

House Bill 458

By: Representatives Peake of the 137th, Sims of the 169th, Martin of the 47th, Stephens of the 164th, Kaiser of the 59th, 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 adding a new part to read as
 42 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 (4) 'Qualified municipality' shall have the same meaning provided for in paragraph (4)
 56 of Code Section 48-8-110.

57 (b) The administration, collection, and distribution of any local sales and use taxes may
 58 be performed by the commissioner, a government collector, or private collector pursuant

59 to a written contract approved and executed by the county, qualified municipalities, and
60 local school systems which are the beneficiaries of the local sales and use taxes levied
61 within such special district or county. Approval and execution of the contract by such
62 qualified municipalities shall be achieved through approval by resolution of the governing
63 authorities of one or more qualified municipalities representing more than one-half of the
64 aggregate municipal population of the special district or county within which the tax is
65 levied, and execution of such contract as provided for by municipal ordinance or by law.
66 Approval and execution of the contract by local school systems shall be achieved through
67 approval by resolution of the governing authorities of one or more local school systems
68 representing more than one-half of the aggregate full-time equivalent student population
69 within the county, and execution of such contract as provided for by resolution of such
70 governing authority and by law.

71 (c) Any municipality levying a local sales and use tax pursuant to the provisions of
72 Article 4 of Chapter 8 of this title, by ordinance or resolution of the governing authority
73 thereof, may administer and collect, or contract for the collection of, any local sales and use
74 taxes imposed pursuant to such article.

75 (d) Upon final approval and execution of the written contract providing for local collection
76 of taxes, the county, or in the case of a contract entered into pursuant to subsection (b) of
77 this Code section, the municipality shall notify the commissioner that the local sales and
78 use taxes will be collected by a government collector or private collector and shall forward
79 a copy of the executed contract to the commissioner. Within 30 days of receipt of such
80 notice, the department shall provide, without fee or other charge, to the government
81 collector or private collector and each county, municipality, and local school system within
82 the county or special district, or in the case of a contract entered into pursuant to
83 subsection (b) of this Code section, the municipality, a list of known taxpayers of state and
84 local sales and use taxes located within the county, special district, or municipality within
85 which the local sales and use taxes are levied. The department shall provide notice to
86 dealers required to collect and remit one or more of the local sales and use taxes covered
87 by the contract. The notice shall inform dealers of the transition from collection of such
88 taxes by the department to collection of such taxes by the government collector or private
89 collector. The department shall provide such notice within 30 days of the department's
90 receipt of notice from the county pursuant to this Code section.

91 (e) When a state sales and use tax is also levied and collected by the commissioner for the
92 state, the amount paid to or retained by the commissioner for collection, administration,
93 and distribution of the local sales and use taxes shall be the actual incremental increased
94 cost to the department of the collection, administration, and distribution of each local sales
95 and use tax which amount shall not exceed 1 percent of the amount collected.

96 (f) Where collection by a government collector or private collector of one or more local
97 sales and use taxes has been authorized by written contract as provided for by this Code
98 section, collection by the government collector, or private collector shall begin on the first
99 day of the next succeeding calendar quarter which begins more than 80 days after the final
100 approval of the contract, and shall occur at the same time and in the same manner as state
101 sales and use taxes are to be paid to the department.

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

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

109 48-2-71.

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

113 48-2-72.

114 (a) The department shall provide by regulation for a single uniform and centralized method
115 for electronic filing and distribution of returns, local sales and use taxes payments and
116 related documents by dealers whose estimated aggregate tax liability for taxes imposed
117 pursuant to this chapter exceeds \$1,000.00. Such single uniform method shall be utilized
118 by dealers, the department, any government collector, and any private collector and shall
119 provide for a single address for all returns, and the distribution of electronic payments and
120 relevant portions of returns to the department or the applicable government collector or
121 private collector. The department and the commissioner shall not impose any fee or charge
122 of any kind for performing this function. The commissioner, any government collector,
123 or any private collector may impose on dealers a fee not to exceed 10 percent of the amount
124 due on the return for filing a return or paying a tax liability by other than electronic means.

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

128 (c) Unless otherwise provided by contract, the commissioner shall disburse sums due to
129 counties, municipalities, and local school systems within three business days of processing
130 by the department.

131 (d) The commissioner shall facilitate and expedite, for no additional fee or charge, the
 132 exchange of returns and payment information for each local sales and use tax among and
 133 between the department, the government, or private collector acting pursuant to written
 134 contract to collect such local sales and use tax, and the counties, municipalities, and local
 135 school systems who are the beneficiaries of such local sales and use tax.
 136 (e) Notwithstanding Code Section 40-7-60 or any other state law, all records obtained from
 137 dealers and taxpayers pursuant to this chapter may be disclosed among and between the
 138 department, the government, or private collector acting pursuant to written contract to
 139 collect such local sales and use tax, and the counties, municipalities and local school
 140 systems who are the beneficiaries of such local sales and use tax, for the purposes of
 141 ensuring compliance with the tax and with other laws, and for the purposes of conducting
 142 or publishing research for economic development or economic forecasting where the
 143 published report does not identify particular reports or returns. Such returns and reports
 144 are not subject to Article 4 of Chapter 18 of Title 50. Unless disclosure is required by a
 145 subpoena, warrant, proper judicial order or otherwise as provided by law, any person who
 146 knowingly and willfully discloses records for an unauthorized purpose shall be guilty of
 147 a misdemeanor."

148 **PART II.**

149 **SECTION 2-1.**

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

152 "48-8-87.

153 The tax levied pursuant to this article shall be exclusively administered and collected by
 154 ~~the commissioner~~ for the use and benefit of each county whose geographical boundary is
 155 conterminous with that of a special district and of each qualified municipality located
 156 wholly or partially therein. The provisions of Part 2 of Article 1 of Chapter 8 of this title
 157 shall be applicable to the administration and collection of such tax. When such tax is
 158 administered and collected by the commissioner, such ~~Such~~ administration and collection
 159 shall be accomplished in the same manner and subject to the same applicable provisions,
 160 procedures, and penalties provided in Article 1 of this chapter, except that the joint tax
 161 provided in this article shall be applicable to sales of motor fuels as prepaid local tax as that
 162 term is defined by paragraph ~~(5.2)~~ (5.1) of Code Section 48-8-2; provided, however, that
 163 all moneys collected from each taxpayer by the commissioner shall be applied first to such
 164 taxpayer's liability for taxes owed the state jurisdiction administering and collecting such
 165 tax. Dealers shall be allowed a percentage of the amount of the tax due and accounted for
 166 and shall be reimbursed in the form of a deduction in submitting, reporting, and paying the

167 amount due if such amount is not delinquent at the time of payment. The deduction shall
 168 be at the rate and subject to the requirements specified under subsections (b) through (f)
 169 of Code Section 48-8-50."

170 **SECTION 2-2.**

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

173 "48-8-88.

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

180 **SECTION 2-3.**

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

183 "48-8-89.

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

186 (1) ~~One percent of the amount collected~~ Where such tax is administered and collected
 187 by the commissioner, an amount or percentage agreed to pursuant to the terms of Part 2
 188 of Article 2 of Chapter 8 of this title shall be paid into the general fund of the state
 189 treasury in order to defray the costs of administration; and

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

197 (b) It is the intent of the General Assembly that no agreement as to the distribution of the
 198 proceeds of the tax shall enrich any political subdivision beyond a sum which in the
 199 absence of the distribution would be raised through other sources of revenue. The
 200 distribution shall be in accordance with a certificate which shall be executed in behalf of
 201 each respective governing authority, except as otherwise provided in this subsection, and

202 which shall encompass all respective political subdivisions, shall be filed with the
203 commissioner, and shall specify by percentage that portion of the remaining proceeds of
204 the tax available for distribution which each such political subdivision shall receive. On
205 or after July 1, 1995, the distribution of proceeds of the tax as specified in the certificate
206 shall be based upon, but not be limited to, the following criteria:

- 207 (1) The service delivery responsibilities of each political subdivision to the population
208 served by the political jurisdiction and served during normal business hours, conventions,
209 trade shows, athletic events and the inherent value to a community of a central business
210 district and the unincorporated areas of the county and the obligation of all residents of
211 the county for the maintenance and prosperity of the central business district and the
212 unincorporated areas of the county;
- 213 (2) The service delivery responsibilities of each political subdivision to the resident
214 population of the subdivision;
- 215 (3) The existing service delivery responsibility of each political subdivision;
- 216 (4) The effect of a change in sales tax distribution on the ability of each political
217 subdivision to meet its short-term and long-term debt;
- 218 (5) The point of sale and use which generates the tax to be apportioned;
- 219 (6) The existence of intergovernmental agreements among and between the political
220 subdivisions;
- 221 (7) The use by any political subdivision of property taxes and other revenues from some
222 taxpayers to subsidize the cost of services provided to other taxpayers of the levying
223 subdivision; and
- 224 (8) Any coordinated plan of county and municipal service delivery and financing.

225 Notwithstanding the fact that a certificate shall not contain an execution in behalf of one
226 or more qualified municipalities within the special district, if the combined total of the
227 populations of all such absent municipalities is less than one-half of the aggregate
228 population of all qualified municipalities located within the special district, the submitting
229 political subdivisions shall, in behalf of the absent municipalities, specify a percentage of
230 that portion of the remaining proceeds which each such municipality shall receive, which
231 percentage shall not be less than that proportion which each absent municipality's
232 population bears to the total population of all qualified municipalities within the special
233 district multiplied by that portion of the remaining proceeds which are received by all
234 qualified municipalities within the special district. For the purpose of determining the
235 population of the absent municipalities, only that portion of the population of each such
236 municipality which is located within the special district shall be computed. No certificate
237 may contain a total of specified percentages in excess of 100 percent. The certificate shall
238 be filed with the commissioner by March 1, 1980, for those special districts in which the

239 tax authorized by this article is being levied on January 1, 1980. For all other special
 240 districts in which the tax shall be imposed subsequent to January 1, 1980, the certificate
 241 shall be filed with the commissioner within 60 days after the tax is imposed within the
 242 district. ~~The commissioner shall continue to distribute the~~ proceeds of the tax shall
 243 continue to be distributed as otherwise provided in this Code section until the first day of
 244 the next calendar year following the month in which the commissioner receives a certificate
 245 as provided in this Code section, which certificate shall provide other percentages upon
 246 which ~~the commissioner shall make~~ the distribution shall be made to the political
 247 subdivisions entitled to the proceeds of the tax. At such time, ~~the commissioner shall~~
 248 ~~thereafter distribute~~ the proceeds of the tax shall be distributed in accordance with the
 249 directions of the certificate.

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

265 (d)(1) Except as otherwise provided in paragraph (7) of this subsection, a certificate
 266 providing for the distribution of the proceeds of the tax authorized by this article shall
 267 expire on December 31 of the second year following the year in which the decennial
 268 census is conducted. No later than December 30 of the second year following the year
 269 in which the census is conducted, a renegotiated certificate meeting the requirements for
 270 certificates specified by subsection (b) of this Code section shall be filed with and
 271 received by the commissioner. The General Assembly recognizes that the requirement
 272 for government services is not always in direct correlation with population. Although a
 273 renegotiated certificate is required within a time certain of the decennial census, this
 274 requirement is not meant to convey an intent by the General Assembly that population
 275 as a criterion should be more heavily weighted than other criteria. It is the express intent

276 of the General Assembly in requiring such renegotiation that eligible political
 277 subdivisions shall analyze local service delivery responsibilities and the existing
 278 allocation of proceeds made available to such governments under the provisions of this
 279 article and make rational the allocation of such resources to meet such service delivery
 280 responsibilities. Political subdivisions in their renegotiation of such distributions shall
 281 at a minimum consider the criteria specified in subsection (b) of this Code section.

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

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

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

310 (5) If the commissioner receives the renegotiated certificate by the required date, ~~the~~
 311 ~~commissioner shall distribute~~ the proceeds of the tax shall be distributed in accordance
 312 with the directions of the renegotiated certificate commencing on January 1 of the year

313 immediately following the year in which such certificate was renegotiated or the first day
 314 of the second calendar month following the month such certificate was renegotiated,
 315 whichever is sooner.

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

320 (7) All distribution certificates on file with the commissioner on July 1, 1994, which
 321 were not renegotiated in accordance with the 1990 decennial census figures or
 322 renegotiated on or after January 1, 1992, shall expire on December 31, 1995.
 323 Renegotiations with respect to such certificates shall be commenced in accordance with
 324 the requirements of this subsection on or before July 1, 1994. If a renegotiated certificate
 325 is not received by the commissioner by July 1, 1995, the authority to impose the tax
 326 authorized by Code Section 48-8-82 shall cease on December 31, 1995, and the tax shall
 327 not be levied in the special district after that date unless reimposition of the tax is
 328 subsequently authorized pursuant to Code Section 48-8-85. ~~The commissioner shall~~
 329 ~~retain and distribute the~~ proceeds of such terminated tax shall be distributed in
 330 accordance with paragraph (4) of this subsection.

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

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

340 (10) No provision of this subsection shall apply to any county which is authorized to levy
 341 or which levies a local sales tax, local use tax, or local sales and use tax for educational
 342 purposes pursuant to a local constitutional amendment or to any county which is
 343 authorized to expend all or any portion of the proceeds of any sales tax, use tax, or sales
 344 and use tax for educational purposes pursuant to a local constitutional amendment."

345 **SECTION 2-4.**

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

348 "48-8-89.1.

349 (a) If there exists within any special district in which the tax authorized by this article is
350 imposed a qualified municipality which was not a qualified municipality on the date of
351 filing with the commissioner of the most recently filed certificate under Code Section
352 48-8-89, such qualified municipality may request the commissioner to give notice of the
353 qualified municipality's existence as provided in this subsection. Upon receipt of such a
354 request, the commissioner shall, unless he determines that the requesting entity is not a
355 qualified municipality, within 30 days give written notice of the qualified municipality's
356 existence to the county which is conterminous with the special district in which the
357 qualified municipality is located and to each other qualified municipality within the special
358 district. Such written notice shall include the name of the new qualified municipality, the
359 effective date of the notice, and a statement of the provisions of this Code section.

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

368 (c) Except as otherwise provided in this subsection, a distribution certificate required by
369 this Code section must be executed by the governing authorities of the county within which
370 the special district is located and each qualified municipality located wholly or partially
371 within the special district, including the new qualified municipality. Notwithstanding the
372 fact that a certificate shall not contain an execution in behalf of one or more qualified
373 municipalities within the special district, if the combined total of the populations of all such
374 absent municipalities is less than one-half of the aggregate population of all qualified
375 municipalities located within the special district, the submitting political subdivisions shall,
376 in behalf of the absent municipalities, specify a percentage of that portion of the remaining
377 proceeds which each such municipality shall receive, which percentage shall not be less
378 than that proportion which each absent municipality's population bears to the total
379 population of all qualified municipalities within the special district multiplied by that
380 portion of the remaining proceeds which are received by all qualified municipalities within
381 the special district. For the purpose of determining the population of the absent
382 municipalities, only that portion of the population of each such municipality which is
383 located within the special district shall be computed.

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

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

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

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

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

412 (2) Notwithstanding any other provision of this Code section, if there exists within any
413 special district in which the tax authorized by this article is imposed a new qualified
414 municipality or a newly expanded qualified municipality or both, such qualified
415 municipality or municipalities may request the commissioner to give notice of the
416 qualified municipality's or municipalities' existence and status as a new qualified
417 municipality or newly expanded qualified municipality as provided in this subsection.
418 Upon receipt of such a request, the commissioner shall, unless he or she determines that
419 the requesting entity is not a new qualified municipality or newly expanded qualified
420 municipality, within 30 days give written notice of the qualified municipality's existence

421 and status to the county which is conterminous with the special district in which the
422 qualified municipality is located and to each other qualified municipality within the
423 special district. Such written notice shall include the name of the new qualified
424 municipality or newly expanded qualified municipality, the effective date of the notice,
425 and a statement of the provisions of this subsection.

426 (3) Within 60 days after the effective date of the notice referred to in paragraph (2) of
427 this subsection, a new distribution certificate shall be filed with the commissioner for the
428 special district. This distribution certificate shall address only the proceeds of the tax
429 available for distribution from the percentage allocated to the county in the current
430 distribution certificate and shall specify as a percentage of the total proceeds of the tax
431 what portion of the proceeds shall be received by the county in which the special district
432 is located and by the new qualified municipality and newly expanded qualified
433 municipality, if any.

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

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

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

451 Every other qualified municipality shall continue to receive the share provided by the
452 existing distribution certificate or otherwise provided by law. The county shall receive
453 the remaining proceeds of the tax, to be expended as provided in paragraph (2) of
454 subsection (a) of Code Section 48-8-89. For the purpose of determining the population
455 of qualified municipalities, only that portion of the population of each such municipality
456 which is located within the special district shall be computed. For the purpose of
457 determining population under this Code section, all calculations of population shall be

458 according to the most recent decennial census, including the census data from such
459 census applicable to any annexed territory.

460 (5) ~~The commissioner shall begin to distribute the~~ proceeds shall be distributed as
461 specified in the newly filed certificate or, if such a certificate is not filed, as specified in
462 paragraph (4) of this subsection on the first day of the first month which begins more than
463 60 days after the effective date of the notice referred to in paragraph (2) of this
464 subsection. ~~The commissioner shall continue to distribute~~ the proceeds of the tax shall
465 continue to be distributed according to the existing certificate and the certificate
466 applicable to the county and the new qualified municipality or, if such a certificate is not
467 filed, as specified in paragraph (4) of this subsection until a subsequent certificate is filed
468 and becomes effective as provided in Code Section 48-8-89."

469 **SECTION 2-5.**

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

472 "48-8-89.2.

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

481 **SECTION 2-6.**

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

484 "48-8-89.3.

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

487 (1) Prior to January 1, 1980, a joint county and municipal sales and use tax was levied
488 pursuant to Ga. L. 1975, p. 984, Section 2 (as amended by Ga. L. 1975, Ex. Sess., p.
489 1729, Section 1; Ga. L. 1976, p. 1019, Sections 1-13; Ga. L. 1977, p. 1008, Section 1; Ga.
490 L. 1978, p. 1429, Sections 1-3; Ga. L. 1978, p. 1460, Sections 1-3; Ga. L. 1978, p. 1678,
491 Section 1; Ga. L. 1978, p. 1695, Section 1; Ga. L. 1979, p. 446, Section 1) or in which
492 a referendum election had authorized the levying of such a tax within the special district;

493 (2) The tax provided for in Code Section 48-8-82 was actually collected during the
494 period of January 1, 1980, to January 1, 1989; and

495 (3) There exists a qualified municipality which lies wholly or partially within the special
496 district and which:

497 (A) Was a qualified municipality at the time of filing of the distribution certificate most
498 recently filed with the commissioner under Code Section 48-8-89; and

499 (B) Was not assigned any percentage of the net proceeds of the tax under such
500 distribution certificate.

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

504 (b) A qualified municipality described in paragraph (3) of subsection (a) of this Code
505 section, for which receipt of a portion of the net tax proceeds was not specified in the
506 certificate most recently filed with the commissioner under Code Section 48-8-89, may
507 request the commissioner to thereafter ~~distribute~~ recalculate the distribution of a portion
508 of the net tax proceeds to the qualified municipality as provided in this Code section. Upon
509 receipt of such a request, the commissioner shall thereafter, unless he determines that the
510 requesting municipality does not meet the criteria specified in this Code section, give
511 written notice of a new distribution formula to the county which is conterminous with the
512 special district, to the requesting qualified municipality, and to each other qualified
513 municipality within the special district. Such new distribution formula shall be determined
514 as follows:

515 (1) Begin with the percentages specified in the distribution certificate most recently filed
516 with the commissioner;

517 (2) Assign to the requesting municipality a percentage of the net proceeds which is equal
518 to the total percentage of the net proceeds previously distributed to all other qualified
519 municipalities in the special district multiplied by a fraction, the numerator of which is
520 the population of the requesting municipality and the denominator of which is the
521 population of all qualified municipalities within the special district;

522 (3) Deduct the percentage of the net proceeds so assigned to the requesting municipality
523 from the percentages previously assigned to all other qualified municipalities within the
524 special district, such deductions to be pro rata on the basis of population; and

525 (4) Make no change in the percentage of the net proceeds previously distributed to the
526 county which is conterminous with the special district.

527 (c) This new distribution formula shall be implemented at the earliest date deemed
528 administratively practicable ~~by the commissioner~~, and the notice specified in subsection
529 (b) of this Code section shall include such date. This new distribution formula shall remain

530 in effect until a subsequent distribution certificate is filed and becomes effective as
531 provided in Code Section 48-8-89.

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

535 **SECTION 2-7.**

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

538 "48-8-104.

539 (a) The sales and use tax levied pursuant to this article shall be exclusively administered
540 and collected ~~by the commissioner~~ for the use and benefit of each county whose
541 geographical boundary is conterminous with that of a special district. The provisions of
542 Part 2 of Article 2 of Chapter 8 of this title shall be applicable to the administration and
543 collection of such tax. When such tax is administered and collected by the commissioner,
544 such ~~Such~~ administration and collection shall be accomplished in the same manner and
545 subject to the same applicable provisions, procedures, and penalties provided in Article 1
546 of this chapter. The ~~except that the~~ sales and use tax provided in this article shall be
547 applicable to sales of motor fuels as prepaid local tax as that term is defined by paragraph
548 ~~(5.2)~~ (5.1) of Code Section 48-8-2; provided, however, that all moneys collected from each
549 taxpayer ~~by the commissioner~~ shall be applied first to such taxpayer's liability for taxes
550 owed the state jurisdiction administering and collecting such tax. Dealers shall be allowed
551 a percentage of the amount of the sales and use tax due and accounted for and shall be
552 reimbursed in the form of a deduction in submitting, reporting, and paying the amount due
553 if such amount is not delinquent at the time of payment. The deduction shall be at the rate
554 and subject to the requirements specified under subsections (b) through (f) of Code Section
555 48-8-50.

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

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

565 (1) ~~One percent of the amount collected~~ Where such tax is administered and collected
566 by the commissioner, an amount or percentage agreed to pursuant to the terms of Part 2
567 of Article 1 of Chapter 8 of this title shall be paid into the general fund of the state
568 treasury in order to defray the costs of administration; and

569 (2) Except for the amount or percentage provided in paragraph (1) of this subsection and
570 the amount determined under subsections (d) and (e) of this Code section, the remaining
571 proceeds of the sales and use tax shall be distributed to the governing authority of the
572 county whose geographical boundary is conterminous with that of the special district;
573 provided, however, that a county and any qualified municipality shall be authorized by
574 intergovernmental agreement to waive the equalization amount otherwise required under
575 subsections (d) and (e) of this Code section and provide for a different distribution
576 amount. In the event of such waiver, except for the percentage provided in paragraph (1)
577 of this subsection, the remaining proceeds of the sales and use tax shall be distributed to
578 the governing authority of the county whose geographical boundary is conterminous with
579 that of the special district. As a condition precedent for the authority to levy the sales and
580 use tax or to collect any proceeds from the tax authorized by this article for the year
581 following the first complete calendar year in which it is levied and for all subsequent
582 years except the year following the year in which the sales and use tax is terminated
583 under Code Section 48-8-106, the county whose geographical boundary is conterminous
584 with that of the special district shall, except as otherwise provided in subsection (c) of
585 Code Section 48-8-102, expend such proceeds as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

643 (B) The total amount, if any, due to be paid to existing municipalities from the capital
 644 outlay proceeds as required by any intergovernmental agreement between the county
 645 and such municipalities;

646 (C) The incorporated county millage rate in each qualified municipality;

647 (D) The net homestead digest for each qualified municipality;

648 (E) The total homestead digest; and

649 (F) The unincorporated county millage rate.

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

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

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

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

674 (B) 'Equalization millage' means for each qualified municipality the product of the
675 homestead factor calculated pursuant to division (c)(2)(B)(i) of this Code section
676 times the difference between the unincorporated county millage rate and the
677 incorporated county millage rate for that qualified municipality.

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

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

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

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

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

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

695 (A) Capital factor certified by county as required by	0.150
696 subsection (d) of this Code section	
697 (B) Net amount of sales and use tax collected in the	\$ 50 million
698 special district pursuant to this article for the previous	
699 calendar year	
700 (C) Taxes levied for county purposes on only that portion	\$100 million
701 of the county tax digest that represents net assessments on	
702 qualified homestead property after all other homestead	
703 exemptions have been applied	
704 (D) Calculation of homestead factor using figures above	.425
705 = [(1-.0150)(\$50 million/\$100 million)]	

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

708	(E) Unincorporated county millage rate	15.0 mills
709	(F) Minus the incorporated county millage rate for	(10.0 mills)
710	qualified municipality 'Y'	
711		Difference: = 5.0 mills
712	(G) Times homestead factor (calculated above)	x .425
713	(H) Equals the equalization millage:	= 2.125 mills
714	(I) Times net homestead digest for qualified	\$200 million
715	municipality 'Y'	
716	(J) Equals the equalization amount payable to	\$ 425,000.00
717	municipality 'Y'	

718 (3) In the event the total amount payable in a calendar year to all existing municipalities
719 as certified by the county pursuant to subparagraph (d)(2)(B) of this Code section plus
720 the total equalization amount payable to all qualified municipalities in the special district
721 exceeds the capital outlay proceeds calculated based on a maximum capital factor of
722 0.200, the ~~commissioner~~ authority responsible for administering and collecting such tax
723 shall pay to the governing authority of each qualified municipality a share of such
724 proceeds calculated as follows:

725 (A) Determine the capital outlay proceeds based on a maximum capital factor of 0.200;

726 (B) Subtract the amount certified by the county as payable to existing municipalities
727 pursuant to subparagraph (d)(2)(B) of this Code section; and

728 (C) The remaining amount equals the portion of the capital outlay proceeds that may
729 be used by the commissioner to pay equalization amounts to qualified municipalities.

730 The commissioner shall calculate each qualified municipality's share of such remaining
731 amount by dividing the net homestead digest for each qualified municipality by the total
732 homestead digest for all municipalities.

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

736 (5) In the event the amount of capital outlay proceeds exceeds the sum of the
737 equalization amounts due all qualified municipalities plus the total amount certified under
738 subparagraph (d)(2)(B) of this Code section as due all existing municipalities, the
739 commissioner shall distribute to each qualified municipality a portion of such excess

740 equal to the net homestead digest for such municipality divided by the total homestead
741 digest.

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

744 **SECTION 2-8.**

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

748 "48-8-113.

749 A tax levied pursuant to this part shall be exclusively administered and collected ~~by the~~
750 ~~commissioner~~ for the use and benefit of the county and qualified municipalities within such
751 special district imposing the tax. The provisions of Part 2 of Article 1 of Chapter 8 of this
752 title shall be applicable to the administration and collection of such tax. When such tax is
753 administered and collected by the commissioner, such ~~Such~~ administration and collection
754 shall be accomplished in the same manner and subject to the same applicable provisions,
755 procedures, and penalties provided in Article 1 of this chapter. The ~~except that the~~ sales
756 and use tax provided in this article shall be applicable to sales of motor fuels as prepaid
757 local tax as that term is defined by paragraph ~~(5.2)~~ (5.1) of Code Section 48-8-2; provided,
758 however, that all moneys collected from each taxpayer ~~by the commissioner~~ shall be
759 applied first to such taxpayer's liability for taxes owed the ~~state~~ jurisdiction administering
760 and collecting such tax; and provided, further, that ~~the commissioner~~ such jurisdiction may
761 rely upon a representation by or in behalf of the county and qualified municipalities within
762 the special district or the Secretary of State that such a tax has been validly imposed, and
763 ~~the commissioner and the commissioner's~~ collecting jurisdiction and its agents shall not be
764 liable to any person for collecting any such tax which was not validly imposed. Dealers
765 shall be allowed a percentage of the amount of the tax due and accounted for and shall be
766 reimbursed in the form of a deduction in submitting, reporting, and paying the amount due
767 if such amount is not delinquent at the time of payment. The deduction shall be at the rate
768 and subject to the requirements specified under subsections (b) through (f) of Code Section
769 48-8-50."

770 **SECTION 2-9.**

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

773 "48-8-114.

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

780 **SECTION 2-10.**

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

783 "48-8-115.

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

786 (1) ~~One percent of the amount collected~~ Where such tax is administered and collected
 787 by the commissioner, an amount or percentage agreed to pursuant to the terms of Part 2
 788 of Article 1 of Chapter 8 of this title shall be paid into the general fund of the state
 789 treasury in order to defray the costs of administration; and

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

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

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

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

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

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

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

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

- 809 (F) A provision that proceeds from the tax authorized by this part shall be maintained
810 in separate accounts and utilized exclusively for the specified purposes;
- 811 (G) Record-keeping and audit procedures necessary to carry out the purposes of this
812 part; and
- 813 (H) Such other provisions as the county and participating municipalities choose to
814 address; or
- 815 (2) Where an intergovernmental agreement has not been entered into pursuant to
816 paragraph (1) of this subsection, the county within the special district shall distribute the
817 proceeds of the tax authorized by this part as follows:
- 818 (A)(i) To the governing authority of the county for one or more level one
819 county-wide projects specified by the governing authority of the county in the
820 ordinance or resolution required by subsection (a) of Code Section 48-8-111;
821 provided, however, that any tax levied under this part that funds level one
822 county-wide projects where an intergovernmental agreement has not been entered into
823 pursuant to paragraph (1) of this subsection shall be levied for a five-year period. In
824 the event that any or all level one county-wide projects are estimated to cost an
825 amount which exceeds the proceeds projected to be collected during a 24 month
826 period of the levy of the tax, the tax shall be levied for a six-year period.
- 827 (ii) In the event that no level one county-wide project is included in the ordinance or
828 resolution required by subsection (a) of Code Section 48-8-111, to the governing
829 authority of the county for one or more level two county-wide projects specified by
830 the governing authority of the county in the ordinance or resolution required by
831 subsection (a) of Code Section 48-8-111. In the event no level one county-wide
832 project is included in the ordinance or resolution required by subsection (a) of Code
833 Section 48-8-111 and the governing authority of the county has specified one or more
834 municipal projects as level two county-wide projects in the ordinance or resolution
835 required by subsection (a) of Code Section 48-8-111, to the governing authority of the
836 appropriate municipality or municipalities for such level two county-wide projects
837 specified in the ordinance or resolution required by subsection (a) of Code Section
838 48-8-111. The total estimated cost of all level two county-wide projects specified
839 under this division shall not exceed 20 percent of the proceeds projected to be
840 collected during the period specified in the ordinance or resolution required by
841 subsection (a) of Code Section 48-8-111; or
- 842 (B) In the event that no county-wide project is included in the resolution or ordinance
843 calling for the imposition of the tax or in the event that tax proceeds exceed that amount
844 required to fund the county-wide project or projects, the remaining proceeds shall be
845 distributed in the following manner:

846 (i) As specified in an intergovernmental agreement other than the agreement
 847 specified in paragraph (1) of this subsection. The intergovernmental agreement shall
 848 include, at a minimum, the information required in paragraph (1) of this subsection;
 849 or
 850 (ii) To the qualified municipalities within the special district based upon the ratio that
 851 the population of each qualified municipality bears to the total population of the
 852 county within the special district. If any qualified municipality is located in more
 853 than one county, only that portion of its population that is within the special district
 854 shall be counted. The remainder of such proceeds shall be distributed to the
 855 governing authority of the county within the special district. Capital outlay projects
 856 included in the referendum ballot by the county or any qualified municipalities within
 857 the special district shall be based upon the anticipated proceeds and distribution of the
 858 tax. The governing authority of the county within the special district shall distribute
 859 all proceeds received by the county for the tax levied pursuant to this part to the
 860 qualified municipalities within the special district on a monthly basis where proceeds
 861 are distributed in accordance with this division."

862 **SECTION 2-11.**

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

865 "48-8-141.

866 Except as otherwise expressly provided in Article VIII, Section VI, Paragraph IV of the
 867 Constitution of Georgia, the sales tax for educational purposes which may be levied by a
 868 board of education of a county school district or concurrently by the board of education of
 869 a county school district and the board of education of each independent school district
 870 located within such county, shall be imposed and levied by such board or boards of
 871 education and collected ~~by the commissioner~~ on behalf of such board or boards of
 872 education in the same manner as provided for under Part 1 of this article and the provisions
 873 of Part 1 of this article in particular, but without limitation, the provisions regarding the
 874 authority of the commissioner to administer and collect this tax, retain ~~the 1 percent~~ any
 875 agreed administrative fee, and promulgate rules and regulations governing this tax shall
 876 apply equally to such board or boards of education."

877 **SECTION 2-12.**

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

880 "48-8-204.
 881 A tax levied pursuant to this article shall be exclusively administered and collected by the
 882 ~~commissioner~~ for the use and benefit of the municipality imposing the tax. The provisions
 883 of Part 2 of Article 1 of Chapter 8 of this title shall be applicable to the administration and
 884 collection of such tax. When such tax is administered and collected by the commissioner,
 885 such ~~Such~~ administration and collection shall be accomplished in the same manner and
 886 subject to the same applicable provisions, procedures, and penalties provided in Article 1
 887 of this chapter, ~~except that the~~ The sales and use tax provided in this article shall be
 888 applicable to sales of motor fuels as prepaid local tax as that term is defined by paragraph
 889 ~~(5.2)~~ (5.1) of Code Section 48-8-2; provided, however, that all moneys collected from each
 890 taxpayer ~~by the commissioner~~ shall be applied first to such taxpayer's liability for taxes
 891 owed the ~~state~~ jurisdiction administering and collecting such tax; and provided, further, that
 892 ~~the commissioner~~ such jurisdiction may rely upon a representation by or in behalf of the
 893 municipality or the Secretary of State that such a tax has been validly imposed, and the
 894 ~~commissioner and the commissioner's~~ collecting jurisdiction and its agents shall not be
 895 liable to any person for collecting any such tax which was not validly imposed. Dealers
 896 shall be allowed a percentage of the amount of the tax due and accounted for and shall be
 897 reimbursed in the form of a deduction in submitting, reporting, and paying the amount due
 898 if such amount is not delinquent at the time of payment. The deduction shall be at the rate
 899 and subject to the requirements specified under subsections (b) through (f) of Code Section
 900 48-8-50."

901 **SECTION 2-13.**

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

904 "48-8-205.

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

911 **SECTION 2-14.**

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

914 "48-8-206.

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

917 (1) ~~One percent of the amount collected~~ Where such tax is administered and collected
918 by the commissioner, an amount or percentage agreed to pursuant to the terms of Part 2
919 of Article 1 of Chapter 8 of this title shall be paid into the general fund of the state
920 treasury in order to defray the costs of administration; and

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

923

PART III

924

SECTION 3-1.

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