



Renegotiating Local Option Sales Tax (LOST)



August 2021

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TABLE OF CONTENTS

INTRODUCTION	1
WHEN LOST RENEGOTIATIONS ARE NECESSARY	4
2022 TIMELINE FOR RENEGOTIATION LOST AGREEMENTS	5
RENEGOTIATIONS: PROCEDURES AND ISSUES	6
DETERMINING LOST DISTRIBUTION.....	8
EIGHT CRITERIA FOR LOST DISTRIBUTION.....	8
WEIGHTING AND CALCULATING THE EIGHT CRITERIA	9
DISPUTE RESOLUTION.....	10
TOP 10 LOST LESSONS	11
LOST RESOURCES	12
APPENDICES	
APPENDIX A: BLANK DISTRIBUTION CERTIFICATE	14
APPENDIX B: LOCAL OPTION SALES TAX STATUTE.....	15

INTRODUCTION

The local option sales tax (LOST) is a 1 percent sales tax activated by a local referendum and imposed on the purchase, sale, rental, storage, use, or consumption of tangible personal property and related services. LOST is a special district tax where state law (O.C.G.A. §48-8-81) creates 159 special districts in Georgia for the purpose of levying a LOST. The boundaries of the special districts are the same as the boundaries of the 159 counties in Georgia. LOST is imposed on the sale of motor fuels, and in the majority of counties, the LOST also applies to the sale of food and alcoholic beverages (LOST enacted in Taliaferro and Webster counties after October 1, 1996, exempts food and beverages).

The LOST is one of the most significant sources of revenue for municipal governments in Georgia, second only to the property tax. In 2019, cities received in excess of \$745 million in LOST revenues. Statewide, LOST revenues account for 19% of municipal general fund revenues.

In each special district where the LOST is imposed, the counties and qualified municipalities enter into a distribution agreement. This one-page form identifies each local government that will receive a portion of the sales tax revenues and lists the percentage that each local government will receive. Proceeds from the LOST are collected by the Georgia Department of Revenue and disbursed directly to each county and qualified municipality within the special district based upon this distribution agreement. One percent of the revenues collected are paid into the state's general fund to cover the cost for administering the tax, and a percentage is paid to the dealer for collecting and reporting the tax.

State law requires periodic renegotiation of the LOST distribution certificate based on specific triggering events. One trigger for renegotiation of the tax is the decennial census. With the release of the 2020 Census data, all counties and municipalities that currently impose a LOST are required to begin to renegotiate the distribution certificate for the proceeds of the tax on or before **July 1, 2022**.

Negotiations must conclude in a new distribution certificate filed with DOR by December 30, 2022. If an agreement is not reached, LOST will cease to be collected in the special district until a new referendum authorizing LOST is approved.

The criteria to be used in the distribution of such proceeds and a process to resolve conflicts between the county and qualified municipalities are set by state law. This publication has been prepared to inform city officials who will be involved in the LOST renegotiation process about the requirements, processes, and timelines that are set forth in state law.

Uses of LOST revenue:

The General Assembly initially authorized the levy of a LOST in 1975 both for the purpose of providing property tax relief for residents and to assist local governments in funding all or any portion of those services provided by governing authorities pursuant to and in accordance with Article IX, Section II, paragraph III of the Georgia Constitution. In counties that impose the LOST, each city and county receiving LOST proceeds must show on the property tax bill the reduced city and county millage rate and reduced dollar amount as a result of the receipt of LOST revenues. After the rollback has been applied, revenues generated from growth in LOST tax collections each year may be used by counties and cities to fund capital and M&O costs for local services.

Calculating property tax rollback:

The law specifies that in the year following the initial year that the tax is levied (and for all subsequent years), each jurisdiction’s governing authority must calculate the millage rate necessary to produce property tax revenues which, combined with other local revenues, would generate sufficient funds to cover the jurisdiction’s general fund expenditures for that year. The millage rate is reduced by the amount that would produce an amount equal to that jurisdiction’s LOST distribution from the previous year. The remainder is the millage rate that is used to calculate property tax bills. The LOST rollback amount must be prominently shown on each city and county’s property tax bill.

What if a city does not impose a property tax?

In 2020, over 200 cities in Georgia reported to the Georgia Department of Community Affairs that they do not collect property tax revenues. For jurisdictions that do not impose a property tax, LOST revenues still have the effect of keeping taxes low, because the LOST distribution can be used to fund the operation and maintenance of government services. Without those revenues, a jurisdiction would be required to raise some other category of revenues to pay for services or many cities would be required to impose or increase property taxes. The law stipulates that for jurisdictions with a millage rate of zero, there is no requirement to print property tax bills to show the LOST rollback amount.

Qualified and Absent Municipalities

LOST distribution certificates must be executed between counties and one or more qualified municipalities in the county whose combined population represents 50% of the total qualified municipal population. The term "qualified municipality" refers to municipalities which impose a tax other than the LOST and which provide at least three of the following services (O.C.G.A. § 48-8-80):

- (1) Water;
- (2) Sewage;
- (3) Garbage collection;
- (4) Police protection;
- (5) Fire protection; or
- (6) Library.

Municipalities that meet these conditions can share in the distribution of the LOST. As of January 6, 2021, the Georgia Department of Revenue had LOST distribution agreements for 484 qualified municipalities in 154 Georgia counties.

Small qualified municipalities can elect to be “absent” municipalities, which means they may choose not to participate in the negotiation process or are not included in the negotiation process (O.C.G.A. § 48-8-89(b)). The calculation of distribution of LOST funds for absent municipalities is one of the most complex provisions in state law pertaining to local government revenues. Generally, distributions are calculated based on 1) the absent municipalities’ percent share of the total municipal population in the county; and 2) the municipal share of LOST proceeds in the county.

Why doesn't every county have a LOST that is subject to renegotiation as set out in O.C.G.A. §48-8-89?

- LOST is an optional tax that must be approved by voters in a referendum. Cherokee, Cobb, and Gwinnett counties do not have a LOST.
- Bulloch, Chattooga, Colquitt, Habersham, Houston, Mitchell, and Rabun counties have a constitutional LOST designated for educational purposes. Their distributions go directly to the boards of education in each county and are not subject to renegotiation.
- Towns County has a LOST that is distributed between the county and its qualified cities, and a second penny of LOST that is earmarked for education.
- In 2004, the General Assembly authorized the Columbus consolidated government to call a referendum for a 2nd penny of LOST. In 2008, the referendum passed by an overwhelming margin (nearly 70%). 100% of LOST revenues go to the consolidated government, so there is no negotiation of the LOST distribution.
- 100% of LOST revenues in the Cussetta-Chattahoochee consolidated government go to the unified government, and there is no negotiation for the distribution.
- Echols County receives 100% of LOST revenues because there are no incorporated municipalities in the county. In 2008, voters in Echols county approved a referendum on the issue of consolidation, therefore, beginning during the 2012 LOST renegotiation process, 100% of the LOST revenues go to the consolidated government.
- DeKalb and Rockdale counties levy a HOST and are prohibited from levying a LOST because doing so would cause them to exceed the 2% statutory cap on local sales taxes that can be levied in a county. HOST is a county sales tax that is primarily used to provide county property tax relief. Up to 20% of the HOST tax proceeds may be used for capital projects. While there is no requirement that HOST includes revenue sharing with cities, it is an option under the law.

WHEN LOST RENEGOTIATIONS ARE NECESSARY

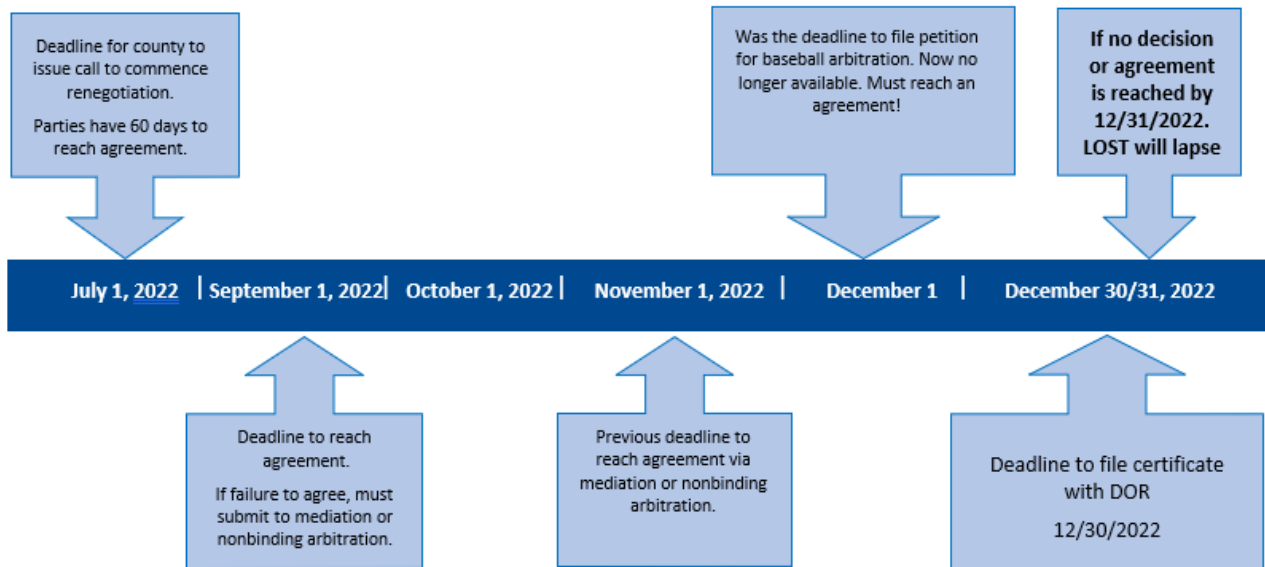
Local governments within the special district can agree to renegotiate the distribution certificate at any time. The law also contains several triggers whereby renegotiation of the distribution certificate is required, including:

- (1) The decennial census. The law requires that all distribution certificates will expire on December 31 of the second year following the year the decennial census is conducted. *Therefore, by no later than December 30, 2022, a new distribution certificate must be filed and received by the Commissioner of the Georgia Department of Revenue.* (OCGA § 48-8-89 (d)(1))
- (2) If a new qualified municipality is in the special district. The law (OCGA 48-8-89.1) outlines a process by which new qualified municipalities can seek recognition from the DOR Commissioner so that they can be considered eligible for a share of the LOST distributions within a special district. The law provides for a deadline by which the new qualified municipality and the governing authorities of the county and all other qualified municipalities in the special district must execute a new distribution certificate. If the distribution certificate is modified for a new qualified municipality, the distribution for every other qualified municipality in the special district remains the same as in the existing certificate.
- (3) If a city increases its population by 15% or more through annexation, it is termed to be a “newly expanded qualified municipality” and the distribution certificate may be renegotiated. If the distribution certificate is modified for a newly expanded qualified municipality, the distributions for every other qualified municipality in the special district remain the same as in the existing certificate.
- (4) If the DOR has determined that a city is no longer a qualified municipality, that municipality is no longer eligible to receive LOST revenues. Their share of proceeds is split on a pro rata basis between the county and each other qualified municipality within the special district using the percentages in the existing certificate, until a new certificate is filed.
- (5) Any changes in service provision may trigger a new distribution, e.g., if the county and city revise the Service Delivery Agreement to allow the city to provide parks and recreation services county-wide, the revenue distribution may be changed to account for new revenues the city will use to pay for the new county-wide service.

2022 TIMELINE FOR RENEGOTIATING LOST AGREEMENTS

<u>July 1, 2022</u>	Deadline by which a county governing authority, on behalf of all eligible political subdivisions in the special district, must notify the DOR commissioner in writing that renegotiation proceedings have begun. If the county governing authority does not issue the call by that date, any eligible municipality may issue the call and also notify the commissioner and all eligible political subdivisions within the special district.
<u>60 Days Following the Start of Negotiations</u>	If a renegotiation distribution has not been reached the parties must submit to nonbinding arbitration, mediation, or such other means of resolving conflicts 60-days after the beginning of negotiations.
<u>December 30, 2022:</u>	Deadline to file certificate with DOR. If no certificate is filed, LOST will expire and cease to be collected.

LOST Renegotiations following 2020 Census: Sample Timeline



*The removal of baseball arbitration will be explained on page 10

RENEGOTIATIONS: PROCEDURES AND ISSUES

Local option sales tax distribution is ultimately a political decision that should be made by elected local government leaders. The Georgia General Assembly has left the distribution of LOST proceeds up to local officials and resisted the temptation to mandate a distribution formula. The challenge for local leaders is to exercise their home rule powers by negotiating in a responsible and responsive manner.

Ideally, LOST renegotiation should be viewed as an opportunity to review service delivery. In reality, LOST renegotiation is not pretty. It is a zero-sum game - one jurisdiction's gain corresponds directly to a loss of revenue in another jurisdiction. Failure to secure a fair distribution split in a jurisdiction may translate to property tax increases and/or reduction in or elimination of services. State law does not include a process to ensure fairness of the distribution, and only provides a set of eight vague criteria for distributing revenues. As a result, the negotiation process and the final decision is a political process. It is important for municipal officials to be well-versed in the art of negotiation, to fully understand the complex interrelationships between sales taxes and service demands and most importantly, to listen to the experiences and advice of city officials who have been through the process before.

Preliminary Renegotiation Issues

As an initial matter, all of the parties necessary for renegotiation of the LOST distribution should agree that they want to continue the LOST and make a commitment to negotiating in good faith and completing negotiations in a timely fashion. A useful first exercise for negotiating local governments would be to examine the role of LOST in their finances and estimate the impact that losing LOST revenues would have on local property taxes and service delivery issues. The negotiating parties may want to set some ground rules for the negotiations such as agreeing up front on what should be done in the event agreement is not reached within a certain time period before the certificate must be filed or promising not to hold the LOST hostage by waiting until the last possible moment to agree on a distribution. This could be evidenced by a joint resolution expressing the intent to come to agreement and to keep the best interests of the citizens foremost in seeking a resolution to the negotiations.

Who makes the call to begin renegotiation following the release of the decennial census figures?

The law states that the county can call the renegotiation process at any time, but must do so by July 1, 2022. In calling for the renegotiation process, the county is required to provide written notification to the DOR Commissioner and all eligible municipalities in the county. If the county fails to make the call by the July 1, 2022 deadline, any qualified municipality can call for the process to begin and must notify all eligible jurisdictions and the DOR Commissioner.

Before beginning renegotiation of the LOST revenue distribution certificates, the elected officials of the participating local governments in each county should agree on a structure for the negotiation process. In determining a structure, the local governments should consider these issues:

- What will be the scope of negotiations?
- Who will participate in the negotiations?
- What will be the timing of the negotiations?
- What will be the process or mechanism for resolving disputes that are not solved by a specified time limit?

Does the law specify where renegotiation meetings must take place?

There is no statutory requirement for where meetings must be held. There is no requirement that meetings be held in person, though, when safe to do so, in person meetings may be more productive. Ideally, meetings should be conducted in a neutral location.

The Need for City Cooperation

Just as it is important to maintain a unified front among the officials in one city, it is equally important to maintain solidarity among the qualified municipalities within a county. Prior to any negotiations beginning, it is helpful for all the qualified municipalities wholly or partially within the county to meet as a group to discuss the negotiation process. Conducting an open and candid dialogue among city officials before meeting with county leaders will serve all cities well. Failure to work together with other cities in the county could allow the county to pit cities against each other during the negotiation process or could allow small cities to be hurt as larger cities work to protect their own interests. In many counties around the state, cities have organized and meet frequently as a county municipal association. Having this close relationship allows cities to work well together and to look out for each other during the negotiation process.

Which officials from each jurisdiction should be at the table during the negotiations?

Municipal officials who have been involved in previous LOST renegotiations suggest that the negotiation team should be kept as small as possible; for example, the county commission chairman or county manager and one representative (e.g., the mayor or city manager) from each qualified municipality. Decisions about who should be involved on the negotiation team should take into account previous experience in negotiating past LOST agreements in order to ensure that the best decisions can be made. A small negotiation team will be able to make decisions more efficiently. However, it is important that the full city council and key staff should be continually updated on the details of each meeting of the negotiating team so that everyone is in the loop on key decisions and all the council members understand what the negotiating team has agreed to do.

Later sections highlight some of the questions that local governments should address as they consider how to structure the renegotiation of the LOST revenue distributions. **Additionally, the negotiating parties should keep some record of their negotiations to demonstrate that they have considered each of the criteria specified by the law. Consult with your city attorney about open meetings and open records requirements.**

DETERMINING LOST DISTRIBUTION

The law does not specify a formula for distributing LOST proceeds. Instead, it outlines eight factors that can be used by local governments in negotiating the LOST distribution.

The Eight Criteria for LOST Distribution

According to O.C.G.A. § 48-8-89, the distribution of proceeds of the tax as specified in the certificate shall be based upon, but not be limited to, the following criteria:

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

The law does not provide specific information about how to calculate each of these eight factors. Also absent from the law is a ranking of the criteria by degree of importance, although the law does expressly state that population is not intended to be more heavily weighted as a criterion. In some cases, reliable data may not be available, which makes the negotiation of distributions more difficult. With little guidance from state law, cities and counties around the state have developed a variety of techniques and methodologies which may be used as a starting point for the 2022 renegotiations.

Should cities include service delivery arrangements in the discussion of LOST renegotiation?

Several of the eight criteria enumerated in the LOST law deal with service delivery within the special district. During the renegotiation process, decisions about how to distribute LOST revenues are inextricably entwined with decisions about service delivery (several of the criteria point to service delivery decisions) and existing or pending revenue or intergovernmental agreements, including SPLOST.

WEIGHING AND CALCULATING THE EIGHT CRITERIA

The eight criteria express the General Assembly's intent that LOST distributions consider service delivery and not simply population. With the exception of population and digest information, there is no published data source that can be directly used to support some of the criteria. However, all criteria can be measured, and all factors should be taken into consideration during the negotiation process. Below is some recommended information every city should consider when going to the negotiating table. Resources to assist in determining this information are available under LOST Resources (Page 12).

Census Estimate Daytime population data:

The concept of the daytime population refers to the number of people who are present in an area during normal business hours, including workers. This is in contrast to the resident population present during the evening and nighttime hours. Information on the expansion or contraction experienced by different communities between nighttime and daytime populations is important for many planning purposes, including those dealing with transportation, disaster, and relief operations. Daytime population estimates can be a helpful proxy for determining service delivery responsibilities as stipulated in the LOST criteria.

Number of Jobs in Cities:

The US Census Bureau has a product that allows users to search for data on local employment dynamics. When available, local officials can find data on where jobs are located. This information is another key factor when considering the population that impacts a city.

Special Events Offered within City Limits:

Consider all special events that are consistently provided or hosted by your city. Consistent concerts, festivals, fairs, sporting events, etc. can have a large impact on the effective population of a city and required service delivery.

Intergovernmental Agreements:

City officials should bring copies of their Service Delivery Agreements as well as any other intergovernmental agreement to the negotiating table. Any plan or agreement that describes financial arrangements for service delivery should be included in the negotiations. Consider issues of double taxation when discussing service delivery.

Point of Sale Data:

Cities that use the gross receipts method for collecting business occupation taxes can use that data to pinpoint where sales occur that generate sales tax revenues and how much revenue is generated from businesses within a city's limits.

Negotiate for the Next Ten Years

When negotiating for your LOST distribution consider the current state of the eight criteria and how they are projected to develop over the next ten years. In most cases, LOST distribution will not be renegotiated until the census is performed again in 2030. Negotiate your distribution looking forward to the next ten years.

DISPUTE RESOLUTION

Nonbinding Arbitration/Mediation Requirement

If no agreement on a distribution certificate has been reached after 60 days following the commencement of negotiations, the law (O.C.G.A. § 48-8-89(d)(3)) requires the parties to submit the dispute to “nonbinding arbitration, mediation, or such other means of resolving conflicts.”

This is the final required step in negotiating a new distribution certificate.

Removal of Baseball Arbitration

In 2010, the GA General Assembly amended the LOST statute to allow cities and counties to appeal to a superior court judge if the parties were unable to reach an agreement during LOST negotiations. This was placed in law as a final step following the dispute resolution requirement. However, in 2013 this "baseball arbitration" portion of the law was ruled unconstitutional by the Georgia Supreme Court because it gave the courts a legislative power.

Since 2013, despite efforts to establish a process to replace “baseball arbitration” that cities and counties can use where agreement cannot be reached between the parties, nothing has yet been devised to serve this purpose.

Therefore, currently, until a new dispute resolution process can be put in place the parties must reach an agreement or risk losing the LOST funds. In order to facilitate reaching an agreement, cities should consider collaborating with the other cities in the negotiation process to better leverage their interests. This is especially true for small cities which can find it difficult to have their voices heard in such negotiations.

What’s different about the renegotiation process since Baseball Arbitration is not available?

Now that Baseball Arbitration cannot be used as a backstop, the parties must reach an agreement or lose LOST funds. This means that during the renegotiation process all parties must be focused on the goal of reaching an agreement. It might be useful for cities, before beginning negotiations, to decide on what issues they are willing to compromise and those that are “must win”, this will give the city some bargaining chips to use during the negotiation process.

TOP 10 LOST LESSONS

1. **Get started now.** Identify your negotiating team. It may not necessarily be the mayor or chairman. All officials should be involved, but the assignment of a core team is important. Get the smartest people with the most experience in the room. If the county fails to issue the call for renegotiations by July 1, a municipality can file, so go ahead and prepare a letter to issue the call just in case.
2. **Agree in advance on the process for conflict resolution.** Before negotiations begin, all parties should meet to discuss and come to agreement on what to do if there is an impasse, including what method will be used to handle disputes, including arbitration, mediation, or other means to resolve conflicts, keeping in mind that baseball arbitration is no longer an option. Parties should agree on how dispute costs will be paid between the various parties considering factors such as population and government budget.
3. **Be analytical, not political; and do your homework.** Understand city *and* county needs and gather information needed to outline all 8 criteria identified in the law. Ideally, the process should be data-driven.
4. **Know the county position.** Know everything about the county, how they provide services, how they pay for services, and be ready with a comeback for points made by county negotiators. Just as important, understand all the valid points on both sides.
5. **Know your allies - build constituencies and stick together.** Work with the other cities in your county. Avoid surprises, do not try to take shortcuts or you could end up with each city negotiating with the county.
6. **Remember - LOST and service delivery are inextricably linked.** When negotiating the LOST distribution, discussions about responsibility and cost for providing various services are unavoidable. It may be a good idea to phase in LOST distribution under some circumstances, such as, if a city and county agree to a multi-year phase-in of one of the parties taking over county-wide provision of recreation services. Phasing in of LOST distributions may be desirable to give the government taking over the service access to more revenue to pay for that service while helping the other party adjust over time for the reduction in LOST revenues.
7. **Learn from examples of previous LOST negotiations.** Talk to city officials who have been through the process before. While no two negotiations are the same, understanding what to expect and how to prepare for both the expected and unexpected can be critical to your city's success.
8. **Know when to stop if things start to go bad.** Consider working with your attorney to develop a defensible position. Remember without baseball arbitration failure to reach an agreement risks LOST completely.
9. **Understand the consequences of failure.** For cities and counties, failure to negotiate in good faith and come to an agreement will hurt everyone. If you beat each other up over LOST, other sales tax referenda (SPLOST, T-SPLOST, ESPLOST) could fail.
10. **Prepare to send your designated city negotiating officials to GMA training sessions.** GMA has previously provided regional training, targeted to benefit the officials who will actually serve on the negotiating team and afford these officials the opportunity to get tips on negotiating strategies and data analysis from experts in the field. Refer to GMA's calendar for potential upcoming training events.

LOST RESOURCES

These resources are provided to assist cities as they prepare for LOST negotiation. Keep in mind there is no set formula or predominant factor in determining LOST distribution. Instead, these resources should be explored and examined while considering how the information relates to the Eight Criteria for LOST Distribution (Page 8). These resources can help develop a financial profile of your city and corresponding local governments, including revenue sources and service responsibilities.

GMA Resources

- [GMA's Data Tools](#) provide city specific data and comparisons that can be useful as a one-stop resource for information for LOST negotiations.
- [GMA's Double Taxation Handbook](#) provides an overview of double taxation, allowing local officials to evaluate issues of tax equity and determine whether residents are being double taxed for services.

Department of Revenue (DOR) Resources

The Georgia Department of Revenue provides several useful sources of information of value for cities preparing for LOST negotiation.

- [DOR's Local Government Distribution Section](#) provides a variety of information concerning local sales taxes and distribution and includes the applicable contact information at DOR.
- The [tax rate](#) in each county and what taxes comprise the local sales tax rate.
- Current [sales tax distribution rates](#) between local governments.
- Monthly reports of [sales tax distributions](#).
- [Sales Tax Distribution Commodity Reports](#) monthly for all counties.
- [Property Tax Digest Summaries](#) are available for cities and counties, allowing cities to examine different categories of property within a jurisdiction.

The Tax and Expenditure Data (TED) Center for Georgia Local Governments

- The [TED Center](#) provides reports and data tools on the revenues and expenditures of Georgia's local governments.

Department of Community Affairs (DCA) Resources

- DCA's [Intergovernmental Coordination](#) provides resources concerning Service Delivery Strategy, Annexation, and Alternative Dispute Resolution.
- [Hotel-Motel Excise Tax](#) information including [rates](#) for each levying jurisdiction and an [overview of authorizing paragraphs](#) providing permissible uses of revenue.

United States Census Bureau

- The [US Census Bureau Data Tools](#) provides a variety of useful city specific data.

GMA Contacts for Questions about LOST

- Stan Brown, Member Services Consultant, (470)553-5248 or sbrown@gacities.com
- Emily Hirst, Assistant General Counsel, (678) 686-6211 or ehirst@gacities.com
- Ryan Bowersox, Governmental Relations Associate, (678) 855-0763 or rbowersox@gacities.com

Appendices

Appendix A: Blank Sample Distribution Certificate

Appendix B: Local Option Sales Tax Statutes



CERTIFICATE OF DISTRIBUTION

TO: State Revenue Commissioner

Pursuant to an Act of the Georgia General Assembly, effective January 1, 1980, relating to Local Sales & Use Taxes, the governing authorities for the qualifying municipalities and the county located within the special district coterminous with the boundaries of _____ County hereby certify that the proceeds of the combination city/county local sales and use tax generated in such district shall be distributed by the State Revenue Commissioner as follows:

- City of _____ shall receive _____ %
- City of _____ shall receive _____ %
- City of _____ shall receive _____ %
- City of _____ shall receive _____ %
- City of _____ shall receive _____ %
- County of _____ shall receive _____ %

This certificate shall continue in effect until such time as a new certificate shall be executed as provided in said Act.

By executing this schedule the county and cities, acting through their respective officers, represent that all municipalities lying wholly or partly in the tax jurisdiction have been given an opportunity to show that they are ‘qualified municipalities,’ as that term is used in the Act, and that all municipalities listed herein as recipients are ‘qualified’ and so may receive distribution from the proceeds of the tax.

Executed on behalf of the governing authorities of the qualifying municipalities representing not less than a majority of the aggregate population of all qualifying municipalities located within the special district and the governing authority of the county, this _____ day of _____ 20 ____.

MAYOR OF THE CITY OF

MAYOR OF THE CITY OF

MAYOR OF THE CITY OF

MAYOR OF THE CITY OF

MAYOR OF THE CITY OF

CHAIRMAN BOARD OF COMMISSIONERS OF

COUNTY

Appendix B: LOCAL OPTION SALES TAX STATUTES

The following is the text of the statutes governing the joint county and municipal sales and use tax amended as of 2021:

48-8-80. “Qualified municipality” defined.

As used in this article, the term “qualified municipality” means only those incorporated municipalities which impose a tax other than the tax authorized by this article and which provide at least three of the following services:

- (1.)** Water;
- (2.)** Sewage;
- (3.)** Garbage collection;
- (4.)** Police protection;
- (5.)** Fire protection; or
- (6.)** Library.

48-8-81. Creation of special districts.

Pursuant to the authority granted by Article IX, Section II, Paragraph VI of the Constitution of this state, there are created within this state 159 special districts. The geographical boundary of each county shall correspond with and shall be conterminous with the geographical boundary of one of the 159 special districts.

48-8-82. Counties and municipalities authorized to levy joint sales and use tax; motor vehicle levy

(a) When the imposition of a joint county and municipal sales and use tax is authorized according to the procedures provided in this article within a special district, the county whose geographical boundary is conterminous with that of the special district and each qualified municipality located wholly or partially within the special district shall levy a joint sales and use tax at the rate of 1 percent, except as provided in subsection (b) of this Code section. Except as to rate, the joint tax shall correspond to the tax imposed and administered by Article 1 of this chapter. No item or transaction which is not subject to taxation by Article 1 of this chapter shall be subject to the tax levied pursuant to this article, except that the joint tax provided in this article shall be applicable to:

- (1) The sale of motor fuels as prepaid local tax as that term is defined in Code Section 48-8-2;
- (2) The sale of food and food ingredients and alcoholic beverages only to the extent provided for in paragraph (57) of Code Section 48-8-3; and
- (3) The sale or use of jet fuel as such term is defined in Code Section 48-8-2, to the extent allowed pursuant to Code Section 48-8-3.5.

(b) On or after July 1, 2015, such joint sales and use tax levied on sales of motor fuels as defined in Code Section 48-9-2 shall be at the rate of 1 percent of the retail sales price of the motor fuel which is not more than \$3.00 per gallon; provided, however, that in any consolidated government levying a joint sales and use tax at 2 percent pursuant to Code Section 48-8-96, on or after July 1,

2015, any such joint sales and use tax levied on sales of motor fuels as defined in Code Section 48-9-2 shall be at the rate of 2 percent of the retail sales price of the motor fuel which is not more than \$3.00 per gallon.

48-8-83. Where levied

Effective January 1, 1980, the joint tax provided in Code Section 48-8-82 shall be levied in each special district in which prior to January 1, 1980, a joint county and municipal sales and use tax was levied pursuant to Ga. L. 1975, p. 984, Section 2 (as amended by Ga. L. 1975, Ex. Sess., p. 1729, Section 1; Ga. L. 1976, p. 1019, Sections 1-13; Ga. L. 1977, p. 1008, Section 1; Ga. L. 1978, p. 1429, Sections 1-3; Ga. L. 1978, p. 1460, Sections 1-3; Ga. L. 1978, p. 1678, Section 1; Ga. L. 1978, p. 1695, Section 1; Ga. L. 1979, p. 446, Section 1) or in which a referendum election had authorized the levying of such a tax within the special district.

48-8-83.1. Distribution certificates

Notwithstanding any distribution certificate filing deadline otherwise required under Code Section 48-8-89, for each special district in which the tax provided for by Code Section 48-8-82 was levied and collected immediately prior to June 4, 2010, such tax shall continue to be levied and collected; and the most recent distribution certificate which was executed on behalf of the county and on behalf of one or more qualified municipalities within the special district whose combined population within the special district is at least one-half of the combined total population of all qualified municipalities located within the special district and which was filed with the commissioner between June 4, 2010, and October 18, 2013, shall be valid and shall continue in force and effect until superseded by a subsequent distribution certificate properly executed and filed with the commissioner in accordance with Code Section 48-8-89 or Code Section 48-8-89.1, as applicable, or until such tax is subsequently discontinued and terminated pursuant to subsection (c) of Code Section 48-8-89 or pursuant to a referendum under Code Section 48-8-92.

48-8-84. Resolution imposing tax

If the imposition of the tax provided for in Code Section 48-8-82 is to be levied pursuant to Code Section 48-8-83, the governing authority of the county whose geographical boundary is conterminous with that of the special district and the governing authority of each qualified municipality located wholly or partially within the district shall each adopt a resolution on or prior to January 1, 1980, imposing the tax authorized by Code Section 48-8-82 on behalf of the county and each qualified municipality located wholly or partially within the special district.

48-8-85. Referendum election

(a) Whenever the governing authority of any county or qualified municipality located wholly or partially within a special district in which a joint county and municipal sales and use tax was not imposed on January 1, 1980, wishes to submit to the electors of the special district the question of whether the tax authorized by Code Section 48-8-82 shall be imposed, any such governing authority shall notify the election superintendent of the county whose geographical boundary is conterminous with that of the special district by forwarding to the superintendent a copy of a resolution of the governing authority calling for a referendum election. Upon receipt of the

resolution, it shall be the duty of the election superintendent to issue the call for an election for the purpose of submitting the question of the imposition of the tax to the voters of the special district for approval or rejection. The election superintendent shall set the date of the election for a day not less than 30 nor more than 45 days after the date of the issuance of the call. The election superintendent shall cause the date and purpose of the election to be published once a week for two weeks immediately preceding the date of the election in the official organ of the county. The ballot shall have written or printed thereon the following:

YES Shall a retail sales and use tax of 1 percent be levied
 NO within the special district within _____ County?"

- (b) All persons desiring to vote in favor of levying the tax shall vote "Yes," and those persons opposed to levying the tax shall vote "No." If more than one-half of the votes cast are in favor of levying the tax, then the tax shall be levied in accordance with this article; otherwise, the tax may not be levied, and the question of the imposition of the tax may not again be submitted to the voters of the special district until after 24 months immediately following the month in which the election was held. It shall be the duty of the election superintendent to hold and conduct such elections under the same rules and regulations as govern special elections. It shall be his further duty to canvass the returns, declare the result of the election, and certify the result to the Secretary of State and to the commissioner. The expense of the election shall be borne by the county whose geographical boundary is conterminous with that of the special district holding the election.

48-8-86. Procedure for levy; effective date of imposition of tax

If the imposition of the tax provided in Code Section 48-8-82 is approved in a referendum election as provided by Code Section 48-8-85, the governing authority of the county whose geographical boundary is conterminous with that of the special district and the governing authority of each qualified municipality located wholly or partially within the district shall each adopt a resolution during the first 30 days following the certification of the result of the election imposing the tax authorized by Code Section 48-8-82 on behalf of the county and each qualified municipality located wholly or partially within the special district. The resolution shall be effective on the first day of the next succeeding calendar quarter which begins more than 80 days after the adoption of the resolution. With respect to services which are regularly billed on a monthly basis, however, the resolution shall become effective with the first regular billing period coinciding with or following the otherwise effective date of the resolution. A certified copy of the resolution shall be forwarded to the commissioner so that it will be received within five days after its adoption.

48-8-87. Administration and collection of tax; compensation of dealers for collecting tax

The tax levied pursuant to this article shall be exclusively administered and collected by the commissioner for the use and benefit of each county whose geographical boundary is conterminous with that of a special district and of each qualified municipality located wholly or partially therein. Such administration and collection shall be accomplished in the same manner and subject to the same applicable provisions, procedures, and penalties provided in Article 1 of this chapter, except that the joint tax provided in this article shall be applicable to sales of motor fuels as prepaid local tax as that

term is defined in Code Section 48-8-2; provided, however, that all moneys collected from each taxpayer by the commissioner shall be applied first to such taxpayer's liability for taxes owed the state. Dealers shall be allowed a percentage of the amount of the tax due and accounted for and shall be reimbursed in the form of a deduction in submitting, reporting, and paying the amount due if such amount is not delinquent at the time of payment. The deduction shall be at the rate and subject to the requirements specified under subsections (b) through (f) of Code Section 48-8-50.

48-8-87. Administration and collection of tax; compensation of dealers for collecting tax

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

48-8-89. Distribution of proceeds of tax

(a) The proceeds of the tax collected by the commissioner in each special district under this article 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 to the governing authority of each qualified municipality within the special district and to the governing authority of the county whose geographical boundary is conterminous with that of the special district for the purpose of assisting such political subdivisions in funding all or any portion of those services which are to be provided by such governing authorities pursuant to and in accordance with Article IX, Section II, Paragraph III of the Constitution of this state.

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

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

Notwithstanding the fact that a certificate shall not contain an execution in behalf of one or more qualified municipalities within the special district, if the combined total of the populations of all such absent municipalities is less than one-half of the aggregate population of all qualified municipalities located within the special district, the submitting political subdivisions shall, in behalf of the absent municipalities, specify a percentage of that portion of the remaining proceeds which each such municipality shall receive, which percentage shall not be less than that proportion which each absent municipality's population bears to the total population of all qualified municipalities within the special district multiplied by that portion of the remaining proceeds which are received by all qualified municipalities within the special district. For the purpose of determining the population of the absent municipalities, only that portion of the population of each such municipality which is located within the special district shall be computed. No certificate may contain a total of specified percentages in excess of 100 percent. The certificate shall be filed with the commissioner by March 1, 1980, for those special districts in which the tax authorized by this article is being levied on January 1, 1980. For all other special districts in which the tax shall be imposed subsequent to January 1, 1980, the certificate shall be filed with the commissioner within 60 days after the tax is imposed within the district. The commissioner shall continue to distribute the proceeds of the tax as otherwise provided in this Code section until the first day of the next calendar year following the month in which the commissioner receives a certificate as provided in this Code section, which certificate shall provide other percentages upon which the commissioner shall make the distribution to the political subdivisions entitled to the proceeds of the tax. At such time, the commissioner shall thereafter distribute the proceeds of the tax in accordance with the directions of the certificate.

- (c) If the certificate provided for in subsection (b) of this Code section is not received by the

commissioner by the required date, the authority to impose the tax authorized by Code Section 48-8-82 shall cease on the first day of the second calendar month following the month in which the tax was initially imposed and the tax shall not be levied in the special district after such date unless the reimposition of the tax is subsequently authorized pursuant to Code Section 48-8-85. When the imposition of the tax is so terminated, the commissioner shall retain the proceeds of the tax which were to be distributed to the governing authorities of the county and qualified municipalities within the special district until he receives a certificate in behalf of each such governing authority specifying the percentage of the proceeds which each such governing authority shall receive. If no such certificate is received by the commissioner within 120 days of the date on which the authority to levy the tax was terminated, the proceeds shall escheat to the state and the commissioner shall transfer the proceeds to the state's general fund.

(d)

- (1) A certificate providing for the distribution of the proceeds of the tax authorized by this article shall expire on December 31 of the second year following the year in which the decennial census is conducted. No later than December 30 of the second year following the year in which the census is conducted, a new distribution certificate meeting the requirements for certificates specified by subsection (b) of this Code section shall be filed with and received by the commissioner. The General Assembly recognizes that the requirement for government services is not always in direct correlation with population. Although a new distribution certificate is required within a time certain of the decennial census, this requirement is not meant to convey an intent by the General Assembly that population as a criterion should be more heavily weighted than other criteria. It is the express intent of the General Assembly in requiring such renegotiation that eligible political subdivisions shall analyze local service delivery responsibilities and the existing allocation of proceeds made available to such governments under the provisions of this article and make rational the allocation of such resources to meet such service delivery responsibilities. Political subdivisions in their renegotiation of such distributions shall at a minimum consider the criteria specified in subsection (b) of this Code section.
- (2) The commissioner shall be notified in writing of the commencement of renegotiation proceedings by the county governing authority on behalf of all eligible political subdivisions within the special district. The eligible political subdivisions shall commence renegotiations at the call of the county governing authority before July 1 of the second year following the year in which the census is conducted. If the county governing authority does not issue the call by that date, any eligible municipality may issue the call and so notify the commissioner and all eligible political subdivisions within the special district.
- (3) Following the commencement of such renegotiation, if the parties necessary to an agreement fail to reach an agreement within 60 days, such parties shall submit the dispute to nonbinding arbitration, mediation, or such other means of resolving conflicts in a manner which attempts to reach a resolution of the dispute. Any renegotiation agreement reached pursuant to this paragraph shall be in accordance with the requirements specified in paragraph (1) of this subsection.
- (4) Reserved.

- (5) If a new distribution certificate as provided for in this Code section is not received by the commissioner, the authority to impose the tax authorized by Code Section 48-8-82 shall cease, and the tax shall not be levied in the special district after such date unless the reimposition of the tax is subsequently authorized pursuant to Code Section 48-8-85. When the imposition of the tax is so terminated, the commissioner shall retain the proceeds of the tax which were to be distributed to the governing authorities of the county and qualified municipalities within the special district until the commissioner receives a certificate on behalf of each such governing authority specifying the percentage of the proceeds which each such governing authority shall receive. If no such certificate is received by the commissioner within 120 days of the date on which the authority to levy the tax was terminated, the proceeds shall escheat to the state, and the commissioner shall transfer the proceeds to the state's general fund.
- (6) If the commissioner receives a new distribution certificate by the required date, the commissioner shall distribute the proceeds of the tax in accordance with the directions of the new distribution certificate commencing on January 1 of the year immediately following the year in which such certificate was executed by the parties or the judge or the first day of the second calendar month following the month such certificate was executed by the parties or the judge, whichever is sooner.
- (7) Costs of any conflict resolution under paragraph (3) or (4) of this subsection shall be borne proportionately by the affected political subdivisions in accordance with the final percentage distributions of the proceeds of the tax as reflected by the new distribution certificate.
- (8) Political subdivisions shall be authorized, at their option, to renegotiate distribution certificates on a more frequent basis than is otherwise required under this subsection.
- (9) No provision of this subsection shall apply to any county which is authorized to levy or which levies a local sales tax, local use tax, or local sales and use tax for educational purposes pursuant to a local constitutional amendment or to any county which is authorized to expend all or any portion of the proceeds of any sales tax, use tax, or sales and use tax for educational purposes pursuant to a local constitutional amendment.

48-8-89.1. New qualified municipality; newly expanded qualified municipality; notice; distribution certificate

- (a) If there exists within any special district in which the tax authorized by this article is imposed a qualified municipality which was not a qualified municipality on the date of filing with the commissioner of the most recently filed certificate under Code Section 48-8-89, such qualified municipality may request the commissioner to give notice of the qualified municipality's existence as provided in this subsection. Upon receipt of such a request, the commissioner shall, unless he determines that the requesting entity is not a qualified municipality, within 30 days give written notice of the qualified municipality's existence to the county which is conterminous with the special district in which the qualified municipality is located and to each other qualified municipality within the special district. Such written notice shall include the name of the new qualified municipality, the effective date of the notice, and a statement of the provisions of this Code section.
- (b) Within 60 days after the effective date of the notice referred to in subsection (a) of this Code section, a new distribution certificate shall be filed with the commissioner for the special district

or, within 30 days after the last day of the 60 day alternative dispute resolution period required by paragraph (3) of subsection (d) of Code Section 48-8-89, the county, any qualified municipality located wholly or partially within the special district, or any new qualified municipality as specified under subsection (a) of this Code section located wholly or partially within the special district may file a petition in superior court seeking resolution of the items remaining in dispute pursuant to the procedure set forth in paragraph (4) of subsection (d) of Code Section 48-8-89. In the event such a petition is filed, a new qualified municipality as specified under subsection (a) of this Code section located wholly or partially within the special district shall be subject to the same requirements applicable to qualified municipalities located wholly or partially within the special district under paragraph (4) of subsection (d) of Code Section 48-8-89. The new distribution certificate shall specify by percentage what portion of the proceeds of the tax available for distribution within the special district shall be received by the county in which the special district is located and by each qualified municipality located wholly or partially within the special district, including the new qualified municipality. No distribution certificate shall contain a total of specified percentages in excess of 100 percent.

- (c) Except as otherwise provided in this subsection, a distribution certificate required by this Code section must be executed by the governing authorities of the county within which the special district is located and each qualified municipality located wholly or partially within the special district, including the new qualified municipality. Notwithstanding the fact that a certificate shall not contain an execution in behalf of one or more qualified municipalities within the special district, if the combined total of the populations of all such absent municipalities is less than one-half of the aggregate population of all qualified municipalities located within the special district, the submitting political subdivisions shall, in behalf of the absent municipalities, specify a percentage of that portion of the remaining proceeds which each such municipality shall receive, which percentage shall not be less than that proportion which each absent municipality's population bears to the total population of all qualified municipalities within the special district multiplied by that portion of the remaining proceeds which are received by all qualified municipalities within the special district. For the purpose of determining the population of the absent municipalities, only that portion of the population of each such municipality which is located within the special district shall be computed.
- (d) If a new certificate is not filed for any special district as required by this Code section, the authority to impose the tax authorized by Code Section 48-8-82 within that special district shall cease on the first day of January of the year following the year in which the required distribution certificate could last have been timely filed. In any special district in which the authority to impose the tax is terminated pursuant to this subsection, the tax may thereafter be reimposed only pursuant to the procedures specified in Code Sections 48-8-84 through 48-8-86.
- (e) If a new certificate is filed as required by this Code section, the commissioner shall begin to distribute the proceeds as specified in the new certificate on the first day of January of the first calendar year which begins more than 60 days after the effective date of the notice referred to in subsection (b) of this Code section. The commissioner shall continue to distribute the proceeds of the tax according to the new certificate until a subsequent certificate is filed and becomes effective as provided in Code Section 48-8-89.

(f)

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

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

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

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

(3) Within 60 days after the effective date of the notice referred to in paragraph (2) of this subsection, a new distribution certificate shall be filed with the commissioner for the special district or, within 30 days after the last day of the 60 day alternative dispute resolution period required by paragraph (3) of subsection (d) of Code Section 48-8-89, the county, any qualified municipality located wholly or partially within the special district, or any new qualified municipality or newly expanded qualified municipality located wholly or partially within the special district may file a petition in superior court seeking resolution of the items remaining in dispute pursuant to the procedure set forth in paragraph (4) of subsection (d) of Code Section 48-8-89. The new distribution certificate shall address only the proceeds of the tax available for distribution from the percentage allocated to the county in the current distribution certificate and shall specify as a percentage of the total proceeds of the tax what portion of the proceeds shall be received by the county in which the special district is located and by the new qualified municipality and newly expanded qualified municipality located wholly or partially within the special district, if any.

- (4) Except as otherwise provided in this paragraph, a distribution certificate required by this subsection must be executed by the governing authorities of the county within which the special district is located, each new qualified municipality located wholly or partially within the special district, and each newly expanded qualified municipality, if any. If a new certificate is not filed within 60 days as required by paragraph (3) of this subsection, the commissioner shall distribute the proceeds of the tax available for distribution from the percentage allocated to the county in the current distribution certificate such that:
- (A) The new qualified municipality receives an allocation equal on a per capita basis to the average per capita allocation to the other qualified municipalities in the county (according to population), to be expended as provided in paragraph (2) of subsection (a) of Code Section 48-8-89; and
 - (B) Any newly expanded qualified municipality receives a total allocation of tax proceeds (including any amount previously allocated) equal on a per capita basis to the average per capita allocation to the other qualified municipalities in the county (according to population), to be expended as provided in paragraph (2) of subsection (a) of Code Section 48-8-89.

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

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

48-8-89.2. Distribution of tax due to qualified municipality which ceases to be qualified municipality

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

48-8-89.3. Circumstances under which tax shall be levied in certain special districts

- (a) Notwithstanding any other provision of this article to the contrary, the tax provided for in Code Section 48-8-82 shall be levied in any special district in which:
- (1) Prior to January 1, 1980, a joint county and municipal sales and use tax was levied pursuant to Ga. L. 1975, p. 984, Section 2 (as amended by Ga. L. 1975, Ex. Sess., p. 1729, Section 1; Ga. L. 1976, p. 1019, Sections 1-13; Ga. L. 1977, p. 1008, Section 1; Ga. L. 1978, p. 1429, Sections 1-3; Ga. L. 1978, p. 1460, Sections 1-3; Ga. L. 1978, p. 1678, Section 1; Ga. L. 1978, p. 1695, Section 1; Ga. L. 1979, p. 446, Section 1) or in which a referendum election had authorized the levying of such a tax within the special district;
 - (2) The tax provided for in Code Section 48-8-82 was actually collected during the period of January 1, 1980, to January 1, 1989; and
 - (3) There exists a qualified municipality which lies wholly or partially within the special district and which:
 - (A) Was a qualified municipality at the time of filing of the distribution certificate most recently filed with the commissioner under Code Section 48-8-89; and
 - (B) Was not assigned any percentage of the net proceeds of the tax under such distribution certificate.

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

- (b) A qualified municipality described in paragraph (3) of subsection (a) of this Code section, for which receipt of a portion of the net tax proceeds was not specified in the certificate most recently filed with the commissioner under Code Section 48-8-89, may request the commissioner to thereafter distribute a portion of the net tax proceeds to the qualified municipality as provided in this Code section. Upon receipt of such a request, the commissioner shall thereafter, unless he determines that the requesting municipality does not meet the criteria specified in this Code section, give written notice of a new distribution formula to the county which is conterminous with the special district, to the requesting qualified municipality, and to each other qualified municipality within the special district. Such new distribution formula shall be determined as follows:
- (1) Begin with the percentages specified in the distribution certificate most recently filed with the commissioner;
 - (2) Assign to the requesting municipality a percentage of the net proceeds which is equal to the total percentage of the net proceeds previously distributed to all other qualified municipalities in the special district multiplied by a fraction, the numerator of which is the population of the requesting municipality and the denominator of which is the population of all qualified municipalities within the special district;
 - (3) Deduct the percentage of the net proceeds so assigned to the requesting municipality from the percentages previously assigned to all other qualified municipalities within the special district, such deductions to be pro rata on the basis of population; and

- (4) Make no change in the percentage of the net proceeds previously distributed to the county which is conterminous with the special district.
- (c) This new distribution formula shall be implemented at the earliest date deemed administratively practicable by the commissioner, and the notice specified in subsection (b) of this Code section shall include such date. This new distribution formula shall remain in effect until a subsequent distribution certificate is filed and becomes effective as provided in Code Section 48-8-89.
- (d) For the purpose of all population based calculations under this Code section, only that portion of the population of a qualified municipality which is located within the special district shall be computed.

48-8-90. Procedure when similar tax has been paid in another taxing jurisdiction; credit allowed

Where a local sales or use tax has been paid with respect to tangible personal property by the purchaser either in another local tax jurisdiction within the state or in a tax jurisdiction outside the state, the tax may be credited against the tax authorized to be imposed by this article upon the same property. If the amount of sales or use tax so paid is less than the amount of the use tax due under this article, the purchaser shall pay an amount equal to the difference between the amount paid in the other tax jurisdiction and the amount due under this article. The commissioner may require such proof of payment in another local tax jurisdiction as he deems necessary and proper. No credit shall be granted, however, against the tax imposed under this article for tax paid in another jurisdiction if the tax paid in such other jurisdiction is used to obtain a credit against any other local sales and use tax levied in the special district or in the county which is conterminous with the special district; and taxes so paid in another jurisdiction shall be credited first against the tax levied under this article and then against the tax levied under Article 3 of this chapter, if applicable.

48-8-91. Conditions which must be met prior to levying tax

- (a) As a condition precedent for authority to levy the tax or to collect any proceeds from the tax authorized by this article for the year following the initial year in which it is levied and for all subsequent years, the county whose geographical boundary is conterminous with that of the special district and each qualified municipality therein receiving any proceeds of the tax shall adjust annually the millage rate for ad valorem taxation of tangible property within such political subdivisions as provided in this subsection. The governing authority of each such political subdivision shall compute the millage rate necessary to produce revenue from taxation of tangible property in its respective political subdivision which, when combined with other revenues reasonably expected to be received by the political subdivision during the year other than revenues derived from the tax imposed pursuant to this article, would provide revenues sufficient to defray the expenses of the political subdivision for the year. The millage rate so ascertained shall then be reduced by a millage rate which, if levied against the tangible property within the political subdivision, would produce an amount equal to the distribution of the proceeds of the tax imposed by this article which were received by the political subdivision during the preceding year. The tax bill of each ad valorem taxpayer in the political subdivision shall show in a prominent manner the millage rate first ascertained as provided in this subsection and shall show such millage rate reduced by the millage rate required to raise an amount of revenue equal to the

distribution of the proceeds of the tax imposed by this article during the previous year. The remainder shall be the millage rate upon which each taxpayer's bill shall be based. The tax authority of each such political subdivision shall cause to be shown in a prominent manner on the tax bill of each ad valorem taxpayer the dollar amount of reduction of ad valorem property taxes which the taxpayer has received as a result of the political subdivision's sharing in the proceeds of the tax authorized to be imposed by this article; provided, however, that the dollar amount of reduction of ad valorem property taxes shall not be calculated or shown on those forms used for the registration and taxation of motor vehicles or trailers.

- (b) This Code section shall not be construed to require a county or municipality to prepare and mail ad valorem property tax bills when the ad valorem property tax millage rate in the county or municipality has been reduced to zero as a result of the receipt of proceeds from the tax levied pursuant to this article. 48-8-92. Referendum election to decide discontinuing imposition of tax; procedure; resolution; call for election; publication; ballot; result; subsequent elections; declaration and certification of result; expense.

48-8-92. Discontinuance of tax; referendum

- (a) Whenever the governing authority of any county and the governing authorities of at least one-half of qualified municipalities located wholly or partially within a special district in which the tax authorized by this article is being levied wish to submit to the electors of the special district the question of whether the tax authorized by Code Section 48-8-82 shall be discontinued, such governing authorities shall notify the election superintendent of the county whose geographical boundary is conterminous with that of the special district by forwarding to the superintendent a copy of a joint resolution of the governing authorities calling for the referendum election. Upon receipt of the resolution, it shall be the duty of the election superintendent to issue the call for an election for the purpose of submitting the question of discontinuing the levy of the tax to the voters of the special district for approval or rejection. The election superintendent shall issue the call and shall conduct the election on a date and in the manner authorized under Code Section 21-2-540. The election superintendent shall cause the date and purpose of the election to be published once a week for two weeks immediately preceding the date of the election in the official organ of the county. The ballot shall have written or printed thereon the following:

“ YES Shall the 1 percent retail sales and use tax being levied within the special district
 NO within ___ County be terminated?”

- (b) All persons desiring to vote in favor of discontinuing the tax shall vote “Yes,” and all persons opposed to discontinuing the tax shall vote “No.” If more than one-half of the votes cast are in favor of discontinuing the tax, then the tax shall cease to be levied on the first day of the second calendar quarter following the month in which the commissioner receives the certification of the result of the election; otherwise, the tax shall continue to be levied, and the question of the discontinuing of the tax shall not again be submitted to the voters of the special district until after 24 months immediately following the month in which the election was held. It shall be the duty of the election superintendent to hold and conduct such elections under the same rules and

regulations as govern special elections. It shall be such superintendent's further duty to canvass the returns, declare and certify the result of the election, and certify the result to the Secretary of State and to the commissioner. The expense of the election shall be borne by the county whose geographical boundary is conterminous with that of the special district holding the election.

48-8-93. No tax imposed upon property which is exported outside taxing jurisdiction

No tax provided for in Code Section 48-8-82 shall be imposed upon the sale of tangible personal property which is ordered by and delivered to the purchaser at a point outside the geographical area of the special district in which the joint tax is imposed regardless of the point at which title passes, if the delivery is made by the seller's vehicle, United States mail, or common carrier or by private or contract carrier licensed by the Federal Motor Carrier Safety Administration or the Georgia Department of Public Safety.

48-8-94. Taxability of building and construction materials sold or used under contract entered into prior to approval of tax levy.

- (a) As used in this Code section, the term "building and construction materials" means all building and construction materials, supplies, fixtures, or equipment, any combination of such items, and any other leased or purchased articles when the materials, supplies, fixtures, equipment, or articles are to be utilized or consumed during construction or are to be incorporated into construction work pursuant to a bona fide written construction contract.
- (b) No tax provided for in Code Section 48-8-82 shall be imposed by a county or municipality upon the sale or use of building and construction materials when the contract pursuant to which the materials are purchased or used was advertised for bid prior to approval of the levy of the tax by the county or municipality and the contract was entered into as a result of a bid actually submitted in response to the advertisement prior to approval of the levy of the tax.

48-8-95. Authorization of commissioner to promulgate rules and regulations.

The commissioner shall have the power and authority to promulgate such rules and regulations as shall be necessary for the effective and efficient administration and enforcement of the collection of the tax authorized to be imposed by this article.

48-8-96. Special district optional rate increase

- (a) With respect to any consolidated government created by the consolidation of a county and one or more municipalities in which consolidated government homestead property (exclusive of improvements) is valued for purposes of local ad valorem taxation according to a base year assessed value which does not change so long as the property is actually occupied by the same owner as a homestead, the provisions of this Code section shall control over any conflicting provisions of Article 1 of this chapter or this article.
- (b) If the tax authorized by this article is in effect in the special district containing a consolidated government referred to in subsection (a) of this Code section, then the rate of tax imposed under this article in such special district may be increased from 1 percent to 2 percent if such increase is approved by:
 - (1) A resolution of the governing authority of the consolidated government in the same

manner as otherwise required for the initial 1 percent sales tax pursuant to Code Section 48-8-84; and

(2) A referendum conducted in the same manner as otherwise required for the initial 1 percent sales tax pursuant to Code Section 48-8-85, except that the ballot shall have written or printed thereon the following:

“() YES Shall the retail sales and use tax levied within the special district
() NO within _____ County be increased from 1 percent to 2 percent?”

(c) Such increased tax rate shall become effective on the first day of the next succeeding calendar quarter which begins more than 80 days after the date of the election at which such increase was approved by the voters. The proceeds of the increased tax shall be divided in the same proportions as the original tax.

(d) Such increased tax rate may be decreased from 2 percent to 1 percent if such decrease is approved by:

(1) A resolution of the governing authority of the consolidated government in the same manner as otherwise required under Code Section 48-8-92; and

(2) A referendum conducted in the same manner as otherwise required for discontinuation of the tax under Code Section 48-8-92, except that the ballot shall have printed or written thereon the following:

“() YES Shall the retail sales and use tax levied within the special district
() NO within _____ County be decreased from 2 percent to 1 percent?”

(e) Such decreased tax rate shall become effective on the first day of the second calendar quarter following the month in which the commissioner receives certification of the result of the election.

(f) If the tax authorized by this article is to be newly imposed in the special district containing a consolidated government referred to in subsection (a) of this Code section, then such tax may be imposed in such special district at the rate of 2 percent if such rate is approved by:

(1) A resolution of the governing authority of the consolidated government in the same manner as otherwise required pursuant to Code Section 48-8-84; and

(2) A referendum conducted in the same manner as otherwise required pursuant to Code Section 48-8-85, except that the ballot shall have written or printed thereon the following:

“() YES Shall a retail sales and use tax of 2 percent be levied within the
() NO special district within _____ County?”

(g) Such 2 percent tax may be discontinued if such discontinuation is approved by:

(1) A resolution of the governing authority of the consolidated government in the same manner as otherwise required under Code Section 48-8-92; and

(2) A referendum conducted in the same manner as otherwise required for discontinuation of the tax under Code Section 48-8-92, except that the ballot shall have printed or written

thereon the following:

“() YES Shall the retail sales and use tax levied within the special
() NO district within _____ County be terminated?”

(h)

(1) In the case of increase from 1 percent to 2 percent, the amount in excess of the initial 1 percent sales and use tax shall not apply to the sale of motor vehicles.

(2) In the case of a newly imposed 2 percent sales and use tax under this Code section, only the amount in excess of a 1 percent sales and use tax shall not apply to the sale of motor vehicles.

(i) In all respects not otherwise provided for in this Code section, the levy of a tax under this article by a consolidated government referred to in subsection (a) of this Code section shall be in the same manner as the levy of the tax by any other county.

48-8-97. Change of joint county and municipal sales and use tax by consolidated governments

(a) With respect to any consolidated government created by the consolidation of a county and one or more municipalities and where the tax authorized by this article is in effect, the provisions of this Code section shall control over any conflicting provisions of Article 1 of this chapter or this article.

(b) (b) In a special district containing a consolidated government referred to in subsection (a) of this Code section, the rate of tax imposed under this article may be increased from 1 percent to 2 percent if such increase is approved by:

(1) A resolution of the governing authority of the consolidated government in the same manner as otherwise required for the initial 1 percent sales tax pursuant to Code Section 48-8-84; and

(2) A referendum conducted in the same manner as otherwise required for the initial 1 percent sales tax pursuant to Code Section 48-8-85, except that the ballot shall have written or printed thereon the following:

“() YES Shall the retail sales and use tax levied within the special district within
() NO _____ County be increased from 1 percent to 2 percent?”

(h) Such increased tax rate shall become effective 60 days after the date of the election at which such increase was approved by the voters.

(d)

(1) Any consolidated government that imposes the tax authorized by subsection (b) of this Code section shall:

(A) Only expend the proceeds of such tax in accordance with the provisions of paragraph (2) of this subsection; and

(B) Annually reduce the millage rate for ad valorem taxation of tangible property within the consolidated government to the extent required by paragraph (2) of this

subsection.

(2)

(A) As a condition precedent for authority to levy the tax or to collect any proceeds from the tax authorized by this article for the year following the initial year in which it is levied, the consolidated government whose geographical boundary is conterminous with that of the special district and each qualified municipality therein receiving any proceeds of the tax shall reduce the millage rate for ad valorem taxation of tangible property within such political subdivisions by five mills.

(B) For all subsequent years, the consolidated government nt whose geographical boundary is conterminous with that of the special district and each qualified municipality therein receiving any proceeds of the tax shall adjust annually the millage rate for ad valorem taxation of tangible property within such political subdivisions as provided in this subsection. The governing authority shall compute the millage rate necessary to produce revenue from taxation of tangible property in its respective political subdivision which, when combined with other revenues reasonably expected to be received by the political subdivision during the year, other than revenues derived from the tax imposed pursuant to this article, would provide revenues sufficient to defray the expenses of the political subdivision for the year. The millage rate so ascertained shall then be reduced by the number of mills per dollar which, if levied against the tangible property within the political subdivision, would produce an amount equal to the distribution of the proceeds of the tax imposed by this article which were received by the political subdivision during the preceding year.

(e) The tax increase authorized by subsection (b) of this Code section shall cease to be imposed on the earlier of:

(1) The final day of the fifth calendar year following the year in which the increased tax rate became effective and levied; or

(2) As provided for in subsections (g) and (f) of this Code section.

(f)

(1) Such increased tax rate may be decreased from 2 percent to 1 percent if such decrease is approved by:

(A) A resolution of the governing authority of the consolidated government in the same manner as otherwise required under Code Section 48-8-92; and

(B) A referendum conducted in the same manner as otherwise required for discontinuation of the tax under Code Section 48-8-92, except that the ballot shall have written or printed thereon the following:

”() YES Shall the retail sales and use tax levied within the special district within
() NO _____ County be decreased from 2 percent to 1 percent?”

(2) Such decreased tax rate as provided for in this subsection shall become effective on the first day of the second calendar quarter following the month in which the commissioner receives certification of the result of the election.

(g)

(1) Between 365 and 180 days prior to the expiration of the tax increase authorized by this Code section pursuant to paragraph (1) of subsection (e) of this Code section, or prior to any renewal of the tax increase pursuant to this subsection, the governing authority of the consolidated government may elect to renew the term of the increased tax rate another five years if such renewal is approved by:

(A) A resolution of the governing authority of the consolidated government in the same manner as otherwise required under Code Section 48-8-92; and

(B) A referendum conducted in the same manner as otherwise required for discontinuation of the tax under Code Section 48-8-92, except that the ballot shall have written or printed thereon the following:

“() YES Shall the retail sales and use tax levied within the special district within

() NO _____ County be renewed at 2 percent?”

(2) If a term for the increased tax rate is approved and renewed, this renewed term for the increased tax rate shall become effective the first day of the calendar year following the expiration of the previous increased tax rate term as described in paragraph (1) of subsection (e) of this Code section.

(3) Any renewed term for the increased tax rate is subject to the condition precedent as described in paragraph (2) of subsection (d) of this Code section, provided that the proceeds of such tax shall be expended in accordance with the provisions of subparagraph (d)(2)(B) of this Code section during the entirety of any subsequent renewed terms.

(h) In all respects not otherwise provided for in this Code section, the levy of a tax under this article by a consolidated government referred to in subsection (a) of this Code section shall be in the same manner as the levy of the tax by any other county.

(i) If any tax authorized under this article is to be newly imposed in the county whose geographical boundary is conterminous with that of the special district containing a consolidated government, for any rental, lease, or other agreement related to property in the special district that is in effect at the time of levy of such tax, or may be entered into subsequently, which utilizes the millage rate of any such political subdivision or the consolidated government in calculating payments in lieu of taxes payable by the tenant, lessee, or occupant, no reduction as set forth in subsection (d) of this Code section in the millage rate for ad valorem taxes of any political subdivision or consolidated government resulting from the tax authorized under this article shall apply to such agreements, unless the parties thereto specifically have provided that the effects of the tax to be imposed under this article be included in said calculations.