

The Senate Committee on Finance offered the following substitute to HB 230:

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 a qualified consolidated government special purpose local  
3 option sales tax; to provide an exception to a ceiling on local sales and use taxes; to provide  
4 for definitions; to provide for authorization of tax and applicability; to provide for local  
5 authorization and referenda; to provide for imposition and termination of tax; to provide for  
6 limitations; to provide for administration and collection of tax; to provide for returns; to  
7 provide for distribution of tax proceeds; to provide for personal property in other  
8 jurisdictions; to prohibit taxation of products ordered and delivered outside of jurisdiction;  
9 to prohibit taxation of certain construction materials; to provide for rules and regulations; to  
10 provide for impact on other taxes; to provide for use of proceeds and general obligation debt;  
11 to provide for related matters; to provide an effective date; to repeal conflicting laws; and for  
12 other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 **SECTION 1.**

15 Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to sales and use  
16 taxes, is amended in Code Section 48-8-6, relating to prohibition of political subdivisions

17 from imposing various taxes, ceiling on local sales and use taxes, and taxation of mobile  
 18 telecommunications, by revising paragraphs (6) and (7) of subsection (a) and adding a new  
 19 paragraph to read as follows:

- 20 "(6) A sales and use tax levied under Article 5A of this chapter; and  
 21 (7) A sales and use tax levied under Article 2 of Chapter 9 of Title 32; and  
 22 (8) A sales and use tax levied under Part 3 of Article 3 of this chapter."

23 **SECTION 2.**

24 Said chapter is further amended by revising Article 3, relating to county sales and use taxes,  
 25 by adding a new part to read as follows:

26 "Part 3

27 48-8-145.

28 As used in this part, the term:

- 29 (1) 'Coliseum capital outlay project' means any capital outlay project or projects, as  
 30 defined in paragraph (1) of Code Section 48-8-110, within the special district and  
 31 consisting of the acquisition, construction, renovation, improvement, and equipping of  
 32 buildings, structures, and facilities as a successor facility to a multiuse coliseum or civic  
 33 center type of facility, or a combination of such facilities, in operation on the same site  
 34 for a minimum of 35 years and that includes, among other facilities, an arena originally  
 35 constructed with a minimum of 5,000 permanent seats, such successor facility to be  
 36 owned or operated, or both, either by the qualified consolidated government, one or more  
 37 local authorities within the special district, or any combination thereof.  
 38 (2) 'Project cost' means the cost of acquiring, constructing, reconstructing, renovating,  
 39 repairing, improving, and installing any coliseum capital outlay project, or any  
 40 combination of the foregoing.

41 (3) 'Qualified consolidated government' means a consolidated government created by the  
42 consolidation of a county and one or more municipalities and within the geographic  
43 boundaries of the county in which such consolidated government exists there exist on the  
44 date of the call of the election pursuant to subsection (b) of Code Section 48-8-147 two  
45 or more incorporated municipalities.

46 48-8-146.

47 (a) The governing authority of any qualified consolidated government whose geographic  
48 boundary is coterminous with that of the special district in which the sales and use tax  
49 authorized by Part 1 of Article 3 of this chapter is being levied may, subject to the  
50 requirement of referendum approval and the other requirements of this part, impose within  
51 the special district a special sales and use tax for a limited period of time for the purpose  
52 of funding coliseum capital outlay projects and project costs.

53 (b) Except as provided in subsection (c) of this Code section, any tax imposed under this  
54 part shall be at the rate of 0.5 percent. Except as to rate, a tax imposed under this part shall  
55 correspond to the tax imposed by Article 1 of this chapter. No item or transaction which  
56 is not subject to taxation under Article 1 of this chapter shall be subject to a tax imposed  
57 under this part, except that a tax imposed under this part shall apply to sales of motor fuels  
58 as prepaid local tax as that term is defined in Code Section 48-8-2 and shall be applicable  
59 to the sale of food and food ingredients and alcoholic beverages as provided for in Code  
60 Section 48-8-3.

61 (c) Such sales and use tax levied on sales of motor fuels as defined in Code Section 48-9-2  
62 shall be at the rate of 0.5 percent of the retail sales price of the motor fuel which is not  
63 more than \$3.00 per gallon.

64 48-8-147.

65 (a) The governing authority of a qualified consolidated government voting to impose the  
66 tax authorized by this part within the special district shall notify the qualified consolidated  
67 government election superintendent by forwarding to the superintendent a copy of the  
68 resolution or ordinance of the governing authority calling for the imposition of the tax.

69 Such ordinance or resolution shall specify:

70 (1) The aggregate maximum cost of the project or projects which shall be funded from  
71 the proceeds of the tax;

72 (2) The maximum amount of net proceeds to be raised by the tax, which shall be equal  
73 to the lesser of \$250 million or the amount specified in paragraph (1) of this subsection;

74 and

75 (3) If general obligation debt is to be issued in conjunction with the imposition of the tax,  
76 as authorized by this part, the principal amount of the debt to be issued, which shall not  
77 exceed \$250 million; the interest rate or rates or the maximum interest rate or rates which  
78 such debt is to bear; and the amount of principal to be paid in each year during the life  
79 of the debt.

80 (b) Upon receipt of the resolution or ordinance, the qualified consolidated government  
81 election superintendent shall issue the call for an election for the purpose of submitting the  
82 question of the imposition of the tax to the voters of the qualified consolidated government.

83 The qualified consolidated government election superintendent shall issue the call and shall  
84 conduct the election on a date and in the manner authorized under Code Section 21-2-540.

85 The qualified consolidated government election superintendent shall cause the date and  
86 purpose of the election to be published once a week for four weeks immediately preceding

87 the date of the election in the legal organ of the qualified consolidated government or in a  
88 newspaper having general circulation in the qualified consolidated government at least

89 equal to that of the legal organ. If general obligation debt is to be issued in conjunction  
90 with the imposition of the tax, the notice published by the qualified consolidated

91 government election superintendent shall also include, in such form as may be specified  
 92 by the qualified consolidated government governing authority, the principal amount of the  
 93 debt which shall not exceed \$250 million, the rate or rates of interest or the maximum rate  
 94 or rates of interest the debt shall bear, and the amount of principal to be paid in each year  
 95 during the life of the debt; and such publication of notice by the qualified consolidated  
 96 government election superintendent shall take the place of the notice otherwise required  
 97 by Code Section 36-80-11 or by subsection (b) of Code Section 36-82-1, which notice shall  
 98 not be required.

99 (c)(1) The ballot shall have written or printed thereon the following:

100 '( ) YES Shall a special 0.5 percent sales and use tax be imposed in the special  
 101 district of \_\_\_\_\_ in order to raise \$ \_\_\_\_\_ to fund coliseum  
 102 ( ) NO capital outlay projects and related project costs?

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

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

108 (d) All persons desiring to vote in favor of imposing the tax shall vote 'Yes' and all persons  
 109 opposed to levying the tax shall vote 'No.' If more than one-half of the votes cast are in  
 110 favor of imposing the tax, then the tax shall be imposed as provided in this part; otherwise,  
 111 the tax shall not be imposed and the question of imposing the tax shall not again be  
 112 submitted to the voters of the qualified consolidated government until after 12 months  
 113 immediately following the month in which the election was held; provided, however, that  
 114 if an election date authorized under Code Section 21-2-540 occurs during the twelfth month  
 115 immediately following the month in which such election was held, the question of  
 116 imposing the tax may be submitted to the voters of the qualified consolidated government  
 117 on such date. The qualified consolidated government election superintendent shall hold

118 and conduct the election under the same rules and regulations as govern special elections.  
119 The qualified consolidated government election superintendent shall canvass the returns,  
120 declare the result of the election, and certify the result to the Secretary of State and to the  
121 commissioner. The expense of the election shall be paid from qualified consolidated  
122 government funds.

123 (e)(1) If the proposal includes the authority to issue general obligation debt and if more  
124 than one-half of the votes cast are in favor of the proposal, then the authority to issue such  
125 debt in accordance with Article IX, Section V, Paragraph I of the Constitution is given  
126 to the proper officers of the qualified consolidated government; otherwise such debt shall  
127 not be issued. If the authority to issue such debt is so approved by the voters, then such  
128 debt may be issued without further approval by the voters.

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

144 by this part shall be satisfied from the general funds of the qualified consolidated  
145 government.

146 48-8-148.

147 (a)(1) If the imposition of the tax is approved by referendum, the tax shall be imposed  
148 on the first day of the next succeeding calendar quarter which begins more than 80 days  
149 after the date of the election at which the tax was approved by the voters.

150 (2) With respect to services that are regularly billed on a monthly basis, however, the  
151 resolution or ordinance imposing the tax shall become effective and the tax shall apply  
152 to the first regular billing period coinciding with or following the effective date specified  
153 in paragraph (1) of this subsection. A certified copy of the ordinance or resolution  
154 imposing the tax shall be forwarded to the commissioner to ensure it is received within  
155 five business days after certification of the election results.

156 (b) The tax shall cease to be imposed on the earliest of the following:

157 (1) If the resolution or ordinance calling for the imposition of the tax provided for the  
158 issuance of general obligation debt and such debt is the subject of validation proceedings,  
159 as of the end of the first calendar quarter ending more than 80 days after the date on  
160 which a court of competent jurisdiction enters a final order denying validation of such  
161 debt; or

162 (2) As of the end of the calendar quarter during which the commissioner determines that  
163 the tax raised revenues sufficient to provide to the qualified consolidated government net  
164 proceeds equal to or greater than the amount specified as the maximum amount of net  
165 proceeds to be raised by the tax.

166 (c)(1) In no event shall the maximum amount of net proceeds to be raised or the amount  
167 of general obligation bonds issued under this part by a qualified consolidated government  
168 exceed \$250 million.

169 (2) No qualified consolidated government shall at any time impose more than a single  
170 0.5 percent tax under this part.

171 (3) In no event shall the tax authorized by this part be renewed or reauthorized. Each  
172 qualified consolidated government shall be limited to one imposition of the tax authorized  
173 by this part.

174 48-8-149.

175 A tax levied pursuant to this part shall be exclusively administered and collected by the  
176 commissioner for the use and benefit of the qualified consolidated government imposing  
177 the tax. Such administration and collection shall be accomplished in the same manner and  
178 subject to the same applicable provisions, procedures, and penalties provided in Article 1  
179 of this chapter except that the sales and use tax provided in this part shall be applicable to  
180 sales of motor fuels as prepaid local tax as that term is defined in Code Section 48-8-2;  
181 provided, however, that all moneys collected from each taxpayer by the commissioner shall  
182 be applied first to such taxpayer's liability for taxes owed the state; and provided, further,  
183 that the commissioner may rely upon a representation by or in behalf of the qualified  
184 consolidated government or the Secretary of State that such a tax has been validly imposed,  
185 and the commissioner and the commissioner's agents shall not be liable to any person for  
186 collecting any such tax which was not validly imposed. Dealers shall be allowed a  
187 percentage of the amount of the tax due and accounted for and shall be reimbursed in the  
188 form of a deduction in submitting, reporting, and paying the amount due if such amount  
189 is not delinquent at the time of payment. The deduction shall be at the rate and subject to  
190 the requirements specified under subsections (b) through (f) of Code Section 48-8-50.

191 48-8-150.

192 Each sales and use tax return remitting sales and use taxes collected under this part shall  
193 separately identify the location of each retail establishment at which any of the sales and



194 use taxes remitted were collected and shall specify the amount of sales and the amount of  
195 taxes collected at each establishment for the period covered by the return to facilitate the  
196 determination by the commissioner that all sales and use taxes imposed by this part are  
197 collected and distributed according to situs of sale.

198 48-8-151.

199 The proceeds of the tax collected by the commissioner in each qualified consolidated  
200 government under this part shall be disbursed as soon as practicable after collection as  
201 follows:

202 (1) One percent of the amount collected shall be paid into the general fund of the state  
203 treasury to defray the costs of administration; and

204 (2) The remaining proceeds of the tax shall be distributed to the governing authority of  
205 the qualified consolidated government imposing the tax.

206 48-8-152.

207 Where a local sales or use tax has been paid with respect to tangible personal property by  
208 the purchaser either in another local tax jurisdiction within the state or in a tax jurisdiction  
209 outside the state, the tax may be credited against the tax authorized to be imposed by this  
210 part upon the same property. If the amount of sales or use tax so paid is less than the  
211 amount of the use tax due under this part, the purchaser shall pay an amount equal to the  
212 difference between the amount paid in the other tax jurisdiction and the amount due under  
213 this part. The commissioner may require such proof of payment in another local tax  
214 jurisdiction as the commissioner deems necessary and proper. No credit shall be granted,  
215 however, against the tax imposed under this part for tax paid in another jurisdiction if the  
216 tax paid in such other jurisdiction is used to obtain a credit against any other local sales and  
217 use tax levied in the qualified consolidated government or in a special district which  
218 includes the qualified consolidated government; and taxes so paid in another jurisdiction

219 shall be credited first against the tax levied under Article 2 of this chapter, if applicable,  
220 then against the tax levied under Part 1 of Article 3 of this chapter, if applicable, then  
221 against the tax levied under Part 2 of Article 3 of this chapter, if applicable, and then  
222 against the tax levied under this part.

223 48-8-153.

224 No tax provided for in this part shall be imposed upon the sale of tangible personal  
225 property which is ordered by and delivered to the purchaser at a point outside the  
226 geographical area of the qualified consolidated government in which the tax is imposed  
227 regardless of the point at which title passes, if the delivery is made by the seller's vehicle,  
228 and including United States mail or common carrier or by a private or contract carrier  
229 licensed by the Federal Motor Carrier Safety Administration or the Georgia Department  
230 of Public Safety.

231 48-8-154.

232 No tax provided for in this part shall be imposed upon the sale or use of building and  
233 construction materials when the contract pursuant for which the materials are purchased  
234 or used was advertised for bid prior to the voters' approval of the levy of the tax and the  
235 contract was entered into as a result of a bid actually submitted in response to the  
236 advertisement prior to approval of the levy of the tax.

237 48-8-155.

238 The commissioner shall have the power and authority to promulgate such rules and  
239 regulations as shall be necessary for the effective and efficient administration and  
240 enforcement of the collection of the tax authorized by this part.

241 48-8-156.

242 The tax authorized by this part shall be in addition to any other local sales and use tax. The  
243 imposition of any other local sales and use tax within a county, municipality, or special  
244 district shall not affect the authority of a qualified consolidated government to impose the  
245 tax authorized by this part and the imposition of the tax authorized by this part shall not  
246 affect the imposition of any otherwise authorized local sales and use tax within a county,  
247 municipality, or special district.

248 48-8-157.

249 (a) The proceeds received from the tax authorized by this part shall be used by the  
250 qualified consolidated government exclusively for:

251 (1) Coliseum capital outlay projects and project costs;

252 (2) The repayment of general obligation indebtedness incurred in conjunction with the  
253 imposition of the tax authorized by this part; or

254 (3) The repayment of any loans made to such qualified consolidated government with  
255 respect to such coliseum capital outlay projects and project costs.

256 Such proceeds shall be kept in a separate account from other funds of the qualified  
257 consolidated government and shall not in any manner be commingled with other funds of  
258 the qualified consolidated government prior to expenditure.

259 (b) The governing authority of the qualified consolidated government shall maintain a  
260 record of every project cost for which the proceeds of the tax are used. In each annual  
261 audit a schedule shall be included that shows for each ongoing such project the original  
262 estimated cost, the current estimated cost if it is not the original estimated cost, amounts  
263 expended in prior years, and amounts expended in the current year. The auditor shall  
264 verify and test expenditures sufficient to provide assurances that the schedule is fairly  
265 presented in relation to the financial statements. The auditor's report on the financial  
266 statements shall include an opinion, or disclaimer of opinion, as to whether the schedule

267 is presented fairly in all material respects in relation to the financial statements taken as a  
268 whole.

269 (c) No general obligation debt shall be issued in conjunction with the imposition of the tax  
270 unless the qualified consolidated government governing authority determines that, and if  
271 the debt is to be validated it is demonstrated in the validation proceedings that, during each  
272 year in which any payment of principal or interest on the debt comes due the qualified  
273 consolidated government shall receive from the tax authorized by this part net proceeds  
274 sufficient to fully satisfy such liability. General obligation debt issued under this part shall  
275 be payable first from the separate account in which are placed the proceeds received by the  
276 qualified consolidated government from the tax authorized by this part. Such debt,  
277 however, shall constitute a pledge of the full faith, credit, and taxing power of the qualified  
278 consolidated government; and any liability on said debt which is not satisfied from the  
279 proceeds of the tax authorized by this part shall be satisfied from the general funds of the  
280 qualified consolidated government.

281 (d) The resolution or ordinance calling for imposition of the tax authorized by this part  
282 may specify that all proceeds from the tax shall be used for payment of general obligation  
283 debt issued in conjunction with the imposition of the tax. If the resolution or ordinance so  
284 provides, then such proceeds shall be used solely for such purpose except as provided in  
285 subsection (e) of this Code section. In such a case no part of the net proceeds from the tax  
286 received in any year shall be used for other project costs until all debt service requirements  
287 of the general obligation debt for that year have first been satisfied from the account in  
288 which the proceeds of the tax are placed.

289 (e)(1)(A) If the proceeds of the tax are specified to be used solely for the purpose of  
290 payment of general obligation debt issued in conjunction with the imposition of the tax,  
291 then any net proceeds of the tax in excess of the amount required for final payment of  
292 such debt shall be subject to and applied as provided in paragraph (2) of this subsection.

293 (B) If the qualified consolidated government receives from the tax net proceeds in  
294 excess of \$250 million, the maximum cost of the project or projects calling for the  
295 imposition of the tax, or the actual cost of such project or projects, then such excess  
296 proceeds shall be subject to and applied as provided in paragraph (2) of this subsection.

297 (C) If the tax is terminated under paragraph (1) of subsection (b) of Code  
298 Section 48-8-148 by reason of denial of validation of debt, then all net proceeds  
299 received by the qualified consolidated government from the tax shall be excess  
300 proceeds subject to paragraph (2) of this subsection.

301 (2) Excess proceeds subject to this subsection shall be used solely for the purpose of  
302 reducing any indebtedness of the qualified consolidated government other than  
303 indebtedness incurred pursuant to this part. If there is no such other indebtedness or, if  
304 the excess proceeds exceed the amount of any such other indebtedness, then the excess  
305 proceeds shall next be paid into the general fund of the qualified consolidated  
306 government, it being the intent that any funds so paid into the general fund of the  
307 qualified consolidated government be used for the purpose of reducing ad valorem taxes."

308 **SECTION 3.**

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

311 **SECTION 4.**

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