

House Bill 356

By: Representatives Fludd of the 66th, Smyre of the 132nd, Porter of the 143rd, Kaiser of the 59th, Abrams of the 84th, and others

A BILL TO BE ENTITLED

AN ACT

1 To amend Title 48 of the Official Code of Georgia Annotated, relating to revenue and
 2 taxation, so as to revise substantially the manner and method of collecting local sales and use
 3 taxes; to change certain provisions regarding collection of certain local taxes by the state
 4 revenue commissioner; to provide for certain procedures and limitations with respect to
 5 private collecting firms; to provide for a definition; to change certain provisions regarding
 6 administration and collection of the joint county and municipal sales and use tax; to change
 7 certain provisions regarding required information on sales tax returns; to change certain
 8 provisions regarding distribution and use of proceeds of such tax; to change certain
 9 provisions regarding procedures for certifying additional qualified municipalities; to change
 10 certain provisions regarding distribution of proceeds to qualified municipalities which cease
 11 to be qualified; to change certain provisions regarding levy of such tax in certain special
 12 districts; to change certain provisions regarding administration by the state revenue
 13 commissioner of the homestead option sales and use tax; to change certain provisions
 14 regarding the administration by the state revenue commissioner of the county special purpose
 15 local option sales tax; to change certain provisions regarding return requirements of such
 16 sales tax; to change certain provisions regarding disbursement of the proceeds of such tax;
 17 to change certain provisions regarding the imposition and collection of the sales tax for
 18 educational purposes; to change certain provisions regarding administration by the state
 19 revenue commissioner of the water and sewer projects and costs sales and use tax; to change
 20 certain provisions regarding return requirements of such sales tax; to change certain
 21 provisions regarding disbursement of the proceeds of such tax; to repeal conflicting laws; and
 22 for other purposes.

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

24 **PART I**

25 **SECTION 1-1.**

26 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
 27 amended by revising Code Section 48-2-10, relating to collection of certain local taxes by
 28 the state revenue commissioner, as follows:

29 "48-2-10.

30 ~~The commissioner is authorized to negotiate and contract with the governing authority of~~
 31 ~~any county or municipality for the purpose of arranging for the collection by the~~
 32 ~~commissioner of any tax levied by the county or municipality when the tax is also levied~~
 33 ~~and collected by the commissioner for the state. The agreement shall include a fee to be~~
 34 ~~paid by the county or municipality to the commissioner in an amount which covers fully~~
 35 ~~the cost of collection of the local portion of the tax by the commissioner. The~~
 36 ~~commissioner shall transmit to the county or municipality all taxes so collected on behalf~~
 37 ~~of the county or municipality on or before the date specified in the agreement, less the~~
 38 ~~collection fee agreed upon Reserved."~~

39 **SECTION 1-2.**

40 Said title is further amended by designating Code Sections 48-2-30 through 48-2-61 of
 41 Article 2 of Chapter 2 thereof as Part 1 of said article, and inserting at the end thereof a new
 42 Part 2 to read as follows:

43 "Part 2

44 48-2-70.

45 (a) For purposes of this part, the term:

46 (1) 'Government collector' means any county or municipality acting pursuant to a valid
 47 contract under this part to administer, collect, and distribute any local or special district
 48 sales and use taxes established by this chapter or authorized by local constitutional
 49 amendment.

50 (2) 'Local sales and use taxes' means any local or special district sales and use taxes
 51 established in this chapter or authorized by local constitutional amendment.

52 (3) 'Private collector' means any private party acting pursuant to a valid contract under
 53 this part to administer, collect, and distribute any local or special district sales and use
 54 taxes established in this chapter or authorized by local constitutional amendment.

55 (b)(1) The administration, collection, and distribution of any local sales and use taxes
56 may be performed by the commissioner, a government collector, or private collector
57 pursuant to a written contract approved and executed by the county, municipalities, and
58 boards of education who are the beneficiaries of the local sales and use taxes levied
59 within such special district or county. Approval and execution of the contract by the
60 municipalities shall be achieved through approval by resolution and execution of the
61 contract by one or more municipalities representing more than one-half of the aggregate
62 municipal population of the special district or county within which the tax is levied.
63 Approval and execution of the contract by the boards of education shall be achieved
64 through approval by resolution and execution of the contract by one or more boards of
65 education representing more than one-half of the aggregate full-time equivalent student
66 population within the county.

67 (2) Upon final approval and execution of the written contract, the county shall notify the
68 commissioner that the local sales and use taxes will be collected by a government
69 collector or private collector and shall forward a copy of the executed contract to the
70 commissioner.

71 (3) Within 30 days of receipt of such notice, the department shall provide, without fee or
72 other charge, to the government collector or private collector and each county,
73 municipality, and board of education within the county or special district a list of known
74 taxpayers of state and local sales and use taxes located within the county or special
75 district within which the local sales and use taxes are levied.

76 (4) The department shall provide notice to dealers required to collect and remit one or
77 more of the local sales and use taxes covered by the contract. The notice shall inform
78 dealers of the transition from collection of such taxes by the department to collection of
79 such taxes by the government collector or private collector. The department shall provide
80 such notice within 390 days of the department's receipt of notice from the county under
81 paragraph (2) of this subsection.

82 (c) Where collection by a government collector or private collector of one or more local
83 sales and use taxes has been authorized by written contract as provided in subsection (b)
84 of this Code section, collection by the government collector or private collector shall begin
85 on the first day of the next succeeding calendar quarter which begins more than 80 days
86 after the final approval of the contract and shall occur at the same time and in the same
87 manner as state sales and use taxes are to be paid to the department.

88 (d) Upon first contact with a dealer or taxpayer under the local sales and use tax, a
89 government collector or private collector shall provide in writing the identity of all
90 jurisdictions on whose behalf such contact is made.

91 (e) Where a contract is not entered into as provided in this part, the commissioner shall
92 continue to collect, administer, and distribute the local sales and use tax in accordance with
93 the applicable general state laws or local constitutional amendment otherwise authorizing
94 the imposition and collection of that local sales and use tax.

95 48-2-71.

96 The power to audit dealers and taxpayers to determine compliance with the provisions of
97 this chapter shall be retained exclusively by the department, which may initiate an audit as
98 otherwise provided by law and may receive and consider requests for audits.

99 48-2-72.

100 (a) The department and the Georgia Technology Authority shall provide by regulation for
101 a single uniform and centralized method for electronic filing, payment, and distribution of
102 returns, local sales and use taxes payments, and related documents by dealers whose
103 estimated aggregate tax liability for taxes imposed pursuant to this chapter exceeds
104 \$1,000.00. Such single uniform method shall be utilized by dealers, the department, any
105 government collector, and any private collector and shall provide for a single address for
106 all returns and the distribution of electronic payments and relevant portions of returns to
107 the department or the applicable government collector or private collector. The
108 department, the commissioner, and the Georgia Technology Authority shall not impose any
109 fee or charge of any kind for performing this function. Except for the 1 percent collection
110 amounts otherwise authorized under Chapter 8, the commissioner, any government
111 collector, or any private collector may impose on dealers a fee not to exceed 10 percent of
112 the amount due on the return for filing a return or paying a tax liability by other than
113 electronic means.

114 (b) The commissioner shall provide by regulation for the classification of dealers by codes
115 provided for by the North American Industrial Classification System of the United States
116 Bureau of the Census and such classifications shall be utilized on all electronic returns.

117 (c) Unless otherwise provided by contract, the commissioner shall disburse sums due to
118 counties, municipalities, and boards of education within three business days of processing
119 by the department.

120 (d) The commissioner shall facilitate and expedite, for no additional fee or charge, the
121 exchange of returns and payment information for each local sales and use tax among and
122 between the department, the government or private collector acting pursuant to written
123 contract to collect such local sales and use tax, and the counties, municipalities, and boards
124 of education who are the beneficiaries of such local sales and use tax.

125 (e) Notwithstanding Code Section 40-7-60 or any other state law, all records obtained from
 126 dealers and taxpayers pursuant to this chapter may be disclosed among and between the
 127 department, the government or private collector acting pursuant to written contract to
 128 collect such local sales and use tax, and the counties, municipalities, and boards of
 129 education who are the beneficiaries of such local sales and use tax, for the purposes of
 130 ensuring compliance with the tax and with other laws, and for the purposes of conducting
 131 or publishing research for economic development or economic forecasting where the
 132 published report does not identify particular reports or returns. Such returns and reports
 133 are not subject to Article 4 of Chapter 18 of Title 50. Unless disclosure is required by a
 134 subpoena, warrant, proper judicial order, or otherwise as provided by law, any person who
 135 knowingly and willfully discloses records for an unauthorized purpose shall be guilty of
 136 a misdemeanor."

137 **PART II.**

138 **SECTION 2-1.**

139 Said title is further amended by revising Code Section 48-8-87, relating to administration and
 140 collection of the joint county and municipal sales and use tax, as follows:

141 "48-8-87.

142 The tax levied pursuant to this article shall be exclusively administered and collected by
 143 ~~the commissioner~~ for the use and benefit of each county whose geographical boundary is
 144 conterminous with that of a special district and of each qualified municipality located
 145 wholly or partially therein. The provisions of Part 2 of Article 2 of Chapter 2 of this title
 146 shall be applicable to the administration and collection of such tax. When such tax is
 147 administered and collected by the commissioner, such ~~Such~~ administration and collection
 148 shall be accomplished in the same manner and subject to the same applicable provisions,
 149 procedures, and penalties provided in Article 1 of this chapter, except that the joint tax
 150 provided in this article shall be applicable to sales of motor fuels as prepaid local tax as that
 151 term is defined by paragraph ~~(5.2)~~ (5.1) of Code Section 48-8-2; provided, however, that
 152 all moneys collected from each taxpayer ~~by the commissioner~~ shall be applied first to such
 153 taxpayer's liability for taxes owed the ~~state~~ jurisdiction administering and collecting such
 154 tax. Dealers shall be allowed a percentage of the amount of the tax due and accounted for
 155 and shall be reimbursed in the form of a deduction in submitting, reporting, and paying the
 156 amount due if such amount is not delinquent at the time of payment. The deduction shall
 157 be at the rate and subject to the requirements specified under subsections (b) through (f)
 158 of Code Section 48-8-50."

159 **SECTION 2-2.**

160 Said title is further amended by revising Code Section 48-8-88, relating to required
 161 information on sales tax returns, as follows:

162 "48-8-88.

163 Each sales tax return remitting taxes collected under this article shall separately identify
 164 the location of each retail establishment at which any of the taxes remitted were collected
 165 and shall specify the amount of sales and the amount of taxes collected at each
 166 establishment for the period covered by the return in order to facilitate the determination
 167 ~~by the commissioner~~ that all taxes imposed by this article are collected and distributed
 168 according to situs of sale."

169 **SECTION 2-3.**

170 Said title is further amended by revising Code Section 48-8-89, relating to distribution and
 171 use of proceeds, as follows:

172 "48-8-89.

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

175 (1) ~~One percent of the amount collected~~ Where such tax is administered and collected
 176 by the commissioner, 1 percent of the amount collected shall be paid into the general fund
 177 of the state treasury in order to defray the costs of administration; and

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

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

- 195 (1) The service delivery responsibilities of each political subdivision to the population
 196 served by the political jurisdiction and served during normal business hours, conventions,
 197 trade shows, athletic events and the inherent value to a community of a central business
 198 district and the unincorporated areas of the county and the obligation of all residents of
 199 the county for the maintenance and prosperity of the central business district and the
 200 unincorporated areas of the county;
- 201 (2) The service delivery responsibilities of each political subdivision to the resident
 202 population of the subdivision;
- 203 (3) The existing service delivery responsibility of each political subdivision;
- 204 (4) The effect of a change in sales tax distribution on the ability of each political
 205 subdivision to meet its short-term and long-term debt;
- 206 (5) The point of sale and use which generates the tax to be apportioned;
- 207 (6) The existence of intergovernmental agreements among and between the political
 208 subdivisions;
- 209 (7) The use by any political subdivision of property taxes and other revenues from some
 210 taxpayers to subsidize the cost of services provided to other taxpayers of the levying
 211 subdivision; and
- 212 (8) Any coordinated plan of county and municipal service delivery and financing.
- 213 Notwithstanding the fact that a certificate shall not contain an execution in behalf of one
 214 or more qualified municipalities within the special district, if the combined total of the
 215 populations of all such absent municipalities is less than one-half of the aggregate
 216 population of all qualified municipalities located within the special district, the submitting
 217 political subdivisions shall, in behalf of the absent municipalities, specify a percentage of
 218 that portion of the remaining proceeds which each such municipality shall receive, which
 219 percentage shall not be less than that proportion which each absent municipality's
 220 population bears to the total population of all qualified municipalities within the special
 221 district multiplied by that portion of the remaining proceeds which are received by all
 222 qualified municipalities within the special district. For the purpose of determining the
 223 population of the absent municipalities, only that portion of the population of each such
 224 municipality which is located within the special district shall be computed. No certificate
 225 may contain a total of specified percentages in excess of 100 percent. The certificate shall
 226 be filed with the commissioner by March 1, 1980, for those special districts in which the
 227 tax authorized by this article is being levied on January 1, 1980. For all other special
 228 districts in which the tax shall be imposed subsequent to January 1, 1980, the certificate
 229 shall be filed with the commissioner within 60 days after the tax is imposed within the
 230 district. ~~The commissioner shall continue to distribute the~~ proceeds of the tax shall
 231 continue to be distributed as otherwise provided in this Code section until the first day of

232 the next calendar year following the month in which the commissioner receives a certificate
 233 as provided in this Code section, which certificate shall provide other percentages upon
 234 which ~~the commissioner shall make~~ the distribution shall be made to the political
 235 subdivisions entitled to the proceeds of the tax. At such time, ~~the commissioner shall~~
 236 ~~thereafter distribute~~ the proceeds of the tax shall be distributed in accordance with the
 237 directions of the certificate.

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

253 (d)(1) Except as otherwise provided in paragraph (7) of this subsection, a certificate
 254 providing for the distribution of the proceeds of the tax authorized by this article shall
 255 expire on December 31 of the second year following the year in which the decennial
 256 census is conducted. No later than December 30 of the second year following the year
 257 in which the census is conducted, a renegotiated certificate meeting the requirements for
 258 certificates specified by subsection (b) of this Code section shall be filed with and
 259 received by the commissioner. The General Assembly recognizes that the requirement
 260 for government services is not always in direct correlation with population. Although a
 261 renegotiated certificate is required within a time certain of the decennial census, this
 262 requirement is not meant to convey an intent by the General Assembly that population
 263 as a criterion should be more heavily weighted than other criteria. It is the express intent
 264 of the General Assembly in requiring such renegotiation that eligible political
 265 subdivisions shall analyze local service delivery responsibilities and the existing
 266 allocation of proceeds made available to such governments under the provisions of this
 267 article and make rational the allocation of such resources to meet such service delivery

268 responsibilities. Political subdivisions in their renegotiation of such distributions shall
 269 at a minimum consider the criteria specified in subsection (b) of this Code section.

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

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

283 (4) If the renegotiated certificate provided for in paragraph (1) of this subsection is not
 284 received by the commissioner by the required date, the authority to impose the tax
 285 authorized by Code Section 48-8-82 shall cease on December 31 of the second year
 286 following the year in which the decennial census is conducted and the tax shall not be
 287 levied in the special district after such date unless the reimposition of the tax is
 288 subsequently authorized pursuant to Code Section 48-8-85. When the imposition of the
 289 tax is so terminated, the commissioner jurisdiction administering and collecting such tax
 290 shall retain the proceeds of the tax which were to be distributed to the governing
 291 authorities of the county and qualified municipalities within the special district until the
 292 commissioner receives a certificate in behalf of each such governing authority specifying
 293 the percentage of the proceeds which each such governing authority shall receive. If no
 294 such certificate is received by the commissioner within 120 days of the date on which the
 295 authority to levy the tax was terminated, the proceeds shall escheat to the state and the
 296 jurisdiction administering and collecting such tax shall transfer the proceeds to the
 297 commissioner shall for transfer the proceeds to the state's general fund.

298 (5) If the commissioner receives the renegotiated certificate by the required date, ~~the~~
 299 ~~commissioner shall distribute~~ the proceeds of the tax shall be distributed in accordance
 300 with the directions of the renegotiated certificate commencing on January 1 of the year
 301 immediately following the year in which such certificate was renegotiated or the first day
 302 of the second calendar month following the month such certificate was renegotiated,
 303 whichever is sooner.

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

308 (7) All distribution certificates on file with the commissioner on July 1, 1994, which
 309 were not renegotiated in accordance with the 1990 decennial census figures or
 310 renegotiated on or after January 1, 1992, shall expire on December 31, 1995.
 311 Renegotiations with respect to such certificates shall be commenced in accordance with
 312 the requirements of this subsection on or before July 1, 1994. If a renegotiated certificate
 313 is not received by the commissioner by July 1, 1995, the authority to impose the tax
 314 authorized by Code Section 48-8-82 shall cease on December 31, 1995, and the tax shall
 315 not be levied in the special district after that date unless reimposition of the tax is
 316 subsequently authorized pursuant to Code Section 48-8-85. ~~The commissioner shall~~
 317 ~~retain and distribute the~~ proceeds of such terminated tax shall be distributed in
 318 accordance with paragraph (4) of this subsection.

319 (8) No qualified municipality within the special district whose population is less than 5
 320 percent of the population in the special district according to the United States decennial
 321 census of 1990 shall receive a reduced percentage of distribution than presently being
 322 received under the existing certificate prior to renegotiations required in paragraph (7) of
 323 this subsection unless the new agreement is executed by the qualified municipality. This
 324 paragraph shall apply only to the negotiations required by paragraph (7) of this subsection
 325 and shall not apply to any subsequent renegotiations required by this subsection.

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

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

333 **SECTION 2-4.**

334 Said title is further amended by revising Code Section 48-8-89.1, relating to procedure for
 335 certifying additional qualified municipalities, as follows:

336 "48-8-89.1.

337 (a) If there exists within any special district in which the tax authorized by this article is
 338 imposed a qualified municipality which was not a qualified municipality on the date of
 339 filing with the commissioner of the most recently filed certificate under Code Section

340 48-8-89, such qualified municipality may request the commissioner to give notice of the
341 qualified municipality's existence as provided in this subsection. Upon receipt of such a
342 request, the commissioner shall, unless he determines that the requesting entity is not a
343 qualified municipality, within 30 days give written notice of the qualified municipality's
344 existence to the county which is conterminous with the special district in which the
345 qualified municipality is located and to each other qualified municipality within the special
346 district. Such written notice shall include the name of the new qualified municipality, the
347 effective date of the notice, and a statement of the provisions of this Code section.

348 (b) Within 60 days after the effective date of the notice referred to in subsection (a) of this
349 Code section, a new distribution certificate shall be filed with the commissioner for the
350 special district. This distribution certificate shall specify by percentage what portion of the
351 proceeds of the tax available for distribution within the special district shall be received by
352 the county in which the special district is located and by each qualified municipality
353 located wholly or partially within the special district, including the new qualified
354 municipality. No distribution certificate may contain a total of specified percentages in
355 excess of 100 percent.

356 (c) Except as otherwise provided in this subsection, a distribution certificate required by
357 this Code section must be executed by the governing authorities of the county within which
358 the special district is located and each qualified municipality located wholly or partially
359 within the special district, including the new qualified municipality. Notwithstanding the
360 fact that a certificate shall not contain an execution in behalf of one or more qualified
361 municipalities within the special district, if the combined total of the populations of all such
362 absent municipalities is less than one-half of the aggregate population of all qualified
363 municipalities located within the special district, the submitting political subdivisions shall,
364 in behalf of the absent municipalities, specify a percentage of that portion of the remaining
365 proceeds which each such municipality shall receive, which percentage shall not be less
366 than that proportion which each absent municipality's population bears to the total
367 population of all qualified municipalities within the special district multiplied by that
368 portion of the remaining proceeds which are received by all qualified municipalities within
369 the special district. For the purpose of determining the population of the absent
370 municipalities, only that portion of the population of each such municipality which is
371 located within the special district shall be computed.

372 (d) If a new certificate is not filed for any special district as required by this Code section,
373 the authority to impose the tax authorized by Code Section 48-8-82 within that special
374 district shall cease on the first day of January of the year following the year in which the
375 required distribution certificate could last have been timely filed. In any special district in
376 which the authority to impose the tax is terminated pursuant to this subsection, the tax may

377 thereafter be reimposed only pursuant to the procedures specified in Code Sections 48-8-84
378 through 48-8-86.

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

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

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

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

400 (2) Notwithstanding any other provision of this Code section, if there exists within any
401 special district in which the tax authorized by this article is imposed a new qualified
402 municipality or a newly expanded qualified municipality or both, such qualified
403 municipality or municipalities may request the commissioner to give notice of the
404 qualified municipality's or municipalities' existence and status as a new qualified
405 municipality or newly expanded qualified municipality as provided in this subsection.
406 Upon receipt of such a request, the commissioner shall, unless he or she determines that
407 the requesting entity is not a new qualified municipality or newly expanded qualified
408 municipality, within 30 days give written notice of the qualified municipality's existence
409 and status to the county which is conterminous with the special district in which the
410 qualified municipality is located and to each other qualified municipality within the
411 special district. Such written notice shall include the name of the new qualified
412 municipality or newly expanded qualified municipality, the effective date of the notice,
413 and a statement of the provisions of this subsection.

414 (3) Within 60 days after the effective date of the notice referred to in paragraph (2) of
 415 this subsection, a new distribution certificate shall be filed with the commissioner for the
 416 special district. This distribution certificate shall address only the proceeds of the tax
 417 available for distribution from the percentage allocated to the county in the current
 418 distribution certificate and shall specify as a percentage of the total proceeds of the tax
 419 what portion of the proceeds shall be received by the county in which the special district
 420 is located and by the new qualified municipality and newly expanded qualified
 421 municipality, if any.

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

430 (A) The new qualified municipality receives an allocation equal on a per capita basis
 431 to the average per capita allocation to the other qualified municipalities in the county
 432 (according to population), to be expended as provided in paragraph (2) of subsection
 433 (a) of Code Section 48-8-89; and

434 (B) Any newly expanded qualified municipality receives a total allocation of tax
 435 proceeds (including any amount previously allocated) equal on a per capita basis to the
 436 average per capita allocation to the other qualified municipalities in the county
 437 (according to population), to be expended as provided in paragraph (2) of subsection (a)
 438 of Code Section 48-8-89.

439 Every other qualified municipality shall continue to receive the share provided by the
 440 existing distribution certificate or otherwise provided by law. The county shall receive
 441 the remaining proceeds of the tax, to be expended as provided in paragraph (2) of
 442 subsection (a) of Code Section 48-8-89. For the purpose of determining the population
 443 of qualified municipalities, only that portion of the population of each such municipality
 444 which is located within the special district shall be computed. For the purpose of
 445 determining population under this Code section, all calculations of population shall be
 446 according to the most recent decennial census, including the census data from such
 447 census applicable to any annexed territory.

448 (5) ~~The commissioner shall begin to distribute the~~ proceeds shall be distributed as
 449 specified in the newly filed certificate or, if such a certificate is not filed, as specified in
 450 paragraph (4) of this subsection on the first day of the first month which begins more than

451 60 days after the effective date of the notice referred to in paragraph (2) of this
 452 subsection. The ~~commissioner shall continue to distribute~~ the proceeds of the tax shall
 453 continue to be distributed according to the existing certificate and the certificate
 454 applicable to the county and the new qualified municipality or, if such a certificate is not
 455 filed, as specified in paragraph (4) of this subsection until a subsequent certificate is filed
 456 and becomes effective as provided in Code Section 48-8-89."

457 **SECTION 2-5.**

458 Said title is further amended by revising Code Section 48-8-89.2, relating to distribution of
 459 proceeds to qualified municipalities which cease to be qualified, as follows:

460 "48-8-89.2.

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

469 **SECTION 2-6.**

470 Said title is further amended by revising Code Section 48-8-89.3, relating to levy of the tax
 471 in certain special districts, as follows:

472 "48-8-89.3.

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

- 475 (1) Prior to January 1, 1980, a joint county and municipal sales and use tax was levied
 476 pursuant to Ga. L. 1975, p. 984, Section 2 (as amended by Ga. L. 1975, Ex. Sess., p.
 477 1729, Section 1; Ga. L. 1976, p. 1019, Sections 1-13; Ga. L. 1977, p. 1008, Section 1; Ga.
 478 L. 1978, p. 1429, Sections 1-3; Ga. L. 1978, p. 1460, Sections 1-3; Ga. L. 1978, p. 1678,
 479 Section 1; Ga. L. 1978, p. 1695, Section 1; Ga. L. 1979, p. 446, Section 1) or in which
 480 a referendum election had authorized the levying of such a tax within the special district;
 481 (2) The tax provided for in Code Section 48-8-82 was actually collected during the
 482 period of January 1, 1980, to January 1, 1989; and
 483 (3) There exists a qualified municipality which lies wholly or partially within the special
 484 district and which:

- 485 (A) Was a qualified municipality at the time of filing of the distribution certificate most
 486 recently filed with the commissioner under Code Section 48-8-89; and
 487 (B) Was not assigned any percentage of the net proceeds of the tax under such
 488 distribution certificate.

489 In any special district which meets the criteria specified in this subsection, the tax provided
 490 for in Code Section 48-8-82 shall be levied without regard to any past defects in
 491 compliance with the procedures specified by this article for the imposition of the tax.

492 (b) A qualified municipality described in paragraph (3) of subsection (a) of this Code
 493 section, for which receipt of a portion of the net tax proceeds was not specified in the
 494 certificate most recently filed with the commissioner under Code Section 48-8-89, may
 495 request the commissioner to thereafter ~~distribute~~ recalculate the distribution of a portion
 496 of the net tax proceeds to the qualified municipality as provided in this Code section. Upon
 497 receipt of such a request, the commissioner shall thereafter, unless he determines that the
 498 requesting municipality does not meet the criteria specified in this Code section, give
 499 written notice of a new distribution formula to the county which is conterminous with the
 500 special district, to the requesting qualified municipality, and to each other qualified
 501 municipality within the special district. Such new distribution formula shall be determined
 502 as follows:

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

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

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

523 SECTION 2-7.

524 Said title is further amended by revising Code Section 48-8-104, relating to administration
 525 by the state revenue commissioner of the homestead option sales and use tax, as follows:

526 "48-8-104.

527 (a) The sales and use tax levied pursuant to this article shall be exclusively administered
 528 and collected ~~by the commissioner~~ for the use and benefit of each county whose
 529 geographical boundary is conterminous with that of a special district. The provisions of
 530 Part 2 of Article 2 of Chapter 2 of this title shall be applicable to the administration and
 531 collection of such tax. When such tax is administered and collected by the commissioner,
 532 such ~~Such~~ administration and collection shall be accomplished in the same manner and
 533 subject to the same applicable provisions, procedures, and penalties provided in Article 1
 534 of this chapter. ~~The except that the~~ sales and use tax provided in this article shall be
 535 applicable to sales of motor fuels as prepaid local tax as that term is defined by paragraph
 536 ~~(5.2)~~ (5.1) of Code Section 48-8-2; provided, however, that all moneys collected from each
 537 taxpayer ~~by the commissioner~~ shall be applied first to such taxpayer's liability for taxes
 538 owed the state jurisdiction administering and collecting such tax. Dealers shall be allowed
 539 a percentage of the amount of the sales and use tax due and accounted for and shall be
 540 reimbursed in the form of a deduction in submitting, reporting, and paying the amount due
 541 if such amount is not delinquent at the time of payment. The deduction shall be at the rate
 542 and subject to the requirements specified under subsections (b) through (f) of Code Section
 543 48-8-50.

544 (b) Each sales and use tax return remitting sales and use taxes collected under this article
 545 shall separately identify the location of each retail establishment at which any of the sales
 546 and use taxes remitted were collected and shall specify the amount of sales and the amount
 547 of taxes collected at each establishment for the period covered by the return in order to
 548 facilitate the determination ~~by the commissioner~~ that all sales and use taxes imposed by this
 549 article are collected and distributed according to situs of sale.

550 (c) The proceeds of the sales and use tax collected ~~by the commissioner~~ in each special
 551 district under this article shall be disbursed as soon as practicable after collection as
 552 follows:

553 (1) ~~One percent of the amount collected~~ Where such tax is administered and collected
 554 by the commissioner, 1 percent of the amount collected shall be paid into the general fund
 555 of the state treasury in order to defray the costs of administration; and

556 (2) Except for the amount or percentage provided in paragraph (1) of this subsection and
557 the amount determined under subsections (d) and (e) of this Code section, the remaining
558 proceeds of the sales and use tax shall be distributed to the governing authority of the
559 county whose geographical boundary is conterminous with that of the special district;
560 provided, however, that a county and any qualified municipality shall be authorized by
561 intergovernmental agreement to waive the equalization amount otherwise required under
562 subsections (d) and (e) of this Code section and provide for a different distribution
563 amount. In the event of such waiver, except for the percentage provided in paragraph (1)
564 of this subsection, the remaining proceeds of the sales and use tax shall be distributed to
565 the governing authority of the county whose geographical boundary is conterminous with
566 that of the special district. As a condition precedent for the authority to levy the sales and
567 use tax or to collect any proceeds from the tax authorized by this article for the year
568 following the first complete calendar year in which it is levied and for all subsequent
569 years except the year following the year in which the sales and use tax is terminated
570 under Code Section 48-8-106, the county whose geographical boundary is conterminous
571 with that of the special district shall, except as otherwise provided in subsection (c) of
572 Code Section 48-8-102, expend such proceeds as follows:

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

575 (i) The governing authority of the county whose geographical boundary is
576 conterminous with that of the special district shall establish the capital factor which
577 shall not exceed .200 and, for a county in which a qualified municipality is located,
578 shall not be less than the level required by subsection (d) of this Code section;
579 therefore, at a minimum, the county shall set the capital factor at a level that yields an
580 amount of capital outlay proceeds that is equal to or greater than the sum of all
581 equalization amounts due qualified municipalities and existing municipalities under
582 subsection (e) of this Code section; and

583 (ii) Capital outlay projects shall be funded in an amount equal to the product of the
584 capital factor multiplied by the net amount of the sales and use tax proceeds collected
585 under this article during the previous calendar year, and this amount shall be referred
586 to as capital outlay proceeds in subsections (d) and (e) of this Code section;

587 (B) A portion of such proceeds shall be expended for the purpose of funding services
588 within the special district equal to the revenue lost to the homestead exemption as
589 provided in this Code section as follows:

590 (i) The homestead factor shall be calculated by multiplying the quantity 1.000 minus
591 the capital factor times an amount equal to the net amount of sales and use tax
592 collected in the special district pursuant to this article for the previous calendar year,

593 and then dividing by the taxes levied for county purposes on only that portion of the
 594 county tax digest that represents net assessments on qualified homestead property
 595 after all other homestead exemptions have been applied, rounding the result to three
 596 decimal places;

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

602 (iii) If the homestead factor is greater than 1.000, the homestead exemption created
 603 by this article on qualified homestead property shall be equal to the net assessment of
 604 each homestead remaining after all other homestead exemptions have been applied;
 605 and

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

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

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

618 (d)(1) ~~The commissioner~~ authority administering and collecting the tax shall distribute
 619 to the governing authority of each qualified municipality located in the special district a
 620 share of the capital outlay proceeds calculated as provided in this subsection and
 621 subsection (e) of this Code section which proceeds shall be expended for the purpose of
 622 funding capital outlay projects of such municipality.

623 (2) Both the tax commissioner and the governing authority for the county in which a
 624 qualified municipality is located shall cooperate with and assist the commissioner in the
 625 calculation of the equalization amounts under subsection (e) of this Code section and
 626 shall, on or before July 1 of each year, provide to the commissioner and the governing
 627 authority of each qualified municipality written certification of the following:

628 (A) The capital factor set by the county for the current calendar year; provided,
 629 however, that the capital factor may not exceed 0.200;

- 630 (B) The total amount, if any, due to be paid to existing municipalities from the capital
 631 outlay proceeds as required by any intergovernmental agreement between the county
 632 and such municipalities;
- 633 (C) The incorporated county millage rate in each qualified municipality;
- 634 (D) The net homestead digest for each qualified municipality;
- 635 (E) The total homestead digest; and
- 636 (F) The unincorporated county millage rate.

637 If the tax commissioner and the governing authority of the county fail to provide such
 638 certification on or before July 1, the commissioner shall not distribute to such county, nor
 639 shall such county expend, any additional proceeds of the sales and use tax collected after
 640 July 1 unless and until such certification is provided.

641 (3) The commissioner shall then calculate the equalization amount due each qualified
 642 municipality based on the certifications provided by the tax commissioner and the
 643 governing authority of the county and provide such calculation to the tax commissioner
 644 and the governing authority. The authority responsible for administering and collecting
 645 such tax shall ~~and~~ pay such amount to the governing authority of each qualified
 646 municipality in six equal monthly payments as soon as practicable during or after each
 647 of the last six months of the current calendar year. In the event an existing municipality
 648 that has entered into an intergovernmental agreement with a county at any time before
 649 January 1, 2007, to receive capital outlay proceeds of the homestead option sales and use
 650 tax and such intergovernmental agreement has become or does become null and void for
 651 any reason, such existing municipality shall be treated under this article the same as if it
 652 were a qualified municipality as defined in paragraph (4) of Code Section 48-8-101 and
 653 therefore receive payment of equalization amounts under this article as provided for
 654 under this article. ~~The commissioner~~ authority responsible for administering and
 655 collecting such tax shall distribute to the governing authority of the county each month
 656 the net sales and use tax remaining after payment of equalization amounts to the qualified
 657 municipalities.

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

- 659 (A) 'Equalization amount' means for a qualified municipality the product of the
 660 equalization millage times the net homestead digest for that qualified municipality.
- 661 (B) 'Equalization millage' means for each qualified municipality the product of the
 662 homestead factor calculated pursuant to division (c)(2)(B)(i) of this Code section
 663 times the difference between the unincorporated county millage rate and the
 664 incorporated county millage rate for that qualified municipality.

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

668 (D) 'Net homestead digest' means for each qualified municipality the total net
 669 assessed value of all qualified homestead property located in that portion of the
 670 qualified municipality located in the county remaining after all other homestead
 671 exemptions are applied.

672 (E) 'Total homestead digest' means the total net assessed value of all qualified
 673 homestead property located in the county remaining after all other homestead
 674 exemptions are applied.

675 (F) 'Unincorporated county millage rate' means the millage rate for all ad valorem
 676 taxes for county purposes levied by the county in the unincorporated areas of the
 677 county.

678 (2) For illustration purposes, a hypothetical example of the calculation of the
 679 equalization amount is provided below.

680 First, calculate the homestead factor in accordance with
 681 division (c)(2)(B)(i) of this Code section as follows:

682	(A) Capital factor certified by county as required by	0.150
683	subsection (d) of this Code section	
684	(B) Net amount of sales and use tax collected in the	\$ 50 million
685	special district pursuant to this article for the previous	
686	calendar year	
687	(C) Taxes levied for county purposes on only that portion	\$100 million
688	of the county tax digest that represents net assessments on	
689	qualified homestead property after all other homestead	
690	exemptions have been applied	
691	(D) Calculation of homestead factor using figures above	.425
692	= [(1-.0150)(\$50 million/\$100 million)]	

693 Next, calculate the equalization amount in accordance with
 694 paragraph (1) of this subsection as follows:

695	(E) Unincorporated county millage rate	15.0 mills
696	(F) Minus the incorporated county millage rate for	(10.0 mills)
697	qualified municipality 'Y'	
698		Difference: = 5.0 mills

699	(G) Times homestead factor (calculated above)	x .425
700	(H) Equals the equalization millage:	= 2.125 mills
701	(I) Times net homestead digest for qualified	\$200 million
702	municipality 'Y'	
703	(J) Equals the equalization amount payable to	\$ 425,000.00
704	municipality 'Y'	

705 (3) In the event the total amount payable in a calendar year to all existing municipalities
 706 as certified by the county pursuant to subparagraph (d)(2)(B) of this Code section plus
 707 the total equalization amount payable to all qualified municipalities in the special district
 708 exceeds the capital outlay proceeds calculated based on a maximum capital factor of
 709 0.200, the ~~commissioner~~ authority responsible for administering and collecting such tax
 710 shall pay to the governing authority of each qualified municipality a share of such
 711 proceeds calculated as follows:

- 712 (A) Determine the capital outlay proceeds based on a maximum capital factor of 0.200;
 713 (B) Subtract the amount certified by the county as payable to existing municipalities
 714 pursuant to subparagraph (d)(2)(B) of this Code section; and
 715 (C) The remaining amount equals the portion of the capital outlay proceeds that may
 716 be used by the commissioner to pay equalization amounts to qualified municipalities.
 717 The commissioner shall calculate each qualified municipality's share of such remaining
 718 amount by dividing the net homestead digest for each qualified municipality by the total
 719 homestead digest for all municipalities.

720 (4) In the event the incorporated county millage rate for a qualified municipality is
 721 greater than the unincorporated county millage rate, no payment shall be due from the
 722 governing authority of the qualified municipality to the governing authority of the county.

723 (5) In the event the amount of capital outlay proceeds exceeds the sum of the
 724 equalization amounts due all qualified municipalities plus the total amount certified under
 725 subparagraph (d)(2)(B) of this Code section as due all existing municipalities, the
 726 commissioner shall distribute to each qualified municipality a portion of such excess
 727 equal to the net homestead digest for such municipality divided by the total homestead
 728 digest.

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

731 **SECTION 2-8.**

732 Said title is further amended by revising Code Section 48-8-113, relating to administration
 733 by the state revenue commissioner of the county special purpose local option sales tax, as
 734 follows:

735 "48-8-113.

736 A tax levied pursuant to this part shall be exclusively administered and collected ~~by the~~
 737 ~~commissioner~~ for the use and benefit of the county and qualified municipalities within such
 738 special district imposing the tax. The provisions of Part 2 of Article 2 of Chapter 2 of this
 739 title shall be applicable to the administration and collection of such tax. When such tax is
 740 administered and collected by the commissioner, such ~~Such~~ administration and collection
 741 shall be accomplished in the same manner and subject to the same applicable provisions,
 742 procedures, and penalties provided in Article 1 of this chapter. ~~The except that the sales~~
 743 and use tax provided in this article shall be applicable to sales of motor fuels as prepaid
 744 local tax as that term is defined by paragraph ~~(5.2)~~ (5.1) of Code Section 48-8-2; provided,
 745 however, that all moneys collected from each taxpayer ~~by the commissioner~~ shall be
 746 applied first to such taxpayer's liability for taxes owed the ~~state~~ jurisdiction administering
 747 and collecting such tax; and provided, further, that ~~the commissioner~~ such jurisdiction may
 748 rely upon a representation by or in behalf of the county and qualified municipalities within
 749 the special district or the Secretary of State that such a tax has been validly imposed, and
 750 ~~the commissioner and the commissioner's~~ collecting jurisdiction and its agents shall not be
 751 liable to any person for collecting any such tax which was not validly imposed. Dealers
 752 shall be allowed a percentage of the amount of the tax due and accounted for and shall be
 753 reimbursed in the form of a deduction in submitting, reporting, and paying the amount due
 754 if such amount is not delinquent at the time of payment. The deduction shall be at the rate
 755 and subject to the requirements specified under subsections (b) through (f) of Code Section
 756 48-8-50."

757 **SECTION 2-9.**

758 Said title is further amended by revising Code Section 48-8-114, relating to return
 759 requirements of such sales tax, as follows:

760 "48-8-114.

761 Each sales tax return remitting taxes collected under this article shall separately identify
 762 the location of each retail establishment at which any of the taxes remitted were collected
 763 and shall specify the amount of sales and the amount of taxes collected at each
 764 establishment for the period covered by the return in order to facilitate the determination
 765 ~~by the commissioner~~ that all taxes imposed by this article are collected and distributed
 766 according to situs of sale."

767 **SECTION 2-10.**

768 Said title is further amended by revising Code Section 48-8-115, relating to disbursement of
 769 the proceeds of such tax, as follows:

770 "48-8-115.

771 (a) The proceeds of the tax collected ~~by the commissioner~~ in each county within a special
 772 district under this part shall be disbursed as soon as practicable after collection as follows:

773 (1) ~~One percent of the amount collected~~ Where such tax is administered and collected
 774 by the commissioner, one percent of the amount collected shall be paid into the general
 775 fund of the state treasury in order to defray the costs of administration; and

776 (2) Except for the amount or percentage provided in paragraph (1) of this Code section,
 777 the remaining proceeds of the tax shall be distributed to the governing authority of the
 778 county within the special district imposing the tax as specified in subsection (b) of this
 779 Code section.

780 (b) The county within the special district shall distribute any such proceeds as follows:

781 (1) To the county governing authority and any qualified municipalities as specified in an
 782 intergovernmental agreement. Where an intergovernmental agreement has been entered
 783 into, the agreement shall, at a minimum, include the following:

784 (A) The specific capital outlay project or projects to be funded pursuant to the
 785 agreement;

786 (B) The estimated or projected dollar amounts allocated for each project from tax
 787 proceeds from the tax authorized by this part;

788 (C) The procedures for distributing proceeds from the tax authorized by this part to
 789 qualified municipalities;

790 (D) A schedule for distributing proceeds from the tax authorized by this part to
 791 qualified municipalities which schedule shall include the priority or order in which
 792 projects will be fully or partially funded;

793 (E) A provision that all capital outlay projects included in the agreement shall be
 794 funded from proceeds from the tax authorized by this part except as otherwise agreed;

795 (F) A provision that proceeds from the tax authorized by this part shall be maintained
 796 in separate accounts and utilized exclusively for the specified purposes;

797 (G) Record-keeping and audit procedures necessary to carry out the purposes of this
 798 part; and

799 (H) Such other provisions as the county and participating municipalities choose to
 800 address; or

801 (2) Where an intergovernmental agreement has not been entered into pursuant to
 802 paragraph (1) of this subsection, the county within the special district shall distribute the
 803 proceeds of the tax authorized by this part as follows:

804 (A)(i) To the governing authority of the county for one or more level one
805 county-wide projects specified by the governing authority of the county in the
806 ordinance or resolution required by subsection (a) of Code Section 48-8-111;
807 provided, however, that any tax levied under this part that funds level one
808 county-wide projects where an intergovernmental agreement has not been entered into
809 pursuant to paragraph (1) of this subsection shall be levied for a five-year period. In
810 the event that any or all level one county-wide projects are estimated to cost an
811 amount which exceeds the proceeds projected to be collected during a 24 month
812 period of the levy of the tax, the tax shall be levied for a six-year period.

813 (ii) In the event that no level one county-wide project is included in the ordinance or
814 resolution required by subsection (a) of Code Section 48-8-111, to the governing
815 authority of the county for one or more level two county-wide projects specified by
816 the governing authority of the county in the ordinance or resolution required by
817 subsection (a) of Code Section 48-8-111. In the event no level one county-wide
818 project is included in the ordinance or resolution required by subsection (a) of Code
819 Section 48-8-111 and the governing authority of the county has specified one or more
820 municipal projects as level two county-wide projects in the ordinance or resolution
821 required by subsection (a) of Code Section 48-8-111, to the governing authority of the
822 appropriate municipality or municipalities for such level two county-wide projects
823 specified in the ordinance or resolution required by subsection (a) of Code Section
824 48-8-111. The total estimated cost of all level two county-wide projects specified
825 under this division shall not exceed 20 percent of the proceeds projected to be
826 collected during the period specified in the ordinance or resolution required by
827 subsection (a) of Code Section 48-8-111; or

828 (B) In the event that no county-wide project is included in the resolution or ordinance
829 calling for the imposition of the tax or in the event that tax proceeds exceed that amount
830 required to fund the county-wide project or projects, the remaining proceeds shall be
831 distributed in the following manner:

832 (i) As specified in an intergovernmental agreement other than the agreement
833 specified in paragraph (1) of this subsection. The intergovernmental agreement shall
834 include, at a minimum, the information required in paragraph (1) of this subsection;
835 or

836 (ii) To the qualified municipalities within the special district based upon the ratio that
837 the population of each qualified municipality bears to the total population of the
838 county within the special district. If any qualified municipality is located in more
839 than one county, only that portion of its population that is within the special district
840 shall be counted. The remainder of such proceeds shall be distributed to the

841 governing authority of the county within the special district. Capital outlay projects
 842 included in the referendum ballot by the county or any qualified municipalities within
 843 the special district shall be based upon the anticipated proceeds and distribution of the
 844 tax. The governing authority of the county within the special district shall distribute
 845 all proceeds received by the county for the tax levied pursuant to this part to the
 846 qualified municipalities within the special district on a monthly basis where proceeds
 847 are distributed in accordance with this division."

848 **SECTION 2-11.**

849 Said title is further amended by revising Code Section 48-8-141, relating to the imposition
 850 and collection of the sales tax for educational purposes, as follows:

851 "48-8-141.

852 Except as otherwise expressly provided in Article VIII, Section VI, Paragraph IV of the
 853 Constitution of Georgia, the sales tax for educational purposes which may be levied by a
 854 board of education of a county school district or concurrently by the board of education of
 855 a county school district and the board of education of each independent school district
 856 located within such county, shall be imposed and levied by such board or boards of
 857 education and collected ~~by the commissioner~~ on behalf of such board or boards of
 858 education in the same manner as provided for under Part 1 of this article and the provisions
 859 of Part 1 of this article in particular, but without limitation, the provisions regarding the
 860 authority of the commissioner to administer and collect this tax, retain ~~the 1 percent~~ any
 861 agreed administrative fee, and promulgate rules and regulations governing this tax shall
 862 apply equally to such board or boards of education."

863 **SECTION 2-12.**

864 Said title is further amended by revising Code Section 48-8-204, relating to administration
 865 and collection of the water and sewer projects and costs tax, as follows:

866 "48-8-204.

867 A tax levied pursuant to this article shall be exclusively administered and collected ~~by the~~
 868 ~~commissioner~~ for the use and benefit of the municipality imposing the tax. The provisions
 869 of Part 2 of Article 2 of Chapter 2 of this title shall be applicable to the administration and
 870 collection of such tax. When such tax is administered and collected by the commissioner,
 871 such ~~Such~~ administration and collection shall be accomplished in the same manner and
 872 subject to the same applicable provisions, procedures, and penalties provided in Article 1
 873 of this chapter, ~~except that the~~ The sales and use tax provided in this article shall be
 874 applicable to sales of motor fuels as prepaid local tax as that term is defined by paragraph
 875 ~~(5.2)~~ (5.1) of Code Section 48-8-2; provided, however, that all moneys collected from each

876 taxpayer ~~by the commissioner~~ shall be applied first to such taxpayer's liability for taxes
 877 owed the ~~state jurisdiction administering and collecting such tax~~; and provided, further, that
 878 ~~the commissioner~~ such jurisdiction may rely upon a representation by or in behalf of the
 879 municipality or the Secretary of State that such a tax has been validly imposed, and the
 880 ~~commissioner and the commissioner's~~ collecting jurisdiction and its agents shall not be
 881 liable to any person for collecting any such tax which was not validly imposed. Dealers
 882 shall be allowed a percentage of the amount of the tax due and accounted for and shall be
 883 reimbursed in the form of a deduction in submitting, reporting, and paying the amount due
 884 if such amount is not delinquent at the time of payment. The deduction shall be at the rate
 885 and subject to the requirements specified under subsections (b) through (f) of Code Section
 886 48-8-50."

887 **SECTION 2-13.**

888 Said title is further amended by revising Code Section 48-8-205, relating to the identification
 889 and location of retail establishments for sales and use tax return purposes, as follows:

890 "48-8-205.

891 Each sales and use tax return remitting sales and use taxes collected under this article shall
 892 separately identify the location of each retail establishment at which any of the sales and
 893 use taxes remitted were collected and shall specify the amount of sales and the amount of
 894 taxes collected at each establishment for the period covered by the return in order to
 895 facilitate the determination ~~by the commissioner~~ that all sales and use taxes imposed by this
 896 article are collected and distributed according to situs of sale."

897 **SECTION 2-14.**

898 Said title is further amended by revising Code Section 48-8-206, relating to disbursement of
 899 proceeds of the water and sewer projects and costs tax, as follows:

900 "48-8-206.

901 The proceeds of the tax collected ~~by the commissioner~~ in each municipality under this
 902 article shall be disbursed as soon as practicable after collection as follows:

903 (1) ~~One percent of the amount collected~~ Where such tax is administered and collected
 904 by the commissioner, one percent of the amount collected shall be paid into the general
 905 fund of the state treasury in order to defray the costs of administration; and

906 (2) The remaining proceeds of the tax shall be distributed to the governing authority of
 907 the municipality imposing the tax."

908

PART III

909

SECTION 3-1.

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