



Renegotiating Local Option Sales Tax (LOST)



August 2011

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TABLE OF CONTENTS

INTRODUCTION	1
HISTORY AND PURPOSE OF LOST	3
THE EIGHT CRITERIA FOR LOST DISTRIBUTION	6
TIMELINES AND DEADLINES.....	7
DISPUTE RESOLUTION	8
RENEGOTIATIONS: PROCEDURES AND ISSUES.....	10
LOST RENEGOTIATION: FAQ	12
TIPS FOR CALCULATING THE CRITERIA	14
TOP 10 LOST LESSONS	15
LOST RESOURCES AND ACKNOWLEDGEMENTS	16
LOCAL OPTION SALES TAX STATUTES	17
APPENDICES	
APPENDIX A: BLANK DISTRIBUTION CERTIFICATE	33
APPENDIX B: SAMPLE TIMELINE	35

INTRODUCTION

The local option sales tax (LOST) is a 1 percent sales tax activated by a local referendum and imposed on the purchase, sale, rental, storage, use, or consumption of tangible personal property and related services. LOST is a special district tax. State law (O.C.G.A. §48-8-81) creates 159 special districts in Georgia for the purpose of levying a LOST. The boundaries of the special districts are the same as the boundaries of the 159 counties in Georgia.

LOST is imposed on the sale of motor fuels, and in the majority of counties, the LOST also applies to the sale of food and alcoholic beverages (LOST enacted in Taliaferro and Webster counties after October 1, 1996, exempts food and beverages).

The LOST is one of the most significant sources of revenue for municipal governments in Georgia, second only to the property tax. In 2008, cities received in excess of \$510 million in LOST revenues. Statewide, LOST revenues account for 16% of municipal general fund revenues.

State law requires periodic renegotiation of the LOST distribution certificate. One trigger for renegotiation of the tax is the decennial census. With the release of the 2010 Census data, all counties and municipalities that currently impose a LOST are required to renegotiate the distribution certificate for the proceeds of the tax on or before **July 1, 2012**.

The criteria to be used in the distribution of such proceeds and the process to resolve conflicts between the county and qualified municipalities are set by state law. This publication has been prepared to inform city officials who will be involved in the LOST renegotiation process about the requirements, processes, and timelines that are set forth in state law.

HISTORY AND PURPOSE OF LOST

The General Assembly initially authorized the levy of a LOST in 1975 both for the purpose of providing property tax relief for residents and to assist local governments in funding all or any portion of those services provided by governing authorities pursuant to and in accordance with Article IX, Section II, paragraph III of the Georgia Constitution. In counties that impose the LOST, each city and county receiving LOST proceeds must show on the property tax bill the reduced city and county millage rate and reduced dollar amount as a result of the receipt of LOST revenues. After the rollback has been applied, revenues generated from growth in LOST tax collections each year may be used by counties and cities to fund capital and M&O costs for local services.

In each special district where the LOST is imposed, the counties and qualified municipalities enter into a [distribution agreement](#). This one-page form identifies each local government that will receive a portion of the sales tax revenues, and lists the percentage that each local government will receive. Proceeds from the LOST are collected by the Georgia Department of Revenue and disbursed directly to each county and qualified municipality within the special district based upon this distribution agreement. One percent of the revenues collected are paid into the state's general fund to cover the cost for administering the tax, and a percentage is paid to the dealer for collecting and reporting the tax. (Note: the percentage paid to the dealer shall be at the rate and subject to the requirements specified under subsections (b) through (f) of O.C.G.A. § 48-8-50.) [Monthly reports on sales tax distributions](#) can be viewed on the Georgia Department of Revenue website.

How is the property tax rollback calculated?

The law specifies that in the year following the initial year that the tax is levied (and for all subsequent years), each jurisdiction's governing authority must calculate the millage rate necessary to produce property tax revenues which, combined with other local revenues, would generate sufficient funds to cover the jurisdiction's general fund expenditures for that year. The millage rate is reduced by the amount that would produce an amount equal to that jurisdiction's LOST distribution from the previous year. The remainder is the millage rate that is used to calculate property tax bills. The LOST rollback amount must be prominently shown on each city and county's property tax bill.

What if a city does not impose a property tax?

In 2010, over 100 cities in Georgia reported to the Georgia Department of Community Affairs that they do not collect property tax revenues. For jurisdictions that do not impose a property tax, LOST revenues still have the effect of keeping taxes low, because the LOST distribution can be used to fund the operation and maintenance of government services. Without those revenues, a jurisdiction would be required to raise some other category of revenues to pay for services or many cities would be required to impose or increase property taxes. The law stipulates that for jurisdictions with a millage rate of zero, there is no requirement to print property tax bills to show the LOST rollback amount.

What is a Qualified Municipality (O.C.G.A. § 48-8-80)

The term "qualified municipality" refers to municipalities which impose a tax other than the LOST and which provide at least three of the following services:

- (1) Water;
- (2) Sewage;
- (3) Garbage collection;
- (4) Police protection;
- (5) Fire protection; or
- (6) Library.

Municipalities that meet these conditions can share in the distribution of the LOST. As of November, 1, 2010, the Georgia Department of Revenue had LOST distribution agreements for 470 qualified municipalities in 154 Georgia counties.

What is an absent municipality? O.C.G.A. § 48-8-89(b)

LOST distribution certificates must be executed between counties and one or more qualified municipalities in the county whose combined population represents 50% of the total qualified municipal population. Small qualified municipalities can elect to be "absent" municipalities, which mean they may choose not to participate in the negotiation process or are not included the negotiation process. The calculation of distribution of LOST funds for absent municipalities is one of the most complex provisions in state law pertaining to local government revenues. Generally, distributions are calculated based on 1) the absent municipalities' percent share of the total municipal population in the county; and 2) the municipal share of LOST proceeds in the county.

Why doesn't every county have a LOST that is subject to renegotiation as set out in O.C.G.A. §48-8-89?

- LOST is an optional tax that must be approved by voters in a referendum. Cherokee, Cobb, and Gwinnett counties do not have a LOST.
- Bulloch, Chattooga, Colquitt, Habersham, Houston, Mitchell, and Rabun counties have a constitutional LOST designated for educational purposes. Their distributions go directly to the boards of education in each county and are not subject to renegotiation.
- Towns County has a LOST that is distributed between the county and its qualified cities, and a second penny of LOST that is earmarked for education.
- In 2004, the General Assembly authorized the Columbus consolidated government to call a referendum for a 2nd penny of LOST. In 2008, the referendum passed by an overwhelming margin (nearly 70%). 100% of LOST revenues go to the unified government, so there is no negotiation of the LOST distribution.
- 100% of LOST revenues in the Cussetta-Chattahoochee consolidated government go to the unified government, and there is no negotiation for the distribution.
- Echols County receives 100% of LOST revenues because there are no incorporated municipalities in the county. In 2008, voters in Echols county approved a referendum on the issue of consolidation, therefore, during the 2012 LOST renegotiation process, 100% of the LOST revenues will go to the consolidated government.

- DeKalb and Rockdale counties levy a HOST and are prohibited from levying a LOST because doing so would cause them to exceed the 2% statutory cap on local sales taxes that can be levied in a county. HOST is a county sales tax that is primarily used to provide county property tax relief. Up to 20% of the HOST tax proceeds may be used for capital projects. While there is no requirement that HOST includes revenue sharing with cities, it is an option under the law.

THE EIGHT CRITERIA FOR LOST DISTRIBUTION

The law does not specify a formula for distributing LOST proceeds. Instead, it outlines eight factors that can be used by local governments in negotiating the LOST distribution. According to O.C.G.A. § 48-8-89, the distribution of proceeds of the tax as specified in the certificate shall be based upon, but not be limited to, the following criteria:

- (1) The service delivery responsibilities of each political subdivision to the population served by the political jurisdiction and served during normal business hours, conventions, trade shows, athletic events and the inherent value to a community of a central business district and the unincorporated areas of the county and the obligation of all residents of the county for the maintenance and prosperity of the central business district and the unincorporated areas of the county;
- (2) The service delivery responsibilities of each political subdivision to the resident population of the subdivision;
- (3) The existing service delivery responsibility of each political subdivision;
- (4) The effect of a change in sales tax distribution on the ability of each political subdivision to meet its short-term and long-term debt;
- (5) The point of sale and use which generates the tax to be apportioned
- (6) The existence of intergovernmental agreements among and between the political subdivisions;
- (7) The use by any political subdivision of property taxes and other revenues from some taxpayers to subsidize the cost of services provided to other taxpayers of the levying subdivision; and
- (8) Any coordinated plan of county and municipal service delivery and financing.

The law does not provide specific information about how to calculate each of these eight factors. Also absent from the law is a ranking of the criteria by degree of importance, although the law does expressly state that population is not intended to be more heavily weighted as a criterion. In some cases, reliable data may not be available, which makes the negotiation of distributions more difficult. With little guidance from state law, cities and counties around the state have developed a variety of techniques and methodologies which may be used as a starting point for the 2012 renegotiations.

TIMELINES AND DEADLINES

Local governments within the special district can agree to renegotiate the distribution certificate at any time. The law also contains several triggers whereby renegotiation of the distribution certificate is required, including:

- (1) The decennial census. The law requires that all distribution certificates will expire on December 31 of the second year following the year the decennial census is conducted. *Therefore, by no later than December 30, 2012, a new distribution certificate must be filed and received by the Commissioner of the Georgia Department of Revenue. (OCGA § 48-8-89 (d) (1))*
- (2) If a new qualified municipality is in the special district. The law (OCGA 48-8-89.1) outlines a process by which new qualified municipalities can seek recognition from the DOR Commissioner so that they can be considered eligible for a share of the LOST distributions within a special district. The law provides for a deadline by which the new qualified municipality and the governing authorities of the county and all other qualified municipalities in the special district must execute a new distribution certificate. If the distribution certificate is modified for a new qualified municipality, the distribution for every other qualified municipality in the special district remains the same as in the existing certificate.
- (3) If a city increases its population by 15% or more through annexation, it is termed to be a “newly expanded qualified municipality” and the distribution certificate may be renegotiated. If the distribution certificate is modified for a newly expanded qualified municipality, the distributions for every other qualified municipality in the special district remain the same as in the existing certificate.
- (4) If the DOR has determined that a city is no longer a qualified municipality, that municipality is no longer eligible to receive LOST revenues. Their share of proceeds is split on a pro rata basis between the county and each other qualified municipality within the special district using the percentages in the existing certificate, until a new certificate is filed.
- (5) Any changes in service provision may trigger a new distribution, e.g., if the county and city revise the Service Delivery Agreement to allow the city to provide parks and recreation services county-wide, the revenue distribution may be changed to account for new revenues the city will use to pay for the new county-wide service.

What are the most important dates to remember for renegotiation triggered by the 2010 census?

July 1, 2012: Deadline by which a county governing authority, on behalf of all eligible political subdivisions in the special district, must notify the DOR commissioner in writing that renegotiation proceedings have begun. If the county governing authority does not issue the call by that date, any eligible municipality may issue the call and also notify the commissioner and all eligible political subdivisions within the special district.

December 30, 2012: Deadline to file certificate with DOR.

DISPUTE RESOLUTION

Mediation and Baseball Arbitration

Since the 2002 renegotiation process, several changes have been made to the LOST law, most notably the provision of a new process for mediation and “baseball arbitration” if the jurisdictions cannot come to agreement on a distribution process. Key steps are outlined below.

60 days following commencement of renegotiations: If the county and qualified municipalities fail to reach an agreement, the dispute must be submitted to nonbinding arbitration, mediation, or such other means of resolving conflicts in a manner which attempts to reach a resolution of the dispute. The mediation period lasts 30 days.

Baseball arbitration. 60 days following submitting the dispute to nonbinding arbitration, mediation, or other means of resolving conflicts: If the county and qualified municipalities in the special district fail to reach an agreement within 60 days of submitting the dispute to nonbinding arbitration, mediation, or such other means of resolving conflicts, any of the parties may file a petition in superior court of the county seeking resolution of the items remaining in dispute.

Cities representing at least 50% of the qualified municipal population of cities not in a county or other city proposal may separately submit to the judge and the other parties a written best and final offer specifying the distribution of the tax proceeds. Each qualified municipality may submit one such offer. Only cities that have negotiated an offer with the county may propose alternate distribution methods; absent municipalities may not make another offer under the terms of the LOST baseball arbitration.

30 days after the last day of the 60 day alternative dispute resolution period: Deadline to file petition in superior court of the county seeking resolution of the remaining disputed items. If no party files the petition, the tax will lapse.

Steps in the baseball arbitration process:

- The petition is assigned to a judge who must not be a judge in the circuit in which the county is located.
- The county and qualified municipalities must submit to the judge their best and final offer specifying the distribution of the LOST proceeds. The judge will accept one offer from the county and one from each qualified municipality representing at least one-half of the aggregate municipal population of all qualified municipalities located wholly or partially within the special district. The offer from the county may be an offer representing the county and any qualified municipalities that are not represented in the offer submitted by the qualified municipalities representing at least one-half of the aggregate municipal population of all qualified municipalities located wholly or partially within the special district.
- Each offer must take into account the allocation required for any absent municipalities.
- The judge shall conduct hearings as he/ she deems necessary and shall render a decision based on what he/ she considers the best and final offer.

- The judge shall enter a final order containing a new distribution certificate and transmit a copy of it to the commissioner of the DOR.

Appeal of the judge's final order:

Grounds for appeal of the judge's final order include:

- The judge's disregard of the law;
- Partiality of the judge; or
- Corruption, fraud, or misconduct by the judge or a party.

During the period of mediation/ arbitration, what happens to LOST revenues?

While mediation and arbitration are underway, LOST revenues will continue to be collected and distributed according to the percentages specified in the most recent distribution certificate until a new certificate is properly filed.

If the county and qualified municipalities do not submit a new distribution certificate by December 31, 2012, the tax is terminated and may not be reimposed until the tax is approved by referendum of the voters in the special district, pursuant to Code Section 48-8-85. When the imposition of the tax is terminated, revenues from the tax are the retained by the Department of Revenue until the commissioner receives a new distribution certificate. If no such certificate is received by the commissioner within 120 days of the date on which the authority to levy the tax was terminated, the proceeds will be deposited into the state general fund.

RENEGOTIATIONS: PROCEDURES AND ISSUES

Local option sales tax distribution is ultimately a political decision that should be made by elected local government leaders. The Georgia General Assembly has left the distribution of LOST proceeds up to local officials and resisted the temptation to mandate a distribution formula. The challenge for local leaders is to exercise their home rule powers by negotiating in a responsible and responsive manner.

Ideally, LOST renegotiation should be viewed as an opportunity to review service delivery. IN reality, LOST renegotiation isn't pretty. It's a zero-sum game - one jurisdiction's gain corresponds directly to a loss of revenue in another jurisdiction. Failure to secure a fair distribution split in a jurisdiction may translate to property tax increases and/or reduction in or elimination of services. State law does not include a process to insure fairness of the distribution, and only provides a set of eight vague criteria for distributing revenues. As a result, the negotiation process and the final decision is a political process. It's important for municipal officials to be well-versed in the art of negotiation, to fully understand the complex interrelationships between sales taxes and service demands and most importantly, to listen to the experiences and advice of city officials who have been through the process before.

Preliminary Renegotiation Issues

As an initial matter, all of the parties necessary for renegotiation of the LOST distribution should agree that they want to continue the LOST and make a commitment to negotiating in good faith and completing negotiations in a timely fashion. A useful first exercise for negotiating local governments would be to examine the role of LOST in their finances and estimate the impact that losing LOST revenues would have on local property taxes and service delivery issues.

Additionally, the negotiating parties may want to set some ground rules for the negotiations such as agreeing up front on what should be done in the event agreement is not reached within a certain time period before the certificate must be filed or promising not to hold the LOST hostage by waiting until the last possible moment to agree on a distribution. This could be evidenced by a joint resolution expressing the intent to come to agreement and to keep the best interests of the citizens foremost in seeking a resolution to the negotiations.

Before beginning renegotiation of the LOST revenue distribution certificates, the elected officials of the participating local governments in each county should agree on a structure for the negotiation process. In determining a structure, the local governments should consider these issues:

- What will be the scope of negotiations?
- Who will participate in the negotiations?
- What will be the timing of the negotiations?
- What will be the process or mechanism for resolving disputes that are not solved by a specified time limit?

The following section highlights some of the questions that local governments should address as they consider how to structure the renegotiation of the LOST revenue distributions. **Additionally, the negotiating parties should keep some record of their negotiations to demonstrate that they have considered each of the criteria specified by the law. Consult with your city attorney about open meetings and open records requirements.**

LOST RENEGOTIATION: FAQ

Who makes the call to begin renegotiation following the release of the decennial census figures?

The law states that the county can call the renegotiation process at any time, but must do so by July 1, 2012. In calling for the renegotiation process, the county is required to provide written notification to the DOR Commissioner and all eligible municipalities in the county. If the county fails to make the call by the July 1, 2012, deadline, any qualified municipality can call for the process to begin and must notify all eligible jurisdictions and the DOR Commissioner.

Does the law specify where renegotiation meetings must take place?

There is no statutory requirement for where meetings must be held. Ideally, meetings should be conducted in a neutral location.

Which officials from each jurisdiction should be at the table during the negotiations?

Municipal officials who have been involved in previous LOST renegotiations suggest that the negotiation team should be kept as small as possible; for example, the county commission chairman or county manager and one representative (e.g., the mayor or city manager) from each qualified municipality. Decisions about who should be involved on the negotiation team should take into account previous experience in negotiating past LOST agreements in order to insure that the best decisions can be made. A small negotiation team will be able to make decisions more efficiently. However, it is important that the full city council and key staff should be continually updated on the details of each meeting of the negotiating team so that everyone is in the loop on key decisions and all the council member understand what the negotiating team has agreed to do.

Just as it is important to maintain a unified front among the officials in one city, it's equally important to maintain solidarity among the qualified municipalities within a county. Prior to any negotiations beginning, it is helpful for all the qualified municipalities wholly or partially within the county to meet as a group to discuss the negotiation process. Conducting an open and candid dialogue among city officials before meeting with county leaders will serve all cities well. Failure to work together with other cities in the county could allow the county to pit cities against each other during the negotiation process, or could allow small cities to be hurt as larger cities work to protect their own interests. In many counties around the state, cities have organized and meet frequently as a county municipal association. Having this close relationship allows cities to work well together and to look out for each other during the negotiation process.

What's different about the renegotiation process in 2012?

In 2002, some counties said that if negotiations failed, they would allow the tax to lapse and the county would then call for the imposition of a HOST tax. This tactic forced many cities to agree to negotiation distributions based on a simple population split. Changes to the LOST law since 2002 mean that the LOST will not lapse unless both parties agree to let it lapse. Remember the baseball arbitration process is a last resort tool to reach agreement but does not have to be invoked if both parties agree to allow the tax to lapse - an outcome most parties would not like to see happen.

Should cities include service delivery arrangements in the discussion of LOST renegotiation?

Several of the eight criteria enumerated in the LOST law deal with service delivery within the special district. During the renegotiation process, decisions about how to distribute LOST revenues are inextricably entwined with decisions about service delivery (several of the criteria point to service delivery decisions) and existing or pending revenue or intergovernmental agreements, including SPLOST.

TIPS FOR CALCULATING THE CRITERIA

As mentioned earlier, state law provides a set of eight criteria for determining LOST distribution. These criteria express the General Assembly's intent that LOST distributions consider service delivery and not simply population. With the exception of population and digest information, there is no published data source that can be used to support some of the criteria. However, all criteria can be measured and all factors should be taken into consideration during the negotiation process. Below are some recommended sources for information every city should bring to the negotiating table, along with tips from city managers about how to calculate the criteria.

Census Estimate Daytime population data:

<http://www.census.gov/population/www/socdemo/daytime/daytimepop.html>

The concept of the daytime population refers to the number of people who are present in an area during normal business hours, including workers. This is in contrast to the resident population present during the evening and nighttime hours. Information on the expansion or contraction experienced by different communities between nighttime and daytime populations is important for many planning purposes, including those dealing with transportation, disaster, and relief operations. Daytime population estimates can be a helpful proxy for determining service delivery responsibilities as stipulated in the LOST criteria.

Number of Jobs in Cities: <http://lehdmap.did.census.gov/>

The US Census Bureau has a product that allows users to search for data on local employment dynamics. Local officials can click on the link provided to search for data on where jobs are located. A table showing jobs in all Georgia cities is available on the GMA website: http://www.gmanet.com/Assets/pdf/jobs_in_cities.pdf.

Intergovernmental Agreements

City officials should bring copies of their Service Delivery Agreements as well as any other intergovernmental agreement to the negotiating table. Any plan or agreement that describes financial arrangements for service delivery should be included in the negotiations.

Point of Sale Data

Cities that use the gross receipts method for collecting business occupation taxes can use that data to pinpoint where sales occur that generate sales tax revenues and how much revenue is generated from businesses within a city's limits.

TOP 10 LOST LESSONS

1. **Get started now.** Identify your negotiating team. It may not necessarily be the mayor or chairman. All officials should be involved, but the assignment of a core team is important. Get the smartest people with the most experience in the room. If the county fails to issue the call for renegotiations by July 1, a municipality can file, so go ahead and prepare a letter to issue the call just in case.
2. **Agree in advance on the process for conflict resolution.** Before negotiations begin, all parties should meet to discuss and come to agreement on what to do if there is an impasse, including what method will be used to handle disputes, including arbitration, mediation, or other means to resolve conflicts.
3. **Be analytical, not political; and do your homework.** Understand city *and* county needs and gather information needed to outline all 8 criteria identified in the law. Ideally, the process should be data-driven.
4. **Know the county position.** Know everything about the county, how they provide services, how they pay for services, and be ready with a comeback for points made by county negotiators. Just as important, understand all the valid points on both sides.
5. **Know your allies - build constituencies and stick together.** Work with the other cities in your county. Avoid surprises, don't try to take shortcuts or you could end up with each city negotiating with the county.
6. **Remember - LOST and service delivery are inextricably linked.** When negotiating the LOST distribution, discussions about responsibility and cost for providing various services are unavoidable. It may be a good idea to phase in LOST distribution under some circumstances, such as, if a city and county agree to a multi-year phase-in of one of the parties taking over county-wide provision of recreation services. Phasing in of LOST distributions may be desirable to give the government taking over the service access to more revenue to pay for that service while helping the other party adjust over time for the reduction in LOST revenues.
7. **Learn from examples of previous LOST negotiations.** Talk to city officials who have been through the process before. While no two negotiations are the same, understanding what to expect and how to prepare for both the expected and unexpected can be critical to your city's success.
8. **Know when to stop if things start to go bad.** Consider working with your attorney to develop a defensible position. Get your city's offer ready in case you have to go to baseball arbitration.
9. **Understand the consequences of failure.** For cities and counties, failure to negotiate in good faith and come to an agreement will hurt everyone. If you beat each other up over LOST, other sales tax referenda (SPLOST, T-SPLOST, ESPLOST) could fail.
10. **Send your designated city negotiating officials to GMA training sessions.** GMA regional training, to be provided this spring by GMA, is targeted to benefit the officials who will actually serve on the negotiating team and will afford these officials the opportunity to get tips on negotiating strategies and data analysis from experts in the field.

LOST RESOURCES AND ACKNOWLEDGEMENTS

GMA gratefully acknowledges the assistance of city managers across the state in preparing the information contained in this document and for additional assistance provided by city managers at training sessions in each service delivery region. The time and expertise provided by these individuals has been invaluable to GMA's efforts to educate and inform city officials about the LOST renegotiation process.

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LOCAL OPTION SALES TAX STATUTES

The following is the text of the statutes governing the joint county and municipal sales and use tax amended as of 2011:

48-8-80. "Qualified municipality" defined.

As used in this article, the term "qualified municipality" means only those incorporated municipalities which impose a tax other than the tax authorized by this article and which provide at least three of the following services:

- (1.) Water;
- (2.) Sewage;
- (3.) Garbage collection;
- (4.) Police protection;
- (5.) Fire protection; or
- (6.) Library.

48-8-81. Creation of special districts.

Pursuant to the authority granted by Article IX, Section II, Paragraph VI of the Constitution of this state, there are created within this state 159 special districts. The geographical boundary of each county shall correspond with and shall be conterminous with the geographical boundary of one of the 159 special districts.

48-8-82. Authorization of counties and municipalities to impose joint sales and use tax; rate; applicability of tax to sales of motor fuels.

When the imposition of a joint county and municipal sales and use tax is authorized according to the procedures provided in this article within a special district, the county whose geographical boundary is conterminous with that of the special district and each qualified municipality located wholly or partially within the special district shall levy a joint sales and use tax at the rate of 1 percent. Except as to rate, the joint tax shall correspond to the tax imposed and administered by Article 1 of this chapter. No item or transaction which is not subject to taxation by Article 1 of this chapter shall be subject to the tax levied pursuant to this article, except that the joint tax provided in this article shall be applicable to sales of motor fuels as prepaid local tax as that term is defined by Code Section 48-8-2 and shall be applicable to the sale of food and beverages only to the extent provided for in paragraph (57) of Code Section 48-8-3.

48-8-83. Special districts where joint tax to be levied.

Effective January 1, 1980, the joint tax provided in Code Section 48-8-82 shall be levied in each special district in which prior to January 1, 1980, a joint county and municipal sales and use tax was levied pursuant to Ga. L. 1975, p. 984, Section 2 (as amended by Ga. L. 1975, Ex. Sess., p. 1729, Section 1; Ga. L. 1976, p. 1019, Sections 1-13; Ga. L. 1977, p. 1008, Section 1; Ga. L. 1978, p. 1429, Sections 1-3; Ga. L. 1978, p. 1460, Sections 1-3; Ga. L. 1978, p. 1678, Section 1; Ga. L. 1978, p. 1695, Section 1; Ga. L. 1979, p. 446, Section 1) or in which a referendum election had authorized the levying of such a tax within the special district.

48-8-84. Resolution by governing authorities of counties and municipalities in special districts imposing tax; time.

If the imposition of the tax provided for in Code Section 48-8-82 is to be levied pursuant to Code Section 48-8-83, the governing authority of the county whose geographical boundary is conterminous with that of the special district and the governing authority of each qualified municipality located wholly or partially within the district shall each adopt a resolution on or prior to January 1, 1980, imposing the tax authorized by Code Section 48-8-82 on behalf of the county and each qualified municipality located wholly or partially within the special district.

48-8-85. Referendum election to decide imposition of tax; procedure; resolution; call for election; publication; ballot; result; subsequent elections; declaration and certification of result; expense.

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

“ YES Shall a retail sales and use tax of 1 percent be levied
 NO within the special district within _____ County?”

(b) All persons desiring to vote in favor of levying the tax shall vote “Yes,” and those persons opposed to levying the tax shall vote “No.” If more than one-half of the votes cast are in favor of levying the tax, then the tax shall be levied in accordance with this article; otherwise, the tax may not be levied, and the question of the imposition of the tax may 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. It shall be the duty of the election superintendent to hold and conduct such elections under the same rules and regulations as govern special elections. It shall be his further duty to canvass the returns, declare the result of the election, and certify the result to the Secretary of State and to the commissioner. The expense of the election shall be borne by the county whose geographical boundary is conterminous with that of the special district holding the election.

48-8-86. Adoption of resolution imposing tax by governing authorities of county and municipality; time; effective date in general and with respect to services billed monthly; certified copy of resolution to commissioner.

If the imposition of the tax provided in Code Section 48-8-82 is approved in a referendum election as provided by Code Section 48-8-85, the governing authority of the county whose geographical boundary is conterminous with that of the special district and the governing authority of each qualified municipality located wholly or partially within the district shall each adopt a resolution during the first 30 days following the certification of the result of the election imposing the tax authorized by Code Section 48-8-82 on behalf of the county and each qualified municipality located wholly or partially within the special district. The resolution shall be effective on the first day of the next succeeding calendar quarter which begins more than 80 days after the adoption of the resolution. With respect to services which are regularly billed on a monthly basis, however, the resolution shall become effective with the first regular billing period coinciding with or following the otherwise effective date of the resolution. A certified copy of the resolution shall be forwarded to the commissioner so that it will be received within five days after its adoption.

48-8-87. Administration and collection of tax by commissioner; applicability of Article 1 of this chapter; first application of moneys to taxpayers' state tax liabilities; compensation of dealers if payments not delinquent; rate.

The tax levied pursuant to this article shall be exclusively administered and collected by the commissioner for the use and benefit of each county whose geographical boundary is conterminous with that of a special district and of each qualified municipality located wholly or partially therein. 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, except that the joint tax provided in this article shall be applicable to sales of motor fuels as prepaid local tax as that term is defined in Code Section 48-8-2; provided, however, that all moneys collected from each taxpayer by the commissioner shall be applied first to such taxpayer's liability for taxes owed the state. 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.

48-8-88. Required information on sales tax returns; purpose.

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 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 commissioner that all taxes imposed by this article are collected and distributed according to situs of sale.

48-8-89. Distribution of proceeds; certificate specifying percentage of proceeds for each political subdivision; determination of proceeds for absent municipalities; procedure for filing certificates; effect of failure to file renegotiation of certificate.

(a) The proceeds of the tax collected by the commissioner in each special district under this article shall be disbursed as soon as practicable after collection as follows:

- (1) One percent of the amount collected shall be paid into the general fund of the state treasury in order to defray the costs of administration;

- (2) Except for the percentage provided in paragraph (1) of this subsection, the remaining proceeds of the tax shall be distributed to the governing authority of each qualified municipality within the special district and to the governing authority of the county whose geographical boundary is conterminous with that of the special district for the purpose of assisting such political subdivisions in funding all or any portion of those services which are to be provided by such governing authorities pursuant to and in accordance with Article IX, Section II, Paragraph III of the Constitution of this state.

(b) It is the intent of the General Assembly that no agreement as to the distribution of the proceeds of the tax shall enrich any political subdivision beyond a sum which in the absence of the distribution would be raised through other sources of revenue. The distribution shall be in accordance with a certificate which shall be executed in behalf of each respective governing authority, except as otherwise provided in this subsection, and which shall encompass all respective political subdivisions, shall be filed with the commissioner, and shall specify by percentage that portion of the remaining proceeds of the tax available for distribution which each such political subdivision shall receive. On or after July 1, 1995, the distribution of proceeds of the tax as specified in the certificate shall be based upon, but not be limited to, the following criteria:

- (1) The service delivery responsibilities of each political subdivision to the population served by the political jurisdiction and served during normal business hours, conventions, trade shows, athletic events and the inherent value to a community of a central business district and the unincorporated areas of the county and the obligation of all residents of the county for the maintenance and prosperity of the central business district and the unincorporated areas of the county;
- (2) The service delivery responsibilities of each political subdivision to the resident population of the subdivision;
- (3) The existing service delivery responsibility of each political subdivision;
- (4) The effect of a change in sales tax distribution on the ability of each political subdivision to meet its short-term and long-term debt;
- (5) The point of sale and use which generates the tax to be apportioned;
- (6) The existence of intergovernmental agreements among and between the political subdivisions;
- (7) The use by any political subdivision of property taxes and other revenues from some taxpayers to subsidize the cost of services provided to other taxpayers of the levying subdivision; and
- (8) Any coordinated plan of county and municipal service delivery and financing. Notwithstanding the fact that a certificate shall not contain an execution in behalf of one or more qualified municipalities within the special district, if the combined total of the populations of all such absent municipalities is less than one-half of the aggregate population of all qualified municipalities located within the special district, the submitting political subdivisions shall, in behalf of the absent municipalities, specify a percentage of that portion of the remaining proceeds which each such municipality shall receive, which percentage shall not be less than that proportion which each absent municipality's population bears to the total population of all qualified municipalities within the special district multiplied by that portion of the remaining proceeds which are received by all qualified municipalities within the special district. For the purpose of determining the

population of the absent municipalities, only that portion of the population of each such municipality which is located within the special district shall be computed. No certificate may contain a total of specified percentages in excess of 100 percent. The certificate shall be filed with the commissioner by March 1, 1980, for those special districts in which the tax authorized by this article is being levied on January 1, 1980. For all other special districts in which the tax shall be imposed subsequent to January 1, 1980, the certificate shall be filed with the commissioner within 60 days after the tax is imposed within the district. The commissioner shall continue to distribute the proceeds of the tax as otherwise provided in this Code section until the first day of the next calendar year following the month in which the commissioner receives a certificate as provided in this Code section, which certificate shall provide other percentages upon which the commissioner shall make the distribution to the political subdivisions entitled to the proceeds of the tax. At such time, the commissioner shall thereafter distribute the proceeds of the tax in accordance with the directions of the certificate.

(c) If the certificate provided for in subsection (b) of this Code section is not received by the commissioner by the required date, the authority to impose the tax authorized by Code Section 48-8-82 shall cease on the first day of the second calendar month following the month in which the tax was initially imposed and the tax shall not be levied in the special district after such date unless the reimposition of the tax is subsequently authorized pursuant to Code Section 48-8-85. When the imposition of the tax is so terminated, the commissioner shall retain the proceeds of the tax which were to be distributed to the governing authorities of the county and qualified municipalities within the special district until he receives a certificate in behalf of each such governing authority specifying the percentage of the proceeds which each such governing authority shall receive. If no such certificate is received by the commissioner within 120 days of the date on which the authority to levy the tax was terminated, the proceeds shall escheat to the state and the commissioner shall transfer the proceeds to the state's general fund.

(d) (1) A certificate providing for the distribution of the proceeds of the tax authorized by this article shall expire on December 31 of the second year following the year in which the decennial census is conducted. No later than December 30 of the second year following the year in which the census is conducted, a renegotiated certificate meeting the requirements for certificates specified by subsection (b) of this Code section shall be filed with and received by the commissioner. The General Assembly recognizes that the requirement for government services is not always in direct correlation with population. Although a renegotiated certificate is required within a time certain of the decennial census, this requirement is not meant to convey an intent by the General Assembly that population as a criterion should be more heavily weighted than other criteria. It is the express intent of the General Assembly in requiring such renegotiation that eligible political subdivisions shall analyze local service delivery responsibilities and the existing allocation of proceeds made available to such governments under the provisions of this article and make rational the allocation of such resources to meet such service delivery responsibilities. Political subdivisions in their renegotiation of such distributions shall at a minimum consider the criteria specified in subsection (b) of this Code section.

(2) The commissioner shall be notified in writing of the commencement of renegotiation proceedings by the county governing authority in behalf of all eligible political subdivisions within the special district. The eligible political subdivisions shall commence renegotiations at the call of the county governing authority before July 1 of the second year following the year in which the census is conducted. If the county governing authority does not issue the call by that date, any eligible municipality may issue the call and so notify the commissioner and all eligible political subdivisions within the special district

(3) Following the commencement of such renegotiation, if the parties necessary to an agreement fail to reach an agreement within 60 days, such parties shall submit the dispute to nonbinding arbitration, mediation, or such other means of resolving conflicts in a manner which attempts to reach a resolution of the dispute. Any renegotiation agreement reached pursuant to this paragraph shall be in accordance with the requirements specified in paragraph (1) of this subsection.

(4) (A) If the parties necessary to an agreement fail to reach an agreement within 60 days of submitting the dispute to nonbinding arbitration, mediation, or such other means of resolving conflicts, as required by paragraph (3) of this subsection, any of such parties may file a petition in superior court of the county seeking resolution of the items remaining in dispute. Such petition shall be filed no later than 30 days after the last day of the 60 day alternative dispute resolution period required by paragraph (4) of this subsection. Such petition shall be assigned to a judge pursuant to Code Section 15-1-9.1 or 15-6-13 who is not a judge in the circuit in which the county is located. The judge selected may also be a senior judge pursuant to Code Section 15-1-9.2.

(B) Following the filing of the petition as specified under subparagraph (A) of this paragraph, the county and qualified municipalities representing at least one-half of the aggregate municipal population of all qualified municipalities located wholly or partially within the special district shall separately submit to the judge and the other parties a written best and final offer specifying the distribution of the tax proceeds. There shall be one such offer from the county and one such offer from qualified municipalities representing at least one-half of the aggregate municipal population of all qualified municipalities located wholly or partially within the special district. The offer from the county may be an offer representing the county and any qualified municipalities representing at least one-half of the aggregate municipal population of all qualified municipalities located wholly or partially within the special district.

(C) Any qualified municipality or municipalities located wholly or partially within the special district who are not a party to an offer under subparagraph (B) of this paragraph, and who represent at least one-half of the aggregate municipal population of all qualified municipalities who are not a party to an offer under subparagraph (B) of this paragraph, shall be authorized to separately submit to the judge and the other parties a written best and final offer specifying the distribution of the tax proceeds. There shall be one such offer from such qualified municipality or municipalities.

(D) Each offer under subparagraphs (B) and (C) of this paragraph shall take into account the allocation required from any absent municipalities in accordance with subsection (b) of this Code

section. The judge shall conduct such hearings as the judge deems necessary and shall render a decision based on the requirements and intent of paragraph (1) of this subsection and the criteria in subsection (b) of this Code section. The judge's decision shall adopt the best and final offer of one of the parties submitted under subparagraphs (B) and (C) of this paragraph specifying the allocation of the tax proceeds and shall also include findings of fact. The judge shall enter a final order containing a new distribution certificate and transmit a copy of it to the commissioner.

(E) A final order entered under subparagraph (D) of this paragraph shall be subject to appeal by application upon one or more of the following grounds:

- (i.) The judge's disregard of the law;
- (ii.) Partiality of the judge; or
- (iii.) Corruption, fraud, or misconduct by the judge or a party.

(F) During the process set forth in this paragraph, the commissioner shall continue to distribute the sales tax proceeds according to the percentages specified in the most recently filed distribution certificate of in accordance with subsection (f) of Code Section 48-8-89.1, as applicable, until a new distribution certificate is properly filed.

(5) If a new distribution certificate as provided for in this Code section is not received by the commissioner, the authority to impose the tax authorized by Code Section 48-8-82 shall cease, and the tax shall not be levied in the special district after such date unless the reimposition of the tax is subsequently authorized pursuant to Code Section 48-8-85. When the imposition of the tax is so terminated, the commissioner shall retain the proceeds of the tax which were to be distributed to the governing authorities of the county and qualified municipalities within the special district until the commissioner receives a certificate on behalf of each such governing authority specifying the percentage of the proceeds which each such governing authority shall receive. If no such certificate is received by the commissioner within 120 days of the date on which the authority to levy the tax was terminated, the proceeds shall escheat to the state, and the commissioner shall transfer the proceeds to the state's general funds.

(6) If the commissioner receives a new distribution certificate by the required date, the commissioner shall distribute the proceeds of the tax in accordance with the directions of the new distribution certificate commencing on January 1 of the year immediately following the year in which such certificate was executed by the parties or the judge or the first day of the second calendar month following the month such certificate was executed by the parties or the judge, whichever is sooner.

(7) Costs of any conflict resolution under paragraph (3) or (4) of this subsection shall be borne proportionately by the affected political subdivision in accordance with the final percentage distributions of the proceeds of the tax as reflected by the new distribution certificate.

(8) Political subdivision shall be authorized, at their option, to renegotiate distribution certificates on a more frequent basis than is otherwise required under this subsection.

(9) No provision of this subsection shall apply to any county which is authorized to levy or which levies a local sales tax, local use tax, or local sales and use tax for educational purposes pursuant to a local constitutional amendment or to any county which is authorized to expend all or any portion of the proceeds of any sales tax, use tax, or sales and use tax for educational purposes pursuant to a local constitutional amendment.

48-8-89.1. Procedure for certifying additional qualified municipalities; issuance of new distribution certificate; cessation of authority to collect tax ceases upon failure to file new certificate.

(a) If there exists within any special district in which the tax authorized by this article is imposed a qualified municipality which was not a qualified municipality on the date of filing with the commissioner of the most recently filed certificate under Code Section 48-8-89, such qualified municipality may request the commissioner to give notice of the qualified municipality's existence as provided in this subsection. Upon receipt of such a request, the commissioner shall, unless he determines that the requesting entity is not a qualified municipality, within 30 days give written notice of the qualified municipality's existence to the county which is conterminous with the special district in which the qualified municipality is located and to each other qualified municipality within the special district. Such written notice shall include the name of the new qualified municipality, the effective date of the notice, and a statement of the provisions of this Code section.

(b) Within 60 days after the effective date of the notice referred to in subsection (a) of this Code section, a new distribution certificate shall be filed with the commissioner for the special district or, within 30 days, after the last day of the 60 day alternative dispute resolution period required by paragraph (3) of subsection (d) of Code Section 48-8-89, the county, any qualified municipality located wholly or partially within the special district, or any new qualified municipality as specified under subsection (a) of this Code section located wholly or partially within the special district may file a petition in superior court seeking resolution of the items remaining in dispute pursuant to the procedure set forth in paragraph (4) of subsection (d) of Code section 48-8-89. In the event such a petition is filed, a new qualified municipality as specified under subsection (a) of this Code section located wholly or partially within the special district shall be subject to the same requirements applicable to qualified municipalities located wholly or partially within the special district under paragraph (4) of subsection (d) of Code Section 48-8-89. This distribution certificate shall specify by percentage what portion of the proceeds of the tax available for distribution within the special district shall be received by the county in which the special district is located and by each qualified municipality located wholly or partially within the special district, including the new qualified municipality. No distribution certificate may contain a total of specified percentages in excess of 100 percent.

(c) Except as otherwise provided in this subsection, a distribution certificate required by this Code section must be executed by the governing authorities of the county within which the special district is located and each qualified municipality located wholly or partially within the special district, including the new qualified municipality. Notwithstanding the fact that a certificate shall not contain an execution in behalf of one or more qualified municipalities within the special

district, if the combined total of the populations of all such absent municipalities is less than one-half of the aggregate population of all qualified municipalities located within the special district, the submitting political subdivisions shall, in behalf of the absent municipalities, specify a percentage of that portion of the remaining proceeds which each such municipality shall receive, which percentage shall not be less than that proportion which each absent municipality's population bears to the total population of all qualified municipalities within the special district multiplied by that portion of the remaining proceeds which are received by all qualified municipalities within the special district. For the purpose of determining the population of the absent municipalities, only that portion of the population of each such municipality which is located within the special district shall be computed.

(d) If a new certificate is not filed for any special district as required by this Code section, the authority to impose the tax authorized by Code Section 48-8-82 within that special district shall cease on the first day of January of the year following the year in which the required distribution certificate could last have been timely filed. In any special district in which the authority to impose the tax is terminated pursuant to this subsection, the tax may thereafter be reimposed only pursuant to the procedures specified in Code Sections 48-8-84 through 48-8-86.

(e) If a new certificate is filed as required by this Code section, the commissioner shall begin to distribute the proceeds as specified in the new certificate on the first day of January of the first calendar year which begins more than 60 days after the effective date of the notice referred to in subsection (b) of this Code section. The commissioner shall continue to distribute the proceeds of the tax according to the new certificate until a subsequent certificate is filed and becomes effective as provided in Code Section 48-8-89.

(f) (1) As used in this subsection, the term:

(A) "New qualified municipality" means a municipal corporation which has been chartered by local Act since the date of filing with the commissioner of the most recently filed certificate under Code Section 48-8-89 within a county which has a special district for the provision of local government services consisting of the unincorporated area of the county where the population of the unincorporated area of the county, after removal of the population of the new municipality from the unincorporated area, constitutes less than 20 percent of the population of the county according to the most recent decennial census.

(B) "Newly expanded qualified municipality" means a municipal corporation which since the date of filing with the commissioner of the most recently filed certificate under Code Section 48-8-89 has increased its population by more than 15 percent through one or more annexations and is located in the same county as a new qualified municipality.

(2) Notwithstanding any other provision of this Code section, if there exists within any special district in which the tax authorized by this article is imposed a new qualified municipality or a newly expanded qualified municipality or both, such qualified municipality or municipalities may request the commissioner to give notice of the qualified municipality's or municipalities' existence and status as a new qualified municipality or newly expanded qualified municipality as provided in this subsection. Upon receipt of such a request, the commissioner shall, unless he or she determines that the requesting entity is not a new qualified municipality or newly expanded

qualified municipality, within 30 days give written notice of the qualified municipality's existence and status to the county which is conterminous with the special district in which the qualified municipality is located and to each other qualified municipality within the special district. Such written notice shall include the name of the new qualified municipality or newly expanded qualified municipality, the effective date of the notice, and a statement of the provisions of this subsection.

(3) Within 60 days after the effective date of the notice referred to in paragraph (2) of this subsection, a new distribution certificate shall be filed with the commissioner for the special district or, within 30 days after the last day of the 60 day alternative dispute resolution period required by paragraph (3) of subsection (d) of Code Section 48-8-89, the county, any qualified municipality located wholly or partially within the special district, or any new qualified municipality or newly expanded qualified municipality located wholly or partially within the special district may file a petition in superior court seeking resolution of the items remaining in dispute pursuant to the procedure set forth in paragraph (4) of subsection (d) of Code Section 48-8-89. The new distribution certificate shall address only the proceeds of the tax available for distribution from the percentage allocated to the county in the current distribution certificate and shall specify as a percentage of the total proceeds of the tax what portion of the proceeds shall be received by the county in which the special district is located and by the new qualified municipality and newly expanded qualified municipality located wholly or partially within the special district, if any.

(4) Except as otherwise provided in this paragraph, a distribution certificate required by this subsection must be executed by the governing authorities of the county within which the special district is located each new qualified municipality located wholly or partially within the special district, and each newly expanded qualified municipality, if any. If a new certificate is not filed within 60 days as required by paragraph (3) of this subsection, the commissioner shall distribute the proceeds of the tax available for distribution from the percentage allocated to the county in the current distribution certificate such that:

- (A) The new qualified municipality receives an allocation equal on a per capita basis to the average per capita allocation to the other qualified municipalities in the county (according to population), to be expended as provided in paragraph (2) of subsection (a) of Code Section 48-8-89; and
- (B) Any newly expanded qualified municipality receives a total allocation of tax proceeds (including any amount previously allocated) equal on a per capita basis to the average per capita allocation to the other qualified municipalities in the county (according to population), to be expended as provided in paragraph (2) of subsection (a) of Code Section 48-8-89. Every other qualified municipality shall continue to receive the share provided by the existing distribution certificate or otherwise provided by law. The county shall receive the remaining proceeds of the tax, to be expended as provided in paragraph (2) of subsection (a) of Code Section 48-8-89. For the purpose of determining the population of qualified municipalities, only that portion of the population of each such municipality which is located within the special district shall be computed. For the purpose of determining population under this Code section, all calculations of population shall be

according to the most recent decennial census, including the census data from such census applicable to any annexed territory.

(5) The commissioner shall begin to distribute the proceeds as specified in the newly filed certificate or, if such a certificate is not filed, as specified in paragraph (4) of this subsection on the first day of the first month which begins more than 60 days after the effective date of the notice referred to in paragraph (2) of this subsection. The commissioner shall continue to distribute the proceeds of the tax according to the existing certificate and the certificate applicable to the county and the new qualified municipality or, if such a certificate is not filed, as specified in paragraph (4) of this subsection until a subsequent certificate is filed and becomes effective as provided in Code Section 48-8-89.

48-8-89.2. Distribution of tax proceeds upon qualified municipality ceasing to be qualified.

If the commissioner determines that a qualified municipality entitled to receive tax proceeds under this article has ceased to be a qualified municipality, he shall thereafter distribute the percentage of the proceeds of the tax to which that qualified municipality was entitled to the county which is conterminous with the special district and to each other qualified municipality within the special district pro rata according to the percentages of the tax to which each other such political subdivision is otherwise entitled; and such distribution formula shall remain in effect until a new certificate is filed and becomes effective as provided in Code Section 48-8-89.

48-8-89.3. Levy of tax in certain special districts; distribution of proceeds to qualified municipality.

(a) Notwithstanding any other provision of this article to the contrary, the tax provided for in Code Section 48-8-82 shall be levied in any special district in which:

- (1) Prior to January 1, 1980, a joint county and municipal sales and use tax was levied pursuant to Ga. L. 1975, p. 984, Section 2 (as amended by Ga. L. 1975, Ex. Sess., p. 1729, Section 1; Ga. L. 1976, p. 1019, Sections 1-13; Ga. L. 1977, p. 1008, Section 1; Ga. L. 1978, p. 1429, Sections 1-3; Ga. L. 1978, p. 1460, Sections 1-3; Ga. L. 1978, p. 1678, Section 1; Ga. L. 1978, p. 1695, Section 1; Ga. L. 1979, p. 446, Section 1) or in which a referendum election had authorized the levying of such a tax within the special district;
- (2) The tax provided for in Code Section 48-8-82 was actually collected during the period of January 1, 1980, to January 1, 1989; and
- (3) There exists a qualified municipality which lies wholly or partially within the special district and which:
 - (A) Was a qualified municipality at the time of filing of the distribution certificate most recently filed with the commissioner under Code Section 48-8-89; and
 - (B) Was not assigned any percentage of the net proceeds of the tax under such distribution certificate. In any special district which meets the criteria specified in this subsection, the tax provided for in Code Section 48-8-82 shall be levied without regard to any past defects in compliance with the procedures specified by this article for the imposition of the tax.

(b) A qualified municipality described in paragraph (3) of subsection (a) of this Code section, for which receipt of a portion of the net tax proceeds was not specified in the certificate most recently

filed with the commissioner under Code Section 48-8-89, may request the commissioner to thereafter distribute a portion of the net tax proceeds to the qualified municipality as provided in this Code section. Upon receipt of such a request, the commissioner shall thereafter, unless he determines that the requesting municipality does not meet the criteria specified in this Code section, give written notice of a new distribution formula to the county which is coterminous with the special district, to the requesting qualified municipality, and to each other qualified municipality within the special district. Such new distribution formula shall be determined as follows:

- (1) Begin with the percentages specified in the distribution certificate most recently filed with the commissioner;
- (2) Assign to the requesting municipality a percentage of the net proceeds which is equal to the total percentage of the net proceeds previously distributed to all other qualified municipalities in the special district multiplied by a fraction, the numerator of which is the population of the requesting municipality and the denominator of which is the population of all qualified municipalities within the special district;
- (3) Deduct the percentage of the net proceeds so assigned to the requesting municipality from the percentages previously assigned to all other qualified municipalities within the special district, such deductions to be pro rata on the basis of population; and
- (4) Make no change in the percentage of the net proceeds previously distributed to the county which is coterminous with the special district.

(c) This new distribution formula shall be implemented at the earliest date deemed administratively practicable by the commissioner, and the notice specified in subsection (b) of this Code section shall include such date. This new distribution formula shall remain in effect until a subsequent distribution certificate is filed and becomes effective as provided in Code Section 48-8-89.

(d) For the purpose of all population based calculations under this Code section, only that portion of the population of a qualified municipality which is located within the special district shall be computed.

48-8-90. Crediting of tax paid by purchaser in another tax jurisdiction; payment of difference between lesser similar tax payment and tax imposed by article; proof of payment; limitation on credit.

Where a local sales or use tax has been paid with respect to tangible personal property by the purchaser either in another local tax jurisdiction 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 commissioner may require such proof of payment in another local tax jurisdiction as he 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 local sales and use tax levied in the special district or in the county which is coterminous

with the special district; and taxes so paid in another jurisdiction shall be credited first against the tax levied under this article and then against the tax levied under Article 3 of this chapter, if applicable.

48-8-91. Condition precedent to authority to impose tax following first year of imposition; annual adjustment of millage rate for ad valorem taxation of tangible personal property; formula; information required on tax bills; effect on tax bills when millage rate is zero.

(a) As a condition precedent for authority to levy the tax or to collect any proceeds from the tax authorized by this article for the year following the initial year in which it is levied and for all subsequent years, the county whose geographical boundary is conterminous with that of the special district and each qualified municipality therein receiving any proceeds of the tax shall adjust annually the millage rate for ad valorem taxation of tangible property within such political subdivisions as provided in this subsection. The governing authority of each such political subdivision shall compute the millage rate necessary to produce revenue from taxation of tangible property in its respective political subdivision which, when combined with other revenues reasonably expected to be received by the political subdivision during the year other than revenues derived from the tax imposed pursuant to this article, would provide revenues sufficient to defray the expenses of the political subdivision for the year. The millage rate so ascertained shall then be reduced by a millage rate which, if levied against the tangible property within the political subdivision, would produce an amount equal to the distribution of the proceeds of the tax imposed by this article which were received by the political subdivision during the preceding year. The tax bill of each ad valorem taxpayer in the political subdivision shall show in a prominent manner the millage rate first ascertained as provided in this subsection and shall show such millage rate reduced by the millage rate required to raise an amount of revenue equal to the distribution of the proceeds of the tax imposed by this article during the previous year. The remainder shall be the millage rate upon which each taxpayer's bill shall be based. The tax authority of each such political subdivision shall cause to be shown in a prominent manner on the tax bill of each ad valorem taxpayer the dollar amount of reduction of ad valorem property taxes which the taxpayer has received as a result of the political subdivision's sharing in the proceeds of the tax authorized to be imposed by this article; provided, however, that the dollar amount of reduction of ad valorem property taxes shall not be calculated or shown on those forms used for the registration and taxation of motor vehicles or trailers.

(b) This Code section shall not be construed to require a county or municipality to prepare and mail ad valorem property tax bills when the ad valorem property tax millage rate in the county or municipality has been reduced to zero as a result of the receipt of proceeds from the tax levied pursuant to this article.

48-8-92. Referendum election to decide discontinuing imposition of tax; procedure; resolution; call for election; publication; ballot; result; subsequent elections; declaration and certification of result; expense.

(a) Whenever the governing authority of any county and the governing authorities of at least one-half of qualified municipalities located wholly or partially within a special district in which the tax authorized by this article is being levied wish to submit to the electors of the special district the question of whether the tax authorized by Code Section 48-8-82 shall be discontinued, such

governing authorities shall notify the election superintendent of the county whose geographical boundary is conterminous with that of the special district by forwarding to the superintendent a copy of a joint resolution of the governing authorities calling for the referendum election. Upon receipt of the resolution, it shall be the duty of the election superintendent to issue the call for an election for the purpose of submitting the question of discontinuing the levy of the tax to the voters of the special district for approval or rejection. The election superintendent shall issue the call and shall conduct the election on a date and in the manner authorized under Code Section 21-2-540. The election superintendent shall cause the date and purpose of the election to be published once a week for two weeks immediately preceding the date of the election in the official organ of the county. The ballot shall have written or printed thereon the following:

" YES Shall the 1percent retail sales and use tax being levied within the special district within _____
 NO County be terminated?"

(b) All persons desiring to vote in favor of discontinuing the tax shall vote "Yes," and all persons opposed to discontinuing the tax shall vote "No." If more than one-half of the votes cast are in favor of discontinuing the tax, then the tax shall cease to be levied on the first day of the second calendar quarter following the month in which the commissioner receives the certification of the result of the election; otherwise, the tax shall continue to be levied, and the question of the discontinuing of 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. It shall be the duty of the election superintendent to hold and conduct such elections under the same rules and regulations as govern special elections. It shall be such superintendent's further duty to canvass the returns, declare and certify the result of the election, and certify the result to the Secretary of State and to the commissioner. The expense of the election shall be borne by the county whose geographical boundary is conterminous with that of the special district holding the election.

48-8-93. Nonimposition of tax on property ordered by and delivered to purchaser outside special district; conditions of delivery.

No tax provided for in Code Section 48-8-82 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 joint 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 Interstate Commerce Commission or the Georgia Public Service Commission.

48-8-94. Taxability of building and construction materials sold or used under contract entered into prior to approval of tax levy.

(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 Code Section 48-8-82 shall be imposed by a county or municipality 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 approval of the levy of the tax by the county or municipality 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.

48-8-95. Authorization of commissioner to promulgate rules and regulations.

The 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 tax authorized to be imposed by this article.

§ 48-8-96. Taxation of property in consolidated governments; change in tax rates.

(a) With respect to any consolidated government created by the consolidation of a county and one or more municipalities in which consolidated government homestead property (exclusive of improvements) is valued for purposes of local ad valorem taxation according to a base year assessed value which does not change so long as the property is actually occupied by the same owner as a homestead, the provisions of this Code section shall control over any conflicting provisions of Article 1 of this chapter or this article.

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

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

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

" YES Shall the retail sales and use tax levied within the special district within _____ County be increased
 NO from 1 percent to 2 percent?"

(c) Such increased tax rate shall become effective on the first day of the next succeeding calendar quarter which begins more than 80 days after the date of the election at which such increase was approved by the voters. The proceeds of the increased tax shall be divided in the same proportions as the original tax.

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

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

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

" YES Shall the retail sales and use tax levied within the special district within _____ County be decreased
 NO from 1 percent to 2 percent?"

(e) Such decreased tax rate shall become effective on the first day of the second calendar quarter following the month in which the commissioner receives certification of the result of the election.

(f) If the tax authorized by this article is to be newly imposed in the special district containing a consolidated government referred to in subsection (a) of this Code section, then such tax may be imposed in such special district at the rate of 2 percent if such rate is approved by:

- (1) A resolution of the governing authority of the consolidated government in the same manner as otherwise required pursuant to Code Section 48-8-84; and
- (2) A referendum conducted in the same manner as otherwise required pursuant to Code Section 48-8-85, except that the ballot shall have written or printed thereon the following:

" YES Shall the retail sales and use tax of 2 percent be levied within
 NO the special district within _____ County?"

(g) Such 2 percent tax may be discontinued if such discontinuation is approved by:

- (1) A resolution of the governing authority of the consolidated government in the same manner as otherwise required under Code Section 48-8-92; and
- (2) A referendum conducted in the same manner as otherwise required for discontinuation of the tax under Code Section 48-8-92, except that the ballot shall have printed or written thereon the following:

" YES Shall the retail sales and use tax levied within the special district within
 NO County be terminated?"

(h) (1) In the case of increase from 1 percent to 2 percent, the amount in excess of the initial 1 percent sales and use tax shall not apply to the sale of motor vehicles.

(2) In the case of a newly imposed 2 percent sales and use tax under this Code section, only the amount in excess of a 1 percent sales and use tax shall not apply to the sale of motor vehicles. In all respects not otherwise provided for in this Code section, the levy of a tax under this article by a consolidated government referred to in subsection (a) of this Code section shall be in the same manner as the levy of the tax by any other county.



CERTIFICATE OF DISTRIBUTION

TO: State Revenue Commissioner

Pursuant to an Act of the Georgia General Assembly, effective January 1, 1980, relating to Local Sales & Use Taxes, the governing authorities for the qualifying municipalities and the county located within the special district coterminous with the boundaries of _____ County hereby certify that the proceeds of the combination city/county local sales and use tax generated in such district shall be distributed by the State Revenue Commissioner as follows:

- City of _____ shall receive _____ %
- City of _____ shall receive _____ %
- City of _____ shall receive _____ %
- City of _____ shall receive _____ %
- City of _____ shall receive _____ %
- County of _____ shall receive _____ %

This certificate shall continue in effect until such time as a new certificate shall be executed as provided in said Act.

By executing this schedule the county and cities, acting through their respective officers, represent that all municipalities lying wholly or partly in the tax jurisdiction have been given an opportunity to show that they are 'qualified municipalities,' as that term is used in the Act, and that all municipalities listed herein as recipients are 'qualified' and so may receive distribution from the proceeds of the tax.

Executed on behalf of the governing authorities of the qualifying municipalities representing not less than a majority of the aggregate population of all qualifying municipalities located within the special district and the governing authority of the county, this _____ day of _____ 20 ____.

MAYOR OF THE CITY OF

MAYOR OF THE CITY OF

MAYOR OF THE CITY OF

MAYOR OF THE CITY OF

MAYOR OF THE CITY OF

CHAIRMAN BOARD OF COMMISSIONERS OF

_____ COUNTY

LOST Renegotiations following 2010 Census: Sample Timeline

