

House Bill 1258

By: Representatives Willard of the 49th, Burkhalter of the 50th, Holmes of the 61st, Wilkinson of the 52nd, Lindsey of the 54th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated,
2 relating to the joint county and municipal sales and use tax, so as to provide for the continued
3 distribution of tax proceeds pending county and municipal agreement upon a renegotiated
4 distribution certificate; to prevent lapsing of the tax if a renegotiated distribution certificate
5 is not timely filed; to change provisions relating to the procedure for the call of a referendum
6 election on discontinuing imposition of the tax; to provide for related matters; to provide an
7 effective date; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Article 2 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to the
11 joint county and municipal sales and use tax, is amended by striking subsection (d) of Code
12 Section 48-8-89, relating to the distribution and use of proceeds from joint county and
13 municipal sales and use tax and certain procedures connected thereto, and inserting in its
14 place a new subsection (d) to read as follows:

15 ~~“(d)(1) Except as otherwise provided in paragraph (7) of this subsection, a certificate~~
16 ~~providing for the distribution of the proceeds of the tax authorized by this article shall~~
17 ~~expire on December 31 of the second year following the year in which the decennial~~
18 ~~census is conducted.~~ No later than December 30 of the second year following the year
19 in which the decennial census is conducted, a renegotiated certificate meeting the
20 requirements for certificates specified by subsection (b) of this Code section shall be filed
21 with and received by the commissioner. The General Assembly recognizes that the
22 requirement for government services is not always in direct correlation with population.
23 Although a renegotiated certificate is required within a time certain of the decennial
24 census, this requirement is not meant to convey an intent by the General Assembly that
25 population as a criterion should be more heavily weighted than other criteria. It is the
26 express intent of the General Assembly in requiring such renegotiation that eligible

1 political subdivisions shall analyze local service delivery responsibilities and the existing
 2 allocation of proceeds made available to such governments under the provisions of this
 3 article and make rational the allocation of such resources to meet such service delivery
 4 responsibilities. Political subdivisions in their renegotiation of such distributions shall
 5 at a minimum consider the criteria specified in subsection (b) of this Code section.

6 (2) The commissioner shall be notified in writing of the commencement of renegotiation
 7 proceedings by the county governing authority in behalf of all eligible political
 8 subdivisions within the special district. The eligible political subdivisions shall
 9 commence renegotiations at the call of the county governing authority but no later than
 10 July 1 of the second year following the year in which the census is conducted. If the
 11 county governing authority does not issue the call by that date, any eligible municipality
 12 may issue the call and so notify the commissioner.

13 (3) Following the commencement of such renegotiation, if the parties fail to reach an
 14 agreement within 60 days, such parties shall agree to submit the dispute to nonbinding
 15 arbitration, mediation, or such other means of resolving conflicts in a manner which, in
 16 the judgment of the commissioner, reflects a good faith effort to resolve the dispute. Any
 17 renegotiation agreement reached pursuant to this paragraph shall be in accordance with
 18 the requirements specified in paragraph (1) of this subsection.

19 (4) If the renegotiated certificate provided for in paragraph (1) of this subsection is not
 20 received by the commissioner by the required date, the commissioner shall continue to
 21 distribute the sales tax proceeds according to the percentages specified in the existing
 22 certificate or in accordance with subsection (f) of Code Section 48-8-89.1 until such time
 23 as a renegotiated certificate is received ~~the authority to impose the tax authorized by~~
 24 ~~Code Section 48-8-82 shall cease on December 31 of the second year following the year~~
 25 ~~in which the decennial census is conducted and the tax shall not be levied in the special~~
 26 ~~district after such date unless the reimposition of the tax is subsequently authorized~~
 27 ~~pursuant to Code Section 48-8-85. When the imposition of the tax is so terminated, the~~
 28 ~~commissioner shall retain the proceeds of the tax which were to be distributed to the~~
 29 ~~governing authorities of the county and qualified municipalities within the special district~~
 30 ~~until the commissioner receives a certificate in behalf of each such governing authority~~
 31 ~~specifying the percentage of the proceeds which each such governing authority shall~~
 32 ~~receive. If no such certificate is received by the commissioner within 120 days of the date~~
 33 ~~on which the authority to levy the tax was terminated, the proceeds shall escheat to the~~
 34 ~~state and the commissioner shall transfer the proceeds to the state's general fund.~~

35 (5) If the commissioner receives ~~the~~ a renegotiated certificate by the required date, the
 36 commissioner shall distribute the proceeds of the tax in accordance with the directions
 37 of the renegotiated certificate commencing on January 1 of the year immediately

1 following the year in which such certificate was renegotiated or the first day of the
 2 second calendar month following the month such certificate was renegotiated, whichever
 3 is sooner.

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

8 ~~(7) All distribution certificates on file with the commissioner on July 1, 1994, which
 9 were not renegotiated in accordance with the 1990 decennial census figures or
 10 renegotiated on or after January 1, 1992, shall expire on December 31, 1995.
 11 Renegotiations with respect to such certificates shall be commenced in accordance with
 12 the requirements of this subsection on or before July 1, 1994. If a renegotiated certificate
 13 is not received by the commissioner by July 1, 1995, the authority to impose the tax
 14 authorized by Code Section 48-8-82 shall cease on December 31, 1995, and the tax shall
 15 not be levied in the special district after that date unless reimposition of the tax is
 16 subsequently authorized pursuant to Code Section 48-8-85. The commissioner shall retain
 17 and distribute the proceeds of such terminated tax in accordance with paragraph (4) of
 18 this subsection.~~

19 ~~(8) No qualified municipality within the special district whose population is less than 5
 20 percent of the population in the special district according to the United States decennial
 21 census of 1990 shall receive a reduced percentage of distribution than presently being
 22 received under the existing certificate prior to renegotiations required in paragraph (7) of
 23 this subsection unless the new agreement is executed by the qualified municipality. This
 24 paragraph shall apply only to the negotiations required by paragraph (7) of this subsection
 25 and shall not apply to any subsequent renegotiations required by this subsection.~~

26 ~~(9)(7)~~ Political subdivisions shall be authorized, at their option, to renegotiate
 27 distribution certificates on a more frequent basis than is otherwise required under this
 28 subsection.

29 (8) Notwithstanding any other provision of this article to the contrary, the imposition of
 30 this tax shall not terminate based on a failure to file a new or renegotiated certificate.

31 ~~(10)(9)~~ No provision of this subsection shall apply to any county which is authorized to
 32 levy or which levies a local sales tax, local use tax, or local sales and use tax for
 33 educational purposes pursuant to a local constitutional amendment or to any county
 34 which is authorized to expend all or any portion of the proceeds of any sales tax, use tax,
 35 or sales and use tax for educational purposes pursuant to a local constitutional
 36 amendment."

