

House Bill 215 (AS PASSED HOUSE AND SENATE)

By: Representatives Jacobs of the 80<sup>th</sup>, Mayo of the 84<sup>th</sup>, Mosby of the 83<sup>rd</sup>, Taylor of the 79<sup>th</sup>, Drenner of the 85<sup>th</sup>, 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 <del>article</del> <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.