repayment of any loans made to such qualified consolidated government with
253 respect to such coliseum capital outlay projects and project costs.

254 Such proceeds shall be kept in a separate account from other funds of the qualified
255 consolidated government and shall not in any manner be commingled with other funds of
256 the qualified consolidated government prior to expenditure.

257 (b) The governing authority of the qualified consolidated government shall maintain a
258 record of every project cost for which the proceeds of the tax are used. In each annual
259 audit a schedule shall be included that shows for each ongoing such project the original
260 estimated cost, the current estimated cost if it is not the original estimated cost, amounts
261 expended in prior years, and amounts expended in the current year. The auditor shall
262 verify and test expenditures sufficient to provide assurances that the schedule is fairly
263 presented in relation to the financial statements. The auditor's report on the financial
264 statements shall include an opinion, or disclaimer of opinion, as to whether the schedule
265 is presented fairly in all material respects in relation to the financial statements taken as a
266 whole.

267 (c) No general obligation debt shall be issued in conjunction with the imposition of the tax
268 unless the qualified consolidated government governing authority determines that, and if
269 the debt is to be validated it is demonstrated in the validation proceedings that, during each

270 year in which any payment of principal or interest on the debt comes due the qualified
271 consolidated government shall receive from the tax authorized by this part net proceeds
272 sufficient to fully satisfy such liability. General obligation debt issued under this part shall
273 be payable first from the separate account in which are placed the proceeds received by the
274 qualified consolidated government from the tax authorized by this part. Such debt,
275 however, shall constitute a pledge of the full faith, credit, and taxing power of the qualified
276 consolidated government; and any liability on said debt which is not satisfied from the
277 proceeds of the tax authorized by this part shall be satisfied from the general funds of the
278 qualified consolidated government.

279 (d) The resolution or ordinance calling for imposition of the tax authorized by this part
280 may specify that all proceeds from the tax shall be used for payment of general obligation
281 debt issued in conjunction with the imposition of the tax. If the resolution or ordinance so
282 provides, then such proceeds shall be used solely for such purpose except as provided in
283 subsection (e) of this Code section. In such a case no part of the net proceeds from the tax
284 received in any year shall be used for other project costs until all debt service requirements
285 of the general obligation debt for that year have first been satisfied from the account in
286 which the proceeds of the tax are placed.

287 (e)(1)(A) If the proceeds of the tax are specified to be used solely for the purpose of
288 payment of general obligation debt issued in conjunction with the imposition of the tax,
289 then any net proceeds of the tax in excess of the amount required for final payment of
290 such debt shall be subject to and applied as provided in paragraph (2) of this subsection.

291 (B) If the qualified consolidated government receives from the tax net proceeds in
292 excess of the maximum cost of the project or projects calling for the imposition of the
293 tax, or the actual cost of such project or projects, then such excess proceeds shall be
294 subject to and applied as provided in paragraph (2) of this subsection.

295 (C) If the tax is terminated under paragraph (1) of subsection (b) of Code
296 Section 48-8-148 by reason of denial of validation of debt, then all net proceeds

297 received by the qualified consolidated government from the tax shall be excess
298 proceeds subject to paragraph (2) of this subsection.

299 (2) Excess proceeds subject to this subsection shall be used solely for the purpose of
300 reducing any indebtedness of the qualified consolidated government other than
301 indebtedness incurred pursuant to this part. If there is no such other indebtedness or, if
302 the excess proceeds exceed the amount of any such other indebtedness, then the excess
303 proceeds shall next be paid into the general fund of the qualified consolidated
304 government, it being the intent that any funds so paid into the general fund of the
305 qualified consolidated government be used for the purpose of reducing ad valorem taxes."

306 **SECTION 3.**

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

309 **SECTION 4.**

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