

House Bill 575 (AS PASSED HOUSE AND SENATE)

By: Representatives Dickey of the 140th, Watson of the 172nd, Pirkle of the 155th, and Holmes of the 129th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated,
2 relating to joint county and municipal sales and use tax, so as to provide for the levy of the
3 joint county and municipal sales and use tax by consolidated governments and use of
4 proceeds of such tax; to provide for payments in lieu of taxes; to provide for sunset
5 provisions and renewals; to provide for referenda; to provide for related matters; to provide
6 for an effective date; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 2 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to joint
10 county and municipal sales and use tax, is amended by adding a new Code section to read
11 as follows:

12 "48-8-97.

13 (a) With respect to any consolidated government created by the consolidation of a county
14 and one or more municipalities and where the tax authorized by this article is in effect, the
15 provisions of this Code section shall control over any conflicting provisions of Article 1
16 of this chapter or this article.

17 (b) In a special district containing a consolidated government referred to in subsection (a)
 18 of this Code section, the rate of tax imposed under this article may be increased from 1
 19 percent to 2 percent if such increase is approved by:

20 (1) A resolution of the governing authority of the consolidated government in the same
 21 manner as otherwise required for the initial 1 percent sales tax pursuant to
 22 Code Section 48-8-84; and

23 (2) A referendum conducted in the same manner as otherwise required for the
 24 initial 1 percent sales tax pursuant to Code Section 48-8-85, except that the ballot shall
 25 have written or printed thereon the following:

26 '() YES Shall the retail sales and use tax levied within the special district within

27 () NO _____ County be increased from 1 percent to 2 percent?'

28 (c) Such increased tax rate shall become effective 60 days after the date of the election at
 29 which such increase was approved by the voters.

30 (d)(1) Any consolidated government that imposes the tax authorized by subsection (b)
 31 of this Code section shall:

32 (A) Only expend the proceeds of such tax in accordance with the provisions of
 33 paragraph (2) of this subsection; and

34 (B) Annually reduce the millage rate for ad valorem taxation of tangible property
 35 within the consolidated government to the extent required by paragraph (2) of this
 36 subsection.

37 (2)(A) As a condition precedent for authority to levy the tax or to collect any proceeds
 38 from the tax authorized by this article for the year following the initial year in which
 39 it is levied, the consolidated government whose geographical boundary is conterminous
 40 with that of the special district and each qualified municipality therein receiving any
 41 proceeds of the tax shall reduce the millage rate for ad valorem taxation of tangible
 42 property within such political subdivisions by five mills.

43 (B) For all subsequent years, the consolidated government whose geographical
44 boundary is conterminous with that of the special district and each qualified
45 municipality therein receiving any proceeds of the tax shall adjust annually the millage
46 rate for ad valorem taxation of tangible property within such political subdivisions as
47 provided in this subsection. The governing authority shall compute the millage rate
48 necessary to produce revenue from taxation of tangible property in its respective
49 political subdivision which, when combined with other revenues reasonably expected
50 to be received by the political subdivision during the year, other than revenues derived
51 from the tax imposed pursuant to this article, would provide revenues sufficient to
52 defray the expenses of the political subdivision for the year. The millage rate so
53 ascertained shall then be reduced by the number of mills per dollar which, if levied
54 against the tangible property within the political subdivision, would produce an amount
55 equal to the distribution of the proceeds of the tax imposed by this article which were
56 received by the political subdivision during the preceding year.

57 (e) The tax increase authorized by subsection (b) of this Code section shall cease to be
58 imposed on the earlier of:

59 (1) The final day of the fifth calendar year following the year in which the increased tax
60 rate became effective and levied; or

61 (2) As provided for in subsections (g) and (f) of this Code section.

62 (f)(1) Such increased tax rate may be decreased from 2 percent to 1 percent if such
63 decrease is approved by:

64 (A) A resolution of the governing authority of the consolidated government in the same
65 manner as otherwise required under Code Section 48-8-92; and

66 (B) A referendum conducted in the same manner as otherwise required for
67 discontinuation of the tax under Code Section 48-8-92, except that the ballot shall have
68 written or printed thereon the following:

69 () YES Shall the retail sales and use tax levied within the special district within
 70 () NO _____ County be decreased from 2 percent to 1 percent?'

71 (2) Such decreased tax rate as provided for in this subsection shall become effective on
 72 the first day of the second calendar quarter following the month in which the
 73 commissioner receives certification of the result of the election.

74 (g)(1) Between 365 and 180 days prior to the expiration of the tax increase authorized
 75 by this Code section pursuant to paragraph (1) of subsection (e) of this Code section, or
 76 prior to any renewal of the tax increase pursuant to this subsection, the governing
 77 authority of the consolidated government may elect to renew the term of the increased tax
 78 rate another five years if such renewal is approved by:

79 (A) A resolution of the governing authority of the consolidated government in the same
 80 manner as otherwise required under Code Section 48-8-92; and

81 (B) A referendum conducted in the same manner as otherwise required for
 82 discontinuation of the tax under Code Section 48-8-92, except that the ballot shall have
 83 written or printed thereon the following:

84 () YES Shall the retail sales and use tax levied within the special district within
 85 () NO _____ County be renewed at 2 percent?'

86 (2) If a term for the increased tax rate is approved and renewed, this renewed term for
 87 the increased tax rate shall become effective the first day of the calendar year following
 88 the expiration of the previous increased tax rate term as described in paragraph (1) of
 89 subsection (e) of this Code section.

90 (3) Any renewed term for the increased tax rate is subject to the condition precedent as
 91 described in paragraph (2) of subsection (d) of this Code section, provided that the
 92 proceeds of such tax shall be expended in accordance with the provisions of
 93 subparagraph (d)(2)(B) of this Code section during the entirety of any subsequent
 94 renewed terms.

95 (h) In all respects not otherwise provided for in this Code section, the levy of a tax under
96 this article by a consolidated government referred to in subsection (a) of this Code section
97 shall be in the same manner as the levy of the tax by any other county.
98 (i) If any tax authorized under this article is to be newly imposed in the county whose
99 geographical boundary is conterminous with that of the special district containing a
100 consolidated government, for any rental, lease, or other agreement related to property in
101 the special district that is in effect at the time of levy of such tax, or may be entered into
102 subsequently, which utilizes the millage rate of any such political subdivision or the
103 consolidated government in calculating payments in lieu of taxes payable by the tenant,
104 lessee, or occupant, no reduction as set forth in subsection (d) of this Code section in the
105 millage rate for ad valorem taxes of any political subdivision or consolidated government
106 resulting from the tax authorized under this article shall apply to such agreements, unless
107 the parties thereto specifically have provided that the effects of the tax to be imposed under
108 this article be included in said calculations."

109 **SECTION 2.**

110 This Act shall become effective upon its approval by the Governor or upon its becoming law
111 without such approval.

112 **SECTION 3.**

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