

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."

PART II.

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.

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

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."

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."

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.

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

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.

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

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

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

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

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

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

(A) Capital factor certified by county as required by subsection (d) of this Code section 0.150

(B) Net amount of sales and use tax collected in the special district pursuant to this article for the previous calendar year \$ 50 million

(C) Taxes levied for county purposes on only that portion of the county tax digest that represents net assessments on qualified homestead property after all other homestead exemptions have been applied \$100 million

(D) Calculation of homestead factor using figures above .425

$$= [(1 - .0150)(\$50 \text{ million}/\$100 \text{ million})]$$

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

(E) Unincorporated county millage rate 15.0 mills

(F) Minus the incorporated county millage rate for (10.0 mills)
qualified municipality 'Y'

Difference: = 5.0 mills

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

SECTION 2-10.

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

769 "48-8-115.

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

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

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

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

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

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

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

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

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

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

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

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

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

800 (2) Where an intergovernmental agreement has not been entered into pursuant to
801 paragraph (1) of this subsection, the county within the special district shall distribute the
802 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."

SECTION 2-13.

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

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."

SECTION 2-14.

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

899

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.