

House Bill 92 (AS PASSED HOUSE AND SENATE)

By: Representatives Blackmon of the 146th, Kelley of the 16th, Williams of the 148th, Erwin of the 32nd, Washburn of the 144th, and others

A BILL TO BE ENTITLED

AN ACT

1 To amend Title 48 of the Official Code of Georgia Annotated, relating to revenue and
2 taxation, so as to provide for the contents of property tax bills; to revise a state-wide base
3 year homestead exemption; to clarify that a surviving spouse does not need to reapply for
4 such exemption; to provide for procedures to elect to opt out and rescind an election to opt
5 out of such exemption; to provide for an additional period to apply for a homestead
6 exemption in certain circumstances; to provide for the contents of annual notices of
7 assessment; to provide for forms for such notices; to provide for requirements for calculating
8 and certifying estimated roll-back rates; to revise definitions; to exempt from local taxes the
9 sale or use of construction materials used in certain capital outlay projects for educational
10 purposes; to provide that such exemption only applies to projects for local school systems
11 that have in effect certain homestead exemptions from property taxation; to provide for
12 conditions and limitations; to provide for payment, collection, and refunds; to provide for an
13 automatic repeal; to provide for the maximum amount of local sales and use taxes that may
14 be imposed; to revise provisions related to a special district sales and use tax; to provide for
15 conditions under which such tax may be imposed; to provide for clarifications; to provide for
16 related matters; to provide for an effective date and applicability; to repeal conflicting laws;
17 and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

PART I

SECTION 1-1.

Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is amended in Code Section 48-5-2, relating to definitions relative to ad valorem taxation of property, by revising paragraph (2.1) as follows:

"(2.1) 'Estimated roll-back rate' means, for any given levying or recommending authority, the current year's estimated millage rate for general maintenance and operations minus the millage equivalent of the total net assessed value added by reassessments:

~~(A) As as calculated and certified to the tax commissioner by the levying or recommending authority pursuant to Code Section 48-5-306.2 for county and educational tax purposes; and~~

~~(B) As calculated and certified to the collecting officer of the municipality by the levying authority for municipal tax purposes."~~

SECTION 1-2.

Said title is further amended in Code Section 48-5-34, relating to ad valorem property tax bill form, by revising subsection (b) and adding a new subsection to read as follows:

"(b) In addition to the requirements of subsection (a) of this Code section, ~~regarding any ad valorem property tax bill where~~ if the millage rate adopted by a tax taxing authority exceeds the estimated roll-back rate and such estimated roll-back rate was provided in the annual notice of assessment, such tax bill shall include a notice containing the name of such taxing authority and the following statement in bold print:

'The adopted millage rate exceeds the estimated roll-back rate as stated in the annual notice of assessment that you previously received for this taxable year, which will result in an increase in the amount of property tax that you will owe.'

(c)(1) If the governing authority of a county, consolidated government, municipality, or school district elected to opt out of the homestead exemption provided for in Code Section 48-5-44.2 and there is not in effect for such political subdivision a base year value homestead exemption or adjusted base year value homestead exemption that is generally applicable for homestead residents, each ad valorem property tax bill issued by such political subdivision for homestead properties shall contain a notice in bold print that corresponds with the following statement:

'[Name of the political subdivision] chose to opt out of property tax relief for homeowners related to HB 581 (2024). If you have concerns about that decision, please call [the main telephone number for the levying or recommending authority of the political subdivision].'

(2) The provisions of paragraph (1) of this subsection shall not apply for any taxable year beginning after December 31, 2029."

SECTION 1-3.

Said title is further amended in Code Section 48-5-44.2, relating to base year homestead exemption, by revising paragraph (4) of subsection (a) and subsections (e) and (i) as follows:

"(4) 'Homestead' means homestead as defined and qualified in Code Section 48-5-40, with the additional limitation that it shall include:

(A) Only the primary residence and not more than five contiguous acres of land immediately surrounding such residence; or

(B) If the property is assessed pursuant to Code Section 48-5-7.4 or 48-5-7.7, only the primary residence and the portion of the underlying property that is excluded from the

benefit of such assessment pursuant to subparagraph (a)(1)(B) of Code Section 48-5-7.4 or subparagraph (b)(2)(B) of Code Section 48-5-7.7."

"(e) The exemption granted by subsection (b) or (c) of this Code section shall be claimed and returned as provided in Code Section 48-5-50.1. Such exemption shall be automatically renewed from year to year so long as the owner occupies the residence as a homestead. After a person or a person's agent has filed the proper application or is automatically granted the homestead exemption as provided in subsection (d) of this Code section, it shall not be necessary for such person or such person's surviving spouse to make application thereafter for any year, and the exemption shall continue to be allowed to such person or such person's surviving spouse. It shall be the duty of any person granted the homestead exemption under subsection (b) or (c) of this Code section to notify the tax receiver or tax commissioner of the local government or governments in the event such person for any reason becomes ineligible for such exemption."

"(i)(1) The governing authority of any county, consolidated government, municipality, or school district may elect to opt out of the homestead exemption otherwise granted by ~~subsection (b)~~ of this Code section with respect to such political subdivision through the adoption of a resolution to do the same by March 1, 2025, after completing the following steps:

~~(1)~~(A) The governing authority shall advertise its intent to do so and shall conduct at least three public hearings thereon, at least one of which shall commence between the hours of 6:00 P.M. and 7:00 P.M., inclusive, on a business weekday. The governing authority shall place an advertisement in a newspaper of general circulation serving the residents of the political subdivision and post such advertisement on its website, which shall read as follows:

'INTENT TO OPT OUT OF HOMESTEAD EXEMPTION

The (name of governing authority) intends to opt out of the statewide adjusted base year ad valorem homestead exemption for (name of the political subdivision).

All concerned citizens are invited to the public hearing on this matter to be held at (place of meeting) on (date and time).

Times and places of additional public hearings on this matter are at (place of meeting) on (date and time).'

Simultaneously with this notice the governing authority shall provide a press release to the local media; and

~~(2)(B)~~ The advertisement required by subparagraph (A) of this paragraph ~~(1) of this subsection~~ shall appear at least one week prior to each hearing, be prominently displayed, be not less than 30 square inches, and not be placed in that section of the newspaper where legal notices appear and shall be posted on the appropriate website at least one week prior to each hearing. In addition to the advertisement specified under this paragraph, the levying or recommending authority may include in the notice reasons or explanations for its intention to opt out of the homestead exemption.

~~(3)(2)~~ No ~~resolution~~ election to opt out of the homestead exemption pursuant to this Code section shall become effective with respect to a political subdivision unless the procedures and hearings required by paragraph (1) of this subsection are completed and a copy of such resolution is filed with the Secretary of State by March 1, 2025.

(3) For an election to opt out of the homestead exemption pursuant to this subsection to remain effective for tax years 2027 and after with respect to a political subdivision that does not have in effect a base year value homestead exemption or an adjusted base year value homestead exemption that is generally applicable to homestead residents, the governing authority of such political subdivision shall complete the same procedures and hearings required by paragraph (1) of this subsection, except that a copy of the required resolution shall be filed with the Secretary of State by March 1, 2027.

(4) The governing authority of any county, consolidated government, municipality, or school district that has elected to opt out of the homestead exemption pursuant to this subsection may rescind such election at any time by adopting a resolution to do so and

119 filing a copy of such resolution with the Secretary of State; provided, however, that such
120 resolution to rescind the election to opt out shall only be effective for:

121 (A) Tax year 2025 if a copy of the resolution is filed with the Secretary of State by
122 April 30, 2025; and

123 (B) Any other tax year from 2026 through 2029 if a copy of the resolution is filed with
124 the Secretary of State by March 1 of such year."

125 **SECTION 1-4.**

126 Said title is further amended in Code Section 48-5-45, relating to application for homestead
127 exemption and unlawful to solicit fee to file application for homestead for another, by
128 revising subsection (a) as follows:

129 "(a)(1) An applicant seeking a homestead exemption as provided in Code
130 Section 48-5-44 and qualifying under the provisions of Code Section 48-5-40 shall file
131 a written application and schedule with the tax receiver or tax commissioner charged with
132 the duty of receiving returns of property for taxation at any time during the calendar year
133 subsequent to the property becoming the primary residence of the applicant up to and
134 including the date for the closing of the books for the return of taxes for the calendar year,
135 except that, in the case of a property which is subject to a reassessment by the board of
136 tax assessors, such application and schedule may be filed in conjunction with or in lieu
137 of an appeal of the reassessment.

138 (2) The failure to file properly the application and schedule on or before the date for the
139 closing of the books for the return of taxes of a calendar year in which the taxes are due
140 shall constitute a waiver of the homestead exemption on the part of the applicant failing
141 to make the application for such exemption for that year."

SECTION 1-5.

Said title is further amended in Code Section 48-5-306, relating to annual notice of current assessment, contents, posting notice, and new assessment description, by revising paragraph (1) of subsection (b) as follows:

"(1) The annual notice of current assessment required to be given by the county board of tax assessors under subsection (a) of this Code section shall be dated and shall contain the name and last known address of the taxpayer. The annual notice shall ~~conform with~~ be given on the applicable state-wide uniform assessment notice form which shall be established by the commissioner by rule and regulation and shall contain:

(A) The amount of the previous assessment;

(B) The amount of the current assessment;

(C) The year for which the new assessment is applicable;

(D) A brief description of the assessed property broken down into real and personal property classifications;

(E) The fair market value of property of the taxpayer subject to taxation and the assessed value of the taxpayer's property subject to taxation after being reduced;

(F) The name, phone number, and contact information of the person in the assessors' office who is administratively responsible for the handling of the appeal and who the taxpayer may contact if the taxpayer has questions about the reasons for the assessment change or the appeals process;

(G) If available, the public internet website address of the office of the county board of tax assessors;

(H) A statement that all documents and records used to determine the current value are available upon request; and

(I)(i) The current year's estimated roll-back rate for each levying or recommending authority that certified its estimated roll-back rate for the current year to the county

board of tax assessors and county tax commissioner by the date specified under Code Section 48-5-306.2; or

(ii) For each levying or recommending authority that did not certify its estimated roll-back rate to the county board of tax assessors and county tax commissioner by the date specified in Code Section 48-5-306.2, the millage rate that was actually levied by or on behalf of such authority for the previous tax year, and an estimate of the amount of ad valorem taxes due for the assessed property based on such millage rate and the amount of the current assessment."

SECTION 1-6.

Said title is further amended by adding a new Code section to read as follows:

"48-5-306.2.

Each levying and recommending authority shall annually calculate its estimated roll-back rate for the current year and shall certify such rate to the county board of tax assessors and county tax commissioner no less than 15 days prior to the postmark of the annual notice of assessment."

PART II

SECTION 2-1.

Said title is further amended in Code Section 48-8-3, relating to exemptions from sales and use taxes, by adding a new paragraph to read as follows:

"(10.1)(A) Notwithstanding any provision of Code Section 48-8-63 to the contrary, the sale or use of qualifying construction materials used in capital outlay projects for educational purposes.

(B) The exemption provided for in this paragraph shall only apply to local sales and use taxes.

(C)(i) Notwithstanding the exemption provided for in subparagraph (A) of this paragraph, all sales and use taxes imposed on the sale or use of qualifying construction materials shall be paid and collected pursuant to the requirements of this chapter.

(ii) The benefit of the exemption allowed by this paragraph may be claimed by the local school system for which the qualifying construction materials were used. To claim the exemption, the local school system shall file a request for refund in the manner prescribed by the department. The department shall refund to the local school system the amount of taxes paid on qualifying construction materials used in the capital outlay project for educational purposes. No refund made pursuant to this paragraph shall include interest.

(iii) Any refund received by a local school system pursuant to this paragraph shall be allocated to a fund or account for capital outlay projects and used in accordance with the requirements for sales taxes for educational purposes authorized pursuant to Article VIII, Section VI, Paragraph IV of the Constitution of Georgia.

(D) As used in this paragraph, the term:

(i) 'Capital outlay project for educational purposes' means a project that:

(I) Was approved and funded through a sales tax for educational purposes authorized pursuant to Article VIII, Section VI, Paragraph IV of the Constitution of Georgia; and

(II) Is for a local school system which has in effect a base year value homestead exemption or adjusted base year value homestead exemption from ad valorem taxation for educational purposes for all residents of the local school system.

(ii) 'Local sales and use taxes' mean sales taxes, use taxes, or local sales and use taxes levied or imposed at any time in any area consisting of less than the entire state, however authorized, including, but not limited to, such taxes authorized by or pursuant to a constitutional amendment; by or pursuant to Section 25 of an Act

approved March 10, 1965 (Ga. L. 1965, p. 2243), as amended, the 'Metropolitan Atlanta Rapid Transit Authority Act of 1965'; and by or pursuant to Articles 2, 2A, 2B, 3, 4, 5, 5A, and 5B of this chapter.

(iii) 'Qualifying construction materials' means any materials used in the construction of a capital outlay project for educational purposes that will remain as part of such project after completion of construction or that become incorporated into such project's real property. Such term shall not include any materials that remain in the possession of a contractor after the completion of construction.

(E) This paragraph shall stand repealed on December 31, 2033."

PART III

SECTION 3-1.

Said title is further amended in Code Section 48-8-6, relating to prohibition of political subdivisions from imposing various taxes, ceiling on local sales and use taxes, and taxation of mobile telecommunications, by revising subsection (a) as follows:

"(a)(1) Except as provided in this subsection, on and after July 1, 2024, there shall not be imposed in any jurisdiction in this state or on any transaction in this state local sales taxes, local use taxes, or local sales and use taxes in excess of 2 percent. For purposes of ~~this~~ such 2 percent limitation, the taxes affected are any sales tax, use tax, or sales and use tax which is levied in an area consisting of less than the entire state, however authorized, including such taxes authorized by or pursuant to constitutional amendment, and regardless of whether another provision of law purports to the contrary; except for the following:

(A) A 1 percent sales and use tax for educational purposes exempted from such limitation under Article VIII, Section VI, Paragraph IV of the Constitution;

(B) Up to 1 percent in aggregate of any of the transportation related sales and use taxes authorized under Articles 5, 5A, and 5B of this chapter and Article 2 of Chapter 9 of Title 32, and in a county in which a tax is levied and collected pursuant to Part 2 of Article 2A of this chapter, any tax levied for purposes of a metropolitan area system of public transportation, as authorized by the amendment to the Constitution set out at Georgia Laws, 1964, page 1008, the continuation of such amendment under Article XI, Section I, Paragraph IV(d) of the Constitution, and the laws enacted pursuant to such constitutional amendment; and

(C) Up to 1 percent in aggregate of any sales and use taxes authorized under Code Section 48-8-96, Code Section 48-8-97, Article 2B of this chapter, Part 3 of Article 3 of this chapter, and Article 4 of this chapter.

(2) Notwithstanding any provision of law to the contrary, any tax that does not comply with the limitations provided in paragraph (1) of this subsection as of July 1, 2025, but was initiated in compliance with the law in effect prior to January 1, 2025, shall be allowed to continue as authorized under laws that existed prior to July 1, 2025; provided, however, that, upon the expiration or termination of any such tax, ~~such tax shall not be renewed and~~ the jurisdiction that levied such tax shall be fully subject to the limitations imposed by this subsection.

(3) This subsection shall not limit the imposition of any local excise tax, which is separately authorized under Chapter 13 of this title.

~~(4) Except as provided in paragraph (2) of this subsection, if~~ If the imposition of any otherwise authorized local sales tax, local use tax, or local sales and use tax would result in a tax rate in excess of that authorized by this subsection, then such otherwise authorized tax shall not be imposed."

SECTION 3-2.

Said title is further amended by revising Code Section 48-8-109.31, relating to imposition of special sales and use tax within special district and limited time and purpose, as follows:

"48-8-109.31.

(a) Subject to the requirement of approval by local referendum and the other requirements of this article, ~~to impose~~ there may be imposed within any given special district a special sales and use tax for a limited period of time for the limited purpose of property tax relief.

(b) Except as to rate, a tax imposed under this part shall correspond to the tax imposed by Article 1 of this chapter. No item or transaction which is not subject to taxation under Article 1 of this chapter shall be subject to a tax imposed under this article, except that a tax imposed under this article shall apply to sales of motor fuels as prepaid local tax as defined in Code Section 48-8-2 and shall be applicable to the sale of food and food ingredients and alcoholic beverages as provided for in Code Section 48-8-3.

(c) The special sales and use tax provided for in subsection (a) of this Code section may be imposed by a special district in 0.05 percent increments, but in no event shall such tax exceed 1 percent in total. The levy of such tax upon sales of motor fuels as defined in Code Section 48-9-2 shall only be imposed on the retail sales price of the motor fuel which is not more than \$3.00 per gallon.

~~(d)(1)~~ As ~~a condition~~ conditions precedent to the issuance of the call for the referendum:

~~(1)(A)~~ The governing authority of the county whose geographical boundary is conterminous with that of the special district and the governing authority or authorities of all municipalities in such county that levy an ad valorem tax on property, other than those municipalities that are excluded from the special district pursuant to ~~paragraph (3)~~ subsection (f) of this subsection Code section, shall have in effect a base year value homestead exemption or adjusted base year value homestead exemption, except that such condition precedent shall not apply with respect to any municipality that levies an ad

valorem tax on property and that represents no more than 5 percent of the special district's residents of municipalities that levy an ad valorem tax on property; and

(B)(2) The governing authority of the county whose geographical boundary is conterminous with that of the special district and the governing authority or authorities, if any, that represent at least 50 percent of the special district's residents of municipalities that levy an ad valorem tax on property, other than those municipalities that are excluded from the special district pursuant to ~~paragraph (3) of this subsection~~ (f) of this Code section, shall enter into an intergovernmental agreement calling for the tax authorized under this article and specifying the proposed rate of the tax, the proposed maximum period of time that the tax is to be levied, and the proposed distribution of the tax.

(e)(1) As used in this subsection, the term 'absent municipality' means any municipality that levies an ad valorem tax on property, other than those municipalities that are excluded from the special district pursuant to subsection (f) of this Code section, and that did not enter into the intergovernmental agreement provided for in paragraph (2) of subsection (d) of this Code section.

(2) If the combined total of the populations of all ~~such~~ absent municipalities is less than one-half of the aggregate population of all municipalities located within the special district that levy an ad valorem tax on property, the ~~political subdivisions governing authorities~~ entering into the such intergovernmental agreement shall, ~~on~~ in behalf of such absent municipalities, specify a percentage of that portion of the remaining proceeds which each municipality that levies an ad valorem tax on property shall receive, which percentage shall not be less than that proportion which each such absent municipality's population bears to the total population of all municipalities that levy ad valorem taxes on property within the special district multiplied by that portion of the remaining proceeds which are received by all such municipalities within the special district. No portion of the tax shall be apportioned to counties ~~and~~ or municipalities that do not levy

an ad valorem tax on property or do not have a base year value homestead exemption or adjusted base year value homestead exemption in effect.

~~(3)(f)~~ Subject to the limitation provided for in Code Section 48-8-6, any special district which wholly or partially contains a jurisdiction levying the tax provided for under Article 4 of this chapter is authorized to levy the tax authorized under this article. Such tax authorized under this article may only be levied in the areas of the special district outside of the jurisdiction levying the tax provided for under Article 4 of this chapter. Any jurisdiction levying the tax provided for under Article 4 of this chapter shall not be considered within the procedure necessary to levy the tax under this article and shall not be entitled to any portion of said tax."

SECTION 3-3.

Said title is further amended in Code Section 48-8-109.32, relating to maximum period of time of the tax, submission to voters to determine imposition of tax, ballot language, and expenses of election, by adding a new subsection to read as follows:

"(e) If no intergovernmental agreement is required pursuant to this article, the governing authority of the county or consolidated government whose geographical boundary is conterminous with that of the special district shall adopt a resolution which meets the requirements provided for in this Code section for intergovernmental agreements."

SECTION 3-4.

Said title is further amended in Code Section 48-8-109.33, relating to timing for imposition of tax following approval and termination of tax, by revising paragraph (2) of subsection (a) and subsection (c) as follows:

~~"(2) With respect to services that are regularly billed on a monthly basis, however, the resolution or ordinance imposing the tax shall become effective and the tax shall apply~~ to the first regular billing period coinciding with or following the effective date specified

in paragraph (1) of this subsection. A certified copy of the ~~ordinance~~ intergovernmental agreement or resolution ~~imposing~~ required to impose the tax authorized by this article shall be forwarded to the commissioner to ensure it is received within five business days after certification of the election results."

"(c) For any special district in which a tax authorized by this article is in effect ~~may, while such tax is in effect~~, the General Assembly may pass a local Act calling for a reimposition of a tax as authorized by this article upon the termination of the tax then in effect, and a referendum may be held for this purpose while the tax is in effect. Proceedings for such reimposition shall be in the same manner as proceedings for the initial imposition of the tax as provided for in Code ~~Section~~ Sections 48-8-109.31 and 48-8-109.32. Such newly authorized tax shall not be imposed until the expiration of the tax then in effect."

PART IV

SECTION 4-1.

(a) This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval and, except as provided in subsection (b) of this section, shall be applicable on and after such date.

(b) Part I of this Act shall be applicable to taxable years beginning on or after January 1, 2025.

SECTION 4-2.

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