The House Committee on Ways and Means offers the following substitute to HB 946:

A BILL TO BE ENTITLED
AN ACT

To amend Part 1 of Article 5A of Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to the special district mass transportation sales and use tax, so as to require intergovernmental agreements between counties and qualified municipalities for collection of such tax; to provide for requirements for such intergovernmental agreements; to provide for standards for disbursement of proceeds for municipalities absent from an intergovernmental agreement; to revise the maximum amount and time frame for the collection of such tax when an intergovernmental agreement has been entered into between a county and all qualified municipalities; to make conforming changes; to provide for definitions; to provide for related matters; to provide for an effective date; to provide for applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Part 1 of Article 5A of Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to the special district mass transportation sales and use tax, is amended in Code Section 48-8-260, relating to definitions, by revising subparagraph (B) of paragraph (4) as follows:

"(B) The retirement of previously incurred general obligation debt with respect only to such purposes as identified in subparagraph (A) of this paragraph~~, but only if an intergovernmental agreement has been entered into under this part~~;"

SECTION 2.

Said part is further amended in Code Section 48-8-262, relating to notice, agreement memorializing levy and rate of tax, rate, and resolution required, by revising subsections (b) through (d) as follows:

"(b)(1) Following the meeting required by paragraph (2) of subsection (a) of this Code section and prior to any tax being imposed under this part, the county and ~~all~~ qualified municipalities therein ~~may~~ shall execute an intergovernmental agreement memorializing their agreement to the levy of a tax and the rate of such tax.

(2) ~~If an~~ The intergovernmental agreement ~~authorized~~ required by paragraph (1) of this subsection ~~is entered into, it~~ shall, at a minimum, include the following:

(A) A list of the projects and purposes qualifying as transportation purposes proposed to be funded from the tax, including an expenditure of at least 30 percent of the estimated revenue from the tax on projects consistent with the state-wide strategic transportation plan as defined in paragraph (6) of subsection (a) of Code Section 32-2-22;

(B) The estimated or projected dollar amounts allocated for each transportation purpose from proceeds from the tax;

(C) The procedures for distributing proceeds from the tax to qualified municipalities;

(D) A schedule for distributing proceeds from the tax to qualified municipalities which shall include the priority or order in which transportation purposes will be fully or partially funded;

(E) A provision that all transportation purposes included in the agreement shall be funded from proceeds from the tax except as otherwise agreed;

(F) A provision that proceeds from the tax shall be maintained in separate accounts and utilized exclusively for the specified purposes;

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

(H) Such other provisions as the county and qualified municipalities choose to address.

(c)(1) ~~If an intergovernmental agreement is entered into by the county and all qualified municipalities, the rate of the tax may be up to 1 percent.~~

~~(2) If an intergovernmental agreement is not entered into by the county and all qualified municipalities, the maximum rate of the tax shall not exceed 0.75 percent and such rate shall be determined by the governing authority of the county.~~ If an intergovernmental agreement is entered into by the county and one or more qualified municipalities within the special district, and the combined population of the territory of all qualified municipalities lying within the special district which are absent from the agreement is less than one-half of the total population of the territory of all qualified municipalities lying within the special district, then the rate of the tax may be up to 1 percent, provided that such intergovernmental agreement provides for the percentage or the proceeds of the tax collected pursuant to this part that each absent municipality is to receive, which shall not be less than the absent municipality minimum percentage.

(2) As used in this subsection, the term:

(A) 'Absent municipality minimum percentage' means, for any given absent municipality, the product of the absent municipality ratio and the percentage of the total proceeds in the intergovernmental agreement that are not allocated to the county.

(B) 'Absent municipality ratio' means, for any given municipality, the sum of its municipal population ratio and its municipal centerline mile ratio.

(C) 'Municipal centerline mile ratio' means, for any given municipality, the product of 0.67 multiplied by the quotient of the municipality's total paved and unpaved centerline

road miles within the special district divided by the total paved and unpaved centerline road miles for all municipal roads within the special district.

(D) 'Municipal population ratio' means, for any given municipality, the product of 0.33 multiplied by the quotient of the municipality's population which is located inside the special district divided by the total municipal population of the special district.

(3)(A) For purposes of determining population in this subsection, the most recent census estimates published by the Bureau of the Census of the United States Department of Commerce prior to the date the intergovernmental agreement was entered into shall be used.

(B) For purposes of determining the paved and unpaved centerline road miles, the most recent annual certification of paved and unpaved centerline road miles submitted by a local government to the Georgia Department of Transportation prior to the date the intergovernmental agreement was entered into shall be used.

(4) Any intergovernmental agreement entered into pursuant to this subsection shall provide for the disbursement of proceeds in an amount which shall account for 100 percent.

(d)(1) As soon as practicable after the meeting between the governing authorities of the county and qualified municipalities and the execution of an intergovernmental agreement~~;~~ ~~if applicable,~~ the governing authority of the county shall by a majority vote on a resolution offered for such purpose submit the list of transportation purposes and the question of whether the tax should be approved to electors of the special district in the next scheduled election and shall notify the county election superintendent within the special district by forwarding to the superintendent a copy of such resolution calling for the imposition of the tax. Such list, or a digest thereof, shall be available during regular business hours in the office of the county clerk.

(2) The resolution authorized by paragraph (1) of this subsection shall describe:

(A) The specific transportation purposes to be funded;

(B) The approximate cost of such transportation purposes, which shall be the maximum amount of net proceeds to be raised by the tax; provided, however, that, if an intergovernmental agreement has been entered into pursuant to subsection (b) of this Code section, the maximum amount of net proceeds to be raised shall correspond to the period of time the tax shall be imposed as set forth in subparagraph (C) of this paragraph; and

(C) The maximum period of time, to be stated in calendar years, for which the tax may be imposed and the rate thereof. The maximum period of time for the imposition of the tax shall not exceed five years; provided, however, that, if an intergovernmental agreement is entered into by a county and all qualified municipalities within the special district, the maximum period of time for the imposition of the tax shall not exceed six years."

SECTION 3.

Said part is further amended by revising paragraph (1) of subsection (d) of Code Section 48-8-263, relating to ballot question, expenses of election, resubmission of question, and general obligation debt, as follows:

"(d)(1) If the intergovernmental agreement~~, if applicable,~~ and proposal include the authority to issue general obligation debt and if more than one-half of the votes cast are in favor of the proposal, then the authority to issue such debt in accordance with Article IX, Section V, Paragraph I of the Constitution is given to the proper officers of the county or qualified municipality; otherwise, such debt shall not be issued. If the authority to issue such debt is so approved by the voters, then such debt may be issued without further approval by the voters."

SECTION 4.

Said part is further amended by revising paragraph (3) of subsection (b) of Code Section 48-8-264, relating to timing of tax, as follows:

"(3) As of the end of the calendar quarter during which the commissioner determines that the tax will have raised revenues sufficient to provide to the special district net proceeds equal to or greater than the amount specified as the maximum amount of net proceeds to be raised by the tax; provided, however, that, if an intergovernmental agreement has been entered into ~~pursuant to subsection (b) of Code Section 48-8-262~~ by the county and all qualified municipalities therein, the tax shall cease to be imposed on the final day of the maximum period of time specified for the imposition of the tax in the resolution."

SECTION 5.

Said part is further amended by revising Code Section 48-8-267, relating to procedure for disbursement of proceeds from taxation, as follows:

"48-8-267.

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

(1) One percent of the amount collected shall be paid into the general fund of the state treasury in order to defray the costs of administration; and

(2) Except for the percentage provided in paragraph (1) of this subsection, the remaining proceeds of the tax shall be distributed~~:~~

~~(A) Pursuant~~ pursuant to the terms of the intergovernmental agreement~~, if applicable; or~~

~~(B) If no intergovernmental agreement has been entered into, in accordance with subsection (b) of this Code section~~.

~~(b) In the event an intergovernmental agreement has not been entered into, then distribution of the proceeds shall be as follows:~~

~~(1) The state auditor shall determine the most recent three fiscal years for which an audit under Code Section 36-81-7 has been made;~~

~~(2) Utilizing the audit information under paragraph (1) of this subsection, the county and each qualified municipality shall receive a proportional amount of proceeds of the tax based upon the amount of expenditures made for transportation in the most recent three fiscal years. The proportional amount for the county and each qualified municipality shall be determined by dividing the average expended on transportation during the most recent three fiscal years by the county or qualified municipality by the aggregate average expended on transportation by the county and all qualified municipalities in the special district during the most recent three fiscal years. Amounts expended on transportation include transportation maintenance and operation costs and shall correspond with classifications and subclassifications specified in the local government uniform chart of accounts under subsection (e) of Code Section 36-81-3 within section 4200, including noncapital expenditures within sections 4210-4270, and shall be reported in the local government audit. Total general fund expenditures by the local government within these categories shall be specified in the footnotes of the audited financial statement. If such transportation expenditures include maintenance and operation costs to support local government airport and transit operations, reported in functions 7561 and 7563 of the uniform chart, the general fund costs for those functions shall be included in the footnotes of the local government's audited financial report; and~~

~~(3) Following the determinations made pursuant to paragraph (2) of this subsection and at least 30 days prior to the referendum, the state auditor shall certify the appropriate distribution percentages to the commissioner and the commissioner shall utilize such percentages for the distribution of proceeds for the term of the tax.~~″

SECTION 6.

Said part is further amended by revising subsections (c), (d), and (e) and subparagraph (f)(1)(B) of Code Section 48-8-269.5, relating to accounting required and record-keeping requirements, as follows:

"(c) The intergovernmental agreement~~, if applicable,~~ and resolution calling for the imposition of the tax may specify that all of the proceeds of the tax will be used for payment of general obligation debt issued in conjunction with the imposition of the tax, and, in that event, such proceeds shall be solely for such purpose except as otherwise provided in subsection (f) of this Code section.

(d) The intergovernmental agreement~~, if applicable,~~ and resolution calling for the imposition of the tax may specify that a part of the proceeds of the tax will be used for payment of general obligation debt issued in conjunction with the imposition of the tax. The intergovernmental agreement~~, if applicable,~~ and resolution shall specifically state the other purposes for which such proceeds will be used. In such a case, no part of the net proceeds from the tax received in any year shall be used for such other purposes until all debt service requirements of the general obligation debt for that year have first been satisfied from the account in which the proceeds of the tax are placed.

(e) The resolution calling for the imposition of the tax may specify that no general obligation debt is to be issued in conjunction with the imposition of the tax. The intergovernmental agreement~~, if applicable,~~ and resolution shall specifically state the purpose or purposes for which the proceeds will be used."

"(B) If the special district receives from the tax net proceeds in excess of the maximum cost of the transportation projects and purposes stated in the resolution calling for the imposition of the tax or in excess of the actual cost of such projects and purposes, then such excess proceeds shall be subject to and applied as provided in paragraph (2) of this subsection unless otherwise specified in the intergovernmental agreement~~, if applicable~~."

SECTION 7.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval. This Act shall not be applicable to or affect any intergovernmental agreement entered into prior to such effective date.

SECTION 8.

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