

Current through the 2020 Regular Session of the General Assembly

- GA - Official Code of Georgia Annotated
- TITLE 48. REVENUE AND TAXATION
- CHAPTER 8. SALES AND USE TAXES
- ARTICLE 5. SPECIAL DISTRICT TRANSPORTATION SALES AND USE TAX (TSPLOST)
- **PART 1. IN GENERAL**

§ 48-8-240. Findings; purpose

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The local governments of the State of Georgia are of vital importance to the state and its citizens. The state has an essential public interest in promoting, developing, sustaining, and assisting local governments. The General Assembly finds that the design and construction of transportation projects is a critical local government service for which adequate funding is not presently available. Many transportation projects cross multiple jurisdictional boundaries and must be coordinated in their design and construction. The General Assembly finds that the most efficient means to coordinate and fund such projects is through the creation of special districts that correspond with the boundaries of existing regional commissions. The purpose of this article is to provide for special districts that will enable the coordinated design and construction of transportation projects that will develop and promote the essential public interests of the state and its citizens at the state, regional, and local levels. The General Assembly intends through the creation of such special districts to enable the citizens within each district to decide in an election whether to authorize the imposition of a special district transportation sales and use tax to fund the projects on an investment list collaboratively developed by the affected local governments and the state. This article shall be construed liberally to achieve its purpose.

§ 48-8-241. Creation of special districts; tax rate

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**(a)** There are created within this state 12 special districts. The geographical boundary of each special district shall correspond with and shall be conterminous with the geographical boundary of the applicable region of the 12 regional commissions provided for in subsection (f) of [Code Section 50-8-4](#).

**(b)** When the imposition of a special district sales and use tax is authorized according to the procedures provided in this article within a special district, subject to the requirement of referendum approval and the other requirements of this article, a special sales and use tax shall be imposed within the special district for a period of ten years which tax shall be known as the special district transportation sales and use tax.

**(c)** Nothing in this article shall be construed as limiting the establishment of a fund or funds which would provide at least 20 years of maintenance and operation costs from proceeds of the special district transportation sales and use tax used to construct, finance, or otherwise

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develop transit capital projects; provided, however, that the Metropolitan Atlanta Rapid Transit Authority, created by an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as amended, shall not be authorized to use any proceeds from the special district transportation sales and use tax for expenses of maintenance and operation of such portions of the transportation system of such authority in existence on January 1, 2011.

**(d)** Except as otherwise provided in subsection (e) of this Code section, any tax imposed under this article shall be at the rate of 1 percent. Except as to rate, a tax imposed under this article shall correspond to the tax imposed by Article 1 of this chapter. No item or transaction which is not subject to taxation under Article 1 of this chapter shall be subject to a tax imposed under this article, and a tax imposed under this article shall not apply to:

- (1)** The sale or use of any type of fuel used for off-road heavy-duty equipment, off-road farm or agricultural equipment, or locomotives;
- (2)** The sale or use of jet fuel as such term is defined in [Code Section 48-8-2](#), except to the extent allowed pursuant to [Code Section 48-8-3.5](#);
- (3)** The sale or use of fuel that is used for propulsion of motor vehicles on the public highways. For purposes of this paragraph, a motor vehicle means a self-propelled vehicle designed for operation or required to be licensed for operation upon the public highways;
- (4)** The sale or use of energy used in the manufacturing or processing of tangible goods primarily for resale; or
- (5)** Motor fuel as defined under paragraph (9) of [Code Section 48-9-2](#) for public mass transit.

The tax imposed pursuant to this article shall only be levied on the first \$5,000.00 of any transaction involving the sale or lease of a motor vehicle. The tax imposed pursuant to this article shall be subject to any sales and use tax exemption which is otherwise imposed by law; provided, however, that the tax levied by this article shall be applicable to the sale of food and food ingredients as provided for in paragraph (57) of [Code Section 48-8-3](#).

**(e)** Any tax imposed under this article on or after July 1, 2015, may be at a rate of up to 1 percent but shall not be more than 1 percent. Any rate less than 1 percent shall be in an increment of .05 percent. This subsection shall not apply to taxes under this article imposed or to be imposed under resolutions and ordinances adopted prior to July 1, 2015.

**(f)** Any tax imposed under this article on or after July 1, 2015, shall be required to expend at least 30 percent of the estimated revenue on projects included in the state-wide strategic transportation plan as defined in paragraph (6) of subsection (a) of [Code Section 32-2-22](#).

§ 48-8-242. Definitions

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As used in this article, the term:

- (1)** "Commission" means the Georgia State Financing and Investment Commission;
- (2)** "Cost of project" means:

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- (A) All costs of acquisition, by purchase or otherwise, construction, assembly, installation, modification, renovation, extension, rehabilitation, operation, or maintenance incurred in connection with any project of the special district or any part thereof;
- (B) All costs of real property or rights in property, fixtures, or personal property used in or in connection with or necessary for any project of the special district or for any facilities related thereto, including but not limited to the cost of all land, interests in land, estates for years, easements, rights, improvements, water rights, and connections for utility services; the cost of fees, franchises, permits, approvals, licenses, and certificates; the cost of securing any such franchises, permits, approvals, licenses, or certificates; the cost of preparation of any application therefor; and the cost of all fixtures, machinery, equipment, furniture, and other property used in or in connection with or necessary for any project of the special district;
- (C) All costs of engineering, surveying, planning, environmental assessments, financial analyses, and architectural, legal, and accounting services and all expenses incurred by engineers, surveyors, planners, environmental scientists, fiscal analysts, architects, attorneys, accountants, and any other necessary technical personnel in connection with any project of the special district;
- (D) All expenses for inspection of any project of the special district;
- (E) All fees of any type charged to the special district in connection with any project of the special district;
- (F) All expenses of or incidental to determining the feasibility or practicability of any project of the special district;
- (G) All costs of plans and specifications for any project of the special district;
- (H) All costs of title insurance and examinations of title with respect to any project of the special district;
- (I) Repayment of any loans for the advance payment of any part of any of the foregoing costs, including interest thereon and any other expenses of such loans;
- (J) Administrative expenses of the special district and such other expenses as may be necessary or incidental to any project of the special district or the financing thereof; and
- (K) The establishment of a fund or funds or such other reserves as the commission may approve with respect to the financing and operation of any project of the special district.

Any cost, obligation, or expense incurred for any of the purposes specified in this paragraph shall be a part of the cost of the project of the special district and may be paid or reimbursed as otherwise authorized by this article.

- (3) "County" means any county created under the Constitution or laws of this state.
- (4) "Dealer" means a dealer as defined in paragraph (8) of Code Section 48-8-2.
- (5) "Director" means the director of planning provided for in Code Section 32-2-43.
- (6) "LARP factor" means the sum of one-fifth of the ratio between the population of a local government's jurisdiction and the total population of the special district in which such local government is located plus four-fifths of the ratio between the paved and unpaved centerline road miles in the local government's jurisdiction and the total paved and unpaved centerline road miles in the special district in which such local government is located.

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(7) "Local government" means any municipal corporation, county, or consolidated government created by the General Assembly or pursuant to the Constitution and laws of this state.

(8) "Metropolitan planning organization" or "MPO" means the policy board of an organization created and designated to carry out the metropolitan transportation planning process as defined in 23 C.F.R. Section 450.

(9) "Municipal corporation" means any incorporated city or town in this state.

(10) "Project" means, without limitation, any new or existing airports, bike lanes, bridges, bus and rail mass transit systems, freight and passenger rail, pedestrian facilities, ports, roads, terminals, and all activities and structures useful and incident to providing, operating, and maintaining the same. The term shall also include direct appropriations to a local government for the purpose of serving as a local match for state or federal funding.

(11) "Regional transportation roundtable" or "roundtable" means a conference of the local governments of a special district created pursuant to this article held at a centralized location within the district as chosen by the director for the purpose of establishing the investment criteria and determining projects eligible for the investment list for the special district. The regional transportation roundtable shall consist of the chairperson, sole commissioner, mayor, or chief executive officer of the county governing authority from each county in the special district. In the event any county in the special district has a consolidated government, the consolidated government shall elect a second elected member of the county consolidated government to the regional roundtable. In counties without a consolidated government, the second member of the regional roundtable from that county shall be one mayor elected by the mayors of the county; provided, however, that, in the event such an election ends in a tie, the mayor of the municipal corporation with the highest population determined using the most recently completed United States decennial census shall be deemed to have been elected as a representative unless that mayor is already part of the roundtable. In such case, the mayor of the municipal corporation with the second highest population shall be deemed to have been elected as a representative. If a county has more than 90 percent of its population residing in municipal corporations, such county shall have the mayor of the municipal corporation with the highest population determined using the most recently completed United States decennial census as an additional representative. The regional transportation roundtable shall elect five representatives from among its members to serve as an executive committee. The executive committee shall also include two members of the House of Representatives selected by the chairperson of the House Transportation Committee and one member of the Senate selected by the chairperson of the Senate Transportation Committee. Each member of the General Assembly appointed to the executive committee shall be a nonvoting member of the executive committee and shall represent a district which lies wholly or partially within the region represented by the executive committee. The executive committee shall not have more than one representative from any one county, but any member of the General Assembly serving on the executive committee shall not count as a representative of his or her county.

(12) Reserved.

(13) "State-wide strategic transportation plan" means the official state-wide transportation plan as defined in paragraph (6) of subsection (a) of Code Section 32-2-22.

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**(14)** "State-wide transportation improvement program" means a state-wide prioritized listing of transportation projects as defined in paragraph (7) of subsection (a) of Code Section 32-2-22.

**(15)** "Transportation improvement program" means a prioritized listing of transportation projects as defined in paragraph (8) of subsection (a) of Code Section 32-2-22.

§ 48-8-243. Criteria for development of investment list of projects and programs; report; gridlock

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**(a)** Within 60 calendar days following approval by the Governor of the state-wide strategic transportation plan, the State Transportation Board shall consider the state-wide strategic transportation plan in accordance with the provisions of subsection (c) of Code Section 32-2-22. Upon approval of the state-wide strategic transportation plan by the State Transportation Board, the director shall provide in written form to the local governments and any MPO's within each special district across the state recommended criteria for the development of an investment list of projects and programs. The establishment of such criteria shall comport with the state-wide strategic transportation plan. The recommended criteria shall include performance goals, allocation of investments in alignment with performance, and execution of projects. The state fiscal economist shall develop an estimate of the proceeds of the special district transportation sales and use tax for each special district using financial data supplied by the department. Such estimate shall include reasonable ranges of anticipated growth, if any. The director shall include such estimates and ranges in the recommended criteria for developing the draft investment list. Any local government or MPO desiring to submit comments on the recommended criteria shall make such submission to the director no later than September 30, 2010. On or before November 10, 2010, the mayors in each county shall elect the mayoral representative to the regional transportation roundtable and notify the county commission chairperson and the director of that mayor's name. The director shall accept comments from any MPO located wholly or partially within each special district in finalizing the recommended district criteria in a written report on or before November 15, 2010. Such report shall also include notice of the date, time, and location of the first regional transportation roundtable for each special district for the purpose of considering the recommended district criteria and for electing members of the executive committee for each special district. Any amendment to the recommended criteria, approval of such criteria, and election of the executive committee shall be enacted by a majority vote of the representatives present at the roundtable meeting. Upon approval of the criteria, the director shall promptly deliver a report to the commissioner of transportation, local governments, any MPO located wholly or partially within each special district and the members of the General Assembly whose districts lie wholly or partially within each special district detailing the criteria approved by the roundtable.

**(b)** With regard to any area of a special district that is not part of an MPO, following receipt of the report provided for in subsection (a) of this Code section, and after receiving comments, if any, from members of the General Assembly whose districts lie wholly or partially within such area, the local governments in such area may submit projects to the director to assemble a list

of example investments for such special district that comport with the special district's investment criteria. With regard to any area of a special district that is part of an MPO, following receipt of the report provided for in subsection (a) of this Code section, and after receiving comments, if any, from members of the General Assembly whose districts lie wholly or partially within such area, the local governments may submit projects to the director and to the MPO for the director to use to assemble a list of example investments for such special district that comport with the special district's investment criteria. The list of example investments for each special district shall not be required to be fiscally constrained within the budget of the revenues projected to be generated by each special district's sales and use tax and shall be submitted to the executive committee for each regional transportation roundtable for consideration. The executive committee in collaboration with the director shall choose from the list of example investments to create the draft investment list, which shall be approved by majority vote of the executive committee. Such draft investment list shall be fiscally constrained within the ranges of revenues projected to be generated by the special district sales and use tax, as determined by the state fiscal economist. The special district's draft investment list as approved by the executive committee shall be considered by the regional transportation roundtable. The director shall deliver the draft investment list to the local governments, MPO's, and members of the General Assembly whose districts lie wholly or partially within each special district for each special district not later than August 15, 2011. The director shall include in the draft investment list a statement of the specific public benefits to be expected upon the completion of each project on the investment list and how the special district's investment criteria are furthered by each project. Examples of specific public benefits include, but are not limited to, congestion mitigation, increased lane capacity, public safety, and economic development. The director shall include in such delivery notice of the date, time, and location of each district's executive committee meeting and final regional transportation roundtable. Prior to holding the final regional transportation roundtable, the executive committee shall hold, after proper notice to the public, at least two public meetings in the region for the purpose of receiving public comment on the draft regional investment list. The executive committee shall prepare and deliver to all members of the regional roundtable and the director a summary of the public comment on the regional investment list. The local governments, MPO's, and members of the General Assembly whose districts lie wholly or partially within such special district may submit comments on the draft investment list addressed to both the director and the executive committee no later than two weeks prior to the dates of the final regional transportation roundtable and the executive committee meeting, respectively, for the special district. At the final regional transportation roundtable, the draft investment list approved by the executive committee shall be considered for approval by a majority vote of the representatives present at the roundtable. Should the roundtable reject the draft investment list approved by the executive committee, the roundtable then may negotiate amendments that meet the district's investment criteria to the draft investment list, which shall be chosen from the list of example investments for each special district, each voted on separately and requiring a majority vote of the representatives present at the roundtable for approval. Upon consideration of all offered amendments, upon motion, the roundtable shall vote as to the approval of the amended draft list, requiring a majority vote of the

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representatives present at the roundtable. The approved investment list, if any, shall be provided to the director. On or before October 15, 2011, the director shall deliver such list to the commission, the commissioner of transportation, the executive director of the Atlanta-region Transit Link "ATL" Authority, local governments, MPO's, and members of the General Assembly whose districts lie wholly or partially within each special district for each special district. The approved investment list shall include:

- (1) The specific transportation projects to be funded;
- (2) The anticipated schedule of such projects;
- (3) The approximate cost of such projects; and
- (4) The estimated amount of net proceeds to be raised by the tax including the amount of proceeds to be distributed to local governments pursuant to subsection (e) of Code Section 48-8-249.

If a roundtable does not approve the original draft investment list or an amended draft investment list on or before October 15, 2011, then a special district gridlock shall be declared by the director and no election shall be held in such special district. The question of levying the tax shall not be submitted to the voters of the special district until after 24 months immediately following the month in which the special district gridlock was reached.

(c) In the event a special district gridlock is declared, the local governments in such special district shall be required to provide a 50 percent match for any local maintenance and improvement grants by the Department of Transportation. Such 50 percent match requirement shall remain in place until the special district roundtable approves an investment list meeting the special district's investment criteria and an election is held within the special district on the levy of the special district transportation sales and use tax.

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- **CHAPTER 8. SALES AND USE TAXES**
- **ARTICLE 5. SPECIAL DISTRICT TRANSPORTATION SALES AND USE TAX (TSPLOST)**
- **PART 2. ELECTION, IMPOSITION, AND PROCEDURES**

§ 48-8-244. Election; ballot

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(a) Simultaneously with the director's delivery of the approved investment list in accordance with subsection (b) of [Code Section 48-8-243](#), the roundtable shall deliver a notice to the election superintendents of each county within the respective special districts. Upon receipt of the notice, the election superintendents shall issue the call for an election for the purpose of submitting the question of the imposition of the tax to the voters within each special district. The election superintendents shall issue the call and shall conduct the election in the manner authorized under [Code Section 21-2-540](#). The first election shall be held on the date of the general state-wide primary in 2012. The election superintendents shall cause the date and purpose of the election to be published once a week for four weeks immediately preceding the date of the election in the official organs of their respective counties.

(b) The ballot submitting the question of the levy of the special district transportation tax authorized by this article to the voters within each special district shall have written or printed thereon the following:

"( ) YES Shall County's transportation system and the transportation network in this region and the state be improved by providing for a 1 percent

( ) NO special district transportation sales and use tax for the purpose of transportation projects and programs for a period of ten years?"

(c) All persons desiring to vote in favor of levying the tax shall vote "Yes" and all persons opposed to levying the tax shall vote "No." If more than one-half of the votes cast throughout the entire special district are in favor of levying the tax, then the tax shall be levied as provided in this article; otherwise the tax shall not be levied and the question of levying the tax shall not again be submitted to the voters of the special district until after 24 months immediately following the month in which the election was held. Each election superintendent shall hold and conduct the election under the same rules and regulations as govern special elections. Each election superintendent shall canvass the returns from his or her county, declare the result of the election in that county, and certify the result to the Secretary of State. The Secretary of State shall compile the results from each county in the special district, declare the result of the election in the special district, and certify the result to the governing authority of each local government and MPO within the special district and the state revenue commissioner. The expense of the election in each county within each special district shall be paid from funds of each county.

(d) In the event a special district sales and use tax election is held and the voters in a special district do not approve the levy of the special district transportation sales and use tax, the local

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governments in such special district shall be required to provide a 30 percent match for any local maintenance and improvement grants by the Department of Transportation for transportation projects and programs for at least 24 months and until such time as a special district sales and use tax is approved. In the event the voters in a special district approve the levy of the special district transportation sales and use tax, the local governments in such special district shall be required to provide a 10 percent match for any local maintenance and improvement grants by the Department of Transportation for transportation projects and programs for the duration of the levy of the special district transportation sales and use tax.

§ 48-8-244.1. Effect of special district levy on state allocation of funds under Code Section 32-5-27

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The approval of the levy of the special district transportation sales and use tax in a special district shall not in any way diminish the percentage of funds allocated to a special district or any of the local governments within a special district under the provisions of subsection (c) of Code Section 32-5-27. The amount of funds expended in a special district shall not be decreased due to the use of proceeds from the special district transportation sales and use tax to construct transportation projects that have a high priority in the state-wide strategic transportation plan. If a special district constructs a project on the approved investment list using proceeds from the special district tax, then the state funding under subsection (c) of Code Section 32-5-27 shall not be diverted to priority projects in other special districts.

§ 48-8-245. Collection of tax; cessation of tax

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(a) If the imposition of the special district transportation sales and use tax is approved at the special election, the collection of such tax shall begin on the first day of the next succeeding calendar quarter beginning more than 80 days after the date of the election. With respect to services which are regularly billed on a monthly basis, however, the tax shall become effective with respect to and the tax shall apply to services billed on or after the effective date specified in the previous sentence.

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

(1) On the final day of the ten-year period of time specified for the imposition of the tax; or

(2) As of the end of the calendar quarter during which the state revenue commissioner determines that the tax has raised revenues sufficient to provide to the special district net proceeds equal to or greater than the amount specified as the estimated amount of net proceeds to be raised by the special district transportation tax.

(c)

(1) No more than a single tax under this article may be collected at any time within a special district.

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(2) Upon the adoption of resolutions by the governing bodies of a majority of the counties within a special district in which a tax authorized by this article is in effect, an election may be held for the reimposition of the tax while the tax is in effect. Proceedings for the development of an investment list and for the reimposition of a tax shall be in the same manner as provided for in [Code Sections 48-8-241](#) and [48-8-243](#).

(3) Following the expiration of the special district transportation sales and use tax under this article, or following a special election in which voters in a special district rejected the imposition of the tax, upon the adoption of resolutions by the governing bodies of a majority of counties within a special district, an election may be held for the imposition of a tax under this article in the same manner as provided in this article for the initial imposition of such tax. The election superintendents shall issue the call and conduct the election in the manner authorized by general law. The development of the investment list for such special district shall follow the dates established in [Code Section 48-8-243](#) with the years adjusted appropriately, and such schedule shall be posted on a website developed by the state revenue commissioner to be used exclusively for matters related to the special district transportation sales and use tax within 30 days of the later of the state revenue commissioner's receipt of notice from the final county governing body required to adopt a resolution.

§ 48-8-246. Collection and administration of tax by state revenue commissioner

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A tax levied pursuant to this article shall be exclusively administered and collected by the state revenue commissioner for the use and benefit of the special district imposing the tax. Such administration and collection shall be accomplished in the same manner and subject to the same applicable provisions, procedures, and penalties provided in Article 1 of this chapter; provided, however, that all moneys collected from each taxpayer by the state revenue commissioner shall be applied first to such taxpayer's liability for taxes owed the state; and provided, further, that the state revenue commissioner may rely upon a representation by or in behalf of the special district or the Secretary of State that such a tax has been validly imposed, and the state revenue commissioner and the state revenue commissioner's agents shall not be liable to any person for collecting any such tax which was not validly imposed. Dealers shall be allowed a percentage of the amount of the tax due and accounted for and shall be reimbursed in the form of a deduction in submitting, reporting, and paying the amount due if such amount is not delinquent at the time of payment. The deduction shall be at the rate and subject to the requirements specified under subsections (b) through (f) of [Code Section 48-8-50](#).

§ 48-8-247. Remittance of taxes

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Each sales tax return remitting taxes collected under this article shall separately identify the location of each retail establishment at which any of the taxes remitted were collected and

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shall specify the amount of sales and the amount of taxes collected at each establishment for the period covered by the return in order to facilitate the determination by the state revenue commissioner that all taxes imposed by this article are collected and distributed according to situs of sale.

§ 48-8-248. Disbursement of proceeds

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The proceeds of the tax collected by the state revenue commissioner in each special district under this article shall be disbursed as soon as practicable after collection to the Georgia State Financing and Investment Commission to be maintained in a trust fund and administered by the commission on behalf of the special district imposing the tax. Such proceeds for each special district shall be kept separate from other funds of the commission and shall not in any manner be commingled with other funds of the commission.

§ 48-8-249. Use of proceeds within special district exclusively for projects on approved investment list; contracts

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(a) The proceeds received from the tax authorized by this article shall be used within the special district receiving proceeds of the tax exclusively for the projects on the approved investment list for such district as provided in subsection (b) of [Code Section 48-8-243](#). Authorized uses of tax proceeds in connection with such projects shall include the cost of project defined in paragraph (2) of [Code Section 48-8-242](#).

(b) The commission shall be responsible for the proper application of the proceeds received from the tax authorized by this article for the approved investment list for each special district. The commission shall delegate the management of the budget, schedule, execution, and delivery of the projects contained in the approved investment list as follows:

(1) The commission shall contract with the Department of Transportation for all transportation projects except bus and rail mass transit systems and passenger rail in any special district the boundaries of which are not wholly contained within a single MPO; and

(2) The commission shall contract with the Atlanta-region Transit Link "ATL" Authority only for projects that are bus and rail mass transit systems and passenger rail within any special district the boundaries of which are wholly contained within a single MPO.

Upon entering into contracts with the Department of Transportation or the Atlanta-region Transit Link "ATL" Authority as provided above, the commission shall dispense funds upon the request of the commissioner of transportation or the executive director of the Atlanta-region Transit Link "ATL" Authority, which request shall include certification of the completion of the project or project element for which funds are requested. Payment shall be made promptly upon approval by the construction division or the financing and investment division of the

commission, and such payments shall not require any other official action by the commission. The use of funds so dispensed shall be subject to review and audit by the construction division and the financing and investment division of the commission and action by the commission upon receipt of complaint or if otherwise warranted. The Department of Transportation and Atlanta-region Transit Link "ATL" Authority shall consult with the commission on at least a quarterly basis regarding the progress and performance in the execution, schedule, and delivery of projects on the approved investment list.

**(c)** In managing the execution, schedule, and delivery of the projects on the approved investment list for a special district, the Department of Transportation or Atlanta-region Transit Link "ATL" Authority, as appropriate, shall determine whether a project should be designed and constructed by the Department of Transportation, by a local government, or by another public or private entity. In making such determination the following shall be considered:

**(1)** Whether such project is on the state-wide transportation improvement program, the state-wide strategic transportation plan, or a transportation improvement program;

**(2)** The type and estimated cost of the project;

**(3)** The location of the project and whether it encompasses multiple jurisdictions;

**(4)** The experience of a local government or governments or a public or private entity in designing and constructing such project as set forth in an application in a form to be provided by the commissioner of transportation or the executive director of the Atlanta-region Transit Link "ATL" Authority; and

**(5)** The recommendation of the MPO, if any, for such special district.

Following the decision, the Department of Transportation, the local government or governments, or another public or private entity as determined under this subsection shall contract for implementing the projects in accordance with applicable state and federal requirements.

**(d)** The commission shall maintain or cause to be maintained an adequate record-keeping system for each project funded by a special district transportation sales and use tax. An annual audit shall be paid for by each special district and conducted by an independent auditing firm as selected by the commission. Such audit shall include a schedule which shows for each such project the original estimated cost, the current estimated cost if it is not the original estimated cost, amounts expended in prior years, and amounts expended in the current year. Such audit shall verify and test expenditures sufficient to provide assurances that the schedule is fairly presented in relation to the financial statements. The audit report on the financial statements shall include an opinion, or disclaimer of opinion, as to whether the schedule is presented fairly in all material respects in relation to the financial statements taken as a whole.

**(e)** Twenty-five percent of the proceeds received from the tax authorized by this article shall be distributed to the local governments within the special district in which the tax is imposed if such special district's boundaries are not conterminous with an MPO. Fifteen percent of the proceeds received from the tax authorized by this article shall be distributed to the local governments within the special district in which the tax is imposed if such special district's

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boundaries are wholly contained within a single MPO. Such percentages shall be allocated to each local government by multiplying the LARP factor of each local government by the total amount of funds to be distributed to all the local governments in the special district. Proceeds described in this subsection shall be distributed to the local governments on an ongoing basis as they are received by the commission. Such proceeds shall be used by the local governments only for transportation projects as defined in paragraph (10) of [Code Section 48-8-242](#) and may also serve as the local match as required for state transportation projects and grants. If a special district receives from the tax net proceeds in excess of the investment list approved by the roundtable for the imposition of the tax or in excess of the actual cost of the project or projects on such investment list, then such excess proceeds shall be distributed among the local governments within the special district in accordance with this subsection.

### § 48-8-250. Report

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Not later than December 15 of each year, the state revenue commissioner shall publish, on the website created pursuant to paragraph (3) of subsection (c) of [Code Section 48-8-245](#), a simple, nontechnical report which shows for each project in the investment list approved by the director the original estimated cost, the current estimated cost if it is not the original estimated cost, amounts expended in prior years, and amounts expended in the current year with respect to each such project. The report shall also include a statement of what corrective action the commissioner of transportation and the executive director of the Atlanta-region Transit Link "ATL" Authority intend to implement with respect to each project which is underfunded or behind schedule and a statement of any surplus funds which have not been expended for a project.

### § 48-8-251. Citizens Review Panel; membership; vacancy; recommendations; report

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**(a)** There is created a **Citizens Review Panel** for each special district in which voters approved the levy of the special district sales and use tax to be composed of **three citizen members appointed by the Speaker of the House of Representatives and two citizen members appointed by the Lieutenant Governor**. Each member **must be a resident of the special district** of which Citizens Review Panel they are appointed to serve.

**(b)** In the event that any vacancy for any cause shall occur in the membership of the committee, such vacancy shall be filled by an appointment made by the official authorized by law to make such appointment within 45 days of the occurrence of such vacancy.

**(c)** The panel shall, by majority vote of those members present and voting, elect from their number a chairperson and vice chairperson who shall serve at the pleasure of the panel.

**(d)** **The panel shall meet in regular session at least three days each year** either at the state capitol in Atlanta or at such other meeting place within the state and may have such other

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additional meetings as may be called by the chairperson or by a majority of the members of the panel upon reasonable written notice to all members of the panel. Further, the chairperson of the panel is authorized from time to time to call meetings of subcommittees of the panel which are established by panel policy at places inside or outside the state when, in the opinion of the chairperson, the meetings of the subcommittee are needed to attend properly to the panel's business. A majority of the panel shall constitute a quorum for the transaction of all business. Any power of the panel may be exercised by a majority vote of those members present at any meeting at which there is a quorum.

**(e)** Members shall receive for each day of actual attendance at meetings of the panel and the subcommittee meetings the per diem and transportation costs prescribed in [Code Section 45-7-21](#), and a like sum shall be paid for each day actually spent in studying the transportation needs of the state or attending other functions as a representative of the panel, not to exceed ten days in any calendar year, but no member shall receive such per diem for any day for which such member receives any other per diem pursuant to such Code section. In addition, members shall receive actual transportation costs while traveling by public carrier or the legal mileage rate for the use of a personal automobile in connection with such attendance and study. Such per diem and expense shall be paid from the funds of the special district's revenues from the special district sales and use tax upon presentation, by members of the panel, of vouchers approved by the chairperson.

**(f)** The panel shall be charged with review of the administration of the projects and programs included on the approved investment list. The panel may make such recommendations to and require such reports from the Department of Transportation, the Atlanta-region Transit Link "ATL" Authority, any other agency or instrumentality of the state, any political subdivision of the state, and any agency or instrumentality of such political subdivisions as it may deem appropriate and necessary from time to time in the interest of the region.

**(g)** Upon the completion of a project on the investment list, the panel shall annually review the specific public benefits identified in the investment list to ascertain the degree to which such benefits have been attained. This benefit review report shall be delivered to the director and the state revenue commissioner and shall be published on the website created pursuant to paragraph (3) of subsection (c) of [Code Section 48-8-245](#).

**(h)** Beginning January 1, 2013, and annually thereafter, the panel shall provide a report to the General Assembly of its actions during the previous year. The report shall be available for public inspection on the website created pursuant to paragraph (3) of subsection (c) of [Code Section 48-8-245](#). The report shall include, but not be limited to, an update on the progress on each project on the investment list for the region, including the amount of funds spent on each project.

§ 48-8-252. Tax paid in another jurisdiction

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Where a special district transportation sales and use tax under this article has been paid with

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respect to tangible personal property by the purchaser either in another special district within the state or in a tax jurisdiction outside the state, the tax may be credited against the tax authorized to be imposed by this article upon the same property. If the amount of sales or use tax so paid is less than the amount of the use tax due under this article, the purchaser shall pay an amount equal to the difference between the amount paid in the other tax jurisdiction and the amount due under this article. The state revenue commissioner may require such proof of payment in another local tax jurisdiction as he or she deems necessary and proper. No credit shall be granted, however, against the tax imposed under this article for tax paid in another jurisdiction if the tax paid in such other jurisdiction is used to obtain a credit against any other sales and use tax levied in the special district.

§ 48-8-253. Nonimposition of tax on property ordered by and delivered to purchaser outside special district; conditions of delivery

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No tax provided for in this article shall be imposed upon the sale of tangible personal property which is ordered by and delivered to the purchaser at a point outside the geographical area of the special district in which the tax is imposed regardless of the point at which title passes, if the delivery is made by the seller's vehicle, United States mail, or common carrier or by private or contract carrier licensed by the Federal Motor Carrier Safety Administration or the Georgia Department of Public Safety.

§ 48-8-254. "Building and construction materials" defined; inapplicability of tax to certain sales or uses of building and construction materials

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**(a)** As used in this Code section, the term "building and construction materials" means all building and construction materials, supplies, fixtures, or equipment, any combination of such items, and any other leased or purchased articles when the materials, supplies, fixtures, equipment, or articles are to be utilized or consumed during construction or are to be incorporated into construction work pursuant to a bona fide written construction contract.

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

§ 48-8-255. Authority to promulgate rules and regulations

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Subject to the approval of the House and Senate Transportation Committees, the state revenue commissioner shall have the power and authority to promulgate such rules and regulations as shall be necessary for the effective and efficient administration and enforcement of the collection of the special district transportation sales and use tax authorized by this article.

**§ 48-8-256. Special district tax not subject to allocation or balancing of state and federal funds**

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The tax authorized by this article shall not be subject to any allocation or balancing of state and federal funds provided for by general law, nor may such proceeds be considered or taken into account in any such allocation or balancing.