

House Bill 946 (AS PASSED HOUSE AND SENATE)

By: Representatives Hawkins of the 27<sup>th</sup>, Dunahoo of the 31<sup>st</sup>, McCollum of the 30<sup>th</sup>, Cox of the 28<sup>th</sup>, Erwin of the 32<sup>nd</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Part 1 of Article 5A of Chapter 8 of Title 48 of the Official Code of Georgia  
2 Annotated, relating to the special district mass transportation sales and use tax, so as to  
3 require intergovernmental agreements between counties and qualified municipalities for  
4 collection of such tax; to provide for requirements for such intergovernmental agreements;  
5 to provide for standards for disbursement of proceeds for municipalities absent from an  
6 intergovernmental agreement; to revise the maximum amount and time frame for the  
7 collection of such tax when an intergovernmental agreement has been entered into between  
8 a county and all qualified municipalities; to make conforming changes; to provide for  
9 definitions; to provide for related matters; to provide for an effective date; to provide for  
10 applicability; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

13 Part 1 of Article 5A of Chapter 8 of Title 48 of the Official Code of Georgia Annotated,  
14 relating to the special district mass transportation sales and use tax, is amended in Code  
15 Section 48-8-260, relating to definitions, by revising subparagraph (B) of paragraph (4) as  
16 follows:

17 "(B) The retirement of previously incurred general obligation debt with respect only  
18 to such purposes as identified in subparagraph (A) of this paragraph, ~~but only if an~~  
19 ~~intergovernmental agreement has been entered into under this part;~~"

20 **SECTION 2.**

21 Said part is further amended in Code Section 48-8-262, relating to notice, agreement  
22 memorializing levy and rate of tax, rate, and resolution required, by revising subsections (b)  
23 through (d) as follows:

24 "(b)(1) Following the meeting required by paragraph (2) of subsection (a) of this Code  
25 section and prior to any tax being imposed under this part, the county and ~~all~~ qualified  
26 municipalities therein ~~may~~ shall execute an intergovernmental agreement memorializing  
27 their agreement to the levy of a tax and the rate of such tax.

28 (2) ~~If an~~ The intergovernmental agreement ~~authorized~~ required by paragraph (1) of this  
29 subsection ~~is entered into~~, it shall, at a minimum, include the following:

30 (A) A list of the projects and purposes qualifying as transportation purposes proposed  
31 to be funded from the tax, including an expenditure of at least 30 percent of the  
32 estimated revenue from the tax on projects consistent with the state-wide strategic  
33 transportation plan as defined in paragraph (6) of subsection (a) of Code  
34 Section 32-2-22;

35 (B) The estimated or projected dollar amounts allocated for each transportation  
36 purpose from proceeds from the tax;

37 (C) The procedures for distributing proceeds from the tax to qualified municipalities;

38 (D) A schedule for distributing proceeds from the tax to qualified municipalities which  
39 shall include the priority or order in which transportation purposes will be fully or  
40 partially funded;

41 (E) A provision that all transportation purposes included in the agreement shall be  
42 funded from proceeds from the tax except as otherwise agreed;

43 (F) A provision that proceeds from the tax shall be maintained in separate accounts and  
 44 utilized exclusively for the specified purposes;

45 (G) Record-keeping and audit procedures necessary to carry out the purposes of this  
 46 part; and

47 (H) Such other provisions as the county and qualified municipalities choose to address.

48 ~~(c)(1) If an intergovernmental agreement is entered into by the county and all qualified  
 49 municipalities, the rate of the tax may be up to 1 percent.~~

50 ~~(2) If an intergovernmental agreement is not entered into by the county and all qualified  
 51 municipalities, the maximum rate of the tax shall not exceed 0.75 percent and such rate  
 52 shall be determined by the governing authority of the county. If an intergovernmental  
 53 agreement is entered into by the county and one or more qualified municipalities within  
 54 the special district, and the combined population of the territory of all qualified  
 55 municipalities lying within the special district which are absent from the agreement is less  
 56 than one-half of the total population of the territory of all qualified municipalities lying  
 57 within the special district, then the rate of the tax may be up to 1 percent, provided that  
 58 such intergovernmental agreement provides for the percentage or the proceeds of the tax  
 59 collected pursuant to this part that each absent municipality is to receive, which shall not  
 60 be less than the absent municipality minimum percentage.~~

61 (2) As used in this subsection, the term:

62 (A) 'Absent municipality minimum percentage' means, for any given absent  
 63 municipality, the product of the absent municipality ratio and the percentage of the total  
 64 proceeds in the intergovernmental agreement that are not allocated to the county.

65 (B) 'Absent municipality ratio' means, for any given municipality, the sum of its  
 66 municipal population ratio and its municipal centerline mile ratio.

67 (C) 'Municipal centerline mile ratio' means, for any given municipality, the product of  
 68 0.67 multiplied by the quotient of the municipality's total paved and unpaved centerline

69 road miles within the special district divided by the total paved and unpaved centerline  
70 road miles for all municipal roads within the special district.

71 (D) 'Municipal population ratio' means, for any given municipality, the product of 0.33  
72 multiplied by the quotient of the municipality's population which is located inside the  
73 special district divided by the total municipal population of the special district.

74 (3)(A) For purposes of determining population in this subsection, the most recent  
75 census estimates published by the Bureau of the Census of the United States  
76 Department of Commerce prior to the date the intergovernmental agreement was  
77 entered into shall be used.

78 (B) For purposes of determining the paved and unpaved centerline road miles, the most  
79 recent annual certification of paved and unpaved centerline road miles submitted by a  
80 local government to the Georgia Department of Transportation prior to the date the  
81 intergovernmental agreement was entered into shall be used.

82 (4) Any intergovernmental agreement entered into pursuant to this subsection shall  
83 provide for the disbursement of proceeds in an amount which shall account for  
84 100 percent.

85 (d)(1) As soon as practicable after the meeting between the governing authorities of the  
86 county and qualified municipalities and the execution of an intergovernmental agreement;  
87 ~~if applicable~~, the governing authority of the county shall by a majority vote on a  
88 resolution offered for such purpose submit the list of transportation purposes and the  
89 question of whether the tax should be approved to electors of the special district in the  
90 next scheduled election and shall notify the county election superintendent within the  
91 special district by forwarding to the superintendent a copy of such resolution calling for  
92 the imposition of the tax. Such list, or a digest thereof, shall be available during regular  
93 business hours in the office of the county clerk.

94 (2) The resolution authorized by paragraph (1) of this subsection shall describe:

95 (A) The specific transportation purposes to be funded;

96 (B) The approximate cost of such transportation purposes, which shall be the  
97 maximum amount of net proceeds to be raised by the tax; provided, however, that, if  
98 an intergovernmental agreement has been entered into pursuant to subsection (b) of this  
99 Code section, the maximum amount of net proceeds to be raised shall correspond to the  
100 period of time the tax shall be imposed as set forth in subparagraph (C) of this  
101 paragraph; and

102 (C) The maximum period of time, to be stated in calendar years, for which the tax may  
103 be imposed and the rate thereof. The maximum period of time for the imposition of the  
104 tax shall not exceed five years; provided, however, that, if an intergovernmental  
105 agreement is entered into by a county and all qualified municipalities within the special  
106 district, the maximum period of time for the imposition of the tax shall not exceed six  
107 years."

108 **SECTION 3.**

109 Said part is further amended by revising paragraph (1) of subsection (d) of Code Section  
110 48-8-263, relating to ballot question, expenses of election, resubmission of question, and  
111 general obligation debt, as follows:

112 "(d)(1) If the intergovernmental agreement, ~~if applicable,~~ and proposal include the  
113 authority to issue general obligation debt and if more than one-half of the votes cast are  
114 in favor of the proposal, then the authority to issue such debt in accordance with Article  
115 IX, Section V, Paragraph I of the Constitution is given to the proper officers of the county  
116 or qualified municipality; otherwise, such debt shall not be issued. If the authority to  
117 issue such debt is so approved by the voters, then such debt may be issued without further  
118 approval by the voters."

119 **SECTION 4.**

120 Said part is further amended by revising paragraph (3) of subsection (b) of Code Section  
121 48-8-264, relating to timing of tax, as follows:

122 "(3) As of the end of the calendar quarter during which the commissioner determines that  
123 the tax will have raised revenues sufficient to provide to the special district net proceeds  
124 equal to or greater than the amount specified as the maximum amount of net proceeds to  
125 be raised by the tax; provided, however, that, if an intergovernmental agreement has been  
126 entered into pursuant to subsection (b) of Code Section 48-8-262 by the county and all  
127 qualified municipalities therein, the tax shall cease to be imposed on the final day of the  
128 maximum period of time specified for the imposition of the tax in the resolution."

129 **SECTION 5.**

130 Said part is further amended by revising Code Section 48-8-267, relating to procedure for  
131 disbursement of proceeds from taxation, as follows:

132 "48-8-267.

133 (a) The proceeds of the tax collected by the commissioner in each special district under  
134 this part shall be disbursed as soon as practicable after collection as follows:

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

137 (2) Except for the percentage provided in paragraph (1) of this subsection, the remaining  
138 proceeds of the tax shall be distributed:

139 (A) Pursuant pursuant to the terms of the intergovernmental agreement, ~~if applicable~~;  
140 or

141 (B) ~~If no intergovernmental agreement has been entered into, in accordance with~~  
142 ~~subsection (b) of this Code section.~~

143 (b) ~~In the event an intergovernmental agreement has not been entered into, then~~  
144 ~~distribution of the proceeds shall be as follows:~~

145 ~~(1) The state auditor shall determine the most recent three fiscal years for which an audit~~  
146 ~~under Code Section 36-81-7 has been made;~~

147 ~~(2) Utilizing the audit information under paragraph (1) of this subsection, the county and~~  
148 ~~each qualified municipality shall receive a proportional amount of proceeds of the tax~~  
149 ~~based upon the amount of expenditures made for transportation in the most recent three~~  
150 ~~fiscal years. The proportional amount for the county and each qualified municipality~~  
151 ~~shall be determined by dividing the average expended on transportation during the most~~  
152 ~~recent three fiscal years by the county or qualified municipality by the aggregate average~~  
153 ~~expended on transportation by the county and all qualified municipalities in the special~~  
154 ~~district during the most recent three fiscal years. Amounts expended on transportation~~  
155 ~~include transportation maintenance and operation costs and shall correspond with~~  
156 ~~classifications and subclassifications specified in the local government uniform chart of~~  
157 ~~accounts under subsection (c) of Code Section 36-81-3 within section 4200, including~~  
158 ~~noncapital expenditures within sections 4210-4270, and shall be reported in the local~~  
159 ~~government audit. Total general fund expenditures by the local government within these~~  
160 ~~categories shall be specified in the footnotes of the audited financial statement. If such~~  
161 ~~transportation expenditures include maintenance and operation costs to support local~~  
162 ~~government airport and transit operations, reported in functions 7561 and 7563 of the~~  
163 ~~uniform chart, the general fund costs for those functions shall be included in the footnotes~~  
164 ~~of the local government's audited financial report; and~~

165 ~~(3) Following the determinations made pursuant to paragraph (2) of this subsection and~~  
166 ~~at least 30 days prior to the referendum, the state auditor shall certify the appropriate~~  
167 ~~distribution percentages to the commissioner and the commissioner shall utilize such~~  
168 ~~percentages for the distribution of proceeds for the term of the tax."~~

169 **SECTION 6.**

170 Said part is further amended by revising subsections (c), (d), and (e) and subparagraph  
171 (f)(1)(B) of Code Section 48-8-269.5, relating to accounting required and record-keeping  
172 requirements, as follows:

173 "(c) The intergovernmental agreement, ~~if applicable~~, and resolution calling for the  
174 imposition of the tax may specify that all of the proceeds of the tax will be used for  
175 payment of general obligation debt issued in conjunction with the imposition of the tax,  
176 and, in that event, such proceeds shall be solely for such purpose except as otherwise  
177 provided in subsection (f) of this Code section.

178 (d) The intergovernmental agreement, ~~if applicable~~, and resolution calling for the  
179 imposition of the tax may specify that a part of the proceeds of the tax will be used for  
180 payment of general obligation debt issued in conjunction with the imposition of the tax.  
181 The intergovernmental agreement, ~~if applicable~~, and resolution shall specifically state the  
182 other purposes for which such proceeds will be used. In such a case, no part of the net  
183 proceeds from the tax received in any year shall be used for such other purposes until all  
184 debt service requirements of the general obligation debt for that year have first been  
185 satisfied from the account in which the proceeds of the tax are placed.

186 (e) The resolution calling for the imposition of the tax may specify that no general  
187 obligation debt is to be issued in conjunction with the imposition of the tax. The  
188 intergovernmental agreement, ~~if applicable~~, and resolution shall specifically state the  
189 purpose or purposes for which the proceeds will be used."

190 "(B) If the special district receives from the tax net proceeds in excess of the maximum  
191 cost of the transportation projects and purposes stated in the resolution calling for the  
192 imposition of the tax or in excess of the actual cost of such projects and purposes, then  
193 such excess proceeds shall be subject to and applied as provided in paragraph (2) of this  
194 subsection unless otherwise specified in the intergovernmental agreement, ~~if  
195 applicable.~~"

196 **SECTION 7.**

197 This Act shall become effective upon its approval by the Governor or upon its becoming law  
198 without such approval. This Act shall not be applicable to or affect any intergovernmental  
199 agreement entered into prior to such effective date.

200 **SECTION 8.**

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