

House Bill 1403

By: Representative Martin of the 47th

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 change certain provisions
3 regarding procedures for certifying additional qualified municipalities; to provide an
4 effective date; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 Article 2 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to the
8 joint county and municipal sales and use tax, is amended by striking Code Section 48-8-89.1,
9 relating to procedures for certifying additional qualified municipalities and inserting in its
10 place a new Code Section 48-8-89.1 to read as follows:

11 "48-8-89.1.

12 (a) If there exists within any special district in which the tax authorized by this article is
13 imposed a qualified municipality which was not a qualified municipality on the date of
14 filing with the commissioner of the most recently filed certificate under Code Section
15 48-8-89, such qualified municipality may request the commissioner to give notice of the
16 qualified municipality's existence as provided in this subsection. Upon receipt of such a
17 request, the commissioner shall, unless he determines that the requesting entity is not a
18 qualified municipality, within 30 days give written notice of the qualified municipality's
19 existence to the county which is conterminous with the special district in which the
20 qualified municipality is located and to each other qualified municipality within the special
21 district. Such written notice shall include the name of the new qualified municipality, the
22 effective date of the notice, and a statement of the provisions of this Code section.

23 (b) Within 60 days after the effective date of the notice referred to in subsection (a) of this
24 Code section, a new distribution certificate shall be filed with the commissioner for the
25 special district. This distribution certificate shall specify by percentage what portion of the
26 proceeds of the tax available for distribution within the special district shall be received by

1 the county in which the special district is located and by each qualified municipality
2 located wholly or partially within the special district, including the new qualified
3 municipality. No distribution certificate may contain a total of specified percentages in
4 excess of 100 percent.

5 (c) Except as otherwise provided in this subsection, a distribution certificate required by
6 this Code section must be executed by the governing authorities of the county within which
7 the special district is located and each qualified municipality located wholly or partially
8 within the special district, including the new qualified municipality. Notwithstanding the
9 fact that a certificate shall not contain an execution in behalf of one or more qualified
10 municipalities within the special district, if the combined total of the populations of all such
11 absent municipalities is less than one-half of the aggregate population of all qualified
12 municipalities located within the special district, the submitting political subdivisions shall,
13 in behalf of the absent municipalities, specify a percentage of that portion of the remaining
14 proceeds which each such municipality shall receive, which percentage shall not be less
15 than that proportion which each absent municipality's population bears to the total
16 population of all qualified municipalities within the special district multiplied by that
17 portion of the remaining proceeds which are received by all qualified municipalities within
18 the special district. For the purpose of determining the population of the absent
19 municipalities, only that portion of the population of each such municipality which is
20 located within the special district shall be computed.

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

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

34 (f)(1) This subsection shall apply only when:

35 (A) A municipal corporation is chartered by local Act within a county which has a
36 special district for the provision of local government services consisting of the
37 unincorporated area of the county; and

1 (B) The population of the unincorporated area of the county will, after removal of the
2 population of the new municipality from the unincorporated area, constitute less than
3 20 percent of the population of the county according to the most recent decennial
4 census.

5 (2) Notwithstanding any other provision of this Code section, if there exists within any
6 special district in which the tax authorized by this article is imposed a qualified
7 municipality described in paragraph (1) of this subsection which was not a qualified
8 municipality on the date of filing with the commissioner of the most recently filed
9 certificate under Code Section 48-8-89, such qualified municipality may request the
10 commissioner to give notice of the qualified municipality's existence and status as a
11 qualified municipality as provided in this subsection. Upon receipt of such a request, the
12 commissioner shall, unless he or she determines that the requesting entity is not a
13 qualified municipality, within 30 days give written notice of the qualified municipality's
14 existence and status to the county which is conterminous with the special district in which
15 the qualified municipality is located and to each other qualified municipality within the
16 special district. Such written notice shall include the name of the new qualified
17 municipality, the effective date of the notice, and a statement of the provisions of this
18 subsection.

19 (3) Within 60 days after the effective date of the notice referred to in paragraph (2) of
20 this subsection, a new distribution certificate shall be filed with the commissioner for the
21 special district. This distribution certificate shall address only the proceeds of the tax
22 available for distribution from the percentage allocated to the county in the current
23 distribution certificate and shall specify as a percentage of the total proceeds of the tax
24 what portion of the proceeds shall be received by the county in which the special district
25 is located and by the new qualified municipality.

26 (4) Except as otherwise provided in this paragraph, a distribution certificate required by
27 this subsection must be executed by the governing authorities of the county within which
28 the special district is located and each new qualified municipality located wholly or
29 partially within the special district. If a new certificate is not filed within 60 days as
30 required by paragraph (3) of this subsection, the commissioner shall distribute the
31 proceeds of the tax available for distribution from the percentage allocated to the county
32 in the current distribution certificate such that the new qualified municipality receives an
33 allocation equal on a per capita basis to the average per capita allocation to the other
34 qualified municipalities in the county (according to population), to be expended as
35 provided in paragraph (2) of subsection (a) of Code Section 48-8-89. Every other
36 qualified municipality shall continue to receive the share provided by the existing
37 distribution certificate or otherwise provided by law. The county shall receive the

1 remaining proceeds of the tax, to be expended as provided in paragraph (2) of subsection
2 (a) of Code Section 48-8-89. For the purpose of determining the population of new
3 qualified municipalities, only that portion of the population of each such municipality
4 which is located within the special district shall be computed. For the purpose of
5 determining population under this Code section, all calculations of population shall be
6 according to the most recent decennial census.

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

16 **SECTION 2.**

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

19 **SECTION 3.**

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