

House Bill 462

By: Representatives Gilliard of the 162nd and Stephens of the 164th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 5B of Chapter 8 of Title 48 of the Official Code of Georgia Annotated,
2 relating to special districts for transit purposes, so as to provide for the imposition of special
3 purpose local sales and use tax by a single county located outside a nonattainment area for
4 the funding of transit projects; to provide for definitions, procedures, conditions, and
5 limitations for the imposition, collection, disbursement, and termination of the sales and use
6 tax; to provide for related matters; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 5B of Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to
10 special districts for transit purposes, is amended in Code Section 48-8-269.40, relating to
11 definitions, by revising paragraphs (4) and (8) as follows:

12 "(4) ~~'Intergovernmental agreement' means a contract entered into pursuant to Article IX,~~
13 ~~Section III, Paragraph I of the Constitution~~ Reserved."

14 "(8) 'Transit' means regular, continuing shared-ride or shared-use surface transportation
15 services that are made available by a public entity and are open to the general public or
16 open to a segment of the general public defined by age, disability, or low income. Such

17 term includes services or systems operated by or under contract with the state, a public
 18 agency or authority, a county or municipality, a community improvement district, or any
 19 other similar public entity of this state and all accompanying infrastructure and services
 20 necessary to provide access to these modes of transportation. Such term excludes charter
 21 or sightseeing services; school bus services; courtesy shuttle and intra-facility or
 22 terminal services; limousine carriers; and ride share network services, transportation
 23 referral services, and taxi services as such terms are defined in Chapter 1 of Title 40, and
 24 which are not paid for by a public entity."

25 SECTION 2.

26 Said article is further amended in Code Section 48-8-269.41, relating to transit special
 27 purpose local option sales and use tax, by revising paragraph (1) of subsection (b) as follows:

28 "(b)(1) Any ~~two or more neighboring counties which are~~ county not located within a
 29 nonattainment area may, by following the procedures required by Part 2 of this article,
 30 impose within ~~their respective special districts~~ the special district a transit special purpose
 31 local option sales and use tax, the proceeds of which shall be used only for transit
 32 projects."

33 SECTION 3.

34 Said article is further amended by revising Code Section 48-8-269.43, relating to notice for
 35 referendum, meeting, requirements for intergovernmental agreements, requirements for
 36 resolutions, and unanimous approval, as follows:

37 "48-8-269.43.

38 (a)(1) Any ~~two or more neighboring counties~~ county qualified to levy a tax pursuant to
 39 paragraph (1) of subsection (b) of Code Section 48-8-269.41 shall deliver or mail a
 40 written notice to the mayor or chief elected official in each qualified municipality located
 41 within its respective special district prior to the issuance of the call for the referendum.

42 Such notice shall contain the date, time, place, and purpose of a meeting at which the
 43 governing authorities of the ~~counties~~ county and of each qualified municipality therein
 44 are to meet to discuss possible transit projects for inclusion in the referendum and the rate
 45 of tax. The notice shall be delivered or mailed at least ten days prior to the date of the
 46 meeting. The meeting shall be held at least 60 days prior to any issuance of the call for
 47 the referendum.

48 ~~(b)(2)~~ At the meeting required by ~~subsection (a) of this Code section, the two or more~~
 49 ~~neighboring counties~~ paragraph (1) of this subsection, the county and all qualified
 50 municipalities therein may select transit projects to be funded by the proceeds of the tax
 51 authorized by this article. ~~Each county planning to participate in the selected transit~~
 52 ~~project or projects shall enter into intergovernmental agreements which shall include, at~~
 53 ~~a minimum:~~

54 ~~(1) A list of the transit projects proposed to be funded from the tax;~~

55 ~~(2) An agreement identifying the operator of any transit projects proposed if such project~~
 56 ~~or projects are services which require an operator;~~

57 ~~(3) The estimated or projected dollar amounts allocated for each transit project from~~
 58 ~~proceeds from the tax;~~

59 ~~(4) The procedures for distributing proceeds from the tax to each county;~~

60 ~~(5) A schedule for distributing proceeds from the tax to each county, which shall include~~
 61 ~~the priority or order in which transit projects will be fully or partially funded;~~

62 ~~(6) A provision that all transit projects included in the agreement shall be funded from~~
 63 ~~proceeds from the tax except as otherwise agreed;~~

64 ~~(7) A provision that proceeds from the tax shall be maintained in separate accounts and~~
 65 ~~utilized exclusively for the specified purposes;~~

66 ~~(8) Record-keeping and audit procedures necessary to carry out the purposes of this part;~~
 67 ~~and~~

68 ~~(9) Such other provisions as the counties choose to address.~~

69 ~~(c)(b)(1) As soon as practicable after the meeting required in subsection (a) of this Code~~
 70 ~~section and the execution of an intergovernmental agreement, the~~ The governing
 71 authority of ~~each~~ a county desiring to call ~~calling~~ for a referendum shall, by a majority
 72 vote on a resolution offered for such purpose, submit the list of transit projects and the
 73 question of whether the tax should be approved to electors of the special district in the
 74 next scheduled election and shall notify the county election superintendent within the
 75 special district by forwarding to the superintendent a copy of such resolution calling for
 76 the imposition of the tax. Such list, or a digest thereof, shall be available during regular
 77 business hours in the office of the county clerk.

78 (2) The resolution authorized by paragraph (1) of this subsection shall describe or
 79 identify:

80 (A) The specific transit projects to be funded;

81 (B) The approximate cost of such transit projects;

82 (C) The operator selected for any transit project or projects proposed if such project or
 83 projects are services which require an operator; and

84 (D) The maximum period of time, to be stated in calendar years, for which the tax may
 85 be imposed and the rate thereof. The maximum period of time for the imposition of the
 86 tax shall not exceed 30 years.

87 ~~(d) Unless the referendum required in Code Section 48-8-269.44 is approved in each of~~
 88 ~~the participating counties, the tax shall not be imposed."~~

89 **SECTION 4.**

90 Said article is further amended by revising Code Section 48-8-269.44, relating to ballot
 91 language, conduct of election, and impact of approval or rejection of question, as follows:

92 "48-8-269.44.

93 (a)(1) The ballot submitting the question of the imposition of a tax for transit projects to
 94 the voters within the special district shall have written or printed thereon the following:

95 '() YES Shall a special ___ percent sales and use tax be imposed in the special
 96 district consisting of _____ County for a period of time not to exceed
 97 () NO _____ and for the raising of funds for transit projects?'

98 (2) ~~The ballot shall have written and printed thereon the following:~~

99 ~~'NOTICE TO ELECTORS: Unless the tax is approved in (list each county that has~~
 100 ~~selected the project) for the transit projects, the tax shall not become effective.'~~

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

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

106 (b) The election superintendent shall issue the call and conduct the election in the manner
 107 authorized by general law. Each such election shall be governed, held, and conducted in
 108 accordance with the provisions of law from time to time governing the holding of special
 109 elections as provided in Code Section 21-2-540. The superintendent shall canvass the
 110 returns, declare the result of the election, and certify the result to the Secretary of State and
 111 to the commissioner. The expense of the election shall be paid from county funds. All
 112 persons desiring to vote in favor of imposing the tax shall vote 'Yes,' and all persons
 113 opposed to imposing the tax shall vote 'No.' If more than one-half of the votes cast
 114 throughout the entire special district are in favor of imposing the tax ~~in each of the special~~
 115 ~~districts that have elected to hold the referendum~~, then the tax shall be imposed as provided
 116 in this article.

117 (c) Where such question is not approved by the voters, the county may resubmit such
 118 question from time to time upon compliance with the requirements of this article.

119 (d)(1) If the ~~intergovernmental agreement and proposal include~~ proposal includes the
 120 authority to issue general obligation debt and if more than one-half of the votes cast
 121 throughout the entire special district ~~and in each of the special districts that have elected~~

122 ~~to hold the referendum~~ are in favor of the proposal, then the authority to issue such debt
123 in accordance with Article IX, Section V, Paragraph I of the Constitution is given to the
124 proper officers of the county or qualified municipality; otherwise, such debt shall not be
125 issued. If the authority to issue such debt is so approved by the voters as required in this
126 subsection, then such debt may be issued without further approval by the voters.

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

142 **SECTION 5.**

143 Said article is further amended by revising Code Section 48-8-269.50, relating to
144 disbursement of proceeds from transit special purpose local option sales and use tax, as
145 follows:

146 "48-8-269.50.

147 (a) The proceeds of the tax collected by the commissioner in each special district qualified
 148 to levy the tax under ~~Part 2~~ of this article shall be disbursed as soon as practicable after
 149 collection as follows:

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

152 ~~(2) Except for the percentage provided in paragraph (1) of this subsection, the remaining~~
 153 ~~proceeds of the tax shall be distributed pursuant to the terms of the intergovernmental~~
 154 ~~agreement.~~

155 ~~(b) The proceeds of the tax collected by the commissioner in each special district qualified~~
 156 ~~to levy the tax under Part 3 of this article shall be disbursed as soon as practicable after~~
 157 ~~collection as follows:~~

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

160 (2) Except for the percentage provided in paragraph (1) of this ~~subsection~~ Code section,
 161 the remaining proceeds of the tax shall be distributed to the special district for the transit
 162 projects specified in the resolution calling for the imposition of the tax."

163

SECTION 6.

164 Said article is further amended by revising Code Section 48-8-269.56, relating to provisions
 165 of transit special purpose local option sales and use tax create additional tax, as follows:

166 "48-8-269.56.

167 Except as provided in Code Section 48-8-6, the tax authorized under this ~~part~~ article shall
 168 be in addition to any other local sales and use tax. Except as otherwise provided in this
 169 article and except as provided in Code Section 48-8-6, the imposition of any other local
 170 sales and use tax within a county or qualified municipality within a special district shall not
 171 affect the authority of a county to impose the tax authorized under this article, and the

172 imposition of the tax authorized under this article shall not affect the imposition of any
 173 otherwise authorized local sales and use tax within the special district."

174 **SECTION 7.**

175 Said article is further amended in Code Section 48-8-269.57, relating to exclusive use of
 176 transit special purpose local option sales and use tax proceeds, audits, and payment of debt,
 177 by revising paragraph (1) of subsection (a) and subsection (f) as follows:

178 "(1) The proceeds received from the tax shall be used by the county within the special
 179 district ~~or special districts~~ exclusively for the transit projects specified in the resolution
 180 calling for imposition of the tax. ~~When the proceeds are received by a special district~~
 181 ~~authorized to levy the tax pursuant to Part 2 of this article, such~~ Such proceeds shall be
 182 kept in a separate account from other funds of any county receiving proceeds of the tax
 183 and shall not in any manner be commingled with other funds of any county prior to the
 184 expenditure."

185 "~~(f)(1)(A)(i) If the proceeds of the tax are specified to be used solely for the purpose~~
 186 ~~of payment of general obligation debt issued in conjunction with the imposition of the~~
 187 ~~tax authorized to be levied pursuant to Part 2 of this article, then any net proceeds of the~~
 188 ~~tax in excess of the amount required for final payment of such debt may be used for~~
 189 ~~additional transit projects, provided that a subsequent intergovernmental agreement~~
 190 ~~meeting the requirements set forth in subsection (b) of Code Section 48-8-269.43 has~~
 191 ~~been entered into. If a subsequent intergovernmental agreement required by this~~
 192 ~~division is not entered into, then such excess proceeds shall be subject to and applied~~
 193 ~~as provided in paragraph (2) of this subsection.~~

194 (ii) If the proceeds of the tax are specified to be used solely for the purpose of payment
 195 of general obligation debt issued in conjunction with the imposition of the tax
 196 authorized to be levied pursuant to ~~Part 3~~ of this article, then any net proceeds of the tax
 197 in excess of the amount required for final payment of such debt may be used for

198 additional transit projects, provided that such projects are selected from the regional
199 transit plan and approved by the authority when projects are located within the
200 jurisdiction of the authority. If approval from the authority is required pursuant to Part
201 3 of this article regarding additional transit projects to be funded with any excess net
202 proceeds is not obtained, then such excess proceeds shall be subject to and applied as
203 provided in paragraph (2) of this subsection.

204 ~~(B)(i) If the special district receives from the tax net proceeds in excess of the~~
205 ~~maximum cost of the transit projects stated in the resolution calling for the imposition~~
206 ~~of the tax or in excess of the actual cost of such projects when the tax was authorized~~
207 ~~to be levied pursuant to Part 2 of this article, then such excess proceeds may be used for~~
208 ~~additional transit projects, provided that a subsequent intergovernmental agreement~~
209 ~~meeting the requirements set forth in subsection (b) of Code Section 48-8-269.43 has~~
210 ~~been entered into. If a subsequent intergovernmental agreement required by this~~
211 ~~division is not entered into, then such excess proceeds shall be subject to and applied~~
212 ~~as provided in paragraph (2) of this subsection.~~

213 (ii) If the special district receives from the tax net proceeds in excess of the maximum
214 cost of the transit projects stated in the resolution calling for the imposition of the tax
215 or in excess of the actual cost of such projects when the tax was authorized to be levied
216 pursuant to ~~Part 3~~ of this article, then such excess proceeds may be used for additional
217 transit projects, provided that such projects are selected from the regional transit plan
218 and approved by the authority when projects are located within the jurisdiction of the
219 authority. If approval from the authority is required pursuant to Part 3 of this article
220 regarding additional transit projects to be funded with any excess net proceeds is not
221 obtained, then such excess proceeds shall be subject to and applied as provided in
222 paragraph (2) of this subsection.

223 (2) Except as provided in paragraph (1) of this subsection, excess proceeds shall be used
224 solely for the purpose of reducing any indebtedness of any county within the special

225 district other than indebtedness incurred pursuant to this article. If there is no such other
226 indebtedness or if the excess proceeds exceed the amount of any such other indebtedness,
227 then the excess proceeds shall next be paid into the general fund of such county, it being
228 the intent that any funds so paid into the general fund of such county be used for the
229 purpose of reducing ad valorem taxes."

230 **SECTION 8.**

231 Said article is further amended by revising Code Section 48-8-269.58, relating to annual
232 reporting to public of transit project expenditures via newspaper, as follows:

233 "48-8-269.58.

234 Not later than December 31 of each year, the governing authority of the county receiving
235 any proceeds from the tax under this ~~part~~ article shall publish annually, in a newspaper of
236 general circulation in the boundaries of such county, a simple, nontechnical report which
237 shows for each transit project in the resolution calling for the imposition of the tax the
238 original estimated cost, the current estimated cost if it is not the original estimated cost,
239 amounts expended in prior years, and amounts expended in the current year. The report
240 shall also include a statement of what corrective action the county intends to implement
241 with respect to each project which is underfunded or behind schedule and a statement of
242 any surplus funds which have not been expended for a purpose."

243 **SECTION 9.**

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