

House Bill 850

By: Representatives Ridley of the 6<sup>th</sup>, Harrell of the 106<sup>th</sup>, Jasperse of the 11<sup>th</sup>, Tarvin of the 2<sup>nd</sup>, Gravley of the 67<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 uniform November referenda and elections for local option  
3 sales taxes; to provide for related matters; to repeal conflicting laws; and for other purposes.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

5 style="text-align:center">**SECTION 1.**

6 Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to sales and use  
7 taxes, is amended in Code Section 48-8-85, relating to referendum election to decide  
8 imposition of local option sales tax, procedure, resolution, call for election, publication,  
9 ballot, result, subsequent elections, declaration and certification of result, and expense, by  
10 revising subsection (a) as follows:

11 "(a) Whenever the governing authority of any county or qualified municipality located  
12 wholly or partially within a special district in which a joint county and municipal sales and  
13 use tax was not imposed on January 1, 1980, wishes to submit to the electors of the special  
14 district the question of whether the tax authorized by Code Section 48-8-82 shall be  
15 imposed, ~~any~~ such governing authority shall notify the election superintendent of the  
16 county whose geographical boundary is conterminous with that of the special district by  
17 forwarding to the superintendent a copy of a resolution of the governing authority calling  
18 for a referendum election. Such referendum election shall be held during a November  
19 general election. Upon receipt of the resolution, it shall be the duty of the election  
20 superintendent to issue the call for an election for the purpose of submitting the question  
21 of the imposition of the tax to the voters of the special district for approval or rejection.  
22 The election superintendent shall set the date of the election for a day not less than 30 nor  
23 more than 45 days after the date of the issuance of the call. The election superintendent  
24 shall cause the date and purpose of the election to be published once a week for two weeks  
25 immediately preceding the date of the election in the official organ of the county. The  
26 ballot shall have written or printed thereon the following:

27 ' ( ) YES Shall a retail sales and use tax of 1 percent be levied within the special  
 28 ( ) NO district within \_\_\_\_\_ County?"

29 **SECTION 2.**

30 Said chapter is further amended in Code Section 48-8-92, relating to referendum election to  
 31 decide discontinuing imposition of local option sales tax, procedure, resolution, call for  
 32 election, publication, ballot, result, subsequent elections, declaration and certification of  
 33 result, and expense, by revising subsection (a) as follows:

34 "(a) Whenever the governing authority of any county and the governing authorities of at  
 35 least one-half of qualified municipalities located wholly or partially within a special district  
 36 in which the tax authorized by this article is being levied wish to submit to the electors of  
 37 the special district the question of whether the tax authorized by Code Section 48-8-82  
 38 shall be discontinued, such governing authorities shall notify the election superintendent  
 39 of the county whose geographical boundary is conterminous with that of the special district  
 40 by forwarding to the superintendent a copy of a joint resolution of the governing authorities  
 41 calling for the referendum election. Such referendum election shall be held during a  
 42 November general election. Upon receipt of the resolution, it shall be the duty of the  
 43 election superintendent to issue the call for an election for the purpose of submitting the  
 44 question of discontinuing the levy of the tax to the voters of the special district for approval  
 45 or rejection. The election superintendent shall issue the call and shall conduct the election  
 46 on a date and in the manner authorized under Code Section 21-2-540. The election  
 47 superintendent shall cause the date and purpose of the election to be published once a week  
 48 for two weeks immediately preceding the date of the election in the official organ of the  
 49 county. The ballot shall have written or printed thereon the following:

50 ' ( ) YES Shall the 1 percent retail sales and use tax being levied within the special  
 51 ( ) NO district within \_\_\_\_\_ County be terminated?"

52 **SECTION 3.**

53 Said chapter is further amended in Code Section 48-8-103, relating to submission to voters  
 54 to determine imposition of homestead option sales tax, by revising subsection (a) as follows:

55 "(a) Whenever the governing authority of any county whose geographical boundary is  
 56 conterminous with that of the special district wishes to submit to the electors of the special  
 57 district the question of whether the sales and use tax authorized by Code Section 48-8-102  
 58 shall be imposed, ~~any~~ such governing authority shall notify the election superintendent of  
 59 the county whose geographical boundary is conterminous with that of the special district  
 60 by forwarding to the superintendent a copy of a resolution of the governing authority

61 calling for a referendum election. Such referendum election shall be held during a  
 62 November general election. Upon receipt of the resolution, it shall be the duty of the  
 63 election superintendent to issue the call for an election for the purpose of submitting the  
 64 question of the imposition of the sales and use tax to the voters of the special district for  
 65 approval or rejection. The election superintendent shall issue the call and shall conduct the  
 66 election on a date and in the manner authorized under Code Section 21-2-540. Such  
 67 election shall only be conducted on the date of and in conjunction with a referendum  
 68 provided for by local Act on the question of whether to impose a homestead exemption  
 69 within such county and based on the amount of proceeds from the sales and use tax levied  
 70 and collected pursuant to this part. The election superintendent shall cause the date and  
 71 purpose of the election to be published once a week for two weeks immediately preceding  
 72 the date of the election in the official organ of such county. The ballot shall have written  
 73 or printed thereon the following statement which shall precede the ballot question specified  
 74 in this subsection and the ballot question specified by the required local Act:

75 'NOTICE TO ELECTORS: Unless **BOTH** the homestead exemption **AND** the retail  
 76 homestead option sales and use tax are approved, then neither the exemption nor the  
 77 sales and use tax shall become effective.'

78 Such statement shall be followed by the following:

79 '( ) YES Shall a retail homestead option sales and use tax of 1 percent be levied  
 80 ( ) NO within the special district within \_\_\_\_\_ County for the purposes  
 81 of funding capital outlay projects and of funding services to replace revenue  
 82 lost to an additional homestead exemption of up to 100 percent of the  
 83 assessed value of homesteads from county taxes for county purposes?'

84 Notwithstanding any other provision of law to the contrary, the statement, ballot question,  
 85 and local Act ballot question referred to in this subsection shall precede any and all other  
 86 ballot questions calling for the levy or imposition of any other sales and use tax which are  
 87 to appear on the same ballot."

#### 88 SECTION 4.

89 Said chapter is further amended by revising Code Section 48-8-109.2, relating to referendum  
 90 on suspension of equalized homestead option sales taxation, as follows:

91 "In any county where a homestead option sales and use tax under Part 1 of this article and  
 92 a sales tax for purposes of a metropolitan area system of public transportation, as  
 93 authorized by the amendment to the Constitution set out at Georgia Laws, 1964, page 1008;  
 94 the continuation of such amendment under Article XI, Section I, Paragraph IV(d) of the  
 95 Constitution; and the laws enacted pursuant to such constitutional amendment, are being  
 96 levied, the county governing authority may choose to submit to the electors of the special

97 district the question of whether to suspend the sales and use tax authorized by Code Section  
 98 48-8-102 and replace such tax with a sales and use tax authorized by this part. Such  
 99 referendum shall only be held during a November general election in conjunction with a  
 100 referendum submitting to the electors of the special district the question of whether to  
 101 approve a special purpose local option sales and use tax pursuant to the provisions of Part 1  
 102 of Article 3 of this chapter. The electors of the special district must approve both of the  
 103 sales and use taxes in order for either of them to be implemented. If either of the sales and  
 104 use taxes is not approved by the electors, the homestead option sales and use tax under  
 105 Part 1 of this article shall be continued in full force and effect."

106 **SECTION 5.**

107 Said chapter is further amended in Code Section 48-8-109.7, relating to referendum on  
 108 discontinuation of equalized homestead option sales taxation and ballot, by revising  
 109 subsection (a) as follows:

110 "(a) Whenever the governing authority of any county whose geographical boundary is  
 111 conterminous with that of the special district in which the sales and use tax authorized by  
 112 this part is being levied wishes to submit to the electors of the special district the question  
 113 of whether the sales and use tax authorized by this part shall be discontinued, ~~the~~ such  
 114 governing authority shall notify the election superintendent of the county whose  
 115 geographical boundary is conterminous with that of the special district by forwarding to  
 116 the superintendent a copy of a resolution of the governing authority calling for the  
 117 referendum election. Such referendum election shall be held during a November general  
 118 election. Upon receipt of the resolution, it shall be the duty of the election superintendent  
 119 to issue the call for an election for the purpose of submitting the question of discontinuing  
 120 the levy of the sales and use tax to the voters of the special district for approval or rejection.  
 121 The election superintendent shall issue the call and shall conduct the election on a date and  
 122 in the manner authorized under Code Section 21-2-540. Such election shall be conducted  
 123 only on the date of and in conjunction with an election to repeal the special purpose local  
 124 option sales and use tax pursuant to the provisions of Part 1 of Article 3 of this chapter. If  
 125 either such sales and use tax is repealed, then both such sales and use taxes shall be  
 126 repealed and the sales and use tax under Part 1 of this article shall replace the sales and use  
 127 tax that was imposed under this part. The election superintendent shall cause the date and  
 128 purpose of the election to be published once a week for two weeks immediately preceding  
 129 the date of the election in the official organ of such county. The ballot shall have written  
 130 or printed thereon the following:

131 '( ) YES Shall the equalized homestead option sales and use tax being levied within  
 132 ( ) NO the special district within \_\_\_\_\_ County for the purposes of  
 133 reducing the ad valorem property tax millage rates levied by county and  
 134 municipal governments on homestead properties be terminated?"

135 **SECTION 6.**

136 Said chapter is further amended in Code Section 48-8-111, relating to procedure for  
 137 imposition of special local option sales tax, resolution or ordinance, notice to county election  
 138 superintendent, and election, by revising subsection (b) as follows:

139 "(b) Upon receipt of the resolution or ordinance, the election superintendent shall issue the  
 140 call for an election for the purpose of submitting the question of the imposition of the tax  
 141 to the voters of the county within the special district. Such election shall be held during a  
 142 November general election. The election superintendent shall issue the call and shall  
 143 conduct the election on a date and in the manner authorized under Code Section 21-2-540.  
 144 The election superintendent shall cause the date and purpose of the election to be published  
 145 once a week for four weeks immediately preceding the date of the election in the official  
 146 organ of the county. If general obligation debt is to be issued by the county or any  
 147 qualified municipality within the special district in conjunction with the imposition of the  
 148 tax, the notice published by the election superintendent shall also include, in such form as  
 149 may be specified by the county governing authority or the governing authority or  
 150 authorities of the qualified municipalities imposing the tax within the special district, the  
 151 principal amount of the debt, the purpose for which the debt is to be issued, the rate or rates  
 152 of interest or the maximum rate or rates of interest the debt will bear, and the amount of  
 153 principal to be paid in each year during the life of the debt; and such publication of notice  
 154 by the election superintendent shall take the place of the notice otherwise required by Code  
 155 Section 36-80-11 or by subsection (b) of Code Section 36-82-1, which notice shall not be  
 156 required."

157 **SECTION 7.**

158 Said chapter is further amended in Code Section 48-8-201, relating to intergovernmental  
 159 contract for distribution of water and sewer projects and costs tax proceeds, approval of  
 160 referendum by voters, cap on aggregate amount of tax, and rate, by revising paragraph (3)  
 161 of subsection (a) as follows:

162 "~~(3) Immediately following~~ Following the entering into of the intergovernmental contract  
 163 under paragraph (2) of this subsection, ~~the governing authority of such county may select~~  
 164 ~~the next practicable date authorized under Code Section 21-2-540 for conducting a~~  
 165 ~~special referendum~~ election on the question of imposing such tax under Part 1 of Article 3

166 of this chapter shall be held during a November general election. The governing  
 167 authority of such county shall notify the county election superintendent by forwarding to  
 168 the superintendent a copy of the resolution of the governing authority of such  
 169 municipality calling for the imposition of the tax in such county. Following receipt of the  
 170 resolution, the election superintendent shall issue the appropriate call for an election for  
 171 the purpose of submitting the question of the imposition of the tax to the voters of such  
 172 county in the manner specified in Code Section 48-8-111. If approved in such  
 173 referendum, the tax shall be levied and imposed as provided in this Code section and  
 174 Part 1 of Article 3 of this chapter."

175 **SECTION 8.**

176 Said chapter is further amended in Code Section 48-8-202, relating to requirement of  
 177 municipal ordinance or resolution authorizing tax, voter approval, and form for ballot, by  
 178 revising subsection (b) as follows:

179 "(b) Upon receipt of the resolution or ordinance, the municipal election superintendent  
 180 shall issue the call for an election during a November general election for the purpose of  
 181 submitting the question of the imposition of the tax to the voters of the municipality. The  
 182 municipal election superintendent shall issue the call and shall conduct the election on a  
 183 date and in the manner authorized under Code Section 21-2-540. The municipal election  
 184 superintendent shall cause the date and purpose of the election to be published once a week  
 185 for four weeks immediately preceding the date of the election in the legal organ of the  
 186 county in which the majority of the municipal population resides or in a newspaper having  
 187 general circulation in the municipality at least equal to that of the legal organ. If general  
 188 obligation debt is to be issued in conjunction with the imposition of the tax, the notice  
 189 published by the municipal election superintendent shall also include, in such form as may  
 190 be specified by the municipal governing authority, the principal amount of the debt, the rate  
 191 or rates of interest or the maximum rate or rates of interest the debt will bear, and the  
 192 amount of principal to be paid in each year during the life of the debt; and such publication  
 193 of notice by the municipal election superintendent shall take the place of the notice  
 194 otherwise required by Code Section 36-80-11 or by subsection (b) of Code  
 195 Section 36-82-1, which notice shall not be required."

196 **SECTION 9.**

197 Said chapter is further amended in Code Section 48-8-244, relating to election and ballot for  
 198 special district transportation sales and use tax, by revising subsection (a) as follows:

199 "(a) Simultaneously with the director's delivery of the approved investment list in  
 200 accordance with subsection (b) of Code Section 48-8-243, the roundtable shall deliver a

201 notice to the election superintendents of each county within the respective special districts.  
202 Upon receipt of the notice, the election superintendents shall issue the call for an election  
203 during a November general election for the purpose of submitting the question of the  
204 imposition of the tax to the voters within each special district. The election superintendents  
205 shall issue the call and shall conduct the election in the manner authorized under Code  
206 Section 21-2-540. The first election shall be held on the date of the general state-wide  
207 primary in 2012. The election superintendents shall cause the date and purpose of the  
208 election to be published once a week for four weeks immediately preceding the date of the  
209 election in the official organs of their respective counties."

210 **SECTION 10.**

211 Said chapter is further amended in Code Section 48-8-263, relating to ballot question,  
212 expenses of election, resubmission of question, and general obligation debt related to special  
213 district mass transportation sales and use tax, by revising subsection (b) as follows:

214 "(b) The election superintendent shall issue the call and conduct the election during a  
215 November general election in the manner authorized by general law. The superintendent  
216 shall canvass the returns, declare the result of the election, and certify the result to the  
217 Secretary of State and to the commissioner. The expense of the election shall be paid from  
218 county funds. All persons desiring to vote in favor of imposing the tax shall vote 'Yes,' and  
219 all persons opposed to imposing the tax shall vote 'No.' If more than one-half of the votes  
220 cast throughout the entire special district are in favor of imposing the tax, then the tax shall  
221 be imposed as provided in this part."

222 **SECTION 11.**

223 Said chapter is further amended in Code Section 48-8-269.9, relating to metropolitan county  
224 special districts ballot measure, by revising subsection (b) as follows:

225 "(b) The election superintendent shall issue the call and conduct the election during a  
226 November general election in the manner authorized by general law. The superintendent  
227 shall canvass the returns, declare the result of the election, and certify the result to the  
228 Secretary of State and to the commissioner. The expense of the election shall be paid from  
229 county funds. All persons desiring to vote in favor of imposing the tax shall vote 'Yes,' and  
230 all persons opposed to imposing the tax shall vote 'No.' If more than one-half of the votes  
231 cast throughout the part of the metropolitan county special district are in favor of imposing  
232 the tax, then the tax shall be imposed as provided in this part."

233 **SECTION 12.**

234 Said chapter is further amended in Code Section 48-8-269.24, relating to metropolitan  
235 municipality special districts ballot measure, by revising subsection (b) as follows:

236 "(b) The election superintendent shall issue the call and conduct the election during a  
237 November general election in the manner authorized by general law. The superintendent  
238 shall canvass the returns, declare the result of the election, and certify the result to the  
239 Secretary of State and to the commissioner. The expense of the election shall be paid from  
240 municipal funds. All persons desiring to vote in favor of imposing the tax shall vote 'Yes,'  
241 and all persons opposed to imposing the tax shall vote 'No.' If more than one-half of the  
242 votes cast throughout the metropolitan municipality special district are in favor of imposing  
243 the tax, then the tax shall be imposed as provided in this part."

244 **SECTION 13.**

245 Said chapter is further amended in Code Section 48-8-269.44, relating to ballot language for  
246 transit tax, conduct of election, and impact of approval or rejection of question, by revising  
247 subsection (b) as follows:

248 "(b) The election superintendent shall issue the call and conduct the election during a  
249 November general election in the manner authorized by general law. Each such election  
250 shall be governed, held, and conducted in accordance with the provisions of law from time  
251 to time governing the holding of special elections as provided in Code Section 21-2-540.  
252 The superintendent shall canvass the returns, declare the result of the election, and certify  
253 the result to the Secretary of State and to the commissioner. The expense of the election  
254 shall be paid from county funds. All persons desiring to vote in favor of imposing the tax  
255 shall vote 'Yes,' and all persons opposed to imposing the tax shall vote 'No.' If more than  
256 one-half of the votes cast throughout the entire special district are in favor of imposing the  
257 tax in each of the special districts that have elected to hold the referendum, then the tax  
258 shall be imposed as provided in this article."

259 **SECTION 14.**

260 Said chapter is further amended in Code Section 48-8-269.46, relating to ballot form for  
261 imposition of tax for transit projects, conduct of election, and impact of approval or rejection  
262 of question, by revising subsection (b) as follows:

263 "(b) The election superintendent shall issue the call and conduct the election during a  
264 November general election in the manner authorized by general law. Each such election  
265 shall be governed, held, and conducted in accordance with the provisions of law from time  
266 to time governing the holding of special elections as provided in Code Section 21-2-540.  
267 The superintendent shall canvass the returns, declare the result of the election, and certify

268 the result to the Secretary of State and to the commissioner. The expense of the election  
269 shall be paid from county funds. All persons desiring to vote in favor of imposing the tax  
270 shall vote 'Yes,' and all persons opposed to imposing the tax shall vote 'No.' If more than  
271 one-half of the votes cast throughout the entire special district are in favor of imposing the  
272 tax, then the tax shall be imposed as provided in this article."

273

**SECTION 15.**

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