

House Bill 560

By: Representatives Martin of the 49th, Blackmon of the 146th, and Neal of the 79th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated,
2 relating to joint county and municipal sales and use tax (LOST), so as to revise provisions
3 related to negotiations for the distribution of tax proceeds; to limit the application of certain
4 requirements with respect to absent counties; to provide for related matters; to repeal
5 conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 2 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to joint
9 county and municipal sales and use tax (LOST), is amended by revising Code Section
10 48-8-89, relating to distribution and use of proceeds, negotiated certificate of distribution for
11 political subdivisions, absent municipalities, filing of certificates, and renegotiations, as
12 follows:

13 "48-8-89.

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

H. B. 560

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

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

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

35 (1) The service delivery responsibilities of each political subdivision to the population
36 served by the political jurisdiction and served during normal business hours, conventions,
37 trade shows, athletic events and the inherent value to a community of a central business
38 district and the unincorporated areas of the county and the obligation of all residents of
39 the county for the maintenance and prosperity of the central business district and the
40 unincorporated areas of the county;

41 (2) The service delivery responsibilities of each political subdivision to the resident
42 population of the subdivision;

- 43 (3) The existing service delivery responsibility of each political subdivision;
- 44 (4) The effect of a change in sales tax distribution on the ability of each political
- 45 subdivision to meet its short-term and long-term debt;
- 46 (5) The point of sale and use which generates the tax to be apportioned;
- 47 (6) The existence of intergovernmental agreements among and between the political
- 48 subdivisions;
- 49 (7) The use by any political subdivision of property taxes and other revenues from some
- 50 taxpayers to subsidize the cost of services provided to other taxpayers of the levying
- 51 subdivision; and
- 52 (8) Any coordinated plan of county and municipal service delivery and financing.

53 Notwithstanding the fact that a certificate shall not contain an execution in behalf of one

54 or more qualified municipalities within the special district or an execution of the county

55 whose boundaries are conterminous with that of the special district, if the combined total

56 of the populations of all such absent ~~municipalities~~ political subdivisions is less than

57 one-half of the aggregate population of ~~all qualified municipalities located within the~~

58 special district, the submitting political subdivisions shall, in behalf of the absent

59 ~~municipalities~~ political subdivisions, specify a percentage of that portion of the remaining

60 proceeds which each such municipality or county shall receive, which percentage shall not

61 be less than that proportion which each absent municipality's population or absent county's

62 unincorporated population bears to the total population of ~~all qualified municipalities~~

63 ~~within the special district~~ multiplied by that portion of the remaining proceeds which are

64 received by all ~~qualified municipalities~~ political subdivisions within the special district.

65 For the purpose of determining the population of the absent municipalities, only that

66 portion of the population of each such municipality which is located within the special

67 district shall be computed. No certificate may contain a total of specified percentages in

68 excess of 100 percent. The certificate shall be filed with the commissioner by March 1,

69 1980, for those special districts in which the tax authorized by this article is being levied

70 on January 1, 1980. For all other special districts in which the tax shall be imposed
71 subsequent to January 1, 1980, the certificate shall be filed with the commissioner within
72 60 days after the tax is imposed within the district. The commissioner shall continue to
73 distribute the proceeds of the tax as otherwise provided in this Code section until the first
74 day of the next calendar year following the month in which the commissioner receives a
75 certificate as provided in this Code section, which certificate shall provide other
76 percentages upon which the commissioner shall make the distribution to the political
77 subdivisions entitled to the proceeds of the tax. At such time, the commissioner shall
78 thereafter distribute the proceeds of the tax in accordance with the directions of the
79 certificate.

80 (c) If the certificate provided for in subsection (b) of this Code section is not received by
81 the commissioner by the required date, the authority to impose the tax authorized by Code
82 Section 48-8-82 shall cease on the first day of the second calendar month following the
83 month in which the tax was initially imposed and the tax shall not be levied in the special
84 district after such date unless the reimposition of the tax is subsequently authorized
85 pursuant to Code Section 48-8-85. When the imposition of the tax is so terminated, the
86 commissioner shall retain the proceeds of the tax which were to be distributed to the
87 governing authorities of the county and qualified municipalities within the special district
88 until he or she receives a certificate in behalf of each such governing authority specifying
89 the percentage of the proceeds which each such governing authority shall receive. If no
90 such certificate is received by the commissioner within 120 days of the date on which the
91 authority to levy the tax was terminated, the proceeds shall escheat to the state and the
92 commissioner shall transfer the proceeds to the state's general fund.

93 (d)(1) A certificate providing for the distribution of the proceeds of the tax authorized
94 by this article shall expire on December 31 of the second year following the year in which
95 the decennial census is conducted. No later than December 30 of the second year
96 following the year in which the census is conducted, a new distribution certificate

97 meeting the requirements for certificates specified by subsection (b) of this Code section
98 shall be filed with and received by the commissioner. The General Assembly recognizes
99 that the requirement for government services is not always in direct correlation with
100 population. Although a new distribution certificate is required within a time certain of the
101 decennial census, this requirement is not meant to convey an intent by the General
102 Assembly that population as a criterion should be more heavily weighted than other
103 criteria. It is the express intent of the General Assembly in requiring such renegotiation
104 that eligible political subdivisions shall analyze local service delivery responsibilities and
105 the existing allocation of proceeds made available to such governments under the
106 provisions of this article and make rational the allocation of such resources to meet such
107 service delivery responsibilities. Political subdivisions in their renegotiation of such
108 distributions shall at a minimum consider the criteria specified in subsection (b) of this
109 Code section.

110 (2) The commissioner shall be notified in writing of the commencement of renegotiation
111 proceedings by the county governing authority on behalf of all eligible political
112 subdivisions within the special district. The eligible political subdivisions shall
113 commence renegotiations at the call of the county governing authority before July 1 of
114 the second year following the year in which the census is conducted. If the county
115 governing authority does not issue the call by that date, any eligible municipality may
116 issue the call and so notify the commissioner and all eligible political subdivisions within
117 the special district.

118 (3) Following the commencement of such renegotiation, if the parties necessary to an
119 agreement fail to reach an agreement within 60 days, such parties shall submit the dispute
120 to nonbinding arbitration, mediation, or such other means of resolving conflicts in a
121 manner which attempts to reach a resolution of the dispute. Any renegotiation agreement
122 reached pursuant to this paragraph shall be in accordance with the requirements specified
123 in paragraph (1) of this subsection.

124 (4) Reserved.

125 (5) If a new distribution certificate as provided for in this Code section is not received
126 by the commissioner, the authority to impose the tax authorized by Code Section 48-8-82
127 shall cease, and the tax shall not be levied in the special district after such date unless the
128 reimposition of the tax is subsequently authorized pursuant to Code Section 48-8-85.
129 When the imposition of the tax is so terminated, the commissioner shall retain the
130 proceeds of the tax which were to be distributed to the governing authorities of the county
131 and qualified municipalities within the special district until the commissioner receives a
132 certificate on behalf of each such governing authority specifying the percentage of the
133 proceeds which each such governing authority shall receive. If no such certificate is
134 received by the commissioner within 120 days of the date on which the authority to levy
135 the tax was terminated, the proceeds shall escheat to the state, and the commissioner shall
136 transfer the proceeds to the state's general fund.

137 (6) If the commissioner receives a new distribution certificate by the required date, the
138 commissioner shall distribute the proceeds of the tax in accordance with the directions
139 of the new distribution certificate commencing on January 1 of the year immediately
140 following the year in which such certificate was executed by the parties or the judge or
141 the first day of the second calendar month following the month such certificate was
142 executed by the parties or the judge, whichever is sooner.

143 (7) Costs of any conflict resolution under paragraph (3) or (4) of this subsection shall be
144 borne proportionately by the affected political subdivisions in accordance with the final
145 percentage distributions of the proceeds of the tax as reflected by the new distribution
146 certificate.

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

149 (9) No provision of this subsection shall apply to any county which is authorized to levy
150 or which levies a local sales tax, local use tax, or local sales and use tax for educational

151 purposes pursuant to a local constitutional amendment or to any county which is
 152 authorized to expend all or any portion of the proceeds of any sales tax, use tax, or sales
 153 and use tax for educational purposes pursuant to a local constitutional amendment."

154 **SECTION 2.**

155 Said article is further amended by revising subsection (c) of Code Section 48-8-89.1, relating
 156 to procedure for certifying additional qualified municipalities, issuance of new distribution
 157 certificate, and cessation of authority to collect tax, as follows:

158 "(c) Except as otherwise provided in this subsection, a distribution certificate required by
 159 this Code section must be executed by the governing authorities of the county within which
 160 the special district is located and each qualified municipality located wholly or partially
 161 within the special district, including the new qualified municipality. Notwithstanding the
 162 fact that a certificate shall not contain an execution in behalf of the county within which
 163 the special district is located or one or more qualified municipalities within the special
 164 district, if the combined total of the populations of all such absent municipalities and the
 165 absent county's unincorporated population is less than one-half of the aggregate population
 166 of ~~all qualified municipalities located within~~ the special district, the submitting political
 167 subdivisions shall, in behalf of the absent ~~municipalities~~ political subdivisions, specify a
 168 percentage of that portion of the remaining proceeds which each such ~~municipality~~ political
 169 subdivision shall receive, which percentage shall not be less than that proportion which
 170 each absent municipality's and any absent county's unincorporated population bears to the
 171 total population of ~~all qualified municipalities within~~ the special district multiplied by that
 172 portion of the remaining proceeds which are received by all ~~qualified municipalities~~
 173 political subdivisions within the special district. For the purpose of determining the
 174 population of the absent municipalities, only that portion of the population of each such
 175 municipality which is located within the special district shall be computed."

176 **SECTION 3.**

177 Said article is further amended by adding a new subsection to Code Section 48-8-91, relating
178 to condition precedent to authority to impose tax after first year, annual adjustment of
179 millage rate formula, and information required on tax bills, to read as follows:

180 "(c) This Code section shall not be applicable to the county whose geographical boundary
181 is conterminous with that of the special district for any period of time that such county is
182 treated as an absent county under Code Section 48-8-89 or 48-8-89.1."

183 **SECTION 4.**

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