

The House Committee on Ways and Means offers the following substitute to HB 1416:

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2A of Chapter 8 of Title 48 of the Official Code of Georgia Annotated,
2 relating to the homestead option sales and use tax, so as to change the manner and method
3 of disbursing the proceeds of such tax; to provide for definitions; to provide for legislative
4 intent; to provide for procedures, conditions, and limitations; to provide for powers and
5 duties of the state revenue commissioner; to provide an effective date; to repeal conflicting
6 laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 2A of Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to the
10 homestead option sales and use tax, is amended by adding a new paragraph (3) at the end of
11 Code Section 48-8-101, relating to definitions, to read as follows:

12 "(3) 'Qualified municipality' means a municipality created on or after January 1, 2006,
13 lying wholly within or partially within a county."

14 **SECTION 2.**

15 Said article is further amended by adding a new Code section immediately following Code
16 Section 48-8-101, to be designated Code Section 48-8-101.1, to read as follows:

17 "48-8-101.1.

18 It is the intent of the General Assembly that the proceeds of the homestead option sales tax
19 be distributed equitably to the counties and qualified municipalities according to this
20 article. The provisions of this article shall be liberally construed to effectuate such intent.

21 This Code section shall not be construed to prevent the governing authority of a county
22 from sharing sales and use taxes collected in accordance with this article with existing
23 municipalities or to impair any existing intergovernmental agreement between a county and
24 existing municipalities."

1 proceeds of the sales and use tax shall be distributed to the governing authority of the
 2 county whose geographical boundary is conterminous with that of the special district. As
 3 a condition precedent for the authority to levy the sales and use tax or to collect any
 4 proceeds from the tax authorized by this article for the year following the first complete
 5 calendar year in which it is levied and for all subsequent years except the year following
 6 the year in which the sales and use tax is terminated under Code Section 48-8-106, the
 7 county whose geographical boundary is conterminous with that of the special district
 8 shall, except as otherwise provided in subsection (c) of Code Section 48-8-102, expend
 9 such proceeds as follows:

10 (A) A portion of such proceeds shall be expended for the purpose of funding capital
 11 outlay projects as follows:

12 (i) The governing authority of the county whose geographical boundary is
 13 conterminous with that of the special district shall establish the capital factor which
 14 shall not exceed .200 and, for a county in which a qualified municipality is located,
 15 not be less than the level required by subsection (d) of this Code section; and

16 (ii) Capital outlay projects shall be funded in an amount equal to the product of the
 17 capital factor multiplied by the net amount of the sales and use tax proceeds collected
 18 under this article during the previous calendar year. This amount shall be referred to
 19 as capital outlay proceeds in subsections (d) and (e) of this Code section;

20 (B) A portion of such proceeds shall be expended for the purpose of funding services
 21 within the special district equal to the revenue lost to the homestead exemption as
 22 provided in Code Section 48-8-104 as follows:

23 (i) The homestead factor shall be calculated by multiplying the quantity 1.000 minus
 24 the capital factor times an amount equal to the net amount of sales and use tax
 25 collected in the special district pursuant to this article for the previous calendar year,
 26 and then dividing by the taxes levied for county purposes on only that portion of the
 27 county tax digest that represents net assessments on qualified homestead property
 28 after all other homestead exemptions have been applied, rounding the result to three
 29 decimal places;

30 (ii) If the homestead factor is less than or equal to 1.000, the amount of homestead
 31 exemption created under this article on qualified homestead property shall be equal
 32 to the product of the homestead factor multiplied times the net assessment of each
 33 qualified homestead remaining after all other homestead exemptions have been
 34 applied; and

35 (iii) If the homestead factor is greater than 1.000, the homestead exemption created
 36 by this article on qualified homestead property shall be equal to the net assessment of

1 each homestead remaining after all other homestead exemptions have been applied;
2 and

3 (C) If any of such proceeds remain following the distribution provided for in
4 subparagraphs (A) and (B) of this paragraph and subsections (d) and (e) of this Code
5 section:

6 (i) The millage rate levied for county purposes shall be rolled back in an amount
7 equal to such excess divided by the net taxable digest for county purposes after
8 deducting all homestead exemptions including the exemption under this article; and

9 (ii) In the event the rollback created by division (i) of this subparagraph exceeds the
10 millage rate for county purposes, the governing authority of the county whose
11 boundary is conterminous with the special district shall be authorized to expend the
12 surplus funds for funding all or any portion of those services which are to be provided
13 by such governing authorities pursuant to and in accordance with Article IX, Section
14 II, Paragraph III of the Constitution of this state.

15 (d) The commissioner shall distribute to the governing authority of each qualified
16 municipality located in the special district a share of the capital outlay proceeds calculated
17 as provided in subsection (e) of this Code section. The governing authority for the county
18 in which a qualified municipality is located shall, on or before August 1 of each year,
19 provide to the commissioner written certification of the capital factor set by the county for
20 the current calendar year. The capital factor must be set at a level sufficiently high to allow
21 the commissioner to pay the sum of all equalization amounts due the qualified
22 municipalities located in the special district; provided, however, that the capital factor may
23 not exceed 0.2000. The commissioner shall then calculate the equalization amount due
24 each qualified municipality based on the capital factor certified by the county and pay such
25 amount to the governing authority of each qualified municipality in four equal monthly
26 payments as soon as practicable during or after each of the last four months of the current
27 calendar year. The commissioner shall distribute to the governing authority of the county
28 each month the net sales and use tax remaining after payment of equalization amounts to
29 the qualified municipalities.

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

31 (A) 'Equalization amount' means for a qualified municipality the product of the
32 equalization millage times the net homestead digest for that qualified municipality.

33 (B) 'Equalization millage' for each qualified municipality shall equal the product of
34 the homestead factor calculated pursuant to subparagraph (c)(2)(B) of this Code
35 section times the difference between the unincorporated county millage rate and the
36 incorporated county millage rate for that qualified municipality.

1 (C) 'Incorporated county millage rate' means the millage rate for all ad valorem taxes
 2 for county purposes levied by the county in each of the qualified municipalities in the
 3 county.

4 (D) 'Net homestead digest' means for each qualified municipality the total net
 5 assessed value of all qualified homestead property located in that portion of the
 6 qualified municipality located in the county remaining after all other homestead
 7 exemptions are applied. The tax commissioner shall certify to the commissioner the
 8 net homestead digest for each qualified municipality at the time the digest is
 9 completed and deposited pursuant to Code Section 48-5-205.

10 (E) 'Unincorporated county millage rate' means the millage rate for all ad valorem
 11 taxes for county purposes levied by the county in the unincorporated area of the
 12 county.

13 (2) A hypothetical example of the calculation of the equalization amount is as follows:

14 Calculation of homestead factor

15 (per subdivision (c)(2)(B)(i) of this Code section)

16	<u>Capital factor certified by county</u>	<u>0.150</u>
17	<u>(per subsection (d) of this Code section)</u>	
18	<u>Net amount of sales and use tax collected in the special</u>	<u>\$ 50 million</u>
19	<u>district pursuant to this article for the previous calendar</u>	
20	<u>year</u>	
21	<u>Taxes levied for county purposes on only that portion</u>	<u>\$100 million</u>
22	<u>of the county tax digest that represents net assessments</u>	
23	<u>on qualified homestead property after all other</u>	
24	<u>homestead exemptions have been applied</u>	
25	<u>Homestead factor using figures above</u>	
26	<u>[(1-.0150)(\$50 million/\$100 million)]</u>	<u>.425</u>

27 Calculation of equalization amount

28	<u>Unincorporated county millage rate for county</u>	<u>15.0 mills</u>
29	<u>Minus the incorporated county millage rate for</u>	
30	<u>municipality 'Y'</u>	<u>(10.0 mills)</u>
31	<u>Difference:</u>	<u>= 5.0 mills</u>
32	<u>Times homestead factor (calculated above)</u>	<u>x .425</u>

1	<u>Equalization millage:</u>	<u>= 2.125 mills</u>
2	<u>Times net homestead digest for municipality 'Y'</u>	<u>\$200 million</u>
3	<u>Equalization amount payable to municipality 'Y'</u>	<u>\$ 425,000.00</u>

4 (5) In the event the total equalization amounts payable in a calendar year to all qualified
5 municipalities in the special district exceeds the capital outlay proceeds calculated based
6 on a maximum capital factor of 0.200, the commissioner shall pay to the governing
7 authority of each qualified municipality a proportional share of such proceeds. The
8 commissioner shall calculate each qualified municipality's share by dividing the net
9 homestead digest for that qualified municipality by the total net homestead digest of all
10 the qualified municipalities in the special district.

11 (6) In the event the incorporated county millage rate for a qualified municipality is
12 greater than the unincorporated county millage rate, no payment shall be due from the
13 governing authority of the qualified municipality to the governing authority of the county.

14 (7) If any qualified municipality is located partially in the county then only that portion
15 so located shall be considered in the calculations contained in this subsection."

16 **SECTION 4.**

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

19 **SECTION 5.**

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