

Senate Bill 156

By: Senators Millar of the 40th, Albers of the 56th, Cowsert of the 46th, Shafer of the 48th and Mullis of the 53rd

AS PASSED SENATE

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 certain restrictions with regard to equalized homestead option
3 sales and use taxes; to provide for limitations on the collection of certain other taxes while
4 such equalized homestead option sales and use tax is being levied; to provide for the sales
5 on which such tax may be levied; to provide limitation on the use of special purpose local
6 option sales taxes which are levied in conjunction with an equalized homestead option sales
7 and use tax; to provide for related matters; to provide an effective date and applicability; to
8 repeal conflicting laws; and for other purposes.

9 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

10 **SECTION 1.**

11 Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to sales and use
12 taxes, is amended in Code Section 48-8-109.3, relating to creation of special districts and
13 application of tax with regard to equalized homestead option sales taxes, by adding a new
14 subsection to read as follows:

15 "(d) While the sales and use tax authorized by this part is being levied, the amount of the
16 levy of the sales tax for purposes of a metropolitan area system of public transportation, as
17 authorized by the amendment to the Constitution set out at Georgia Laws, 1964, page 1008;
18 the continuation of such amendment under Article XI, Section I, Paragraph IV(d) of the
19 Constitution; and the laws enacted pursuant to such constitutional amendment, shall not
20 increase beyond the level at which such tax was being levied when the sales and use tax
21 authorized by this part is approved by the voters in a referendum pursuant to Code
22 Section 48-8-109.4."

23 **SECTION 2.**

24 Said chapter is further amended by redesignating Code Section 48-8-109.10, relating to
25 regulatory authority of commissioner, as Code Section 48-8-109.11 and adding a new Code
26 section to read as follows:

27 "48-8-109.10.

28 (a) Notwithstanding any provision of Code Section 48-8-3 to the contrary, no sales and use
 29 tax provided for in this part shall be imposed in a special district upon the sale or use of:

30 (1) Prepared food and food and food ingredients sold and served to students and
 31 employees of public schools as part of a school lunch program;

32 (2) Prepared food and food and food ingredients consumed by students and employees
 33 of bona fide private elementary and secondary schools which have been approved by the
 34 commissioner as schools eligible to receive tax deductible contributions when application
 35 for exemption is made to the department and proof of the exemption is established;

36 (3)(A)(i) Drugs which are lawfully dispensed only by prescription for the treatment
 37 of natural persons; insulin, regardless of whether the insulin is dispensable only by
 38 prescription; and prescription eyeglasses and contact lenses including, without
 39 limitation, prescription contact lenses distributed by the manufacturer to licensed
 40 dispensers as free samples not intended for resale and labeled as such; and

41 (ii) Drugs lawfully dispensed or distributed by prescription for the treatment of
 42 natural persons without charge to physicians, dentists, clinics, hospitals, or any other
 43 person or entity located in Georgia by a pharmaceutical manufacturer or distributor
 44 and drugs and durable medical equipment lawfully dispensed or distributed without
 45 charge solely for the purposes of a clinical trial approved by either the United States
 46 Food and Drug Administration or by an institutional review board.

47 (B) For purposes of this paragraph, the term:

48 (i) 'Drug' shall have the same meaning as provided in Code Section 48-8-2 but shall
 49 not include over-the-counter drugs or tobacco.

50 (ii) 'Institutional review board' means an institutional review board as provided
 51 in 21 C.F.R. Section 56;

52 (4) Insulin syringes and blood glucose level measuring strips dispensed without a
 53 prescription;

54 (5)(A) Food and food ingredients to or by an individual consumer for off-premises
 55 human consumption, to the extent provided in this paragraph.

56 (B) For the purposes of this Code section, the term 'food and food ingredients' shall
 57 have the same meaning as provided in Code Section 48-8-2 but shall not include
 58 prepared food, drugs, or over-the-counter drugs.

59 (C) The exemption provided for in this paragraph shall not apply to the sale or use of
 60 food and food ingredients when purchased for any use in the operation of a business;

61 (6)(A) From the effective date of this paragraph until June 30, 2021, food and food
 62 ingredients to or by a qualified food bank.

63 (B) As used in this paragraph, the term 'qualified food bank' means any food bank
 64 which is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code
 65 and which is operated primarily for the purpose of providing hunger relief to
 66 low-income persons residing in this state;

67 (7)(A) From the effective date of this paragraph until June 30, 2021, food and food
 68 ingredients which are donated to a qualified nonprofit agency and which are used for
 69 hunger relief purposes.

70 (B) As used in this paragraph, the term 'qualified nonprofit agency' means any entity
 71 which is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code
 72 and which provides hunger relief;

73 (8) From the effective date of this paragraph until June 30, 2020, food and food
 74 ingredients which are donated following a natural disaster and which are used for disaster
 75 relief purposes; and

76 (9) Food and food ingredients to and by member councils of the Girl Scouts of the
 77 U.S.A. and of the Boy Scouts of America in connection with fundraising activities of any
 78 such council.

79 (b) The commissioner is authorized to prescribe forms and promulgate rules and
 80 regulations deemed necessary in order to administer and effectuate this Code section."

81 **SECTION 3.**

82 Said chapter is further amended by revising subsection (a) of Code Section 48-8-111, relating
 83 to procedure for imposition of tax, resolution or ordinance, notice to county election
 84 superintendent, and election with regard to county special purpose local option sales taxes,
 85 as follows:

86 "(a) Prior to the issuance of the call for the referendum and prior to the vote of a county
 87 governing authority within a special district to impose the tax under this part, such
 88 governing authority may enter into an intergovernmental agreement with any or all of the
 89 qualified municipalities within the special district. Any county that desires to have a tax
 90 under this part levied within the special district shall deliver or mail a written notice to the
 91 mayor or chief elected official in each qualified municipality located within the special
 92 district. Such notice shall contain the date, time, place, and purpose of a meeting at which
 93 the governing authorities of the county and of each qualified municipality are to meet to
 94 discuss the possible projects for inclusion in the referendum, including municipally owned
 95 or operated projects. The notice shall be delivered or mailed at least ten days prior to the
 96 date of the meeting. The meeting shall be held at least 30 days prior to the issuance of the
 97 call for the referendum. Following such meeting, the governing authority of the county
 98 within the special district voting to impose the tax authorized by this part shall notify the

99 county election superintendent by forwarding to the superintendent a copy of the resolution
100 or ordinance of the governing authority calling for the imposition of the tax. Such
101 ordinance or resolution shall specify eligible expenditures identified by the county and any
102 qualified municipality for use of proceeds distributed pursuant to subsection (b) of Code
103 Section 48-8-115. Such ordinance or resolution shall also specify:

104 (1) The purpose or purposes for which the proceeds of the tax are to be used and may be
105 expended, which purpose or purposes may consist of capital outlay projects located
106 within or outside, or both within and outside, any incorporated areas in the county in the
107 special district or outside the county, as authorized by subparagraph (B) of this paragraph
108 for regional facilities, and which may include any of the following purposes:

109 (A) A capital outlay project consisting of road, street, and bridge purposes, which
110 purposes may include sidewalks and bicycle paths;

111 (B) A capital outlay project or projects in the special district and consisting of a
112 courthouse; administrative buildings; a civic center; a local or regional jail, correctional
113 institution, or other detention facility; a library; a coliseum; local or regional solid waste
114 handling facilities as defined under paragraph (27.1) or (35) of Code Section 12-8-22,
115 as amended, excluding any solid waste thermal treatment technology facility, including,
116 but not limited to, any facility for purposes of incineration or waste to energy direct
117 conversion; local or regional recovered materials processing facilities as defined under
118 paragraph (26) of Code Section 12-8-22, as amended; or any combination of such
119 projects;

120 (C) A capital outlay project or projects which will be operated by a joint authority or
121 authorities of the county and one or more qualified municipalities within the special
122 district;

123 (D) A capital outlay project or projects, to be owned or operated or both either by the
124 county, one or more qualified municipalities within the special district, one or more
125 local authorities within the special district, or any combination thereof;

126 (E) A capital outlay project consisting of a cultural facility, a recreational facility, or
127 a historic facility or a facility for some combination of such purposes;

128 (F) A water capital outlay project, a sewer capital outlay project, a water and sewer
129 capital outlay project, or a combination of such projects, to be owned or operated or
130 both by a county water and sewer district and one or more qualified municipalities in
131 the county;

132 (G) The retirement of previously incurred general obligation debt of the county, one
133 or more qualified municipalities within the special district, or any combination thereof;

- 134 (H) A capital outlay project or projects within the special district and consisting of
 135 public safety facilities, airport facilities, or related capital equipment used in the
 136 operation of public safety or airport facilities, or any combination of such purposes;
- 137 (I) A capital outlay project or projects within the special district, consisting of capital
 138 equipment for use in voting in official elections or referendums;
- 139 (J) A capital outlay project or projects within the special district consisting of any
 140 transportation facility designed for the transportation of people or goods, including but
 141 not limited to railroads, port and harbor facilities, mass transportation facilities, or any
 142 combination thereof;
- 143 (K) A capital outlay project or projects within the special district and consisting of a
 144 hospital or hospital facilities that are owned by a county, a qualified municipality, or
 145 a hospital authority within the special district and operated by such county,
 146 municipality, or hospital authority or by an organization which is tax exempt under
 147 Section 501(c)(3) of the Internal Revenue Code, which operates the hospital through
 148 a contract or lease with such county, municipality, or hospital authority;
- 149 (L) The repair of capital outlay projects, including, but not limited to, roads, streets,
 150 and bridges, located, in part or in whole, within the special district that have been
 151 damaged or destroyed by a natural disaster;
- 152 (M) A capital outlay project or projects that are owned, operated, or administered by
 153 the state and located, in part or in whole, within the special district; or
- 154 (N) Any combination of two or more of the foregoing;
- 155 provided, however, that a tax authorized under this part which is submitted to the voters
 156 for approval in connection with an equalized homestead option sales tax pursuant to
 157 Part 2 of Article 2A of this chapter shall be used for transportation purposes which shall
 158 include roads, bridges, public transit, rails, airports, buses, seaports, and including
 159 without limitation road, street, and bridge purposes pursuant to paragraph (1) of
 160 subsection (b) of Code Section 48-8-121 and for public safety facilities and related capital
 161 equipment used in the operation thereof;
- 162 (2) The maximum period of time, to be stated in calendar years or calendar quarters and
 163 not to exceed five years, unless the provisions of paragraph (1) of subsection (b) or
 164 subparagraph (b)(2)(A) of Code Section 48-8-115 are applicable, in which case the
 165 maximum period of time for which the tax may be levied shall not exceed six years;
- 166 (3) The estimated cost of the project or projects which will be funded from the proceeds
 167 of the tax, which estimated cost shall also be the estimated amount of net proceeds to be
 168 raised by the tax, unless the provisions of paragraph (1) of subsection (b) or
 169 subparagraph (b)(2)(A) of Code Section 48-8-115 are applicable, in which case the final

170 day of the tax shall be based upon the length of time for which the tax was authorized to
171 be levied by the referendum; and
172 (4) If general obligation debt is to be issued in conjunction with the imposition of the tax,
173 the principal amount of the debt to be issued, the purpose for which the debt is to be
174 issued, the local government issuing the debt, the interest rate or rates or the maximum
175 interest rate or rates which such debt is to bear, and the amount of principal to be paid in
176 each year during the life of the debt."

177 **SECTION 4.**

178 This Act shall become effective upon its approval by the Governor or upon its becoming law
179 without such approval and shall apply to all equalized homestead option sales and use taxes
180 which are implemented on and after such date and to all county special purpose local option
181 sales taxes which are implemented in conjunction with an equalized homestead option sales
182 and use tax implemented on and after such date.

183 **SECTION 5.**

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