Funding road projects and equipment outside of SPLOST

The Law - Counties that are not a part of a regional TSPLOST are authorized by HB 134 (2015 – attached for reference) to impose a 1 percent sales tax solely dedicated to transportation purposes. To qualify for the levy, a county must already impose a regular SPLOST. The single levy can be up to 5 years at a fractional rate up to 1 percent in 0.05 increments if there is an intergovernmental agreement (IGA) with the qualified cities within the county. If there is no IGA, the tax can only be levied at 0.75 percent. HB 134 allows for greater flexibility to counties in funding transportation projects. The changes with this bill allow counties to fund state transportation projects as allowed in regular SPLOST law and permits more than one single county TSPLOST to be levied as long as the total amount does not exceed 1 percent, and provides that both counties and cities can bond their TSPLOST projects. Counties may also use funds for road projects that extend past their geographic boundaries. There were some other minor changes regarding the imposition of regional levies and ballot timing that are not germane to this discussion (see ACCG's TSPLOST info sheet; attached for reference). The State of Georgia, Department of Revenue, is eligible to retain a 1% administration fee for handling the tax dollars.

Expending TSPLOST funds - Counties that are successful in the imposition of a single county TSPLOST can spend funds on all accompanying infrastructure and services necessary to provide access to those transportation facilities (see attached ACCG email). ACCG's staff interprets that statement to include not only the road construction project, but also the equipment necessary for the task and salaries. The code section referenced in the email, 48-8-121 is from general SPLOST law and is explained in ACCG's 2016 SPLOST guide (attached for reference, page 15). Allowing single county TSPLOST to follow the SPLOST law means that counites cannot only shift expenses from a traditional SPLOST program to TSPLOST, but they can also shift the burden for some road work away from the general fund as the salary burden, when properly accounted for, can be paid from the TSPLOST. While there are currently no single county TSPLOST impositions, (November 2017 is the first available date available for a referendum) some counties plan to use the money to take private roads into the county system.

House Bill 134 (AS PASSED HOUSE AND SENATE)

By: Representatives Epps of the 144th, Brockway of the 102nd, Stephens of the 164th, Williams of the 168th, Watson of the 172nd, and others

A BILL TO BE ENTITLED

AN ACT

To amend Part 1 of Article 5A of Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to general provisions regarding the special district mass transportation sales and use tax, so as to change the definition of transportation purposes regarding such tax; to change certain provisions relating to special districts and the imposition of such tax; to change certain provisions relating to notice, intergovernmental agreements, and resolutions regarding such tax; to provide that a referendum on a regional transportation sales and use tax cannot be held at the same time as a referendum on a special district mass transportation sales and use tax; to change certain provisions relating to the commencement of imposition and the timing of cessation of such tax; to allow two taxes to be levied concurrently; to clarify the ability of counties and qualified municipalities to issue general obligation bonds as necessary; to provide for related matters; to provide for effective dates; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Part 1 of Article 5A of Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to general provisions regarding the special district mass transportation sales and use tax, is amended in Code Section 48-8-260, relating to definitions regarding such tax, by revising paragraphs (3), (4), and (5) as follows:

"(3) ~~'Mass transportation regional system participant' means any county within a special district created pursuant to Article 5 of this chapter in which mass transportation service is provided within such special district, to such special district, or from such special district by a multicounty regional transportation authority created by an Act of the General Assembly, including but not limited to the Georgia Regional Transportation Authority or the Metropolitan Atlanta Rapid Transit Authority~~.

~~(4)~~ 'Qualified municipality' means a qualified municipality as defined in paragraph (4) of Code Section 48-8-110 which is located wholly or partly within a special district.

~~(5)~~(4) 'Transportation purposes' means and includes:

(A) ~~roads~~ Roads, bridges, public transit, rails, airports, buses, seaports, including without limitation road, street, and bridge purposes pursuant to paragraph (1) of subsection (b) of Code Section 48-8-121, and all accompanying infrastructure and services necessary to provide access to these transportation facilities, including new general obligation debt and other multiyear obligations issued to finance such purposes~~.~~;

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

(C) A capital outlay project or projects under subparagraph (a)(1)(M) of Code Section 48-8-111, with respect only to such purposes as identified in subparagraph (A) of this paragraph; or

(D) Any combination of two or more of the foregoing."

SECTION 2.

Said part is further amended in Code Section 48-8-261, relating to special districts and imposition of such tax, by revising subsections (b) and (c) as follows:

"(b) ~~On or after July 1, 2016, any~~ Any county:

(1) That is not located within a special district levying a special sales and use tax pursuant to Article 5 of this chapter;

(2) That is not defined as a metropolitan county special district that is governed by the provisions of Part 2 of this article;

~~(3) That is a mass transportation regional system participant;~~ and

~~(4)~~(3) In which a tax is currently being levied and collected pursuant to:

(A) Part 1 of Article 3 of this chapter;

(B) A local constitutional amendment for purposes of a metropolitan area system of public transportation set out at Ga. L. 1964, p. 1008, and the laws enacted pursuant to such local constitutional amendment; or

(C) Code Section 48-8-96

may, by following the procedures required by this part, impose for a limited period of time within the special district under this part a transportation special purpose local option sales and use tax, the proceeds of which shall be used only for transportation purposes.

(c) ~~On or after July 1, 2017, any county:~~

~~(1) That is not located within a special district levying a special sales and use tax pursuant to Article 5 of this chapter;~~

~~(2) That is not defined as a metropolitan county special district that is governed by the provisions of Part 2 of this article; and~~

~~(3) In which a tax is currently being levied and collected pursuant to:~~

~~(A) Part 1 of Article 3 of this chapter;~~

~~(B) A local constitutional amendment for purposes of a metropolitan area system of public transportation set out at Ga. L. 1964, p. 1008, and the laws enacted pursuant to such local constitutional amendment; or~~

~~(C) Code Section 48-8-96~~

~~may, by following the procedures required by this part, impose for a limited period of time within the special district under this part a transportation special purpose local option sales and use tax, the proceeds of which shall be used only for transportation purposes~~ At any time, more than one tax under this part shall be authorized to be imposed concurrently within a special district as long as the combined rate of the taxes does not exceed 1 percent.″

SECTION 3.

Said part is further amended in Code Section 48-8-262, relating to notice, intergovernmental agreements, and resolutions regarding such tax, by revising subsection (a) and paragraph (1) of subsection (b) as follows:

″(a) Prior to the issuance of the call for the referendum required by Code Section 48-8-263, any county that desires to levy a tax under this part shall:

(1) Determine whether the region has proposed a referendum on a tax under Article 5 of this chapter. This determination shall be based on whether, pursuant to paragraphs (2) and (3) of subsection (c) of Code Section 48-8-245, a majority of the governing authorities of counties within the region containing the county proposing the tax have passed resolutions calling for the levy of a tax under Article 5 of this chapter. If a majority of the governing authorities of the counties in the region have passed such a resolution, the county proposing a tax under this part shall postpone the referendum under this part until the regional referendum has been decided. No ballot shall propose a tax under this part and under Article 5 of this chapter at the same election;

(2) After the determination under paragraph (1) of this subsection has been made, if a county is qualified to levy a tax under this part, deliver or mail a written notice to the mayor or chief elected official in each qualified municipality located within the special district. Such notice shall contain the date, time, place, and purpose of a meeting at which the governing authorities of the county and of each qualified municipality are to meet to discuss possible projects for inclusion in the referendum and the rate of tax. The

notice shall be delivered or mailed at least ten days prior to the date of the meeting. The meeting shall be held at least 30 days prior to the issuance of the call for the referendum.

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

SECTION 4.

Said part is further amended by revising Code Section 48-8-263, relating to the ballot question, expenses of election, and general obligation debt, as follows:

″48-8-263.

(a)(1) The ballot submitting the question of the imposition of the tax to the voters within the special district shall have written or printed thereon the following:

'( ) YES Shall a special ___ percent sales and use tax be imposed in the special district consisting of _____County for a period of time not to exceed
( ) NO _____ and for the raising of not more than an estimated amount of $_____ for transportation purposes?'

(2) If debt is to be issued, the ballot shall also have written or printed thereon, following the language specified by paragraph (1) of this subsection, the following:

'If imposition of the tax is approved by the voters, such vote shall also constitute approval of the issuance of general obligation debt of _____ ~~County~~ in the principal amount of $_____ for the above purpose.'

(b) The election superintendent shall issue the call and conduct the election in the manner authorized by general law. The superintendent shall 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 paid from county funds. All persons desiring to vote in favor of imposing the tax shall vote 'Yes,' and all persons opposed to imposing the tax shall vote 'No.' If more than one-half of the votes cast throughout the entire special district are in favor of imposing the tax, then the tax shall be imposed as provided in this part.

(c) Where such question is not approved by the voters, the county may resubmit such question from time to time upon compliance with the requirements of this part.

(d)(1) If the intergovernmental agreement, if applicable, and proposal include the authority to issue general obligation debt and if more than one-half of the votes cast are in favor of the proposal, then the authority to issue such debt in accordance with Article IX, Section V, Paragraph I of the Constitution is given to the proper officers of the county or qualified municipality; otherwise, such debt shall not be issued. If the authority to

issue such debt is so approved by the voters, then such debt may be issued without further approval by the voters.

(2) If the issuance of general obligation debt is included and approved as provided in this Code section, then the governing authority of the county or qualified municipality may incur such debt either through the issuance and validation of general obligation bonds or through the execution of a promissory note or notes or other instrument or instruments. If such debt is incurred through the issuance of general obligation bonds, such bonds and their issuance and validation shall be subject to Articles 1 and 2 of Chapter 82 of Title 36 except as specifically provided otherwise in this part. If such debt is incurred through the execution of a promissory note or notes or other instrument or instruments, no validation proceedings shall be necessary, and such debt shall be subject to Code Sections 36-80-10 through 36-80-14 except as specifically provided otherwise in this part. In either event, such general obligation debt shall be payable first from the separate account in which are placed the proceeds received by the county or qualified municipality from the tax. Such general obligation debt shall, however, constitute a pledge of the full faith, credit, and taxing power of the county or qualified municipality; and any liability on such debt which is not satisfied from the proceeds of the tax shall be satisfied from the general funds of the county or qualified municipality."

SECTION 5.

Said part is further amended in Code Section 48-8-264, relating to the commencement of imposition and the timing of cessation of such tax, by revising subsection (c) as follows:

"(c)(1)(A) At any time, ~~no~~ more than a single tax under this part ~~shall~~ may be imposed within a special district as long as the combined rate of such taxes does not exceed 1 percent.

(B) Any single tax imposed under this part may, subject to the requirements of subsection (c) of Code Section 48-8-262, be imposed at a rate of up to 1 percent but shall not exceed 1 percent.

(C) Any single tax imposed under this part at a rate of less than 1 percent shall be in an increment of ~~.05~~ 0.05 percent.

(2) In any special district in which a tax is in effect under this part, proceedings may be commenced, while the tax is in effect, calling for the reimposition of the tax upon the termination of the tax then in effect; and an election may be held at the next scheduled election for this purpose while the tax is in effect. Such proceedings for the reimposition of a tax under this part shall be in the same manner as proceedings for the initial imposition of the tax, but the newly authorized tax shall not be imposed until the expiration of the tax then in effect.

(3) Following the expiration of a tax under this part, proceedings for the reimposition of a tax under this part may be initiated in the same manner as provided in this part for initial imposition of such tax.″

SECTION 6.

Said part is further amended by revising Code Section 48-8-269.2, relating to delivery outside of geographical area, as follows:

″48-8-269.2.

No tax 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 ~~county~~ special district in which the 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.″

SECTION 7.

Said part is further amended in Code Section 48-8-269.5, relating to accounting and record-keeping requirements, by revising subsection (b) as follows:

″(b) No general obligation debt shall be issued in conjunction with the imposition of the tax unless the county or qualified municipality governing authority determines that, and if the debt is to be validated it is demonstrated in the validation proceedings that, during each year in which any payment of principal or interest on the debt comes due, the county or qualified municipality will receive from the tax net proceeds sufficient to fully satisfy such liability. General obligation debt issued under this part shall be payable first from the separate account in which are placed the proceeds received by the county or qualified municipality from the tax. Such debt, however, shall constitute a pledge of the full faith, credit, and taxing power of the county or qualified municipality; and any liability on such debt which is not satisfied from the proceeds of the tax shall be satisfied from the general funds of the county or qualified municipality.″

SECTION 8.

This section and Sections 1, 2, and 4 through 9 of this Act shall become effective upon its approval by the Governor or upon its becoming law without such approval. Section 3 of this Act shall become effective January 1, 2018.

SECTION 9.

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

HB 134 - Single County T-SPLOST Reforms

Background: In 2010, the Transportation Investment Act (TIA) provided an opportunity for regions throughout Georgia to impose a 1 percent sales tax to fund transportation improvements within their region. Only 3 of the 12 regions were successful in passing the tax.

To provide another transportation funding option, in 2015, the Georgia General Assembly passed a single county transportation sales tax option. Individual counties, that are not a part of a Regional T-SPLOST, are now allowed to levy a sales tax solely dedicated for transportation purposes.

Single County T-SPLOST Law:

- To qualify, county must already impose a regular SPLOST.
- Single County T-SPLOST can be levied up to 5 years at a fractional rate up to 1 percent in .05 percent increments if there is an intergovernmental agreement with the qualified cities within the county. If there is no intergovernmental agreement in place, the tax can be levied up to .75 percent.
- A Single County T-SPLOST and a Regional T-SPLOST tax cannot be collected at the same time.
    - If your county is in collecting a Regional T-SPLOST, then you cannot collect a Single County T-SPLOST. If one county in your region is collecting a Single County T-SPLOST, your region cannot collect a Regional T-SPLOST. Regions are defined by Regional Commission boundaries.

HB 134 adds flexibility, clarifications and enhancements to the existing Single County T-SPLOST law by doing the following:

- Allows Single County T-SPLOST to fund state transportation projects, as is allowed in regular SPLOST law.
- Removes dates that are no longer relevant so now all counties, with the exception of Fulton County who has their own code section, would follow the same Single County T-SPLOST law. November 7, 2017, is the first date a Single County T-SPLOST can be on the ballot for all counties not currently collecting a Regional T-SPLOST.
- Permits more than one Single County T-SPLOST to be levied at the same time as long as the amount does not exceed 1 percent.

- After January 1, 2018, clarifies that a Regional T-SPLOST and a Single County T-SPLOST cannot be on the ballot at the same time.
    - For the November 7, 2017 election, both a Single County T-SPLOST and a Regional T-SPLOST can be on the same ballot; however, only the Regional T-SPLOST can legally be collected if both referendums passed.
    - After January 1, 2018, a county would only be allowed to put a Single County T-SPLOST on the ballot if the Regional T-SPLOST process had not begun in that county's region.
        - The Regional T-SPLOST process begins when a majority of the County Board of Commissions in the region passes a resolution calling for the Regional T-SPLOST process to begun.
- And lastly, counties have the authority to bond their T-SPLOST projects. This bill allows cities to bond their T-SPLOST projects.

Resources:

HB 134

ACCG SPLOST Guide

Fulton County T-SPLOST

Transportation Investment Act (TIA)

Larry Reiter

From: Wills, Dave <DWills@ACCG.org>
Sent: Wednesday, August 30, 2017 8:07 AM
To: Larry Reiter
Cc: Stan Kelley
Subject: Single County TSPLOST

Larry,

Here is the definition of transportation purposes for which proceeds of the single-county TSPLOST may be used:

- Transportation purposes' means and includes roads, bridges, public transit, rails, airports, buses, seaports, including without limitation road, street, and bridge purposes pursuant to paragraph (1) of subsection (b) of Code Section 48-8-121, and **all** accompanying infrastructure and **services necessary to provide access to these transportation facilities**, including new general obligation debt and other multiyear obligations issued to finance such purposes. Such purposes shall also include the retirement of previously incurred general obligation debt with respect only to such purposes, but only if an intergovernmental agreement has been entered into under this article.

Our attorneys are of the opinion that the language above authorizes the expenditure of funds for operational and other costs "necessary."

If your county attorney wishes to confer with our counsel, he should feel free to contact Joe Scheuer.

Thanks.

Dave Wills
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Sent from my iPhone

6TH EDITION

Special Purpose Local Option Sales Tax

A GUIDE FOR COUNTY OFFICIALS

ACCG
Advancing Georgia's Counties.

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Introduction

The unpopularity of property taxes and the simplicity and perceived fairness of sales taxes have made the County Special Purpose Local Option Sales Tax (SPLOST) a popular method for financing needed capital projects. The following guide has been developed to assist county officials and staff with their questions about SPLOST requirements and to help ensure that counties do not run afoul of the requirements of the SPLOST law.

WHAT IS A SPLOST?

A SPLOST is an optional one percent county sales tax used to fund capital outlay projects proposed by the county government and participating qualified municipal governments. In general, county and municipal governments may not use SPLOST proceeds for operating expenses or maintenance of a SPLOST project[1] or any other county or municipal facility or service.

SPLOST is levied in what the law refers to as a "special district," which is comprised of the entire territory of the county calling for the SPLOST. By using special districts, the revenue of a county tax can be constitutionally shared with participating municipalities.[2]

The tax is imposed when the board of commissioners calls a local referendum (i.e., vote) in conformance with O.C.G.A. § 48-8-111 and the referendum is subsequently passed by the voters within that special district (i.e., county). The tax is collected on items subject to the sales and use tax within the county. The SPLOST is also imposed on the sale of food and nonalcoholic beverages, which are not subject to the state sales tax, and is also imposed on the sale of alcoholic beverages.[3] SPLOST also applies to sales of motor fuels as "prepaid local tax" (meaning it is collected at the distributor level) under O.C.G.A. § 48-8-2.

Several factors determine the length of time that a SPLOST may be imposed. In general, the tax may be levied for up to five years. If the county and municipalities enter into an intergovernmental agreement, the tax may be imposed for six years. If no intergovernmental agreement exists and a "Level One" project (see explanation on p. 21) is included, then the tax must run (1) for five years, if the estimated cost of all "Level One" projects is less than 24 months of estimated revenues, or (2) for six years, if the estimated cost of all "Level One" projects equals more than 24 months of estimated revenues.

PLEASE NOTE

To provide uniformity throughout the guide, whenever the term "municipality" or "municipal government" is used, it means a qualified municipality as defined by O.C.G.A. § 48-8-110(4). Qualified municipalities are explained in detail beginning on page 10.

For convenience, the term "board of commissioners" will be used throughout this guide to reflect the county governing authority regardless of whether the county governing authority for a specific county is a board of commissioners, a sole commissioner, or the governing body of a consolidated government.

1 Although SPLOST funds generally cannot be used for maintenance and repair, the funds can be used to repair roads, streets, and bridges. Both repairs and capital outlay projects repairs are allowed in a natural disaster per Official Code of Georgia Annotated (O.C.G.A.) § 48-8-111(a)(1)(L).

2 City Council of Augusta v. Mangelly, 243 Ga. 258 (1979).

3 O.C.G.A. §§ 48-8-110.1; 48-8-3(57)(D)(i); 48-8-2(16).

SPLOST can be continued without a gap in collections if a new referendum seeking voter approval of the new SPLOST is held prior to the expiration of the current SPLOST.

HISTORY

The SPLOST law was enacted in 1985 at the request of ACCG. The SPLOST was conceived and enacted as a county tax for funding capital projects. It is not a municipal tax, nor is it a joint county-municipal tax like the regular Local Option Sales Tax (LOST). As a county tax, a SPLOST can only be initiated by the board of commissioners.[4]

(See Resources, p. 36 for a copy of the SPLOST law, inclusive of changes through the 2016 regular session.)

4 O.C.G.A. § 48-8-110; Op. Att'y Gen. U85-24.

Planning a SPLOST Program

Although not a legal requirement, both counties and municipalities are encouraged to develop capital improvements plans (CIP) which represent their respective short-term and long-term program goals.[5] A capital improvements planning program should include the development of cost estimates for each element. Projects identified in the CIP are logical candidates for SPLOST funding.

A very important aspect of any capital improvements planning process is the involvement of citizens in all phases of CIP development. This involvement can ultimately build a base of community support necessary to pass a SPLOST referendum. Although the ballot in a SPLOST referendum does not require detailed project descriptions, citizen support may increase if they are well informed. Sufficient detail describing the proposals and their impact on the community can be provided through various meetings and writings before voting on the SPLOST.

Promoting the Approval of a SPLOST

Georgia law strictly prohibits governmental agencies from expending public funds to support any campaign committee, political action committee, or other political organizations for any purpose.[6] More importantly, the board of commissioners and the city councils are further prohibited from spending public funds for advertisements, flyers, mailings, or any other direct promotion in support of passage of the SPLOST.[7]

On the other hand, local officials may use county or municipal funds to prepare descriptions of the SPLOST proposal and the impact of the SPLOST projects on the county and its citizens. It is critical, however, that such descriptions do not express an opinion regarding the SPLOST proposal or advocate for which way a person should vote.

In many cases, chambers of commerce or other business or civic groups can provide the leadership necessary to promote SPLOST approval. If these organizations engage in promoting the approval, they must register with the Georgia Government Transparency and Campaign Finance Commission (formerly named the State Ethics Commission) and meet that agency's reporting requirements for campaign financing.[8] For details, including further information on permissible campaign activities under Georgia law, contact the commission by telephone at (404) 463-1980 or (866) 589-7327 or access the commission's website at http://ethics.ga.gov.

5 The subject of capital improvements planning by counties is covered in detail in Chapter 20 of the *Handbook for Georgia County Commissioners*, Fifth Edition.

6 O.C.G.A. § 21-5-30.2(b).

7 Harrison v. Rainey, 227 Ga. 240 (1971); McKinney v. Brown, 242 Ga. 456 (1978).

8 O.C.G.A. § 21-5-30.

FAQ

Are there requirements, such as contribution limits, that apply to private SPLOST public relations campaigns?

While counties may not expend public revenues to support a SPLOST public relations campaign, private citizens and independent groups, like chambers of commerce, can lobby and spend money to generate citizen support for or against the SPLOST initiative. Although such organizations must register with the Georgia Government Transparency and Campaign Finance Commission, there are no limits on the amounts that they can expend.

Municipalities Eligible to Receive Funding

While any county which levies SPLOST is automatically eligible to receive SPLOST funds, a municipality must be a "qualified municipality," as defined in O.C.G.A. § 48-8-110(4), to be eligible.

QUALIFIED MUNICIPALITIES

To be "qualified," a municipality must provide no less than three of the following twelve services directly or by contract:

- Law enforcement
- Fire protection (which may be furnished by a volunteer fire force) and fire safety
- Road and street construction or maintenance
- Solid waste management
- Water supply or distribution or both
- Wastewater treatment
- Stormwater collection and disposal
- Electric or gas utility services
- Enforcement of building, housing, plumbing, and electrical codes and other similar codes
- Planning and zoning
- Recreational facilities
- Library services

Given the definition of "qualified municipality," virtually all municipalities that are functioning should qualify.

Required Steps to Levy the Tax

The law is specific as to the series of steps that must be taken in order to levy a SPLOST, as well as the time frame within which the county must proceed. This section of the guidebook provides a detailed description of these necessary steps (also see Resources, SPLOST Timeline, p. 50 and SPLOST Checklist, p. 51). Failure to adhere to the procedures could result in a SPLOST levy being susceptible to legal challenge.

STEP 1. MEET AND CONFER

At least 30 days before the county election superintendent issues the call for a SPLOST referendum, the board of commissioners must set up a meeting with all municipalities within the county to discuss and consider possible capital projects for presentation to the public in the referendum. The participants should discuss the inclusion of municipally owned or operated projects, as well as county projects. The meeting notice must be sent to the municipalities at least 10 days prior to the date of the meeting and must contain the date, time, place, and purpose of the meeting.[9]

During the initial meeting and any subsequent meetings, the county and municipalities may negotiate an intergovernmental agreement, which would apportion the estimated SPLOST proceeds among the county and municipal participants and set forth the proposed capital projects to be funded.[10] Alternatively, the county may call for the referendum without first entering into an intergovernmental agreement if negotiations with the cities fail, if it is unlikely that one can be successfully negotiated, or if only "Level One" projects are to be financed through the SPLOST.[11]

STEP 2. ADOPT RESOLUTION

Once the board of commissioners has compiled a proposed list of local projects to be funded with the SPLOST, the board must adopt an ordinance or resolution calling for imposition of the tax. The ordinance or resolution must include

- a list of county and municipal projects for which proceeds of the tax are to be used;
- the estimated cost of each project to be funded from the proceeds of the tax; and
- the time period of the levy stated in calendar years or calendar quarters.

(See Resources, Model Resolution Calling for an Election to Impose a County SPLOST, p. 62.)

STEP 3. CALL FOR THE REFERENDUM

Following adoption of the resolution or ordinance calling for SPLOST to be levied, the board of commissioners must send the resolution or ordinance to the county election superintendent, who issues the call for the election and conducts the SPLOST election. The county voters must approve the tax by simple majority for the SPLOST to take effect. All elections, including SPLOST referenda, must comply with state election laws. O.C.G.A. § 21-2-540(c)(2) specifies the two or three days per year on which special elections may be held to present a question to the voters. (See Resources, Special Election Dates and Call Requirements, p. 67.)

9 O.C.G.A. § 48-8-111(a).

10 O.C.G.A. § 48-8-115(b)(1).

11 O.C.G.A. § 48-8-115(b)(2).

STEP 4. PROVIDE PUBLIC NOTICE

The public must be notified about the holding of a SPLOST referendum. The requirements for providing notice are set forth in O.C.G.A. § 48-8-111(b). The election superintendent must publish the date and purpose of the referendum once a week for four weeks immediately before the election in the newspaper approved for county legal notices. If general obligation debt is to be issued in conjunction with the tax, then the notice published by the elections superintendent must also contain the same information regarding the proposed debt as adopted in the resolution calling for the election.

FAQ

Can the SPLOST ballot be designed to authorize voter approval on some, but not all, projects on the SPLOST ballot?

No. The law sets forth the specific language to be used in seeking approval of the voters in a SPLOST referendum.[12] It does not authorize any alternative ballot questions or form that would allow for a "pick and choose" ballot.

Must the SPLOST resolution/ballot question be precleared by the U.S. Justice Department?

Preclearance is no longer required, based on the United States Supreme Court decision in *Shelby County v. Holder* in 2013.[13] Prior to the decision in *Shelby*, the county attorney would be required to submit the SPLOST resolution/ballot question to the U.S. Department of Justice for preclearance under the federal Voting Rights Act of 1965. As a result of the decision in *Shelby*, this step is no longer required. If you have any questions about this former requirement, contact your county attorney.

How much detail is needed on the ballot in describing proposed SPLOST projects?

The SPLOST law requires that the purpose or purposes (i.e., the capital outlay projects) for which the SPLOST revenues will be used be specified on the ballot. The degree of specificity required is not addressed in the law. However, the Attorney General of Georgia has concluded that:

> "There is no necessity that the description of the purpose or purposes for the tax be in exacting detail. Rather, the description and the purposes must be only so specific as to place the electorate on fair notice of the projects to which the tax will be devoted."[14]

The opinion suggests that a brief statement is sufficient (e.g., "county judicial facility" or "recreational facility to be constructed within the City of _____"). In *Dickey v. Storey*, 262 Ga. 452, 455 (1992), the referendum question described county "recreational facilities and multi-purpose governmental facilities." The Georgia Supreme Court found these descriptions adequate.

12 O.C.G.A. § 48-8-111.

13 Shelby County v. Holder, 133 S. Ct. 2612 (2013).

14 Op. Att'y Gen. U90-18.

FAQ

Who establishes the revenue estimate and the project costs specified in the resolution and on the ballot?

The county is responsible for estimating the SPLOST revenues expected to be collected over the life of the SPLOST, as well as the costs of all projects to be financed. The county should also ensure that the sum of all project costs, including those submitted by municipalities, equals the estimated revenues.[15] Because all approved projects must be funded as provided under the *Dickey* case, counties should be careful not to overestimate SPLOST revenues, thereby requiring the use of other county funds to make up any shortfalls.

STEP 5. PREPARE BALLOT LANGUAGE

O.C.G.A. § 48-8-111(c) specifies the ballot language that must be used. The ballot language must include the total estimated revenue amount, a general list of all proposed projects, and the time period of tax imposition in calendar years or quarters.

STEP 6. ALL PROJECTS MUST BE APPROVED

The SPLOST law sets forth the specific language to be used in seeking approval of the voters in a SPLOST referendum.[16] As previously noted, it does not authorize any alternative ballot questions or form that would allow for a "pick and choose" ballot. In essence, the public is asked to vote up or down on the entire package of projects proposed by the county and municipalities.

ADDITIONAL STEPS

Additional steps will be needed if your county chooses to issue general obligation debt in conjunction with a SPLOST levy or has an infeasible project that requires approval from the voters. An overview of the procedures necessary for each category is provided below.

WHEN GENERAL OBLIGATION DEBT IS TO BE ISSUED[17]

General obligation debt is debt that will not be paid back within a year, typically in the form of a bond incurred by a county and backed by the full faith and credit of its taxing power. If the board chooses to ask the voters to approve the issuance of general obligation debt in conjunction with the SPLOST levy, the resolution must also include the

- principal amount of the debt;
- purpose for which the debt is to be issued;
- local government issuing the debt;

15 O.C.G.A. § 48-8-111(a)(3).

16 O.C.G.A. § 48-8-111.

17 O.C.G.A. § 36-82-1(d) requires that, if GO bonds are to be issued in conjunction with a SPLOST election, legal advertisements of a bond election must contain a reference that any brochures, listings, or other advertisements issued by the governing body or a person or group acting on behalf of the governing body shall be deemed a statement of intent concerning the use of funds, and any such statements are binding upon the governing body. Although not specifically referring to SPLOST elections, prudence dictates that county officials ensure that any pronouncements or explanations on the uses of SPLOST funds are made with this requirement for bond elections in mind.

- interest rate or rates or the maximum interest rate or rates which the debt will bear; and
- amount of principal to be paid in each year during the life of the debt.

There are also special ballot requirements for general obligation debt. The ballot must contain the language specified in O.C.G.A. § 48-8-111(c)(2), including the name of the county or municipalities issuing the debt and the principal amount of the debt.

INFEASIBLE PROJECTS

If projects approved in a prior SPLOST referendum have become infeasible, counties and municipalities can provide for a modified purpose with voter approval. To be infeasible, a project must, in the judgment of the governing authority, have become impractical, unserviceable, unrealistic, or otherwise not in the best interest of the county or the municipality.

A determination of infeasibility must be provided in an ordinance or resolution and include the modified purpose for the SPLOST proceeds and an estimate of the amount of proceeds available for that purpose. If it is a county project, then the board of commissioners must adopt the infeasibility ordinance or resolution. If it is a municipal project, the municipality must adopt the infeasibility ordinance or resolution and transmit it to the board of commissioners, who may then rely upon their determination that the municipal project is infeasible. If it is a joint project, all jurisdictions involved must adopt the infeasibility ordinance or resolution. The only allowable modified purposes are reducing debt or ad valorem taxes, or both.

Before the SPLOST proceeds intended for the infeasible project can be redirected to the modified purpose, a separate referendum question regarding that modification must be conducted in conjunction with the next SPLOST election (i.e., on the same ballot as a SPLOST approval referendum, but with a separate ballot question for infeasibility). If the voters approve, funds may be reallocated to the stated modified purpose. If debt has been incurred or financing entered into with respect to an infeasible project, an infeasibility ordinance or resolution is prohibited until that obligation has been discharged or defeased in full.[18]

APPROVAL/DISAPPROVAL OF LEVY

If approved, the SPLOST is imposed on the first day of the next calendar quarter beginning more than 80 days after the election. If properly timed, an existing SPLOST levy would be continued without break. If the public fails to approve the SPLOST proposal, a subsequent SPLOST election cannot occur for 12 months following the month in which the SPLOST referendum failed.[19] For example, if a SPLOST fails in November, a subsequent SPLOST election could not be held until the following November or thereafter. The state Election Code governs the available dates on which referenda may be conducted. (See Resources, Special Election Dates and Call Requirements, p. 67.) Procedures for the reimposition of a SPLOST are provided in Reimposition/Continuation of SPLOST, p. 26.

18 O.C.G.A. § 48-8-123.

19 O.C.G.A. § 48-8-111(d).

Projects Eligible for Funding

SPLOST proceeds can only be used to fund capital outlay projects. With some exceptions, SPLOST proceeds may not be used for maintenance and operation costs related to the proposed SPLOST projects or any previously approved projects. The primary intent behind SPLOST is to pay for specifically enumerated projects, not to balance the government's books or to pay for other governmental expenses.[20]

CAPITAL OUTLAY DEFINED

Capital outlay projects are defined by law as major projects which are of a permanent, long-lived nature, such as land and structures. They are expenditures that would be properly chargeable to a capital asset account as distinguished from current expenditures and ordinary maintenance expenses. The term expressly includes without limitation roads, streets, bridges, police cars, fire trucks, ambulances, garbage trucks, and other major equipment.[21]

AUTHORIZED PROJECTS

O.C.G.A. § 48-8-111(a)(1) contains a list of specific types of projects which are eligible for SPLOST funding. However, counties and municipalities are not limited to that list and may fund any capital project located within the special district that is owned or operated by a county, municipality, a local authority,[22] or the state.[23] Essentially, this provision gives counties and municipalities complete discretion over the type of capital project selected.

ROADS, STREETS, AND BRIDGES

O.C.G.A. § 48-8-121(b) defines which expenditures are eligible under the roads, streets, and bridges project category. The SPLOST law expressly allows the expenditure of SPLOST funds on certain maintenance and repair activities in addition to capital outlay. The following are examples of road, street, and bridge projects:

- Acquisition of rights of way for roads, streets, bridges, sidewalks, and bicycle paths
- Construction of roads, streets, bridges, sidewalks, and bicycle paths
- Renovation and improvement of roads, streets, bridges, sidewalks, and bicycle paths, including resurfacing
- Relocation of utilities for roads, streets, bridges, sidewalks, and bicycle paths
- Improvement of surface-water drainage for roads, streets, bridges, sidewalks, and bicycle paths
- Patching, leveling, milling, widening, shoulder preparation, culvert repair, and other repairs necessary for the preservation of roads, streets, bridges, sidewalks, and bicycle paths
- Major equipment

20 Where a county or municipality pays employee salaries and benefits out of their SPLOST account, good accounting records should be kept to demonstrate that the portion of the employees' compensation paid with SPLOST proceeds is attributable to eligible SPLOST projects (see also the "soft costs" FAQ, p. 16).

21 O.C.G.A. § 48-8-110.

22 O.C.G.A. § 48-8-111(a)(1)(D).

23 O.C.G.A. § 48-8-111(a)(1)(M).

STORMWATER AND DRAINAGE

In addition, stormwater and drainage capital outlay projects may be funded as SPLOST projects as either a component of a road, street, and bridge project or as a general capital outlay project.

DAMAGE FROM NATURAL DISASTERS

SPLOST proceeds can be used for the repair of capital outlay projects located in the special district that may have been damaged as a result of a natural disaster, including roads, streets and bridges that may have been damaged as a result of a natural disaster.

FAQ

Can SPLOST funds be used for state-owned projects?

Yes. SPLOST funds can be designated for capital outlay projects owned, operated, or administered by the state that are partially or entirely located within the special district.[24]

Can "soft costs" such as professional fees, engineering fees, or attorneys' fees be paid with SPLOST proceeds?

Yes, but only if the fees are directly attributable to a capital outlay project—for example, attorneys' fees that are associated with capital outlay project land acquisition (see footnote 20 on p. 15).

Can SPLOST revenues be used to build local schools?

No. A separate Education SPLOST (ESPLOST) for school construction is available to boards of education. A school system's one percent ESPLOST levy does not count against the county's two percent local option sales tax cap.

Can a project be funded jointly from ESPLOST and SPLOST?

Yes, a county and a school board may coordinate expenditures from their respective SPLOST and ESPLOST levies for a joint facility, provided that the completed project is jointly owned by the county and the school board. So, while a county cannot finance a classroom building owned by the school board, a county and a school could, for example, agree to finance a jointly owned recreation or arts facility.

Can SPLOST funds be used to construct projects for local charities or other nonprofit organizations?

No. The gratuities clause of the Georgia Constitution bars local governments from using SPLOST revenues or any other public funds to fund the capital outlay projects for non-public entities. This restriction applies to for-profit organizations as well as not-for-profit organizations, including charitable organizations.[25]

24 Id.

25 Georgia Constitution 1983, art. IX, § II, para. VIII.

FAQ

Can capital outlay projects supporting enterprise services be funded through SPLOST?

Yes. The law allows counties and municipalities to use SPLOST revenues to fund capital outlay projects supporting enterprise operations, such as water or sewer system improvements.

Can capital projects serving more than one county or municipality or a regional authority be funded through SPLOST?

Yes. Several types of regional facilities may be financed through SPLOST, including development authorities, regional jails, regional correctional institutions and other detention facilities, regional solid waste handling facilities, and regional recovered material processing facilities. Where a proper intergovernmental agreement is entered into, SPLOST revenues may be used to finance a county's portion of a project owned or operated by a regional authority.

Can SPLOST proceeds be used to pay for a SPLOST election?

This matter is not addressed directly in the statute. Although the cost of administering the referendum is not a capital outlay, it is a necessary prerequisite to levying the tax. As such, it is reasonable to assume that counties may expend SPLOST proceeds for this purpose (as, in fact, many counties have done).

Can SPLOST funds be used to reduce property taxes?

Although counties cannot directly include a property tax rollback as an eligible expenditure on the referendum, counties can use SPLOST funds to pay for capital outlay projects that would otherwise be funded through property tax revenues. Also, if excess proceeds remain after SPLOST projects have been completed and there is no county debt, the excess proceeds must go to the general fund of the county to reduce county property taxes (see Disposition of Excess Proceeds, p. 27).

Can SPLOST proceeds be used to pay off revenue bonds that are outstanding at the time of the SPLOST referendum?

No. While SPLOST proceeds can be used to retire existing general obligation debt, the proceeds cannot be used to pay off existing revenue bonds. However, counties may issue revenue bonds after the referendum is approved to provide funds to get projects initiated before all revenues are collected.

Can SPLOST funds be borrowed to pay for other county services or projects and paid back later from the general fund?

No. SPLOST funds may only be used for capital outlay projects approved by the voters in a SPLOST referendum. Furthermore, SPLOST funds must be held in a separate account from other funds of the county or municipality and cannot, in any manner, be commingled with any other funds until spent on the approved projects.[26] The Attorney General has opined that SPLOST proceeds cannot be borrowed from the SPLOST account to pay for other county obligations, even if the funds are paid back.[27] (See Resources, Borrowing SPLOST Proceeds not Authorized, p. 69).

26 O.C.G.A. § 48-8-121(a).

27 Op. Att'y Gen. 07-05.

FAQ

After the SPLOST referendum has passed, may a county use other available revenue to begin construction on the SPLOST-approved projects and to reimburse itself once the SPLOST revenues start to come in?

Yes. Counties may issue debt or borrow from their general fund to get projects underway promptly (see Financing SPLOST Projects, p. 32).

Is the Department of Revenue responsible for preclearing or approving SPLOST projects either before or after a referendum is held?

No. The Department of Revenue (DOR) has no responsibility for determining the validity of any SPLOST levy or the validity of any SPLOST projects funded. The SPLOST law allows DOR to rely upon the opinion of the county attorney or the county itself that the tax has been validly imposed. Furthermore, the state revenue commissioner cannot be held liable for collection of any SPLOST which has not been validly imposed.[28] Nonetheless, counties must provide DOR a copy of the resolution calling for the referendum, the ballot question, and any intergovernmental agreement to be used by DOR in establishing the initiation and termination date of the tax.

Can SPLOST revenues be moved between voter-approved projects to accommodate greater costs in one or more of the projects?

Yes. Since project costs are estimates, each local government receiving SPLOST revenues may shift funds between their approved projects (as long as all projects are completed). Be aware that this flexibility could be lost if the ballot language presented to the voters designates specific dollar amounts for each project rather than the total estimated cost for all proposed SPLOST projects.

In case of a "shortfall" of SPLOST funds to pay for projects, what happens?

The approved projects could be scaled back, but not abandoned. A local government must make up any shortfall from their general fund or other funding sources.

Can a county or municipality change its mind and not fund one or more of the SPLOST projects despite voter approval in a referendum?

No. The Georgia Supreme Court has ruled that the governing authority is obliged to use proceeds from the SPLOST for the projects approved in the SPLOST referendum. The court held that the governing authority "… is bound by the SPLOST budget and accounts report to complete all projects listed therein unless circumstances arise which dictate that projects which initially seemed feasible are no longer so. In this regard, the governing authority has discretion to make adjustments in the plans for these projects, but may not abandon the projects altogether."[29] In the same case, the court recognized that the county could not use SPLOST funds for a project that had not been approved by the voters, noting that under O.C.G.A § 48-8-121(a) proceeds from the SPLOST "… shall be used exclusively for the purpose or purposes specified in the resolution or ordinance calling for imposition of the tax."[30] While the court has recognized that counties retain discretion to alter SPLOST projects, no such alterations may contravene the terms of the referendum.[31]

28 O.C.G.A. § 48-8-113.

29 Dickey v. Storey, 262 Ga. 452, 455 (1992).

30 Id.

31 Rothschild v. Columbus Consolidated Government, 291 Ga. App. 531 (2008); Johnstone v. Thompson, 280 Ga. 611 (2006).

FAQ

What happens if the county or municipality proposes an ineligible project and the voters approve it anyway?

Litigation can occur and the courts have invalidated the results of otherwise successful referenda on SPLOST projects. Counties should have their county attorney review proposed projects for legal sufficiency to guard against this possibility.

What happens if an approved SPLOST project becomes "infeasible"?

The Georgia Supreme Court has recognized that circumstances outside the control of a county or municipality could subsequently make previously viable projections for SPLOST projects unworkable, even though the project was considered feasible when it was proposed and approved. The court said that in this situation, the governing authority may make adjustments to the project to enhance its feasibility, but the project cannot be abandoned. Generally, higher costs, diminished SPLOST revenues, lack of support among the elected officials, and technical problems that can be fixed would not amount to infeasibility.[32]

In 2012, the SPLOST law was amended to address "infeasibility" that arises due to situations in which projects become impractical or not in the best interest of the county (see Infeasible Projects, p. 14).

Can SPLOST revenue be used to acquire unimproved land?

Yes.

Can property purchased with SPLOST revenue later be converted to a different use?

There is nothing in the SPLOST law that prevents conversion to a different use.

32 Dickey v. Storey, 262 Ga. 452, 455 (1992).

Allocation of Revenues Between the County and Qualified Municipalities

The SPLOST law provides that the proceeds of the SPLOST collected by the Department of Revenue (DOR) on behalf of the county are to be disbursed as soon as practicable after collection. The DOR retains one percent of the proceeds to defray the cost of collecting the SPLOST.[33] The balance is distributed to the county to be used for projects approved by the voters in the SPLOST referendum.

There are two methods for determining how and whether SPLOST revenues will be shared with municipalities:

Method 1. By intergovernmental agreement[34]

Method 2. According to a population-based formula in absence of an intergovernmental agreement[35]

Regardless of which method is used, where projects of a municipality are to be funded through a SPLOST levy, the board of commissioners will disburse the designated SPLOST proceeds to the municipal governments. The disbursement will be in accordance with the distribution schedule outlined in an intergovernmental agreement, if one has been executed, or on a monthly basis if there is no intergovernmental agreement. Where there are no approved municipal projects, all of the SPLOST proceeds will be allocated to the county.

METHOD 1. INTERGOVERNMENTAL AGREEMENTS

The SPLOST law authorizes counties to apportion SPLOST proceeds between and among county and municipal capital outlay projects by negotiating an intergovernmental agreement between the county and municipalities within the county. To use this method, the county must reach a consensus with one or more municipalities within the county representing at least 50 percent of the county's municipal population.[36] The primary objective of the agreement is to specify how the SPLOST proceeds would be disbursed among the parties of the agreement and in what priority. Where an intergovernmental agreement has been entered into, O.C.G.A § 48-8-115 requires that the agreement address, at a minimum, the following matters:

- The specific capital outlay project or projects to be funded
- The estimated or projected dollar amount allocated for each project from the SPLOST proceeds
- Procedures for distributing SPLOST proceeds to the municipalities
- A schedule for distributing proceeds to the municipalities that includes the order or priority in which the projects will be fully or partially funded
- A provision providing that all projects in the agreement will be funded, unless otherwise agreed

33 O.C.G.A. § 48-8-115(a)(1).

34 O.C.G.A. § 48-8-115(b)(1).

35 O.C.G.A. § 48-8-115(b)(2).

36 O.C.G.A. § 48-8-110(3).

- A provision stating that proceeds from the tax shall be kept in separate accounts and used exclusively for the specified purposes
- Record-keeping and audit procedures necessary to meet the requirements of the law
- Any other provisions the county and participating municipalities choose to address

MODEL INTERGOVERNMENTAL AGREEMENT

See Resources, Model Intergovernmental Agreement, p. 52 and Model Resolution Authorizing Execution of an Intergovernmental Agreement, p. 60.

BENEFITS OF THE INTERGOVERNMENTAL AGREEMENT METHOD

Choosing the intergovernmental agreement method provides benefits to both the county and municipalities. The negotiation process allows the county and the municipalities to work together and discuss which projects are best for the community. This cooperation should increase support among the participating local governments and help ensure approval of the SPLOST referendum.

From a financial standpoint, the intergovernmental agreement method provides several important advantages. In particular, the law allows the SPLOST to be levied for a term of up to six years when an intergovernmental agreement has been reached, thus permitting the county and participating municipalities up to one additional year of revenue collections before having to go back to the public in a new referendum to continue the SPLOST. Also, if the intergovernmental agreement option is chosen, the SPLOST will not expire until the full time approved by the voters is reached, even if the revenues exceed the estimated cost of all projects. In addition, an intergovernmental agreement can address such things as project priority or partial funding of projects if sufficient proceeds are not generated.

METHOD 2. POPULATION DISTRIBUTION

If a county and the municipalities representing no less than 50 percent of the aggregate municipal population do not reach an agreement under Method 1, the SPLOST law authorizes the county to proceed with the SPLOST under Method 2.

Under Method 2, a board of commissioners, within the limitations described in the three-step procedure below, may allocate SPLOST proceeds for the construction of county-wide projects “off the top.” Proceeds remaining after allocations are made to county-wide projects must be divided among the county and municipalities based on population.

STEP 1. SELECT “LEVEL ONE” COUNTY-WIDE PROJECTS, IF APPLICABLE

Level One projects are capital projects for the use and benefit of the citizens of the entire county that are needed to implement state-mandated county responsibilities. Level One projects are specifically limited to the following:

- A courthouse
- An administrative building for elected officials or constitutional officers
- A county or regional jail, correctional institution, or detention facility
- A county health department facility
- Any combination of the foregoing

The board of commissioners can place as many Level One projects as it deems appropriate on the SPLOST ballot. Collectively, these Level One projects may consume up to 100 percent of the total estimated SPLOST revenues.

In addition to constructing new facilities, the Level One category allows for renovations to existing facilities, debt repayment on existing facilities, and capital equipment needed to furnish or equip new facilities.

FAQ

Since the county can enter into an intergovernmental agreement to allocate SPLOST funds so long as municipalities representing 50 percent or more of the total municipal population also sign the agreement, how can the capital outlay needs of the remaining municipalities be addressed?

If a municipality or municipalities representing 50 percent or more of the total municipal population in a county reach an intergovernmental agreement with the county, other municipalities must become party to that agreement in order to receive a distribution of SPLOST proceeds.

Can projects be prioritized and constructed according to different time frames?

Yes. Where a county and municipalities enter into an intergovernmental agreement pursuant to O.C.G.A. § 48-8-115(b)(1), the agreement must specify a schedule for distributing the SPLOST proceeds and the priority or order in which the projects are to be funded or partially funded. Time frames for the individual projects should reflect the priority (i.e., higher priority projects can be scheduled before lower priority projects). If all or some of the projects are deemed to be of equal priority, they may be funded simultaneously.

If there is not an intergovernmental agreement, the procedure is different. O.C.G.A. § 48-8-115(b)(2)(B) provides that funds "remaining" after the funding of any county-wide projects are to be distributed to the county and the municipalities according to population on a monthly basis. Therefore, the county may fund the county-wide projects first and then shift to the monthly population-based distribution for the balance of the SPLOST levy. As to the funds that each county and municipality receives from the monthly distribution, each governing authority sets its own project priority schedule.

Can a county and municipalities agree that certain projects will be funded only if sufficient revenues are available?

Yes. Where the county and municipalities enter into an intergovernmental agreement, O.C.G.A. § 48-8-115(b)(1) requires that the agreement specify the priority or order of approved projects. As such, the parties may agree that certain low priority projects will get funded only if sufficient revenues are generated by the SPLOST. Since agreements are entered into prior to the referendum, the public has an opportunity to ratify not only the priorities, but also any provision in the agreement to not fund certain projects due to insufficient funds. In the absence of an intergovernmental agreement, all projects must be funded.

STEP 2. IF NO LEVEL ONE PROJECTS ARE SELECTED IN STEP 1, SELECT LEVEL TWO COUNTY-WIDE PROJECTS

Level Two projects are capital projects benefiting the citizens of the entire county, other than the Level One projects described in Step 1.

Unlike the Level One projects, if the board of commissioners decides to allocate SPLOST proceeds to one or more Level Two projects, no more than 20 percent of the total estimated SPLOST revenues may be allocated to Level Two projects off the top. Nonetheless, additional SPLOST proceeds may be applied to these projects, but those proceeds would have to come from the county's prorated population share described in Step 3. Funding allocated to Level Two projects, like funding for Level One projects, may be used for building and renovating existing facilities, repaying debt on existing facilities, and equipping and furnishing facilities.

STEP 3. ALLOCATE REMAINING PROCEEDS BASED ON POPULATION

After the county has allocated the appropriate amount of funds to Level One or Level Two projects, the remaining SPLOST proceeds must be allocated between the county and the municipalities

- as specified in an intergovernmental agreement[37] or
- to the county and each municipality, pro rata based on population with the county's share of the SPLOST proceeds equal to the ratio of the unincorporated population of the county relative to the total county population (each municipality is allocated a share of the proceeds equal to the ratio of the municipality's population relative to the total county population).[38]

Municipality located in more than one county. If any municipality is located in more than one county, only that portion of the municipality within the county levying the SPLOST is counted towards the municipality's share.

Population estimates. Although the SPLOST law does not specify the basis for determining population, the only accepted population figures officially recognized by the state are the decennial census figures compiled by the U.S. Census Bureau.[39]

MUNICIPALITY SHARES NOT GUARANTEED

Depending on the allocation method selected, not all municipalities are guaranteed a share of the SPLOST funds. Examples:

- If the board of commissioners proposes to fund one or more Level One county projects using SPLOST, and the Level One projects would consume 100 percent of the estimated SPLOST revenues, no municipality would receive SPLOST funds.
- If the board of commissioners negotiates an intergovernmental contract to determine the distribution of SPLOST funds, the agreement is effective so long as the agreement is between the county and one or more municipalities representing 50 percent or more of the municipal population in the county. Any municipalities that are not included in the intergovernmental agreement would not be entitled to share in the SPLOST funds.

37 O.C.G.A. § 48-8-115(b)(2)(B)(i).

38 O.C.G.A. § 48-8-115(b)(2)(B)(ii).

39 O.C.G.A. § 1-3-1(d)(2).

FAQ

What happens if a municipality refuses to give the county any projects to be included on the SPLOST ballot?

The SPLOST law is silent on this point. If a municipality that is entitled to SPLOST revenues refuses to specify any SPLOST project to be included on the ballot, a possible approach might be that the county would have the discretion to select a project on behalf of the uncooperative municipality. Another approach might be that in the absence of any guidance from the municipality, the county might specify road, street, and bridge improvements to the municipal road system since it is broad enough to give the municipality flexibility on how and when the funds are spent within the municipality. In the event that the other municipalities (i.e., those having submitted projects) comprise more than 50 percent of the municipal population, another option may be to enter into an intergovernmental agreement with those municipalities to exclude the uncooperative municipality.

If there is no intergovernmental agreement, can the county refuse to include a particular municipal project or type of municipal project in the resolution calling for the SPLOST?

If a municipality proposes a SPLOST project that the county considers ineligible, frivolous, or harmful to the successful passage of the referendum, the county should try to work with the municipality to select another project that is acceptable or, at least, eligible. If that fails, there is no express authority for the county to reject a municipal project regardless of its merits or eligibility. However, given that the county has sole responsibility for adopting the SPLOST resolution, and given that municipalities are guaranteed a share of the revenues but not specific projects, it is reasonable to infer from the law that counties, in exercising their fiduciary responsibilities to all the citizens of the county, have the discretion to delete ineligible projects and substitute other municipal capital outlay projects in lieu of the ineligible projects.

If the county takes some portion of the proceeds for Level One projects off the top, can it take 20 percent of the remainder for Level Two projects and then distribute the balance pro rata between itself and the municipalities?

No. If any Level One projects are included in the SPLOST referendum, the county cannot take any funding for Level Two projects off the top. The county can, however, take funding off the top for Level One projects and then use some or all of its pro rata share of the balance of the SPLOST funds for Level Two or other county projects.

Termination of the Tax

A SPLOST levy is terminated by the state revenue commissioner depending on which of the following circumstances apply:

- Where there is an intergovernmental agreement, the tax will terminate at the end of the time period stated on the ballot, not to exceed six years.
- Where there is not an intergovernmental agreement and a Level One project is included on the ballot that consumes less than 24 months of estimated revenues, the tax will terminate at the end of five years of collections.
- Where there is not an intergovernmental agreement and a Level One project is included on the ballot that consumes more than 24 months of estimated revenues, the tax will terminate at the end of six years of collections.
- Where there is no intergovernmental agreement and no Level One project is included on the ballot, the tax will terminate at the end of the term stated on the ballot, not to exceed five years or when the estimated SPLOST proceeds stated on the ballot are collected, whichever comes first.
- Where a consolidated government issues general obligation bonds in conjunction with the SPLOST referendum, the tax will terminate when the estimated amount of SPLOST proceeds stated on the ballot is collected.

If the tax terminates at the end of the maximum time period stated on the ballot, the state revenue commissioner requires retailers to stop collecting the tax on the final day of the maximum period. If the tax terminates when the estimated revenues stated on the ballot are reached, the state revenue commissioner requires retailers to stop collecting the tax at the end of the calendar quarter during which the estimated revenues have been collected.[40]

In most cases, termination at the end of a calendar quarter will produce a small amount of excess revenues (see Disposition of Excess Proceeds, p. 27).

FAQ

Can a county terminate its SPLOST early?

No. Only the state revenue commissioner can terminate a SPLOST and only in accordance with the time or revenue limits authorized by the SPLOST law.

Can a consolidated government collect SPLOST revenues for more than five years?

If a consolidated government issues general obligation debt in conjunction with the SPLOST referendum, it can collect SPLOST revenue until the estimated total revenues stated on the ballot are collected. For those consolidated governments that have at least one municipality within the county boundaries, an intergovernmental agreement can be reached allowing the consolidated government to collect the SPLOST for up to six years. If the consolidated government does not have any municipalities within its county boundaries, it cannot collect the SPLOST for more than five years.[41]

40 O.C.G.A. § 48-8-112(b).

41 O.C.G.A. § 48-8-111.1.

Reimposition/Continuation of SPLOST

A SPLOST may be reimposed following the termination of an existing SPLOST by following the same procedures followed for the levy of the initial SPLOST.[42] However, the board of commissioners does not have to wait until an existing SPLOST expires to proceed with reimposition. In order to continue the SPLOST without a gap in collections, the board of commissioners may, while an existing SPLOST is still in place, adopt a resolution calling for the reimposition of a SPLOST upon termination of the tax then in effect.[43]

In order to be sure there is sufficient time to accommodate all procedural steps necessary for the reimposition of a SPLOST, the board of commissioners should decide whether or not they will want to renew the SPLOST well in advance of the expected termination date of the existing SPLOST. If the board of commissioners decides to reimpose the SPLOST, they must then determine if there should be a seamless transition between the existing SPLOST and the new SPLOST. Most retailers prefer a seamless transition, since it allows them to avoid having to reset or reprogram their registers and computers or change their accounting procedures.

If the board of commissioners chooses to have the new SPLOST begin immediately after the existing tax expires, the referendum must be held on an election date that will allow passage of at least the election before the existing tax terminates and for sufficient time necessary to meet the requirements of O.C.G.A. § 48-8-112(a), which provides for the tax to take effect or be continued on the first day of the next calendar quarter beginning more than 80 days after the election. (See Resources, Special Election Dates and Call Requirements, p. 67).

To prepare for this referendum, county officials are required to meet with their municipal officials to discuss projects for the new SPLOST at least 69 days before the scheduled election. However, out of an abundance of caution, counties should plan on holding the meeting at least 75 days beforehand.

To seamlessly transition from an existing SPLOST to a reimposed SPLOST, it is recommended that the board of commissioners initiate the renewal process about two years before their current SPLOST is set to expire. In the event the voters reject a SPLOST renewal, this window provides enough time to try again before the current tax expires.

POSTPONEMENT OF SPLOST ELECTION DUE TO EMERGENCY

If a SPLOST election is scheduled for the continuation of an existing SPLOST, but it cannot be held due to a natural disaster or other emergency, the board of commissioners may request the state revenue commissioner to waive the requirement that a new SPLOST cannot take effect until the next succeeding quarter which begins more than 80 days after the date of election. The waiver, if granted by the state revenue commissioner, would allow continuation of the existing SPLOST until the new SPLOST can begin. The state revenue commissioner may grant the waiver request "if administratively feasible." Of course, continuation of the SPLOST would be subject to approval of the new SPLOST in the rescheduled election.[44]

42 O.C.G.A. § 48-8-112(c)(3).

43 O.C.G.A. § 48-8-112(c)(2).

44 Id.

Disposition of Excess Proceeds

Excess proceeds are those proceeds of a SPLOST that remain after all approved SPLOST projects listed on the ballot have been completed. More particularly, the excess proceeds are defined as proceeds in excess of the estimated cost of the projects or in excess of the actual cost of the projects.[45]

If one of the approved projects is completed under budget, the law allows counties and municipalities to shift proceeds from the under budget project to one that may be experiencing cost overruns. Proceeds saved on one project and used on another would not be considered excess proceeds. In essence, all SPLOST proceeds must be used to complete the projects for which the tax was imposed before any revenue derived from the SPLOST can be deemed to be "excess" and available for use in reducing debt or property taxes as discussed below.[46]

If an intergovernmental agreement exists, the agreement can define how excess proceeds will be allocated among the parties to the agreement and how they will be utilized. If no intergovernmental agreement exists or the agreement does not address excess funds, all excess proceeds, including any excess proceeds from municipal projects, must be paid to the county.[47]

Where there are excess proceeds, the law requires that they be used solely to reduce or pay off existing county debt. However, if general obligation debt was approved on the SPLOST ballot, that debt could not be paid with these excess proceeds.

If there is no existing county debt, any excess proceeds must be paid into the general fund of the county to reduce property taxes.[48] This may be accomplished by (1) showing the excess proceeds as a property tax credit or offset, or (2) expending those proceeds for some other public purpose that would otherwise have to be paid for with property taxes, thereby having the effect of reducing property taxes as the law requires.

45 O.C.G.A. § 48-8-121(g)(1)(B).

46 Haugen v. Henry County, 277 Ga. 743 (2004).

47 O.C.G.A. § 48-8-121(g)(2).

FAQ

If a municipality has completed its projects and has SPLOST revenue remaining, can it give this revenue to another municipality that needs additional revenues to complete its approved projects?

No. Any funds remaining after a municipality has completed all of its approved projects become "excess proceeds." O.C.G.A. § 48-8-21(g) provides that all excess proceeds are to be used to reduce county debt to the extent such debt exists. If there is no debt, the excess proceeds must go to the general fund of the county to reduce county property taxes for all property owners in the county, including property owned by municipal residents. Therefore, if a municipality has excess proceeds, the funds must be transferred back to the county from the municipality. The law, however, does allow the county and municipalities to agree to some other scheme for disposing of excess proceeds, so long as the alternative is reflected in an intergovernmental agreement. Presumably, such an agreement should include the transfer of unused SPLOST funds from one participating local government to another jurisdiction that needs additional funds to complete its SPLOST projects.

Can excess proceeds be used to pay authority debt?

No. Excess proceeds may not be used to reduce existing debt of an authority, whether it is a development authority, water authority, housing authority, or any other type of local authority.

49 O.C.G.A. § 48-8-121(a).

Exclusive Use/Separate Accounts

SPLOST proceeds must be used by the county and any municipalities exclusively for the purposes specified in the resolution calling for the imposition of the tax. Proceeds must be kept in separate accounts from other county or municipal funds and cannot in any manner be commingled with other county or municipal funds prior to their expenditure.[49] Good accounting practices suggest that a separate account should be kept for each SPLOST levy. If only one SPLOST account is kept, then internally within that account, there should be a separation of the proceeds of different SPLOST levies.

FAQ

Where should interest earned on SPLOST proceeds be deposited?

The interest earned from SPLOST collections must be treated the same as other revenues generated by the tax: the interest (1) must be separately accounted for, (2) must be annually audited to ensure that it is properly expended, and (3) may only be used for purposes specified in the SPLOST ordinance or resolution.[50] Counties keep interest earned on funds held in their SPLOST accounts, while municipalities keep the interest on funds held in their accounts, unless otherwise agreed in an intergovernmental agreement.

50 Op. Att'y Gen. 01-03.

Record Keeping, Audits, and Reports

The county and each municipality receiving SPLOST funds must maintain a record of each project for which the SPLOST proceeds are used.[51]

AUDIT

A schedule must be included in the annual audits of the county and each municipality receiving SPLOST funds with the following information for each approved project:

- Original estimated cost
- Current estimated cost
- Amounts expended in prior years
- Amounts expended in the current year

The auditor is required to verify and test expenditures and provide assurances that the schedule described above is fairly presented in relation to the financial statements. The auditor's report must include an opinion, or disclaimer, as to whether the schedule is presented fairly in all material respects related to the financial statements taken as a whole.[52]

ANNUAL REPORTING

Prior to December 31 of each year, the county and each municipality receiving SPLOST funds must publish a non-technical report in a local newspaper of general circulation and in a prominent location on the local government website (if it maintains one). The report must include the following information on each approved project:

- Original estimated cost
- Current estimated cost if different from the original estimated cost
- Amount expended in prior years
- Amount expended in the current year
- Any excess proceeds which have not been expended for a project or purpose (including all unexpended SPLOST funds held from a prior SPLOST)
- Estimated completion date
- Actual completion cost of each project completed during the current year

The annual report must also include a statement of what corrective action the local government intends to implement for each project that is underfunded or behind schedule and the statement of any surplus funds that have not been expended for a project.[53]

The county is not responsible for reporting information on municipal projects. The report may be published at any time during the calendar year and in the form determined by the local government issuing the report. Road, street, and bridge projects can be reported collectively and do not have to be broken down by specific project. (See Resources, Sample Annual Report, p. 66.)

51 O.C.G.A. §§ 48-8-121(a)(2); 48-8-122.

52 O.C.G.A. § 48-8-121(a)(2).

53 O.C.G.A. § 48-8-122.

FAQ

Must the required annual report address unexpended SPLOST funds held from a prior SPLOST?

Yes. O.C.G.A. § 48-8-122 provides that an annual report must be published addressing each project for which SPLOST proceeds are used and that ANY excess proceeds must be disclosed. SPLOST law does not limit this disclosure only to proceeds of a current SPLOST.

County Protection from Liability

The SPLOST law specifically provides that counties may not be held liable for any municipality's failure to comply with the requirements of the statute.[54]

The State's Role in Administering SPLOST

A SPLOST is administered by the state in essentially the same manner as the state sales and use tax and other local option sales taxes such as LOST, except all revenue distributions are made solely to county governments. The state retains one percent of SPLOST funds collected to cover its administrative costs. The state also retains all interest income earned on the SPLOST proceeds from the date of collection until they are dispersed back to the county governments.

The SPLOST and LOST are levied at one percent of the purchase price and are applied on the same sales base, but the monthly receipts may differ. SPLOST collections are typically lower than LOST, perhaps by as much as 10 percent. Differences can occur for the following reasons:

- Unlike SPLOST, municipal shares of the LOST proceeds are sent directly to the municipalities from the Department of Revenue.
- Despite local publicity, some vendors failed to begin collections of the SPLOST when the law requires.
- Purchasers pay sales tax as of the date of purchase, even though the vendor may be paid long after that date. One of the sales taxes may take effect in the intervening period.

54 O.C.G.A. § 48-8-121(a)(3).

Financing SPLOST Projects

Projects can be paid for on a cash basis (i.e., as the SPLOST proceeds are collected by the state and transferred to the county). However, years may pass after a SPLOST is approved before a local government can begin building the project if they are trying to pay on a cash basis. Financing SPLOST projects provides an important alternative and can have significant financial and other benefits.

BENEFITS OF FINANCING A SPLOST PROJECT

The longer construction is delayed, the higher project costs can climb due to inflationary increases in materials and labor. If the project is delayed for too long, the SPLOST proceeds may not be able to cover these cost increases. When a local government finances projects, the savings in construction inflation usually exceeds any interest paid on borrowed money. A second benefit to financing is that all projects can begin at the same time, instead of having to fund them in priority. It is sometimes difficult for elected officials to prioritize projects, because prioritization is subjective and what is a priority for some in the community may not be for others. Finally, and maybe most importantly, voters are more satisfied when they see quick results after approving a SPLOST.

OPTIONS AVAILABLE FOR FINANCING SPLOST PROJECTS

Several financing opportunities are available to counties and municipalities that may want to move up the construction schedule as a way of assuring taxpayers that they will get the benefits for which they voted.

BORROWING FROM THE GENERAL FUND

Counties and municipalities may have reserve funds or fund balances in their general fund that they may be willing to “borrow” from. Although not expressly authorized in the SPLOST law, so long as strict accounting for SPLOST funds is maintained and the purposes are solely those which were ratified by the electorate, borrowing from the general fund would be proper.

BORROWING FROM THE STATE

Local governments can use loans from the state to advance SPLOST projects and repay these loans with SPLOST revenue. Loans to local governments through the Georgia Environmental Finance Authority (GEFA) are probably the most common form of state loans.

GENERAL OBLIGATION DEBT FINANCING

To utilize general obligation (GO) debt financing or a loan from a bank, the local government must be specifically authorized by the voters, through the SPLOST referendum, to issue GO debt. This form of debt typically provides the local government with a lower interest rate than revenue bonds or lease-purchase financing.

REVENUE BONDS AND INTERGOVERNMENTAL AGREEMENTS

A county may finance revenue-producing projects, such as water and sewer improvements, through revenue bonds and rely on the SPLOST proceeds to retire the bonds or, if the local government has a public authority that can issue revenue bonds, the local government can enter into an intergovernmental agreement with the authority to do so. The authority will issue revenue bonds utilizing the proceeds from the bond sale to finance the SPLOST project. The purchasers of the bonds are guaranteed repayment through the intergovernmental agreement that has been established between the local government and the authority. This form of financing does not require voter approval in a referendum.

LEASE-PURCHASE

Financing SPLOST projects through lease-purchase agreements and certificate of participation (COPs) is not directly authorized in the SPLOST law. However, the use of lease-purchase transactions is specifically provided for by law[55] and has been validated by the courts.[56] This approach has developed into a common method of financing SPLOST projects. Lease-purchase obligations are not general obligation debt of the county. The use of lease-purchase financing does not have to be approved in the SPLOST referendum or even contemplated before the referendum.

Restrictions on the use of lease-purchase financing may make it unsuitable for some SPLOST projects. Because the projects serve as the collateral in a lease-purchase financing, the project must be a discreet project that could be repossessed if the county does not meet its obligation. For example, renovations of a courthouse would not qualify. Also, lenders may be unwilling to participate in lease-purchase financing if the lender regards the project as not "essential" (i.e., a project that the county might cease payments on later because it is not necessary to meet a governmental obligation).

The structure of lease-purchase financing differs from other types of financing. First, the interest rate on lease-purchase financing may be higher than general obligation debt, because the risk for the lender is greater. Second, lease payments are subject to annual renewal. If the county fails to renew, the lease is terminated and the project being financed becomes the property of the financing institution. Finally, counties must finance 100 percent of the project being leased. The maximum term of the lease will vary according to the lenders estimated useful life of the equipment or facility being leased. When the lease is paid in full, the county will take ownership of the property.

GEORGIA TRANSPORTATION INFRASTRUCTURE BANK

The "Georgia Transportation Infrastructure Bank (GTIB) Act"[57] was enacted in order to assist local governments in financing a wide variety of eligible transportation and transit projects and eligible costs[58] that would provide public benefits by enhancing mobility and safety, promoting economic development, or increasing the quality of life and the general welfare of the public. The State Road and Tollway Authority serves as the governing board of the GTIB.[59] The governing board of the GTIB has final discretion to determine eligibility.[60] Preference may be given to eligible projects which have local financial support.[61] The term of the loan or other financial assistance cannot exceed the useful life of the project and the governing board of the GTIB sets the loan obligations, including term and interest rate.[62] For further details see the GTIB Guidelines: www.georgiatolls.com/gtib/loan-program-guidelines/#gra.

55 O.C.G.A. § 36-60-13.

56 Bauerband v. Jackson County, 278 Ga. 222 (2004).

57 O.C.G.A. § 32-10-120, *et seq.*

58 O.C.G.A. §§ 32-10-122(4) and (5).

59 O.C.G.A. § 32-10-121(b).

60 O.C.G.A. § 32-10-127(b).

61 Id.

62 O.C.G.A. § 32-10-127(a).

Enforcement

Superior courts have jurisdiction to enforce compliance with the SPLOST law.[63] This may take the form of injunctions or other equitable relief. In addition to any action that may be brought by any person or entity, the attorney general is granted authorization to bring civil or criminal actions to enforce SPLOST compliance.[64]

Frivolous or Meritless Challenges to SPLOST Levies

If a taxpayer challenges the implementation of a county SPLOST levy in superior court and the claim is dismissed, the county may seek an appeal bond as a condition precedent to any further pursuit of an appeal by the plaintiff under the Public Lawsuits statute.[65] The purpose of the Public Lawsuits statute is to protect the public from increased financial costs resulting from meritless or frivolous lawsuits against public improvement projects. The Georgia Court of Appeals has determined that a SPLOST levy qualifies as a public improvement project under the Public Lawsuits Act.[66]

63 O.C.G.A. § 48-8-124.

64 Id.

65 O.C.G.A. § 50-15-1 et seq.

66 Mattox v. Franklin County et al., 316 Ga. App. 181 (2012).

Resources

County Special Purpose Local Option Sales Tax (SPLOST) Law

[As of July 1, 2016]

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§ 48-8-110. DEFINITIONS

As used in this part, the term:

(1) "Capital outlay project" means major, permanent, or long-lived improvements or betterments, such as land and structures, such as would be properly chargeable to a capital asset account and as distinguished from current expenditures and ordinary maintenance expenses. Such term shall include, but not be limited to, roads, streets, bridges, police cars, fire trucks, ambulances, garbage trucks, and other major equipment.

(2) "County-wide project" means a capital outlay project or projects as defined in paragraph (1) of this Code section of the county for the use or benefit of the citizens of the entire county and is further defined as follows:

(A) "Level one county-wide project" means a county-wide project or projects of the county to carry out functions on behalf of the state and is limited to a county courthouse; a county administrative building primarily for county constitutional officers or elected officials; a county or regional jail, correctional institution, or other detention facility; a county health department facility; or any combination of such projects; and

(B) "Level two county-wide project" means a county-wide project or projects of the county or one or more municipalities, other than a level one county-wide project, which project or projects are to be owned or operated or both either by the county, one or more municipalities, or any combination thereof.

(3) "Intergovernmental agreement" means a contract entered into pursuant to Article IX, Section III, Paragraph I of the Constitution between a county and one or more qualified municipalities located within the special district containing a combined total of no less than 50 percent of the aggregate municipal population located within the special district.

(4) "Qualified municipality" means only those incorporated municipalities which provide at least three of the following services, either directly or by contract:

(A) Law enforcement;

(B) Fire protection (which may be furnished by a volunteer fire force) and fire safety;

(C) Road and street construction or maintenance;

(D) Solid waste management;

(E) Water supply or distribution or both;

(F) Waste-water treatment;

(G) Storm-water collection and disposal;

(H) Electric or gas utility services;

(I) Enforcement of building, housing, plumbing, and electrical codes and other similar codes;

(J) Planning and zoning;

(K) Recreational facilities; or

(L) Library.

§ 48-8-110.1. AUTHORIZATION FOR COUNTY SPECIAL PURPOSE LOCAL OPTION SALES TAX; SUBJECTS OF TAXATION; APPLICABILITY TO SALES OF MOTOR FUELS AND FOOD AND BEVERAGES.

(a) 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 the 159 special districts.

(b) When the imposition of a special district sales and use tax is authorized according to the procedures provided in this part within a special district, the governing authority of any county in this state may, subject to the requirement of referendum approval and the other requirements of this part, impose within the special district a special sales and use tax for a limited period of time which tax shall be known as the county special purpose local option sales tax.

(c) Any tax imposed under this part shall be at the rate of 1 percent. Except as to rate, a tax imposed under this part shall correspond to the tax imposed by Article 1 of this chapter. No item or transaction which is not subject to taxation under Article 1 of this chapter shall be subject to a tax imposed under this part, except that a tax imposed under this part shall apply to sales of motor fuels as prepaid local tax as that term is defined in Code Section 48-8-2 and shall be applicable to the sale of food and food ingredients and alcoholic beverages as provided for in Code Section 48-8-3.

(d) On or after July 1, 2015, such 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.

§ 48-8-111. PROCEDURE FOR IMPOSITION OF TAX; RESOLUTION OR ORDINANCE; NOTICE TO COUNTY ELECTION SUPERINTENDENT; ELECTION

(a) Prior to the issuance of the call for the referendum and prior to the vote of a county governing authority within a special district to impose the tax under this part, such governing authority may enter into an intergovernmental agreement with any or all of the qualified municipalities within the special district. Any county that desires to have a tax under this part levied within the special district shall deliver or mail a written notice to the mayor or chief elected official in each qualified municipality located within the special district. Such notice shall contain the date, time, place, and purpose of a meeting at which the governing authorities of the county and of each qualified municipality are to meet to discuss the possible projects for inclusion in the referendum, including municipally owned or operated projects. The notice shall be delivered or mailed at least ten days prior to the date of the meeting. The meeting shall be held at least 30 days prior to the issuance of the call for the referendum. Following such meeting, the governing authority of the county within the special district voting to impose the tax authorized by this part shall notify the county election superintendent by forwarding to the superintendent a copy of the resolution or ordinance of the governing authority calling for the imposition of the tax. Such ordinance or resolution shall specify eligible expenditures identified by the county and any qualified municipality for use of proceeds distributed pursuant to subsection (b) of Code Section 48-8-115. Such ordinance or resolution shall also specify:

(1) The purpose or purposes for which the proceeds of the tax are to be used and may be expended, which purpose or purposes may consist of capital outlay projects located within or outside, or both within and outside, any incorporated areas in the county in the special district or outside the county, as authorized by subparagraph (B) of this paragraph for regional facilities, and which may include any of the following purposes:

(A) A capital outlay project consisting of road, street, and bridge purposes, which purposes may include sidewalks and bicycle paths;

(B) A capital outlay project or projects in the special district and consisting of a courthouse; administrative buildings; a civic center; a local or regional jail, correctional institution, or other detention facility; a library; a coliseum; local or regional solid waste handling facilities as defined under paragraph (27.1) or (35) of Code Section 12-8-22, as amended, excluding any solid waste thermal treatment technology facility, including, but not limited to, any facility for purposes of incineration or waste to energy direct conversion; local or regional recovered materials processing facilities as defined under paragraph (26) of Code Section 12-8-22, as amended; or any combination of such projects;

(C) A capital outlay project or projects which will be operated by a joint authority or authorities of the county and one or more qualified municipalities within the special district;

(D) A capital outlay project or projects, to be owned or operated or both either by the county, one or more qualified municipalities within the special district, one or more local authorities within the special district, or any combination thereof;

(E) A capital outlay project consisting of a cultural facility, a recreational facility, or a historic facility or a facility for some combination of such purposes;

(F) A water capital outlay project, a sewer capital outlay project, a water and sewer capital outlay project, or a combination of such projects, to be owned or operated or both by a county water and sewer district and one or more qualified municipalities in the county;

(G) The retirement of previously incurred general obligation debt of the county, one or more qualified municipalities within the special district, or any combination thereof;

(H) A capital outlay project or projects within the special district and consisting of public safety facilities, airport facilities, or related capital equipment used in the operation of public safety or airport facilities, or any combination of such purposes;

(I) A capital outlay project or projects within the special district, consisting of capital equipment for use in voting in official elections or referendums;

(J) A capital outlay project or projects within the special district consisting of any transportation facility designed for the transportation of people or goods, including but not limited to railroads, port and harbor facilities, mass transportation facilities, or any combination thereof;

(K) A capital outlay project or projects within the special district and consisting of a hospital or hospital facilities that are owned by a county, a qualified municipality, or a hospital authority within the special district and operated by such county, municipality, or hospital authority or by an organization which is tax exempt under Section 501(c)(3) of the Internal Revenue Code, which operates the hospital through a contract or lease with such county, municipality, or hospital authority;

(L) The repair of capital outlay projects, including, but not limited to, roads, streets, and bridges, located, in part or in whole, within the special district that have been damaged or destroyed by a natural disaster;

(M) A capital outlay project or projects that are owned, operated, or administered by the state and located, in part or in whole, within the special district; or

(N) Any combination of two or more of the foregoing;

(2) The maximum period of time, to be stated in calendar years or calendar quarters and not to exceed five years, unless the provisions of paragraph (1) of subsection (b) or subparagraph (b)(2)(A) of Code Section 48-8-115 are applicable, in which case the maximum period of time for which the tax may be levied shall not exceed six years;

(3) The estimated cost of the project or projects which will be funded from the proceeds of the tax, which estimated cost shall also be the estimated amount of net proceeds to be raised by the tax, unless the provisions of paragraph (1) of subsection (b) or subparagraph (b)(2)(A) of Code Section 48-8-115 are applicable, in which case the final day of the tax shall be based upon the length of time for which the tax was authorized to be levied by the referendum; and

(4) If general obligation debt is to be issued in conjunction with the imposition of the tax, the principal amount of the debt to be issued, the purpose for which the debt is to be issued, the local government issuing the debt, the interest rate or rates or the maximum interest rate or rates which such debt is to bear, and the amount of principal to be paid in each year during the life of the debt.

(b) Upon receipt of the resolution or ordinance, the election superintendent shall issue the call for an election for the purpose of submitting the question of the imposition of the tax to the voters of the county within the special district. 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 four weeks immediately preceding the date of the election in the official organ of the county. If general obligation debt is to be issued by the county or any qualified municipality within the special district in conjunction with the imposition of the tax, the notice published by the election superintendent shall also include, in such form as may be specified by the county governing authority or the governing authority or authorities of the qualified municipalities imposing the tax within the special district, the principal amount of the debt, the purpose for which the debt is to be issued, the rate or rates of interest or the maximum rate or rates of interest the debt will bear, and the amount of principal to be paid in each year during the life of the debt; and such publication of notice by the election superintendent shall take the place of the notice otherwise required by Code Section 36-80-11 or by subsection (b) of Code Section 36-82-1, which notice shall not be required.

(c)

(1) The ballot submitting the question of the imposition of the tax authorized by this part to the voters of the county within the special district shall have written or printed thereon the following:

"( ) YES Shall a special 1 percent sales and use tax be imposed in the special district of _____ County for a period of time not to exceed_____

( ) NO and for the raising of an estimated amount of $_____ for the purpose of _____ _____?"

(2) If debt is to be issued, the ballot shall also have written or printed thereon, following the language specified by paragraph (1) of this subsection, the following:

"If imposition of the tax is approved by the voters, such vote shall also constitute approval of the issuance of general obligation debt of in the principal amount of $_____for the above purpose."

(d) All persons desiring to vote in favor of imposing the tax shall vote "Yes" and all persons opposed to levying the tax shall vote "No." If more than one-half of the votes cast are in favor of imposing the tax then the tax shall be imposed as provided in this part; otherwise the tax shall not be imposed and the question of imposing the tax shall not again be submitted to the voters of the county within the special district until after 12 months immediately following the month in which the election was held; provided, however, that if an election date authorized under Code Section 21-2-540 occurs during the twelfth month immediately following the month in which such election was held, the question of imposing the tax may be submitted to the voters of the county within the special district on such date. The election superintendent shall hold and conduct the election under the same rules and regulations as govern special elections. The superintendent shall 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 paid from county funds.

(e)

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

(2) If the issuance of general obligation debt is included and approved as provided in this Code section, then the governing authority of the county or qualified municipality within the special district issuing such debt may incur such debt either through the issuance and validation of general obligation bonds or through the execution of a promissory note or notes or other instrument or instruments. If such debt is incurred through the issuance of general obligation bonds, such bonds and their issuance and validation shall be subject to Articles 1 and 2 of Chapter 82 of Title 36 except as specifically provided otherwise in this part. If such debt is incurred through the execution of a promissory note or notes or other instrument or instruments, no validation proceedings shall be necessary and such debt shall be subject to Code Sections 36-80-10 through 36-80-14 except as specifically provided otherwise in this part. In either event, such general obligation debt shall be payable first from the separate account in which are placed the proceeds received by the county or qualified municipality within the special district issuing such debt from the tax authorized by this part. Such general obligation debt shall, however, constitute a pledge of the full faith, credit, and taxing power of the county or qualified municipality within the special district issuing such debt; and any liability on such debt which is not satisfied from the proceeds of the tax authorized by this part shall be satisfied from the general funds of the county or qualified municipality within the special district issuing such debt.

§ 48-8-111.1. APPLICATION OF PART TO CONSOLIDATED GOVERNMENT

(a) With respect to any consolidated government created by the consolidation of a county and one or more municipalities, the provisions of this Code section shall control over any conflicting provisions of this part.

(b) The tax authorized by this part, if imposed by a consolidated government, shall not be subject to any maximum period of time for which the tax may be levied if general obligation debt is to be issued in conjunction with the imposition of the tax. In such case the resolution or ordinance calling for the imposition of the tax shall not be required to state a maximum period of time for which the tax is to be levied; and the language relating to the maximum period of time for which the tax is to be levied shall be omitted from the ballot. The resolution or ordinance calling for the imposition of the tax shall state the maximum amount of revenue to be raised by the tax, and the tax shall terminate as provided in paragraph (1) or (3) of subsection (b) of Code Section 48-8-112.

(c) A consolidated government shall be authorized to levy a tax for any capital outlay project provided for in subparagraphs (a)(1)(C), (a)(1)(D), and (a)(1)(F) of Code Section 48-8-111, or any combination thereof, without the necessity of operating such project jointly with a qualified municipal governing authority, owning or operating such projects with one or more qualified municipalities, or entering into a contract with one or more qualified municipalities with respect to such project.

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

§ 48-8-112. EFFECTIVE DATE OF TAX; TERMINATION OF TAX; LIMITATION ON TAXATION; CONTINUATION OF TAX

(a) If the imposition of the tax is approved at the special election, the tax shall be imposed on the first day of the next succeeding calendar quarter which begins more than 80 days after the date of the election at which the tax was approved by the voters. With respect to services which are regularly billed on a monthly basis, however, the resolution shall become effective with respect to and the tax shall apply to services billed on or after the effective date specified in the previous sentence.

(b) The tax shall cease to be imposed on the earliest of the following dates:

(1) If the resolution or ordinance calling for the imposition of the tax provided for the issuance of general obligation debt and such debt is the subject of validation proceedings, as of the end of the first calendar quarter ending more than 80 days after the date on which a court of competent jurisdiction enters a final order denying validation of such debt;

(2) On the final day of the maximum period of time specified for the imposition of the tax; or

(3) As of the end of the calendar quarter during which the commissioner determines that the tax will have raised revenues sufficient to provide to the county and qualified municipalities within the special district net proceeds equal to or greater than the amount specified as the estimated amount of net proceeds to be raised by the tax, unless the provisions in paragraph (1) of subsection (b) or subparagraph (b)(2)(A) of Code Section 48-8-115 are applicable, in which case the final day of the tax shall be based upon the length of time for which the tax was authorized to be levied by the referendum.

(c)

(1) At any time no more than a single 1 percent tax under this part may be imposed within a special district.

(2) The governing authority of a county in a special district in which a tax authorized by this part is in effect may, while the tax is in effect, adopt a resolution or ordinance calling for the reimposition of a tax as authorized by this part upon the termination of the tax then in effect; and a special election may be held for this purpose while the tax is in effect. Proceedings for the reimposition of a tax shall be in the same manner as proceedings for the initial imposition of the tax, but the newly authorized tax shall not be imposed until the expiration of the tax then in effect; provided, however, that in the event of emergency conditions under which a county is unable to conduct a referendum so as to continue the tax then in effect without interruption, the commissioner may, if feasible administratively, waive the limitations of subsection (a) of this Code section to the minimum extent necessary so as to permit the reimposition of a tax, if otherwise approved as required under this Code section, without interruption, upon the expiration of the tax then in effect.

(3) Following the expiration of a tax under this part, the governing authority of a county within a special district may initiate proceedings for the reimposition of a tax under this part in the same manner as provided in this part for initial imposition of such tax.

§ 48-8-113. ADMINISTRATION AND COLLECTION BY COMMISSIONER; APPLICATION; DEDUCTION TO DEALERS

A tax levied pursuant to this part shall be exclusively administered and collected by the commissioner for the use and benefit of the county and qualified municipalities within such special district imposing the tax. 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 sales and use tax provided in this part 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; and provided, further, that the commissioner may rely upon a representation by or in behalf of the county and qualified municipalities within the special district or the Secretary of State that such a tax has been validly imposed, and the commissioner and the commissioner's agents shall not be liable to any person for collecting any such tax which was not validly imposed. 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.

§ 48-8-114. SALES TAX RETURN REQUIREMENTS

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

§ 48-8-115. DISBURSEMENT OF TAX PROCEEDS

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) Where an intergovernmental agreement has not been entered into pursuant to paragraph (1) of this subsection, the county within the special district shall distribute the proceeds of the tax authorized by this part as follows:

(A)

(i) To the governing authority of the county for one or more level one county-wide projects specified by the governing authority of the county in the ordinance or resolution required by subsection (a) of Code Section 48-8-111; provided, however, that any tax levied under this part that funds level one county-wide projects where an intergovernmental agreement has not been entered into pursuant to paragraph (1) of this subsection shall be levied for a five-year period. In the event that any or all level one county-wide projects are estimated to cost an amount which exceeds the proceeds projected to be collected during a 24 month period of the levy of the tax, the tax shall be levied for a six-year period.

(ii) In the event that no level one county-wide project is included in the ordinance or resolution required by subsection (a) of Code Section 48-8-111, to the governing authority of the county for one or more level two county-wide projects specified by the governing authority of the county in the ordinance or resolution required by subsection (a) of Code Section 48-8-111. In the event no level one county-wide project is included in the ordinance or resolution required by subsection (a) of Code Section 48-8-111 and the governing authority of the county has specified one or more municipal projects as level two county-wide projects in the ordinance or resolution required by subsection (a) of Code Section 48-8-111, to the governing authority of the appropriate municipality or municipalities for such level two county-wide projects specified in the ordinance or resolution required by subsection (a) of Code Section 48-8-111. The total estimated cost of all level two county-wide projects specified under this division shall not exceed 20 percent of the proceeds projected to be collected during the period specified in the ordinance or resolution required by subsection (a) of Code Section 48-8-111; or

(B) In the event that no county-wide project is included in the resolution or ordinance calling for the imposition of the tax or in the event that tax proceeds exceed that amount required to fund the county-wide project or projects, the remaining proceeds shall be distributed in the following manner:

(i) As specified in an intergovernmental agreement other than the agreement specified in paragraph (1) of this subsection. The intergovernmental agreement shall include, at a minimum, the information required in paragraph (1) of this subsection; or

(ii) To the qualified municipalities within the special district based upon the ratio that the population of each qualified municipality bears to the total population of the county within the special district. If any qualified municipality is located in more than one county, only that portion of its population that is within the special district shall be counted. The remainder of such proceeds shall be distributed to the governing authority of the county within the special district. Capital

outlay projects included in the referendum ballot by the county or any qualified municipalities within the special district shall be based upon the anticipated proceeds and distribution of the tax. The governing authority of the county within the special district shall distribute all proceeds received by the county for the tax levied pursuant to this part to the qualified municipalities within the special district on a monthly basis where proceeds are distributed in accordance with this division.

§ 48-8-116. TAX CREDITS

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 part 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 part, 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 part. 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 part 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 county or in a special district which includes the county; and taxes so paid in another jurisdiction shall be credited first against the tax levied under Article 2 of this chapter, if applicable, and then against the tax levied under this part.

§ 48-8-117. INAPPLICABILITY OF TAX TO CERTAIN SALES OF TANGIBLE PERSONAL PROPERTY OUTSIDE TAXING COUNTY

No tax provided for in this part 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 county in which the 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.

§ 48-8-118. "BUILDING AND CONSTRUCTION MATERIALS" DEFINED; INAPPLICABILITY OF TAX TO CERTAIN SALES OR USES OF BUILDING AND CONSTRUCTION MATERIALS

(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 this part shall be imposed 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 the voters' approval of the levy of the tax 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.

§ 48-8-119. PROMULGATION OF RULES AND REGULATIONS BY COMMISSIONER

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 part.

§ 48-8-120. EFFECT OF OTHER LOCAL SALES AND USE TAXES ON IMPOSITION OF TAX

Except as provided in Code Section 48-8-6, the tax authorized by this part shall be in addition to any other local sales and use tax. Except as provided in Code Section 48-8-6, the imposition of any other local sales and use tax within a county or qualified municipality within a special district shall not affect the authority of such a county to impose the tax authorized by this part and the imposition of the tax authorized by this part shall not affect the imposition of any otherwise authorized local sales and use tax within the county within the special district.

§ 48-8-121. USE OF PROCEEDS; ISSUANCE OF GENERAL OBLIGATION DEBT

(a)

(1) The proceeds received from the tax authorized by this part shall be used by the county and qualified municipalities within the special district receiving proceeds of the sales and use tax exclusively for the purpose or purposes specified in the resolution or ordinance calling for imposition of the tax. Such proceeds shall be kept in a separate account from other funds of such county and each qualified municipality receiving proceeds of the sales and use tax and shall not in any manner be commingled with other funds of such county and each qualified municipality receiving proceeds of the sales and use tax prior to the expenditure.

(2) The governing authority of the county and the governing authority of each qualified municipality within the special district receiving any proceeds from the tax pursuant to this part shall maintain a record of each and every project for which the proceeds of the tax are used. A schedule shall be included in each annual audit which shows for each such project the original estimated cost, the current estimated cost if it is not the original estimated cost, amounts expended in prior years, and amounts expended in the current year. The auditor shall verify and test expenditures sufficient to provide assurances that the schedule is fairly presented in relation to the financial statements. The auditor's report on the financial statements shall include an opinion, or disclaimer of opinion, as to whether the schedule is presented fairly in all material respects in relation to the financial statements taken as a whole.

(3) In the event that a qualified municipality fails to comply with the requirements of this part, the county within the special district shall not be held liable for such noncompliance.

(b)

(1) If the resolution or ordinance calling for the imposition of the tax specified that the proceeds of the tax are to be used in whole or in part for capital outlay projects consisting of road, street, and bridge purposes, then authorized uses of the tax proceeds shall include:

(A) Acquisition of rights of way for roads, streets, bridges, sidewalks, and bicycle paths;

(B) Construction of roads, streets, bridges, sidewalks, and bicycle paths;

(C) Renovation and improvement of roads, streets, bridges, sidewalks, and bicycle paths, including resurfacing;

(D) Relocation of utilities for roads, streets, bridges, sidewalks, and bicycle paths;

(E) Improvement of surface-water drainage from roads, streets, bridges, sidewalks, and bicycle paths; and

(F) Patching, leveling, milling, widening, shoulder preparation, culvert repair, and other repairs necessary for the preservation of roads, streets, bridges, sidewalks, and bicycle paths.

(2) Storm-water capital outlay projects and drainage capital outlay projects may be funded pursuant to subparagraph (a)(1)(D) of Code Section 48-8-111 or in conjunction with road, street, and bridge capital outlay projects.

(c) No general obligation debt shall be issued in conjunction with the imposition of the tax unless the governing authority of the county or qualified municipalities within special district issuing the debt determines that, and if the debt is to be validated it is demonstrated in the validation proceedings that, during each year in which any payment of principal or interest on the debt comes due the county or qualified municipalities within special district issuing such debt will receive from the tax authorized by this part net proceeds sufficient to fully satisfy such liability. General obligation debt issued under this part shall be payable first from the separate account in which are placed the proceeds received by the county or qualified municipalities within the special district issuing such debt from the tax authorized by this part. Such debt, however, shall constitute a pledge of the full faith, credit, and taxing power of the county or qualified municipalities within the special district issuing such debt; and any liability on said debt which is not satisfied from the proceeds of the tax authorized by this part shall be satisfied from the general funds of the county or qualified municipalities within the special district issuing such debt.

(d) The resolution or ordinance calling for imposition of the tax authorized by this part may specify that all of the proceeds of the tax will be used for payment of general obligation debt issued in conjunction with the imposition of the tax. If the resolution or ordinance so provides, then such proceeds shall be used solely for such purpose except as provided in subsection (g) of this Code section.

(e) The resolution or ordinance calling for the imposition of the tax authorized by this part may specify that a part of the proceeds of the tax will be used for payment of general obligation debt issued in conjunction with the imposition of the tax. If the ordinance or resolution so provides, it shall specifically state the other purposes for which such proceeds will be used; and such other purposes shall be a part of the capital outlay project or projects for which the tax is to be imposed. In such a case no part of the net proceeds from the tax received in any year shall be used for such other purposes until all debt service requirements of the general obligation debt for that year have first been satisfied from the account in which the proceeds of the tax are placed.

(f) The resolution or ordinance calling for the imposition of the tax may specify that no general obligation debt is to be issued in conjunction with the imposition of the tax. If the ordinance or resolution so provides, it shall specifically state the purpose or purposes for which the proceeds will be used.

(g)

(1)

(A) If the proceeds of the tax are specified to be used solely for the purpose of payment of general obligation debt issued in conjunction with the imposition of the tax, then any net proceeds of the tax in excess of the amount required for final payment of such debt shall be subject to and applied as provided in paragraph (2) of this subsection.

(B) If the county or qualified municipality within the special district receives from the tax net proceeds in excess of the estimated cost of the capital outlay project or projects stated in the resolution or ordinance calling for the imposition of the tax or in excess of the actual cost of such capital outlay project or projects, then such excess proceeds shall be subject to and applied as provided in paragraph (2) of this subsection.

(C) If the tax is terminated under paragraph (1) of subsection (b) of Code Section 48-8-112 by reason of denial of validation of debt, then all net proceeds received by the county or qualified municipality

within the special district from the tax shall be excess proceeds subject to paragraph (2) of this subsection.

(2) Unless otherwise provided in this part or in an intergovernmental agreement entered into pursuant to this part, excess proceeds subject to this subsection shall be used solely for the purpose of reducing any indebtedness of the county within the special district other than indebtedness incurred pursuant to this part. If there is no such other indebtedness or, if the excess proceeds exceed the amount of any such other indebtedness, then the excess proceeds shall next be paid into the general fund of the county within the special district, it being the intent that any funds so paid into the general fund of the county be used for the purpose of reducing ad valorem taxes.

§ 48-8-122. RECORD OF PROJECTS ON WHICH TAX PROCEEDS ARE USED; ANNUAL REPORTING AND NEWSPAPER PUBLICATION OF REPORT

The governing authority of the county and the governing authority of each municipality receiving any proceeds from the tax under this part or under Article 4 of this chapter shall maintain a record of each and every project for which the proceeds of the tax are used. Not later than December 31 of each year, the governing authority of each local government receiving any proceeds from the tax under this part shall publish annually, in a newspaper of general circulation in the boundaries of such local government and in a prominent location on the local government website, if such local government maintains a website, a simple, nontechnical report which shows for each project or purpose in the resolution or ordinance calling for imposition of the tax the original estimated cost, the current estimated cost if it is not the original estimated cost, amounts expended in prior years, amounts expended in the current year, any excess proceeds which have not been expended for a project or purpose, estimated completion date, and the actual completion cost of a project completed during the current year. In the case of road, street, and bridge purposes, such information shall be in the form of a consolidated schedule of the total original estimated cost, the total current estimated cost if it is not the original estimated cost, and the total amounts expended in prior years and the current year for all such projects and not a separate enumeration of such information with respect to each such individual road, street, or bridge project. The report shall also include a statement of what corrective action the local government intends to implement with respect to each project which is underfunded or behind schedule.

§ 48-8-123. MODIFICATION OF PROJECTS APPROVED BY REFERENDUM WHICH HAVE BECOME INFEASIBLE IN CONNECTION WITH COUNTY SPECIAL PURPOSE LOCAL OPTION SALES AND USE TAX

(a) For purposes of this Code section, the term “infeasible” means that the project has, in the judgment of the governing authority as expressed in the resolution or ordinance required by subsection (b) of this Code section, become impracticable, unserviceable, unrealistic, or otherwise not in the best interests of the citizens of the special district or the municipality.

(b)

(1) Notwithstanding any other provision of this part to the contrary, if the tax authorized by this part has been imposed within a special district for a purpose or purposes authorized by subsection (a) of Code Section 48-8-111 and one or more projects authorized therein become or are determined to be infeasible, then the provisions of this Code section shall apply. However, this Code section shall not apply until and unless the governing authority or governing authorities specified under paragraph (2) of this subsection adopt a resolution or ordinance determining that such project or projects for which the levy has been approved have become infeasible in accordance with paragraph (2) of this subsection.

(2)

(A) If a project that has become infeasible is a project for which the county is responsible, an ordinance or resolution of the county shall be required determining that the project has become infeasible.

(B) If a project that has become infeasible is a municipal project, an ordinance or resolution of the municipality responsible for the project shall be required determining that the project has become infeasible. Upon its approval by the municipality, such ordinance or resolution shall be transmitted to the governing authority of the county. The county governing authority shall rely on the determination by the municipality that the municipal project has become infeasible.

(C) If a project that has become infeasible is a joint project of the county or a county authority and one or more municipalities or a joint project of two or more municipalities, an ordinance or resolution of all of the jurisdictions involved in the joint project shall be required determining that the project has become infeasible.

(3) If the governing authority desiring to determine that a project is infeasible has incurred or entered into financing for such project, whether through an intergovernmental contract, a multiyear lease or purchase contract under Code Section 36-60-13, or other form of indebtedness, no such ordinance or resolution shall be adopted until the governing authority discharges in full the obligation incurred or provides for the defeasance of such obligation.

(c) Upon the adoption of the resolution or ordinance required by subsection (b) of this Code section, the tax shall continue to be imposed for the same period of time and for the raising of the same amount of revenue as originally authorized. Subject to approval in a referendum required by subsection (d) of this Code section, the county, or any municipality if the infeasible project is a project owned or operated by the municipality, or those entities that are part of a joint project, may expend the previously collected and future proceeds of the tax, or such portion thereof as was intended for the purpose that has been determined to be infeasible if the tax were imposed for more than one purpose, to reduce any general obligation indebtedness of the affected jurisdiction within the special district other than indebtedness incurred pursuant to this part, or by paying such proceeds into the general fund of the county or municipality to be used for the purpose of reducing ad valorem taxes, or both. In the event of a joint project in which there is an intergovernmental agreement apportioning the project, the proceeds shall be divided among the entities to such joint agreement according to such apportionment. In the event of a joint project in which there is no agreement apportioning the project, the proceeds shall be divided equally among the entities to the joint project.

(d)

(1) Upon the adoption of the resolution or ordinance required by subsection (b) of this Code section, the governing authority of the county shall notify the county election superintendent by forwarding to the superintendent a copy of a resolution or ordinance calling for the modification of the purpose for which proceeds of the tax authorized by this part may be expended. Such ordinance or resolution shall specify the modified purpose for which the balance of proceeds of the tax are to be used and an estimate of the amount of the proceeds available to be used for the modified purpose.

(2) Upon receipt of the resolution or ordinance required by this subsection, the election superintendent shall issue the call for an election for the purpose of submitting to the voters of the county within the special district the question of modifying the project or projects for which the proceeds of the levy may be expended. The election superintendent shall issue the call and shall conduct the election, in conjunction with the next election held, to submit to the electors of the special district the imposition of a tax under this part and shall conduct the election in the manner specified in subsection (b) of Code Section 48-8-111.

(3) The ballot submitting a question of the approval of the modified purpose for a levy previously approved by the electors of the county within the special district as authorized by this Code section shall have written or printed thereon the following:

"( ) YES Shall a capital outlay project consisting of approved for use of proceeds of the special 1 percent sales and use tax imposed in the special district of _____ County in a referendum on _____ be modified so as to authorize use of such
( ) NO proceeds for the purpose of (reducing debt, reducing as valorem taxes, or reducing debt and ad valorem taxes) of the (county) (municipality)?"

(4) If there are multiple projects to be submitted to the electors for approval of modified purpose, there shall be one question for all projects of the county or its authorities, one question for all projects of municipalities, and one question for joint projects.

(5) All persons desiring to vote in favor of modifying the project or projects shall vote "Yes," and all persons opposed to modifying the project or projects shall vote "No." If more than one-half of the votes cast are in favor of modifying the project or projects, then the proceeds of the tax imposed as provided in this part shall be used for such modified purpose; otherwise, the proceeds of the tax shall not be used for such modified purpose. The election superintendent shall hold and conduct the election under the same rules and regulations as govern special elections. The superintendent shall 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 paid from county funds.

(e) This Code section shall not apply to a board of education which levies the sales tax for educational purposes pursuant to Part 2 of this article and Article VIII, Section VI, Paragraph IV of the Constitution.

§ 48-8-124. ENFORCEMENT

The superior courts of this state shall have jurisdiction to enforce compliance with the provisions of this part, including the power to grant injunctions or other equitable relief. In addition to any action that may be brought by any person or entity, the Attorney General shall have authority to bring enforcement actions, either civil or criminal, in his or her discretion as may be appropriate to enforce compliance with this part.

SPLOST Timeline

Special Purpose Local Option Sales Tax Implementation
[O.C.G.A. § 48-8-111 (a)]

Note: When counting days in using this timeline, count weekend days and holidays unless the weekend day or holiday falls on the last day of the specified period of time. O.C.G.A. §§ 1-3-1(13); 21-2-14.

ACTION:	TIMELINE:
Board of commissioners sends notice inviting mayors to a meeting to discuss SPLOST projects. Notice must specify time, place, and purpose of meeting.	Notice must be mailed or delivered to each mayor at least 10 days prior to the meeting.
Meeting is held with municipal officials to discuss potential SPLOST projects, including possible municipal projects.	Meeting must take place at least 30 days prior to the call for the election.
Board of commissioners adopts a resolution calling for imposition of the SPLOST. Resolution must contain a list of projects, the estimated cost of each project and the total time period of the tax levy.	Resolution is adopted after the meeting with the municipal officials, but prior to the call for election.
Board of commissioners forwards a copy of the resolution to the county election superintendent.	After adoption of the resolution.
County election superintendent issues the call for the referendum and publishes notice in a newspaper of general circulation as required by law.	The call is issued by the county election superintendent after receiving the resolution from the county. The call must be at least 90 days before the date of the special election at which the SPLOST question will be voted on, if it is held in conjunction with a general primary or general election. If the SPLOST election is not held in conjunction with a general primary or general election, the call must be at least 29 days before the SPLOST. (See Resources, Call for Election Defined, p. 68).
Referendum is held and projects are approved or disapproved by voters.	

SPLOST Checklist

_____ Work with constituents to solicit proposed projects.

_____ Develop proposals for county SPLOST projects. Use capital improvements plan, if available.

_____ Request municipalities to develop proposals for municipal SPLOST projects and to submit those projects to the county for compilation.

_____ Send notice to mayors inviting them to meeting to discuss compilation of SPLOST projects.

_____ Hold meeting to discuss projects and to reach decision on whether allocation of proceeds will be through Method 1 (p. 20) or Method 2 (p. 21).

_____ Adopt resolution authorizing signature of intergovernmental agreement (see p. 11).

_____ Prepare and sign intergovernmental agreement, if appropriate (see p. 11).

_____ Adopt resolution calling for the imposition of a SPLOST (see p. 11).

_____ Forward a copy of the adopted resolution to the county election superintendent.

_____ Issue call for election (county election superintendent).

_____ Publish notice of election (county election superintendent).

_____ Hold referendum on SPLOST.

_____ Certify election results to the secretary of state and the state revenue commissioner.

_____ If referendum is approved, send copy of resolution and ballot language to state revenue commissioner. Include intergovernmental agreement, if one is executed.

Model SPLOST Intergovernmental Agreement

STATE OF GEORGIA
COUNTY OF _____

INTERGOVERNMENTAL AGREEMENT
FOR THE USE AND DISTRIBUTION OF PROCEEDS FROM THE [*YEAR*]
SPECIAL PURPOSE LOCAL OPTION SALES TAX
FOR CAPITAL OUTLAY PROJECTS

THIS AGREEMENT is made and entered this the [ ] day of [*month*], [*year*] by and between _____ County, a political subdivision of the State of Georgia (the "County"), and the City of _____, the City of _____, and the City of_____, municipal corporations of the State of Georgia (the "Municipalities", individually and collectively).

WITNESSETH:

WHEREAS, O.C.G.A. § 48-8-110 *et seq.* (the "Act"), authorizes the levy of a one percent County Special Purpose Local Option Sales Tax (the "SPLOST") for the purpose of financing capital outlay projects for the use and benefit of the County and qualified municipalities within the County; and

WHEREAS, the County and Municipalities met to discuss possible projects for inclusion in the SPLOST referendum on the [ ] day of [month], [year] in conformance with the requirements of O.C.G.A. § 48-8-111 (a); and

WHEREAS, the County and the Municipalities have negotiated a division of the Special Purpose Local Option Sales Tax proceeds as authorized by the Act.

NOW, THEREFORE, in consideration of the mutual promises and understandings made in this Agreement, and for other good and valuable consideration, the County and the Municipalities consent and agree as follows:

SECTION 1. REPRESENTATIONS AND MUTUAL COVENANTS

(A) The County makes the following representations and warranties which may be specifically relied upon by all parties as a basis for entering this Agreement:

(i) The County is a political subdivision duly created and organized under the Constitution of the State of Georgia;

(ii) The governing authority of the County is duly authorized to execute, deliver and perform this Agreement; and

(iii) This Agreement is a valid, binding, and enforceable obligation of the County; and

(iv) The County will take all actions necessary to call an election to be held in all voting precincts in the County on the [ ] day of [*month*], [*year*] for the purpose of submitting to the voters of the County for their approval, the question of whether or not a SPLOST shall be imposed on all sales and uses within the special district of [*name*] County for a period of [#] quarters, commencing on the [ ] day of [*month*], [*year*], to raise an estimated [*$*] to be used for funding the projects specified in Exhibit A attached hereto.

(B) Each of the Municipalities makes the following representations and warranties which may be specifically relied upon by all parties as a basis for entering this Agreement:

(i) Each Municipality is a municipal corporation duly created and organized under the laws of the State of Georgia;

(ii) The governing authority of each Municipality is duly authorized to execute, deliver and perform this Agreement;

(ii) This Agreement is a valid, binding, and enforceable obligation of each Municipality;

(iv) Each Municipality is a qualified municipality as defined in O.C.G.A. §48-8-110 (4); and

(v) Each Municipality is located entirely or partially within the geographic boundaries of the special tax district created in the County.

(C) It is the intention of the County and Municipalities to comply in all respects with O.C.G.A. § 48-8-110 *et seq*. and all provisions of this Agreement shall be construed in light of O.C.G.A. § 48-8-110 *et seq*.

(D) The County and Municipalities agree to promptly proceed with the acquisition, construction, equipping, and installation of the projects specified in Exhibit A of this Agreement and in accordance with the priority order referenced in Section 8 of this Agreement.

(E) The County and Municipalities agree that each approved SPLOST project associated with this Agreement shall be maintained as a public facility and in public ownership. If ownership of a project financed pursuant to this Agreement is transferred to private ownership, the proceeds of the sale shall, for the purposes of this Agreement, be deemed excess funds and disposed of as provided under O.C.G.A. § 48-8-121 (g)(2).

(F) The County and Municipalities agree to maintain thorough and accurate records concerning receipt of SPLOST proceeds and expenditures for each project undertaken by the respective county or municipality as required fulfilling the terms of this Agreement.

SECTION 2. CONDITIONS PRECEDENT

(A) The obligations of the County and Municipalities pursuant to this Agreement are conditioned upon the adoption of a resolution of the County calling for the imposition of the SPLOST in accordance with the provisions of O.C.G.A. § 48-8-111 (a).

(B) This Agreement is further conditioned upon the approval of the proposed imposition of the SPLOST by the voters of the County in a referendum to be held in accordance with the provisions of O.C.G.A. § 48-8-111 (b) through (e).

(C) This Agreement is further conditioned upon the collecting of the SPLOST revenues by the state revenue commissioner and transferring same to the County.

SECTION 3. EFFECTIVE DATE AND TERM OF THE TAX

The SPLOST, subject to approval in an election to be held on [*date*], shall continue for a period of [state time *period in years or quarters*] with collections beginning on [*date the state revenue commissioner specifies as the collection start date*].

SECTION 4. EFFECTIVE DATE AND TERM OF THIS AGREEMENT

This Agreement shall commence upon the date of its execution and shall terminate upon the later of:

(A) The official declaration of the failure of the election described in this Agreement;

(B) The expenditure by the County and all of the Municipalities of the last dollar of money collected from the Special Purpose Local Option Sales Tax after the expiration of the Special Purpose Local Option Sales Tax; or

(C) The completion of all projects described in Exhibit A.

SECTION 5. COUNTY SPLOST FUND; SEPARATE ACCOUNTS; NO COMMINGLING

(A) A special fund or account shall be created by the County and designated as the [*year passed*] [*county name*] Special Purpose Local Option Sales Tax Fund ("SPLOST Fund"). The County shall select a local bank which shall act as a depository and custodian of the SPLOST Fund upon such terms and conditions as may be acceptable to the County.

(B) Each Municipality shall create a special fund to be designated as the [*year passed*] [*municipality name*] Special Purpose Local Option Sales Tax Fund. Each Municipality shall select a local bank which shall act as a depository and custodian of the SPLOST proceeds received by each Municipality upon such terms and conditions as may be acceptable to the Municipality.

(C) All SPLOST proceeds shall be maintained by the County and each Municipality in the separate accounts or funds established pursuant to this Section. Except as provided in Section 6, SPLOST proceeds shall not be commingled with other funds of the County or Municipalities and shall be used exclusively for the purposes detailed in this Agreement. No funds other than SPLOST proceeds shall be placed in such funds or accounts.

SECTION 6. PROCEDURE FOR DISBURSEMENT OF SPLOST PROCEEDS

(A) Upon receipt by the County of SPLOST proceeds collected by the state department of revenue, the County shall immediately deposit said proceeds in the SPLOST Fund. The monies in the SPLOST Fund shall be held and applied to the cost of acquiring, constructing and installing the County capital outlay projects listed in Exhibit A and as provided in Paragraph B of this Section.

(B) The County, following deposit of the SPLOST proceeds in the SPLOST Fund, shall within 10 business days disburse the SPLOST proceeds due to each Municipality according to the schedule in Exhibit A. The proceeds shall be deposited in the separate funds established by each Municipality in accordance with Section 5 of this Agreement.

(C) Should any Municipality cease to exist as a legal entity before all funds are distributed under this Agreement, that Municipality's share of the funds subsequent to dissolution shall be paid to the County as part of the County's share unless an act of the Georgia General Assembly makes the defunct Municipality part of another successor municipality. If such an act is passed, the defunct Municipality's share shall be paid to the successor Municipality in addition to all other funds to which the successor Municipality would otherwise be entitled.

SECTION 7. PROJECTS

All capital outlay projects, to be funded in whole or in part from SPLOST proceeds, are listed in Exhibit A which is attached hereto and made part of this Agreement.

SECTION 8. PRIORITY AND ORDER OF PROJECT FUNDING

Projects shall be fully or partially funded and constructed in accordance with the schedule found in Exhibit A of this Agreement. Except as provided in Paragraph B and Paragraph C of Section 9 of this Agreement, any change to the priority or schedule must be agreed to in writing by all parties to this Agreement.

SECTION 9. COMPLETION OF PROJECTS

(A) The County and Municipalities acknowledge that the costs shown for each project described in Exhibit A are estimated amounts.

(B) If a county project has been satisfactorily completed at a cost less than the estimated cost listed for that project in Exhibit A, the County may apply the remaining unexpended funds to any other county project in Exhibit A.

(C) If a municipal project has been satisfactorily completed at a cost less than the estimated cost listed for that project in Exhibit A, the Municipality may apply the remaining unexpended funds to any other project included for that Municipality in Exhibit A.

(D) The County and Municipalities agree that each approved SPLOST project associated with this Agreement shall be completed or substantially completed within five years after the termination of the SPLOST. Any SPLOST proceeds held by a County or Municipality at the end of the five year period shall, for the purposes of this Agreement, be deemed excess funds and disposed of as provided under O.C.G.A. § 48-8-121 (g)(2).

SECTION 10. CERTIFICATE OF COMPLETION

Within thirty (30) days after the acquisition, construction or installation of a municipal project listed in Exhibit A is completed, the Municipality owning the project shall file with the County a Certificate of Completion signed by the mayor or chief elected official of the respective Municipality, setting forth the date on which the project was completed, and the final cost of the project.

SECTION 11. EXPENSES

The County shall administer the SPLOST Fund to effectuate the terms of this Agreement and shall be reimbursed for the actual costs of administration of the SPLOST Fund. Furthermore, the County and Municipalities shall be jointly responsible on a per capita basis for the cost of holding the SPLOST election. The County shall be reimbursed for the costs of the election including the Municipalities' share of such costs out of SPLOST proceeds deposited in the SPLOST Fund.

SECTION 12. AUDITS

(A) During the term of this Agreement, the distribution and use of all SPLOST proceeds deposited in the SPLOST Fund and each Municipal fund shall be audited annually by an independent certified public accounting firm in accordance with O.C.G.A. § 48-8-121 (a)(2). The County and each Municipality receiving SPLOST proceeds shall be responsible for the cost of their respective audits. The County and the Municipalities agree to cooperate with the independent certified public accounting firm in any audit by providing all necessary information.

(B) Each Municipality shall provide the County a copy of the audit of the distribution and use of the SPLOST proceeds by the Municipality.

SECTION 13. NOTICES

All notices, consents, waivers, directions, requests or other instruments or communications provided for under this Agreement shall be deemed properly given when delivered personally or sent by registered or certified United States mail, postage prepaid, as follows:

[For the county and each municipality that is party to the Agreement, provide the position title and complete mailing address for service of the notices]

SECTION 14. ENTIRE AGREEMENT

This Agreement, including any attachments or exhibits, constitutes all of the understandings and agreements existing between the County and the Municipalities with respect to distribution and use of the proceeds from the Special Purpose Local Option Sales Tax. Furthermore, this Agreement supersedes all prior agreements, negotiations and communications of whatever type, whether written or oral, between the parties hereto with respect to distribution and use of said SPLOST.

SECTION 15. AMENDMENTS

This Agreement shall not be amended or modified except by agreement in writing executed by the governing authorities of the County and the Municipalities.

SECTION 16. GOVERNING LAW

This Agreement shall be deemed to have been made and shall be construed and enforced in accordance with the laws of the State of Georgia.

SECTION 17. SEVERABILITY

Should any phrase, clause, sentence, or paragraph of this Agreement be held invalid or unconstitutional, the remainder of the Agreement shall remain in full force and effect as if such invalid or unconstitutional provision were not contained in the Agreement unless the elimination of such provision detrimentally reduces the consideration that any party is to receive under this Agreement or materially affects the operation of this Agreement.

SECTION 18. COMPLIANCE WITH LAW

The County and the Municipalities shall comply with all applicable local, state, and federal statutes, ordinances, rules and regulations.

SECTION 19. NO CONSENT TO BREACH

No consent or waiver, express or implied, by any party to this Agreement, to any breach of any covenant, condition or duty of another party shall be construed as a consent to or waiver of any future breach of the same.

SECTION 20. COUNTERPARTS

This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

SECTION 21. MEDIATION

The County and Municipalities agree to submit any controversy arising under this Agreement to mediation for a resolution. The parties to the mediation shall mutually select a neutral party to serve as mediator. Costs of mediation shall be shared equally among the parties to the mediation.

IN WITNESS WHEREOF, the County and the Municipalities acting through their duly authorized agents have caused this Agreement to be signed, sealed and delivered for final execution by the County on the date indicated herein.

COUNTY OF _____, GEORGIA

By: _____ ATTEST: _____
[*Name*] Chair Clerk
(Seal)

MUNICIPALITY OF _____, GEORGIA

By: _____ ATTEST: _____
[*Name*] Mayor Clerk
(Seal)

MUNICIPALITY OF _____, GEORGIA

By: _____ ATTEST: _____
[*Name*] Mayor Clerk
(Seal)

MUNICIPALITY OF _____, GEORGIA

By: _____ ATTEST: _____
[*Name*] Mayor Clerk
(Seal)

EXHIBIT "A"

The language of this exhibit must be tailored individually to each SPLOST intergovernmental agreement. The exhibit must list all projects to be included on the referendum and the estimated cost of each project. The projects should be categorized by jurisdictions receiving the funds. For example, all projects funded through the county's share of SPLOST revenues should be labeled as a county project. Finally, a distribution schedule must be included establishing a method and time frame for allocating revenues to each municipality and a prioritization of constructing projects if needed. Below are a few examples.

EXAMPLE #1

Distribution of Proceeds: Each project shall be fully funded in the order indicated by its priority ranking in the table below.

2016 SPLOST Revenue Estimate: 5 million dollars over the next 6 years

Project	County/Municipality	Estimated Cost	Priority
Fire Equipment	County	$100,000	1
Road, Street and Bridge Projects	County	$2,900,000	3
Tennis Courts	Municipality A	$150,000	2
Road Street and Bridge Projects	Municipality A	$1,200,000	5
Parking Deck	Municipality B	$650,000	4

EXAMPLE #2

Distribution of Proceeds: All projects shall be funded in accordance with the table below. SPLOST funds shall first be allocated to Priority 1 projects pro rata based on the relative costs of the Priority 1 projects. After Priority 1 projects are fully funded, SPLOST proceeds will be allocated to Priority 2 projects pro rata. After the Priority 2 projects are fully funded, SPLOST proceeds will be allocated to the Priority 3 project.

2016 SPLOST Revenue Estimate: 5 million dollars over the next 6 years

Project	County/Municipality	Estimated Cost	Priority	Pro Rata
Fire Equipment	County	$100,000	1	8%
Road, Street and Bridge Projects	County	$2,900,000	2	82%
Tennis Courts	Municipality A	$150,000	3	100%
Road Street and Bridge Projects	Municipality A	$1,200,000	1	92%
Parking Deck	Municipality B	$650,000	2	18%

EXAMPLE #3

Distribution of Proceeds: All projects have equal priority and shall receive a pro rata allocation of SPLOST funds on a monthly basis in accordance with the table below.

2016 SPLOST Revenue Estimate: 5 million dollars over the next 6 years

Project	County/Municipality	Estimated Cost	Pro Rata
Fire Equipment	County	$100,000	2%
Road, Street and Bridge Projects	County	$2,900,000	58%
Tennis Courts	Municipality A	$150,000	3%
Road Street and Bridge Projects	Municipality A	$1,200,000	24%
Parking Deck	Municipality B	$650,000	13%

Model Resolution Approving a SPLOST Intergovernmental Agreement and Authorizing the Chairman to Execute the Agreement on Behalf of the County

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF _____ COUNTY, GEORGIA APPROVING AND AUTHORIZING EXECUTION, BY THE CHAIRMAN OF THE _____ COUNTY BOARD OF COMMISSIONERS, OF AN INTERGOVERMENTAL AGREEMENT BETWEEN THE COUNTY AND CERTAIN MUNICIPALITIES OF _____ COUNTY CONCERNING A COUNTY ONE PERCENT SPECIAL PURPOSE LOCAL OPTION SALES AND USE TAX ENACTED PURSANT TO O.C.G.A. § 48-8-110 ET SEQ.; REPEALING PRIOR RESOLUTIONS IN CONFLICT; AND FOR OTHER PURPOSES.

WHEREAS, O.C.G.A. § 48-8-110 *et seq.* authorizes the imposition of a one percent county special purpose local option sales and use tax (SPLOST) for the purposes *inter alia* of financing capital outlay projects to be owned or operated by the County and one or more municipalities; and

WHEREAS, _____ County, Georgia, the Municipality of _____, Georgia, and the Municipality of _____, Georgia desire to utilize the proceeds of a SPLOST for one or more of the purposes authorized under O.C.G.A. § 48-8-111 (a)(1).

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of _____ County, Georgia as follows:

SECTION 1.

The attached intergovernmental agreement addressing the disbursement of SPLOST proceeds among _____ County, the Municipality of _____, and the Municipality of _____ and other related matters is hereby approved.

SECTION 2.

The Chairman of the _____ County Board of Commissioners is authorized to execute the intergovernmental agreement on behalf of the Board of Commissioners of _____ County, Georgia and affix the seal of the County thereto.

SECTION 3.

All resolutions, or parts of resolutions, in conflict herewith are repealed.

This the _____ day of _____, 20___.

_____**COUNTY, GEORGIA**

By: _____
[*Name*] Chair

ATTEST: _____
County Clerk

Model Resolution Calling for an Election to Impose a County Special Purpose Local Option Sales Tax

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF _____ COUNTY, GEORGIA IMPOSING A COUNTY ONE PERCENT SALES AND USE TAX AS AUTHORIZED BY PART 1 OF ARTICLE 3 OF CHAPTER 8 OF TITLE 48 OF THE OFFICIAL CODE OF GEORGIA ANNOTATED, SPECIFYING THE PURPOSES FOR WHICH THE PROCEEDS OF SUCH TAX ARE TO BE USED; SPECIFYING THE PERIOD OF TIME FOR WHICH SUCH TAX SHALL BE IMPOSED; SPECIFYING THE ESTIMATED COST OF THE FACILITIES TO BE FUNDED FROM THE PROCEEDS OF SUCH TAX; SEEKING APPROVAL TO ISSUE GENERAL OBLIGATION DEBT; REQUESTING THE ELECTION SUPERINTENDENT TO CALL AN ELECTION OF THE VOTERS OF _____ COUNTY TO APPROVE THE IMPOSITION OF SUCH SALES AND USE TAX; APPROVING THE FORM OF BALLOT TO BE USED IN SUCH AN ELECTION; AND FOR OTHER PURPOSES.

WHEREAS, Part 1 of Article 3 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated. (the "Act") authorizes the imposition of a county one percent sales and use tax (the "SPLOST") for the purpose, *inter alia*, of financing certain capital outlay projects which include those set forth herein; and

WHEREAS, the Board of Commissioners of _____ County, Georgia (the "Board of Commissioners") has determined that it is in the best interest of the citizens of _____ County, Georgia (the "County") that a one percent SPLOST be imposed in a special district within the County to raise approximately $_____ for the purpose of funding capital outlay projects (the "Projects"); and

WHEREAS, the Board of Commissioners [*delivered/mailed*] a written notice (the "Notice") to the [*mayor/chief elected officer*] in each municipality located within the County regarding the [*imposition/continuation*] of the SPLOST; and

WHEREAS, the Notice contained the date, time, place, and purpose of a meeting at which designated representatives of the County and the City of _____, the City of _____ , and, the City of _____ ("the Municipalities") met and discussed the possible projects for inclusion in the referendum, including municipally owned and operated projects; and

WHEREAS, the Notice was delivered or mailed at least 10 days prior to the date of the meeting, and the meeting was held at least 30 days prior to the issuance of a call for the referendum; and

WHEREAS, the County has entered into an intergovernmental agreement with the Municipalities that are party to the Agreement; and

WHEREAS, the Municipalities represent _____ percent of the total population of the County.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of _____ County, Georgia as follows:

(A) Assuming the question of imposing a County SPLOST is approved by the voters of the special district in the election hereinafter referred to, the SPLOST shall be imposed for the term, purposes and costs as follows:

1. In order to finance the Projects described herein, a SPLOST in the amount of one percent (1%) on all sales and uses in the County is hereby authorized to be levied and collected within the special district created in the County as provided in the Act.

2. The proceeds of such tax are to be used to fund the Projects. The Projects consist of "County Projects" and "Municipal Projects." The County Projects, the Municipal Projects, and the Estimated Costs are set forth below:

County Projects	**Estimated Costs**

Municipal Projects	**Estimated Costs**

3. The SPLOST is to be imposed for a period of [*six (6)*] years.

(B) General Obligation Debt.

1. The County is hereby authorized to issue general obligation debt (the "Debt"), secured by the proceeds of the SPLOST, in a maximum aggregate principal amount of $_____. The proceeds of the Debt, if issued, shall be used to pay a portion of the costs of the County Projects, the Municipal Projects, and the costs of issuing the Debt. The Debt shall bear interest from [*the first day of the first month*] during which the Debt is to be issued or from such other date as may be designated by the County prior to the issuance of the Debt, at a rate(s) to be determined [*in a supplemental resolution to be adopted by the County prior to the issuance of the debt*], which rate shall not exceed ___% per annum. The amount of principal to be paid in each year during the life of the Debt shall be as follows:

Year	**Amount**

2. The proceeds of the Debt shall be deposited by the County in separate funds or accounts as specified in the intergovernmental agreement.

3. The SPLOST proceeds received in any year pursuant to the imposition of such tax, shall first be used for paying debt services requirements on the Debt for any such year before such proceeds are applied to any of the Projects authorized above. Proceeds of the SPLOST not required to be deposited in the separate fund in any year for the payment of principal and interest on the Debt coming due in the current year shall be deposited in a separate fund to be maintained by the County and applied toward funding the Projects to the extent such projects have not been funded with debt proceeds, all as more fully provided for in the Agreement.

4. Any brochures, listings, or other advertisements issued by the Board of Commissioners or by any other person, firm, corporation or association with the knowledge and consent of the Board of Commissioners, shall be deemed to be a statement of intention of the Board of Commissioners concerning the use of the proceeds of the Debt, and such statement of intention shall be binding upon the Board of Commissioners in the expenditure of such Debt or interest received from such Debt to the extent provided in Section 36-8-1 of the Official Code of Georgia Annotated.

(C) Call for the Election; Ballot Form; Notice.

1. The election superintendent of _____ County is hereby requested to call an election in all voting precincts in the County on the [*date*] day of [*month*], [*year*], for the purpose of submitting to the qualified voters of the County the question set forth in paragraph 2, below.

2. The ballots to be used in the election shall have written or printed thereon substantially the following:

"( ) Yes Shall a special one percent sales and use tax be imposed in the special district of _____ _____ County for a period of time not to exceed _____ [*years/quarters*] and for the raising of an estimated amount of $_____ for the purpose of (1) funding [*general list of projects*] for _____County; (2) for funding [*general list of projects*] for the Municipality of _____; and, (3) for [*general list of projects*] for the

( ) No Municipality of _____? If imposition of the tax is approved by the voters, such vote shall also constitute approval of the issuance of general obligation debt of _____ County in the principal amount of $_____ for the above purposes."

3. It is hereby requested that the election be held by the election superintendent of _____ County in accordance with the election laws of the State of Georgia, including, without limitation, the election laws relating to special elections. It is hereby further requested that the election superintendent of _____ County canvass the returns, declare the result of the election, and certify the result to the Secretary of State and to the state revenue commissioner.

4. The election superintendent of _____ County is hereby authorized and requested to publish a notice of the election as required by law in the newspaper in which sheriff's advertisements for the County are published once a week for four weeks immediately preceding the date of the election. The notice of the election shall be in substantially the form attached hereto as Exhibit "A".

(D) The clerk of the Board of Commissioners is hereby authorized and directed to deliver a copy of the resolution to the election superintendent of _____ County, with a request that the election superintendent of _____ County issue the call for an election.

(E) The proper officers and agents of the County are hereby authorized to take any and all further actions as may be required in connection with the imposition of SPLOST.

(F) The Resolution shall take effect immediately upon its adoption.

This the _____ day of _____, 20___.

_____**COUNTY, GEORGIA**

By: _____
[*Name*] Chair

ATTEST: _____
County Clerk

EXHIBIT "A"

Notice of Election

TO THE QUALIFIED VOTERS OF _____ COUNTY, GEORGIA

NOTICE IS HEREBY GIVEN that on the [____] day of [*month*], 20__, an election will be held at the regular polling places in all the election districts of _____ County, Georgia ("the County"), at which time there will be submitted to the qualified voters of the county for their determination the question of whether a one percent county special purpose local option sales and use tax (the "SPLOST") shall be imposed on all sales and uses in the special district created in the County for a period of _____ years for the raising of approximately $_____ for the purpose of funding capital outlay projects ("the Projects") specified in the form of the ballot set forth below.

If imposition of the tax is approved by the voters, such vote shall also constitute an approval of the issuance of general obligation debt of the County secured by the SPLOST in the maximum aggregate principal amount not to exceed $_____ ("the Debt.") The proceeds of the Debt, if issued, shall be used to pay the costs of one or more of the Projects and the costs of issuing the Debt.

Sample Annual Report

FY____ Report on Projects Funded through Special Purpose Local Option Sales Tax
(as required by O.C.G.A. § 48-8-122, see Resources, County SPLOST Law, p. 36)

Project*	Year Approved	Original Estimated Cost	Current Estimated Cost	Amount Expended						Amount Expended Current Year	Total Amount Expended to Date	Project Completed this Year	Estimated Completion Date	Project Behind Schedule	Project Underfunded	Excess Proceeds**
				Year 1	Year 2	Year 3	Year 4	Year 5	Year 6							
Project One		$	$	$	$	$	$	$	$	$	$	Y or N		Y or N	Y or N	$
Project Two																
Project Three																
Project Four																
Project Five																

CORRECTIVE ACTIONS

Note: For projects that are behind schedule or underfunded, the annual report must include a statement of what corrective actions the local government plans to implement to address the situation.

*The description of the projects should at least contain the details set forth in the ballot upon which they were approved.

**Excess proceeds are those proceeds of a SPLOST that remain after all approved SPLOST projects listed on the ballot have been completed.

Special Election Dates and Call Requirements

[As of July 1, 2016]

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§ 21-2-540. CONDUCT OF SPECIAL ELECTIONS GENERALLY (EXCERPT)

(a) Every special election shall be held and conducted in all respects in accordance with the provisions of this chapter relating to general elections; and the provisions of this chapter relating to general elections shall apply thereto insofar as practicable and as not inconsistent with any other provisions of this chapter. All special elections held at the time of a general election, as provided by Code Section 21-2-541, shall be conducted by the poll officers by the use of the same equipment and facilities, so far as practicable, as are used for such general election.

(b) At least 29 days shall intervene between the call of a special primary and the holding of same, and at least 29 days shall intervene between the call of a special election and the holding of same. The period during which candidates may qualify to run in a special primary or a special election shall remain open for a minimum of two and one-half days. Special elections which are to be held in conjunction with the presidential preference primary, a state-wide general primary, or state-wide general election shall be called at least 90 days prior to the date of such presidential preference primary, state-wide general primary, or state-wide general election; provided, however, that this requirement shall not apply to special elections held on the same date as such presidential preference primary, state-wide general primary, or state-wide general election but conducted completely separate and apart from such state-wide general primary or state-wide general election using different ballots or voting equipment, facilities, poll workers, and paperwork. Notwithstanding any provision of this subsection to the contrary, special elections which are to be held in conjunction with the state-wide general primary or state-wide general election in 2014 shall be called at least 60 days prior to the date of such state-wide general primary or state-wide general election.

(c)

(2) Notwithstanding any other provision of law to the contrary, a special election to present a question to the voters shall be held only on one of the following dates which is at least 29 days after the date of the call for the special election:

(A) In odd-numbered years, any such special election shall only be held on the third Tuesday in March or on the Tuesday after the first Monday in November; and

(B) In even-numbered years, any such special election shall only be held on:

(i) The date of and in conjunction with the presidential preference primary if one is held that year;

(ii) The date of the general primary; or

(iii) The Tuesday after the first Monday in November.

(d) Except as otherwise provided by this chapter, the superintendent of each county or municipality shall publish the call of the special election.

Call for Elections Defined

[As of July 1, 2016]

§ 21-2-2. DEFINITIONS (EXCERPT)

As used in this chapter, the term:

(3) "Call" or "the call," as used in relation to special elections or special primaries, means the affirmative action taken by the responsible public officer to cause a special election or special primary to be held. The date of the call shall be the date of the first publication in a newspaper of appropriate circulation of such affirmative action.

Borrowing SPLOST Proceeds Not Authorized

Opinions of the Attorney General
Official Opinion 2007-5

To: State Auditor, Monday, October 22, 2007

Re: A county may not borrow from county Special Purpose Local Option Sales Tax (SPLOST) proceeds to fund expenditures other than voter-approved capital projects authorized in the SPLOST statutes.

You have asked whether it is permissible for a county to borrow from county Special Purpose Local Option Sales Tax (hereafter SPLOST) proceeds in order to fund expenditures other than voter-approved capital projects authorized in the SPLOST statutes. *See* O.C.G.A. §§ 48-8-110(1) and 48-8-111.

In pertinent part the statute governing the use of SPLOST proceeds provides as follows:

> The proceeds received from the tax authorized by [O.C.G.A. § 48-8-111] shall be used by the county . . . . exclusively for the purpose or purposes specified in the resolution or ordinance calling for imposition of the tax. *Such proceeds shall be kept in a separate account from other funds* of such county . . . and *shall not in any manner be commingled with other funds* of such county . . . .

O.C.G.A. § 48-8-121(a)(1) (emphasis added)

The Georgia Supreme Court has had occasion to construe the statutory provision set out above in a number of cases. In each such case, the court strictly construed the statutory language with regard to the permissible uses of SPLOST funds. *See Johnston v. Thompson*, 280 Ga. 611 (2006) (county may not use funds from SPLOST imposed to make school system wide technology improvements to provide lap top computers to all middle and high school students); *Haugen v. Henry County*, 277 Ga.743 (2004) (county may not identify any SPLOST funds as "excess" until all projects called for in the resolution are complete); *Dickey v. Storey*, 262 Ga. 452 (1992) (county may not change the site specified in the resolution calling for the imposition of the tax for the purpose of building a government office and center complex).

In addition, in responding to a question regarding the permissible uses of interest accrued on an account maintained to account for SPLOST revenues, I have previously opined that the statutory restrictions set out above require that all accrued interest on the separately maintained SPLOST account also be used exclusively for the approved projects and likewise kept in the separate account maintained for SPLOST revenues. 2001 Op. Att'y Gen. 2001-3.

The plain language of the statute as well as prior construction of statutory language regarding the use of SPLOST funds requires that the SPLOST funds be kept in an account separate from other county funds and withdrawn only for the payment of expenses incurred with regard to the projects approved in the resolution or ordinance calling for the imposition of the tax.

Therefore, it is my official opinion that a county may not borrow from county SPLOST proceeds to fund expenditures other than voter-approved capital projects authorized in the SPLOST statutes.

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House Bill 170 (AS PASSED HOUSE AND SENATE)

By: Representatives Roberts of the 155th, Burns of the 159th, Hamilton of the 24th, England of the 116th, Hatchett of the 150th, and others

A BILL TO BE ENTITLED

AN ACT

To amend various provisions of the Official Code of Georgia Annotated so as to provide for additional revenue necessary for funding transportation purposes in this state; to amend Title 28 of the Official Code of Georgia Annotated, relating to the General Assembly, so as to create the Special Joint Committee on Georgia Revenue Structure; to amend Title 32 of the Official Code of Georgia Annotated, relating to highways, bridges, and ferries, so as to require an annual report from the Department of Transportation; to amend Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, so as to levy a registration fee on alternative fueled vehicles; to amend Chapter 12 of Title 45 of the Official Code of Georgia Annotated, relating to the Governor, so as to limit the Governor's power to suspend the collection of certain motor fuel taxes and require ratification by the General Assembly; to amend Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, so as to reduce the state income tax credits for low-emission vehicles to zero; to provide for the elimination of state sales and use taxes with respect to certain sales of motor fuels; to revise the exemption from sales and use taxes for jet fuel; to provide for revised definitions of certain terms relating to prepaid motor fuel taxes; to provide a limit on local sales taxes on motor fuels; to change the rate and method of computation of the excise tax on motor fuels; to repeal the second motor fuel tax; to provide for editorial revision; to provide for a state fee on hotel or motel room rentals; to amend Part 3 of Article 2 of Chapter 10 of Title 32 of the Official Code of Georgia Annotated, the "Georgia Transportation Infrastructure Bank Act," so as to provide revised criteria for determination of eligible projects by the Transportation Infrastructure Bank; to amend Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to sales and use taxation, so as to change certain provisions relating to the special district transportation sales and use tax pursuant to the Transportation Investment Act of 2010; to provide for future levies to be at a fractional rate; to change procedures and requirements regarding the future imposition of such tax; to change certain provisions regarding the ceiling on the amount of local sales and use taxes; to provide for an additional transportation special purpose local option sales and use tax by counties and municipalities; to provide for definitions, procedures, conditions, and

limitations for the imposition, collection, disbursement, and termination of the tax; to provide for powers, duties, and authority of the state revenue commissioner; to provide for a short title; to provide for appropriations of increases in revenue; to provide for related matters; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

PART I

SECTION 1-1.

Title 28 of the Official Code of Georgia Annotated, relating to the General Assembly, is amended by adding a new chapter to read as follows:

"CHAPTER 12

28-12-1.

(a) There is created the Special Joint Committee on Georgia Revenue Structure which shall consist of 14 members as follows:

(1) The President Pro Tempore of the Senate and the Speaker Pro Tempore of the House of Representatives;

(2) The majority leader of the Senate and the majority leader of the House of Representatives;

(3) The minority leader of the Senate and the minority leader of the House of Representatives;

(4) The chairpersons of the Senate Finance Committee and the House Committee on Ways and Means;

(5) Three members of the Senate to be appointed by the President of the Senate, two from the majority party and one from the minority party; and

(6) Three members of the House of Representatives to be appointed by the Speaker of the House of Representatives, two from the majority party and one from the minority party.

(b) The Special Joint Committee on Georgia Revenue Structure shall elect two persons, one Senator and one Representative, to serve as co-chairpersons of the special joint committee.

28-12-2.

(a) The Special Joint Committee on Georgia Revenue Structure created in Code Section 28-12-1 shall during the 2016 legislative session cause to be introduced in the House of Representatives one or more bills or resolutions relating to tax reform, and such legislation shall, after its introduction, be referred directly and only to the special joint committee.

(b) If the special joint committee recommends that one or more bills or resolutions referred to it do pass or do pass by committee substitute, the measure or measures recommended by the special joint committee shall then be in order for consideration only by the House of Representatives at any time fixed by the Speaker of the House of Representatives. Any such bill or resolution shall be reported directly to the floor of the House of Representatives and shall receive an up or down vote as reported from the special joint committee without amendment.

(c) If one or more bills or resolutions referred by the special joint committee are passed by the House of Representatives, the measure or measures shall then be in order for consideration only by the Senate at any time fixed by the President of the Senate. Any such bill or resolution shall be reported directly to the floor of the Senate and shall receive an up or down vote as reported from the House of Representatives without amendment.

(d) Any bills or resolutions considered as provided for in this Code section shall be read three times on three separate days in each house and shall be considered in compliance with all other requirements of the Constitution.

(e) The rules of the Senate and the House of Representatives for the 2016 legislative session may, as adopted or as amended, contain such provisions as may be necessary or appropriate to comply with the legislative process specified by this Code section.

28-12-3.

This chapter shall stand repealed by operation of law on July 1, 2016."

PART II

SECTION 2-1.

Title 32 of the Official Code of Georgia Annotated, relating to highways, bridges, and ferries, is amended by adding a new Code section to read as follows:

"32-5-27.1.

(a) In addition to the requirements contained in Code Section 32-5-27, the department shall annually prepare and submit to the General Assembly, for approval by the Senate Transportation Committee and the House Committee on Transportation, a ten-year strategic plan that outlines the use of department resources for the upcoming fiscal years.

(b) The Senate Transportation Committee and the House Committee on Transportation shall approve the plan and may make recommendations to the Senate Appropriations Committee and the House Committee on Appropriations for their consideration in developing the budget.

(c) Such plan shall identify at least the following categories and establish a target percentage of resources to be expended and the respective fund sources in each of the following areas:

(1) Construction of new highway projects;

(2) Maintenance of existing infrastructure;

(3) Bridge repairs and replacement;

(4) Safety enhancements; and

(5) Administrative expenses.

(d) Priority shall be given to expenditure of available resources for maintenance, expansion, and improvement of highway infrastructure in the areas of this state most impacted by traffic congestion and to areas of this state in need of highway infrastructure to aid in attracting economic development to the area.

(e) Such plan shall also bring forward all efficiencies found within the bureaucracy of the Department and how those funds have been redirected to road construction."

PART III

SECTION 3-1.

Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is amended by revising paragraph (7) of subsection (l) of Code Section 40-2-86.1, relating to certain special license plates, as follows:

"(7)(A) A special license plate to be issued for alternative fueled vehicles, which license plate shall be similar in design to the license plate issued to all other residents of ~~the~~ this state except that the commissioner shall place a distinctive logo or emblem on the license plate which shall distinguish the vehicle as an alternative fueled vehicle eligible to travel in travel lanes designated for such vehicles under paragraph (4) of subsection (a) of Code Section 32-9-4. The words 'alternative fueled vehicle' shall be imprinted on such special license plate in lieu of the county name decal. The funds raised by the sale of this license plate shall be deposited in the general fund.

(B) As used in this paragraph, the term:

(i) 'Alternative fuel' means ~~methanol, denatured ethanol, and other alcohols; mixtures containing 85 percent or more or such other percentage, but not less than 70 percent, as determined by the United States secretary of energy, by rule as it existed on~~

~~January 1, 1997, to provide for requirements relating to cold start, safety, or vehicle functions, by volume of methanol, denatured ethanol, and other alcohols with gasoline or other fuels; natural gas; liquefied petroleum gas; hydrogen; coal derived liquid fuels; fuels other than alcohol derived from biological materials; electricity including electricity from solar energy; and any other fuel the United States secretary of energy determined by rule as it existed on January 1, 1997, is substantially not petroleum and would yield substantial energy security benefits and substantial environmental benefits~~ electricity, natural gas, and propane.

(ii) 'Alternative fueled vehicle' means~~: (I) Any~~ any vehicle fueled solely by alternative fuel as defined in division (i) of this subparagraph, bi-fuel, or dual fuel~~; or (II) A hybrid vehicle, which means a motor vehicle which draws propulsion energy from onboard sources of stored energy which include an internal combustion or heat engine using combustible fuel and a rechargeable energy storage system; and, in the case of a passenger automobile or light truck, means for any 2000 and later model, a vehicle which has received a certificate of conformity under the Clean Air Act, 42 U.S.C. Section 7401, et seq., and meets or exceeds the equivalent qualifying California low-emission vehicle standard under Section 243(e)(2) of the Clean Air Act, 42 U.S.C. Section 7583(e)(2), for that make and model year or, for any 2004 and later model, a vehicle which has received a certificate that such vehicle meets or exceeds the Bin 5 Tier II emission level established in regulations prescribed by the administrator of the Environmental Protection Agency under Section 202(i) of the Clean Air Act, 42 U.S.C. Section 7521(i), for that make and model year vehicle and which achieves a composite label fuel economy greater than or equal to 1.5 times the Model Year 2002 EPA composite class average for the same vehicle class and which is made by a manufacturer~~.

(C) Pursuant to paragraph (19) of subsection (a) of Code Section 40-2-151, the applicant for a special license plate for any alternative fueled vehicle shall provide proof that he or she has paid the registration fee prescribed therein prior to the issuance of any special license plate under this paragraph.″

SECTION 3-2.

Said title is further amended by adding a new paragraph to subsection (a) of Code Section 40-2-151, relating to the annual license fees for the operation of vehicles, to read as follows:

″(19)(A)(i) Upon registration of an alternative fueled vehicle not operated for commercial purposes 200.00

(ii) Upon registration of an alternative fueled vehicle operated for commercial purposes 300.00

164 (B)(i) As used in this paragraph, the term 'alternative fueled vehicle' shall have the
165 same meaning as in division (l)(7)(B)(ii) of Code Section 40-2-86.1; provided,
166 however, that the fees in this paragraph shall not be assessed on vehicles which
167 operate primarily on compressed natural gas, liquefied natural gas, or liquefied
168 petroleum gas.
169 (ii) The fees in this paragraph shall be in addition to any other fee imposed on the
170 vehicle by this Code section.
171 (iii) The fees in this paragraph shall be automatically adjusted on an annual basis by
172 multiplying the percentage of increase or decrease in fuel efficiency from the previous
173 year as measured by using the average of combined miles per gallon published in the
174 United States Department of Energy Fuel Economy Guide against the current fee, and
175 the resulting increase or decrease shall be added or subtracted from the fee. This
176 preliminary fee adjustment shall then be multiplied by the increase or decrease in the
177 Consumer Price Index percentage for the applicable year, and the result will be added
178 or subtracted from the preliminary fee to produce the fee for the year. The first
179 adjustment shall be calculated and implemented on July 1, 2016. The Consumer Price
180 Index shall no longer be used after July 1, 2018."

181 **SECTION 3-3.**

182 Said title is further amended by adding a new Code section to read as follows:
183 "40-2-151.1.
184 (a) As used in this Code section, the term 'transportation purposes' means and includes
185 roads, bridges, public transit, rails, airports, buses, seaports, including without limitation
186 road, street, and bridge purposes pursuant to paragraph (1) of subsection (b) of Code
187 Section 48-8-121, and all accompanying infrastructure and services necessary to provide
188 access to these transportation facilities, including general obligation debt and other
189 multiyear obligations issued to finance such purposes.
190 (b) In conjunction with the payment of fees for the licensing of the operation of vehicles
191 pursuant to Code Section 40-2-151, certain heavy vehicles registered in Georgia shall pay
192 a highway impact fee. The annual fees shall be as follows for each such vehicle registered:
193 (1) 15,500 lbs. up to 26,000 lbs. . . . . $ 50.00
194 (2) Greater than 26,001 lbs. 100.00
195 (c) It is the intention of the General Assembly, subject to appropriations, that the fees
196 collected pursuant to subsection (b) of this Code section shall be made available and used
197 exclusively for transportation purposes in this state.
198 (d) If the amount collected under this Code section is ever not appropriated for a fiscal
199 year as provided by subsection (c) of this Code section, as determined jointly by the House

Budget and Research Office and the Senate Budget and Evaluation Office, then the amount collected shall be reduced by 50 percent. Upon the conclusion of a second fiscal year in which an amount is not so appropriated, this Code section shall stand repealed and reserved, and such fees shall cease to be collected, on the date the appropriations Act for such fiscal year becomes effective. Such budget offices shall certify any such lack of appropriation to the Code Revision Commission for purposes of updating the Code in accordance with this subsection."

PART IV

SECTION 4-1.

Chapter 12 of Title 45 of the Official Code of Georgia Annotated, relating to the Governor, is amended by revising Code Section 45-12-22, relating to the Governor's authority to suspend the collection of taxes, as follows:

"45-12-22.

(a) Except as provided in subsection (b) of this Code section, the ~~The~~ Governor may suspend the collection of taxes, or any part thereof, due the state until the meeting of the next General Assembly but no longer; but he or she shall not otherwise interfere with the collection of taxes.

(b) Unless there has been a state of emergency declaration by the Governor, the Governor shall not suspend or modify in any manner the collection of any rate of state motor fuel under Code Section 48-9-3 as it applies to sales of motor fuel and aviation gasoline as such terms are defined in Code Section 48-9-2. Any suspension or modification of any rate of state motor fuel taxes under this subsection by the Governor shall be effective only until the next meeting of the General Assembly which must ratify such suspension or modification by a two-thirds' vote of both chambers. In the event the General Assembly fails to ratify the Governor's actions, state motor fuel taxes under this subsection shall be collected at the rate specified absent such suspension or modification and any amounts unpaid due to such suspension or modification shall be collected using such rate."

PART V

SECTION 5-1.

Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is amended by revising subsection (b) of Code Section 48-7-40.16, relating to state income tax credits for low-emission vehicles, as follows:

232 ″(b)(1) A tax credit is allowed against the tax imposed under this article to a taxpayer for
233 the purchase or lease of a new low-emission vehicle or new zero emission vehicle that
234 is registered in the State of Georgia. The amount of the credit shall be:
235 ~~(1)~~(A) For any new low-emission vehicle, 10 percent of the cost of such vehicle or
236 $2,500.00, whichever is less; and
237 ~~(2)~~(B) For any new zero emission vehicle, 20 percent of the cost of such vehicle or
238 $5,000.00, whichever is less.
239 (2) For any new low-emission vehicle or new zero emission vehicle purchased or leased
240 on or after July 1, 2015, the amount of the credit shall be $0.00.″

241 **SECTION 5-2.**

242 Said title is further amended by revising paragraphs (23) and (24) of Code Section 48-8-2,
243 relating to definitions regarding state sales and use taxes, as follows:
244 ″(23) 'Prepaid local tax' means any local sales and use tax which is levied on the sale or
245 use of motor fuel and imposed in an area consisting of less than the entire state, however
246 authorized, including, but not limited to, such taxes authorized by or pursuant to
247 constitutional amendment; by or pursuant to Section 25 of an Act approved March 10,
248 1965 (Ga. L. 1965, p. 2243), as amended, known as the 'Metropolitan Atlanta Rapid
249 Transit Authority Act of 1965'; or by or pursuant to Article 2, 2A, 3, or 4 of this chapter.
250 Such tax is based on the same average retail sales price ~~as set forth in subparagraph~~
251 ~~(b)(2)(B) of Code Section 48-9-14~~ as compiled by the Energy Information Agency of the
252 United States Department of Energy, the Oil Pricing Information Service, or a similar
253 reliable published index less taxes imposed under Code Section 48-9-3 and all local sales
254 and use or excise taxes levied on motor fuel. Such price shall be used to compute the
255 prepaid sales tax rate for local jurisdictions by multiplying such retail price by the
256 applicable rate imposed by the jurisdiction. The person collecting and reporting the
257 prepaid local tax for the local jurisdiction shall provide a schedule as to which jurisdiction
258 these collections relate. This determination shall be based upon the shipping papers of
259 the conveyance that delivered the motor fuel to the dealer or consumer in the local
260 jurisdiction. A seller may rely upon the representation made by the purchaser as to which
261 jurisdiction the shipment is bound and prepare shipping papers in accordance with those
262 instructions.
263 (24) ~~'Prepaid state tax' means the tax levied under Code Section 48-8-30 in conjunction~~
264 ~~with Code Section 48-8-3.1 and Code Section 48-9-14 on the retail sale of motor fuels~~
265 ~~for highway use and collected prior to that retail sale. This tax is based upon the average~~
266 ~~retail sales price as set forth in Code Section 48-9-14~~ Reserved.″

SECTION 5-3.

Said title is further amended by revising paragraph (33.1) of Code Section 48-8-3, relating to exemptions from state sales and use taxes, as follows:

"(33.1)(A) The sale or use of jet fuel to or by a qualifying airline at a qualifying airport, to the extent provided in subparagraphs (B) and (C) of this paragraph.

(B)~~(i) For the period of time beginning July 1, 2011, and ending June 30, 2012, the sale or use of jet fuel to or by a qualifying airline at a qualifying airport shall be exempt from state sales and use tax until the aggregate state sales and use tax liability of the taxpayer during such period with respect to jet fuel exceeds $20 million, computed as if the exemption provided in this division was not in effect during such period. Thereafter during such period, the exemption provided by this division shall not apply to the sale or use of jet fuel to or by the qualifying airline. For purposes of this division, the terms 'qualifying airline' and 'qualifying airport' shall have the same meanings as those terms were defined under the prior provisions of this paragraph as it existed immediately prior to July 1, 2012.~~

~~(ii)~~ For the period of time beginning July 1, 2012, and ending on June 30, 2015, the sale or use of jet fuel to or by a qualifying airline at a qualifying airport shall be exempt from 1 percent of the 4 percent state sales and use tax.

(C) The sale or use of jet fuel to or by a qualifying airline at a qualifying airport shall be exempt at all times from the sales or use tax levied and imposed as authorized pursuant to Part 1 of Article 3 of this chapter. As used in this subparagraph, the term 'qualifying airport' means any airport in this state that has had more than 750,000 takeoffs and landings during a calendar year, and the term 'qualifying airline' shall have the same meaning as set forth in subparagraph (E) of this paragraph.

(D) Except as provided for in subparagraph (C) of this paragraph, this exemption shall not apply to any other local sales and use tax levied or imposed at any time in any area consisting of less than the entire state, however authorized, not to exceed the rate at which such taxes were levied as of January 1, 2014, including, but not limited to, such taxes authorized by or pursuant to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as amended, the 'Metropolitan Atlanta Rapid Transit Authority Act of 1965,' or such taxes as authorized by or pursuant to Part 2 of Article 3 or Article 2, 2A, or 4 of this chapter.

(E) For purposes ~~of division (ii)~~ of subparagraph (B) of this paragraph and paragraph (2) of subsection (d) of Code Section 48-8-241, a 'qualifying airline' shall mean any person which is authorized by the Federal Aviation Administration or appropriate agency of the United States to operate as an air carrier under an air carrier operating

certificate and which provides regularly scheduled flights for the transportation of passengers or cargo for hire.

(F) For purposes ~~of division (ii)~~ of subparagraph (B) of this paragraph and paragraph (2) of subsection (d) of Code Section 48-8-241, the term 'qualifying airport' means a certificated air carrier airport in Georgia.

(G) On or after July 1, 2017, revenue derived from the levy of sales and use taxes on jet fuel shall be used for a state aviation program or airport related purposes to the extent required to comply with 49 U.S.C. Sections 47107(b) and 47113. Any portion of such revenue so derived which is in excess of the amount required for purposes of such compliance with federal law may be appropriated by the General Assembly for other purposes.

~~(G)~~(H) The commissioner shall adopt rules and regulations to carry out the provisions of this paragraph;″

SECTION 5-4.

Said title is further amended by revising subsections (a) and (b) of Code Section 48-8-3.1, relating to sales tax exemptions as applied to motor fuels, as follows:

″(a) Except as provided in subsection (b) of this Code section, sales of motor fuels as defined in paragraph (9) of Code Section 48-9-2 shall be exempt from the ~~first 3 percent of the~~ state sales and use taxes levied or imposed by this article ~~and shall be subject to the remaining 1 percent of the sales and use taxes levied or imposed by this article~~.

(b) Sales of motor fuel, other than gasoline, ~~which motor fuel other than gasoline is~~ purchased for purposes other than propelling motor vehicles on public highways as defined in Article 1 of Chapter 9 of this title shall be fully subject to the ~~4 percent~~ state sales and use taxes levied or imposed by this article unless otherwise specifically exempted by this article.″

SECTION 5-5.

Said title is further amended by revising subsection (k) of Code Section 48-8-30, relating to the imposition, rate, and collection of state sales tax, as follows:

″(k) The prepaid local tax shall be imposed at the time tax is imposed ~~under subparagraph (b)(2)(B) of Code Section 48-9-14~~ under Code Section 48-9-3.″

SECTION 5-6.

Said title is further amended by revising paragraph (2) of subsection (b) of Code Section 48-8-49, relating to dealers' returns as gross proceeds of sales and purchases, as follows:

336 ″(2) If the tax liability of a dealer in the preceding calendar year was greater than
337 $60,000.00 excluding local sales taxes, the dealer shall file a return and remit to the
338 commissioner not less than 50 percent of the estimated tax liability for the taxable period
339 on or before the twentieth day of the period. The amount of the payment of the estimated
340 tax liability shall be credited against the amount to be due on the return required under
341 subsection (a) of this Code section. ~~This subsection shall not apply to any dealer whose~~
342 ~~primary business is the sale of motor fuels who is remitting prepaid state tax under~~
343 ~~paragraph (2) of subsection (b) of Code Section 48-9-14.~~″

344 **SECTION 5-7.**

345 Said title is further amended by revising paragraphs (2), (3), and (4) of subsection (b) of
346 Code Section 48-8-50, relating to compensation of dealers for reporting and paying tax, as
347 follows:

348 ″(2) With respect to each certificate of registration number on such return, a deduction
349 of one-half of 1 percent of that portion exceeding $3,000.00 of the combined total amount
350 of all sales and use taxes reported due on such return for each location other than the
351 taxes specified in paragraph (3) of this subsection; <u>and</u>

352 (3) With respect to each certificate of registration number on such return, a deduction of
353 3 percent of the combined total amount due of all sales and use taxes on motor fuel as
354 defined under paragraph (9) of Code Section 48-9-2, which are imposed under any
355 provision of this title, including, but not limited to, sales and use taxes on motor fuel
356 imposed under any of the provisions described in subsection (f) of this Code section<u>.</u> ~~but~~
357 ~~not including Code Section 48-9-14; and~~

358 ~~(4) A deduction with respect to Code Section 48-9-14, as defined in Code Section~~
359 ~~48-8-2, shall be at the rate of one-half of 1 percent of the total amount due of the prepaid~~
360 ~~state tax reported due on such return, so long as the return and payment are timely,~~
361 ~~regardless of the classification of tax return upon which the remittance is made.~~″

362 **SECTION 5-8.**

363 Said title is further amended by revising Code Section 48-8-82, relating to authorization of
364 counties and municipalities to impose a joint sales and use tax, as follows:

365 ″48-8-82.

366 <u>(a)</u> When the imposition of a joint county and municipal sales and use tax is authorized
367 according to the procedures provided in this article within a special district, the county
368 whose geographical boundary is conterminous with that of the special district and each
369 qualified municipality located wholly or partially within the special district shall levy a
370 joint sales and use tax at the rate of 1 percent<u>, except as provided in subsection (b) of this</u>

371 Code section. Except as to rate, the joint tax shall correspond to the tax imposed and
372 administered by Article 1 of this chapter. No item or transaction which is not subject to
373 taxation by Article 1 of this chapter shall be subject to the tax levied pursuant to this article,
374 except that the joint tax provided in this article shall be applicable to sales of motor fuels
375 as prepaid local tax as that term is defined in Code Section 48-8-2 and shall be applicable
376 to the sale of food and food ingredients and alcoholic beverages only to the extent provided
377 for in paragraph (57) of Code Section 48-8-3.
378 (b) On or after July 1, 2015, such joint sales and use tax levied on sales of motor fuels as
379 defined in Code Section 48-9-2 shall be at the rate of 1 percent of the retail sales price of
380 the motor fuel which is not more than $3.00 per gallon."

381 **SECTION 5-9.**

382 Said title is further amended by revising subsection (b) of Code Section 48-8-102, relating
383 to the creation of special districts and use of proceeds of the homestead option sales and use
384 tax, as follows:
385 "(b)(1) When the imposition of a local sales and use tax is authorized according to the
386 procedures provided in this article within a special district, the county whose
387 geographical boundary is conterminous with that of the special district shall levy a local
388 sales and use tax at the rate of 1 percent, except as provided in paragraph (2) of this
389 subsection. Except as to rate, the local sales and use tax shall correspond to the tax
390 imposed and administered by Article 1 of this chapter. No item or transaction which is
391 not subject to taxation by Article 1 of this chapter shall be subject to the sales and use tax
392 levied pursuant to this article, except that the sales and use tax provided in this article
393 shall be applicable to sales of motor fuels as prepaid local tax as that term is defined in
394 Code Section 48-8-2 and shall be applicable to the sale of food and food ingredients and
395 alcoholic beverages only to the extent provided for in paragraph (57) of Code Section
396 48-8-3.
397 (2) On or after July 1, 2015, such sales and use tax levied on sales of motor fuels as
398 defined in Code Section 48-9-2 shall be at the rate of 1 percent of the retail sales price of
399 the motor fuel which is not more than $3.00 per gallon."

400 **SECTION 5-10.**

401 Said title is further amended by revising subsection (c) of and by adding a new subsection
402 to Code Section 48-8-110.1, relating to the authorization for a county special purpose local
403 option sales tax, to read as follows:
404 "(c) ~~Any~~ Except as provided in subsection (d) of this Code section, any tax imposed under
405 this part shall be at the rate of 1 percent. Except as to rate, a tax imposed under this part

shall correspond to the tax imposed by Article 1 of this chapter. No item or transaction which is not subject to taxation under Article 1 of this chapter shall be subject to a tax imposed under this part, except that a tax imposed under this part shall apply to sales of motor fuels as prepaid local tax as that term is defined in Code Section 48-8-2 and shall be applicable to the sale of food and food ingredients and alcoholic beverages as provided for in Code Section 48-8-3.

(d) On or after July 1, 2015, such 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.″

SECTION 5-11.

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

″48-8-141.

(a) Except as otherwise expressly provided in Article VIII, Section VI, Paragraph IV of the Constitution of Georgia, the sales tax for educational purposes which may be levied by a board of education of a county school district or concurrently by the board of education of a county school district and the board of education of each independent school district located within such county shall be imposed and levied by such board or boards of education and collected by the commissioner on behalf of such board or boards of education in the same manner as provided for under Part 1 of this article and the provisions of Part 1 of this article in particular, but without limitation, the provisions regarding the authority of the commissioner to administer and collect this tax, retain the 1 percent administrative fee, and promulgate rules and regulations governing this tax shall apply equally to such board or boards of education. The report required pursuant to Code Section 48-8-122 shall be applicable; provided, however, that in addition to posting such report in a newspaper of general circulation as required by such Code section, such report may be posted on the searchable website provided for under Code Section 50-6-32.

(b) On or after July 1, 2015, such 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.″

SECTION 5-12.

Said title is further amended by revising subsection (c) of and adding a new subsection to Code Section 48-8-201, relating to the intergovernmental agreement for the distribution of tax proceeds from the water and sewer projects sales tax, as follows:

″(c) In the event a tax imposed under this article is imposed only by the municipality:

(1) No item or transaction which is not subject to taxation under Article 1 of this chapter shall be subject to a tax imposed under this article, except that a tax imposed under this article shall apply to:

(A) Sales of motor fuels as prepaid local tax as that term is defined in Code Section 48-8-2;

(B) The sale of food and food ingredients and alcoholic beverages as provided for in Code Section 48-8-3;

(C) The sale of natural or artificial gas used directly in the production of electricity which is subsequently sold, notwithstanding paragraph (70) of Code Section 48-8-3; and

(D) The furnishing for value to the public of any room or rooms, lodgings, or accommodations which is subject to taxation under Article 3 of Chapter 13 of this title; and

(2) A tax imposed under this article shall not apply to the sale of motor vehicles."

"(e) On or after July 1, 2015, such 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."

SECTION 5-13.

Said title is further amended by revising Code Section 48-9-3, relating to an excise tax on motor fuel, as follows:

"48-9-3.

(a)(1) An excise tax is imposed at the rate of ~~7 1/2¢~~ 26¢ per gallon on distributors who sell or use motor fuel, other than diesel fuel, within this state. An excise tax is imposed at the rate of 29¢ per gallon on distributors who sell or use diesel fuel within this state. It is the intention of the General Assembly that the legal incidence of the tax be imposed upon the distributor.

(1.1)(A) Beginning on July 1, 2016, and annually thereafter, the amount of this excise tax per gallon on distributors shall be automatically adjusted on an annual basis in accordance with this paragraph.

(B) Using 2014 as a base year, the department shall determine the average miles per gallon of all new vehicles registered in this state pursuant to Code Section 48-5C-1 using the average of combined miles per gallon published in the United States Department of Energy Fuel Economy Guide. Beginning on July 1, 2016, and each year thereafter, the department shall calculate the average miles per gallon of all new vehicles registered in this state in the previous year. The excise tax rate shall be multiplied by the percentage increase or decrease in fuel efficiency from the previous

477 year, and the resulting increase or decrease shall be added to the excise tax rate to
478 determine the preliminary excise tax rate.
479 (C) Once the preliminary excise tax rate is established, it shall be multiplied by the
480 annual percentage of increase or decrease in the Consumer Price Index. The resulting
481 calculation shall be added to the preliminary excise tax rate, and the result of such
482 calculation shall be the new excise tax rate for motor fuels for the next calendar year.
483 The Consumer Price Index shall no longer be used after July 1, 2018.
484 (2) In the event any motor fuels which are not commonly sold or measured by the gallon
485 are used in any motor vehicles on the public highways of this state, the commissioner
486 may assess, levy, and collect a tax upon such fuels, under such regulations as the
487 commissioner may promulgate, in accordance with and measured by the nearest power
488 potential equivalent to that of one gallon of regular grade gasoline. Any determination
489 by the commissioner of the power potential equivalent of such motor fuels shall be
490 prima-facie correct. Upon each such quantity of such fuels used upon the public
491 highways of this state, a tax at the same rate per gallon imposed on motor fuel under
492 paragraph (1) of this subsection shall be assessed and collected.
493 (3) No county, municipality, or other political subdivision of this state shall levy any fee,
494 license, or other excise tax on a gallonage basis upon the sale, purchase, storage, receipt,
495 distribution, use, consumption, or other disposition of motor fuel. Nothing contained in
496 this article shall be construed to prevent a county, municipality, or other political
497 subdivision of this state from levying license fees or taxes upon any business selling
498 motor fuel.
499 (4)(A) For purposes of this subsection, and notwithstanding the provisions of
500 paragraph (2) of this subsection and any provision contained in the National Bureau of
501 Standards Handbook or any other national standard that may be adopted by law or
502 regulation, the gallon equivalent of compressed natural gas shall be not less than
503 110,000 British thermal units and the gallon equivalent of liquefied natural gas shall not
504 be less than 6.06 pounds.
505 (B) As used in this paragraph, the term:
506 (i) 'Compressed natural gas' means a mixture of hydrocarbon gases and vapors,
507 consisting principally of methane in gaseous form, that has been compressed for use
508 as a motor fuel.
509 (ii) 'Liquefied natural gas' means methane or natural gas in the form of a cryogenic
510 or refrigerated liquid for use as a motor fuel.
511 (b) No tax is imposed by this article upon or with respect to the following sales by duly
512 licensed distributors:
513 (1) Bulk sales to a duly licensed distributor;

(2) Sales of motor fuel for export from this state when exempted by any provisions of the Constitutions of the United States or this state;

(3) Sales of motor fuel to a licensed distributor for export from this state;

(4) Sales of motor fuel to the United States for the exclusive use of the United States when the motor fuel is purchased and paid for by the United States;

(5) Sales of aviation gasoline to a duly licensed aviation gasoline dealer, except for 1¢ per gallon of the tax imposed by paragraph (1) of subsection (a) of this Code section ~~and all of the tax imposed by Code Section 48-9-14~~;

(6) Bulk sales of compressed petroleum gas or special fuel to a duly licensed consumer distributor;

(7)(A) Sales of compressed petroleum gas or special fuel to a consumer who has no highway use of the fuel at the time of the sale and does not resell the fuel. Consumers of compressed petroleum gas or special fuel who have both highway and nonhighway use of the fuel and resellers of such fuel must be licensed as distributors in order for sales of the fuel to be tax exempt. Each type of motor fuel is to be considered separately under this exemption.

(B)(i) In instances where a sale of compressed petroleum gas has been made to an ultimate consumer who has both highway and nonhighway use of that type of motor fuel and no tax has been paid by the distributor on the sale, the consumer shall become licensed as a consumer distributor of that type of motor fuel. After the consumer is licensed as a consumer distributor and if it is demonstrated to the satisfaction of the commissioner that the motor fuel purchased prior to the licensee's becoming licensed as a consumer distributor was used for nonhighway purposes, such sales shall be exempt from the tax imposed by this article; provided, however, that, if at the time of demonstration the ultimate consumer does not have both highway and nonhighway use of such fuel but it can be demonstrated by the distributor to the satisfaction of the commissioner that the motor fuel was used for nonhighway purposes, the sales shall be exempt from the tax imposed by this article; and

(ii)(I) Any special fuel sold by a distributor to a purchaser who has a storage receptacle which has a connection to a withdrawal outlet that may be used for highway use, as defined in paragraph (8) of Code Section 48-9-2, is not exempt from the motor fuel and road taxes imposed by this article unless: (1) the purchaser is at the time of sale a valid licensed distributor of that type of motor fuel, or (2) an exemption certificate has been obtained from the purchaser on forms furnished by the Department of Revenue showing that the purchaser has no highway use of such fuels and is not a reseller of such fuels. Each exemption certificate shall be valid for a period of not more than three years and shall be kept by the distributor as one

551 of the records specified in Code Section 48-9-8. It shall be the responsibility of the
552 purchaser to notify the distributor when the purchaser is no longer qualified for the
553 nonhighway exemption. All applicable taxes must be charged the purchaser until
554 the purchaser is granted a valid distributor's license for that type of motor fuel.
555 (II) Any such purchaser granted an exemption under subdivision (I) of this division
556 who falsely claims the exemption or fails to rescind the purchaser's exemption
557 certificate to the distributor in writing when he or she is no longer eligible for the
558 exemption shall be deemed a distributor for purposes of taxation and is subject to
559 all provisions of this article relating to distributors. This division in no way shall
560 restrict the option of the purchaser to become licensed as a distributor. If the
561 distributor sells special fuel to a purchaser who has a storage receptacle which has
562 a connection to a withdrawal outlet that may be used for highway use, as defined in
563 paragraph (8) of Code Section 48-9-2, and the purchaser is not a valid licensed
564 distributor and has not executed a valid signed exemption certificate, the taxes
565 imposed by this article are due from the distributor and not the purchaser on all sales
566 of that type of fuel to that purchaser;
567 (8) Sales of fuel oils, compressed petroleum gas, or special fuel directly to an ultimate
568 consumer to be used for heating purposes only. The delivery of fuel oils, compressed
569 petroleum gas, or special fuel directly to an ultimate consumer to be used for heating
570 purposes only shall be made directly into the storage receptacle of the heating unit of the
571 consumer by the licensed distributor. To qualify for this exemption, sales must be
572 delivered into storage receptacles that are not equipped with any secondary withdrawal
573 outlets for the motor fuel;
574 (9) Sales of dyed fuel oils to a consumer for other than highway use as defined in
575 paragraph (8) of Code Section 48-9-2;
576 (10)(A) During the period of July 1, 2012, through June 30, 2015, sales of motor fuel,
577 as defined in paragraph (9) of Code Section 48-9-2, for public mass transit vehicles
578 which are owned by public transportation systems which receive or are eligible to
579 receive funds pursuant to 49 U.S.C. Sections 5307 and 5311 for which passenger fares
580 are routinely charged and which vehicles are used exclusively for revenue generating
581 purposes which motor fuel sales occur at bulk purchase facilities approved by the
582 department.
583 (B) During the period of July 1, 2012, through June 30, 2015, sales of motor fuel, as
584 defined in paragraph (9) of Code Section 48-9-2, for vehicles operated by a public
585 campus transportation system, provided that such system has a policy which provides
586 for free transfer of passengers from the public transportation system operated by the
587 jurisdiction in which the campus is located; makes the general public aware of such free

transfer policy; and receives no state or federal funding to assist in the operation of such public campus transportation system and which motor fuel sales occur at bulk purchase facilities approved by the department.

(C) For purposes of this paragraph, the term 'vehicle' or 'vehicles' means buses, vans, minibuses, or other vehicles which have the capacity to transport seven or more passengers; or

(11) For the period of time beginning July 1, 2013, and ending June 30, 2015, sales of motor fuel to public school systems in this state for the exclusive use of the school system in operating school buses when the motor fuel is purchased and paid for by the school system.

(c) Fuel oils, compressed petroleum gas, or special fuel used by a duly licensed distributor for nonhighway purposes is exempt from the tax imposed by this article.

(d) No export from this state shall be recognized as being exempt from tax under paragraphs (2) and (3) of subsection (b) of this Code section unless the exporter informs the seller and the terminal operator of the intention to export and causes to be set out the minimum information specified in subsection (e) of Code Section 48-9-17 on the bill of lading or equivalent documentation under which the motor fuel is transported. In the event that the motor fuel is delivered to any point other than that which is set out on the bill of lading or equivalent documentation, the legal incidence of the tax shall continue to be imposed exclusively upon the exporter who caused the export documentation to be issued and no exemption shall be recognized until suitable proof of exportation has been provided to the commissioner.″

SECTION 5-14.

Said title is further amended by repealing in its entirety Code Section 48-9-14, relating to the second motor fuel tax, and designating said Code section as reserved.

SECTION 5-15.

Said title is further amended by adding a new Code section to read as follows:

″<u>48-13-50.3.</u>

<u>(a) As used in this Code section, the term:</u>

<u>(1) 'Extended stay' means providing lodging for the public for longer than 30 consecutive days to the same customer.</u>

<u>(2) 'Innkeeper' means any person who is subject to taxation under this article for the furnishing for value to the public any rooms, lodgings, or accommodations.</u>

<u>(3) 'Transportation purposes' means and includes roads, bridges, public transit, rails, airports, buses, seaports, including without limitation road, street, and bridge purposes</u>

623 pursuant to paragraph (1) of subsection (b) of Code Section 48-8-121, and all
624 accompanying infrastructure and services necessary to provide access to these
625 transportation facilities, including general obligation debt and other multiyear obligations
626 issued to finance such purposes.
627 (b) On or after July 1, 2015, each innkeeper in this state shall charge a $5.00 per night fee
628 to the customer, unless it is an extended stay rental, for each calendar day a room, lodging,
629 or accommodation is rented or leased. The innkeeper shall collect the fee at the time the
630 customer pays for the rental or lease of such room, lodging, or accommodation. The
631 innkeeper collecting the fee shall remit the fee on a monthly basis to the department.
632 (c) The commissioner shall promulgate and make available forms for the use of innkeepers
633 to assist in compliance with this Code section. The commissioner shall promulgate rules
634 and regulations as necessary to implement the provisions of this Code section.
635 (d) It is the intention of the General Assembly, subject to appropriations, that the fees
636 collected pursuant to subsection (b) of this Code section shall be made available and used
637 exclusively for transportation purposes in this state.
638 (e) If the amount collected under this Code section is ever not appropriated for a fiscal year
639 as provided by subsection (d) of this Code section, as determined jointly by the House
640 Budget and Research Office and the Senate Budget and Evaluation Office, then the amount
641 collected shall be reduced by 50 percent. Upon the conclusion of a second fiscal year in
642 which an amount is not so appropriated, this Code section shall stand repealed and
643 reserved, and such fees shall cease to be collected, on the date the appropriations Act for
644 such fiscal year becomes effective. Such budget offices shall certify any such lack of
645 appropriation to the Code Revision Commission for purposes of updating the Code in
646 accordance with this subsection."

647 **PART VI**
648 **SECTION 6-1.**

649 Part 3 of Article 2 of Chapter 10 of Title 32 of the Official Code of Georgia Annotated, the
650 "Georgia Transportation Infrastructure Bank Act," is amended by revising subsection (b) of
651 Code Section 32-10-127, relating to loans and other financial assistance and the
652 determination of eligible projects, as follows:
653 "(b)(1) The board shall determine which projects are eligible projects and then select
654 from among the eligible projects qualified projects. When determining eligibility, the
655 board shall make every effort to balance any loans or other financial assistance among
656 all regions of this state.

657 (2) Preference for loans may be given to eligible projects ~~which have local financial~~
658 ~~support~~ in tier 1 and tier 2 counties, as defined in Code Section 48-7-40 and by the
659 Department of Community Affairs.
660 (3) Preference for grants and other financial assistance may be given to eligible projects
661 which have local financial support."

662 **PART VII**
663 **SECTION 7-1.**

664 Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to revenue and
665 taxation, is amended by revising subsection (d) of and adding new subsections to Code
666 Section 48-8-241, relating to the creation of special districts and the tax rate for purposes of
667 a transportation sales and use tax, as follows:
668 "(d) ~~Any~~ Except as otherwise provided in subsection (e) of this Code section, any tax
669 imposed under this article shall be at the rate of 1 percent. Except as to rate, a tax imposed
670 under this article shall correspond to the tax imposed by Article 1 of this chapter. No item
671 or transaction which is not subject to taxation under Article 1 of this chapter shall be
672 subject to a tax imposed under this article, except that a tax imposed under this article shall
673 not apply to:
674 (1) The sale or use of any type of fuel used for off-road heavy-duty equipment, off-road
675 farm or agricultural equipment, or locomotives;
676 (2) The sale or use of jet fuel to or by a qualifying airline at a qualifying airport;
677 (3) The sale or use of fuel that is used for propulsion of motor vehicles on the public
678 highways. For purposes of this paragraph, a motor vehicle means a self-propelled vehicle
679 designed for operation or required to be licensed for operation upon the public highways;
680 (4) The sale or use of energy used in the manufacturing or processing of tangible goods
681 primarily for resale; or
682 (5) For motor fuel as defined under paragraph (9) of Code Section 48-9-2 for public mass
683 transit.
684 The tax imposed pursuant to this article shall only be levied on the first $5,000.00 of any
685 transaction involving the sale or lease of a motor vehicle. The tax imposed pursuant to this
686 article shall be subject to any sales and use tax exemption which is otherwise imposed by
687 law; provided, however, that the tax levied by this article shall be applicable to the sale of
688 food and food ingredients as provided for in paragraph (57) of Code Section 48-8-3.
689 (e) Any tax imposed under this article on or after July 1, 2015, may be at a rate of up to
690 1 percent but shall not be more than 1 percent. Any rate less than 1 percent shall be in an

increment of .05 percent. This subsection shall not apply to taxes under this article imposed or to be imposed under resolutions and ordinances adopted prior to July 1, 2015.

(f) Any tax imposed under this article on or after July 1, 2015, shall be required to expend at least 30 percent of the estimated revenue on projects included in the state-wide strategic transportation plan as defined in paragraph (6) of subsection (a) of Code Section 32-2-22."

SECTION 7-2.

Said chapter is further amended by revising paragraph (12) of Code Section 48-8-242, relating to definitions relative to Special District Transportation Sales and Use Tax, as follows:

"(12) ~~'Special Regional Transportation Funding Election Act' means an Act specifically and exclusively enacted for the purpose of ordering that a referendum be held for the reimposition of the special district transportation sales and use tax within the region that includes the districts, in their entirety or any portion thereof, of the members from a local legislative delegation in the General Assembly. A majority of the signatures of the legislative delegation for a majority of the counties within the region shall be required for the bill to be placed upon the local calendar of each chamber. This method shall be exclusively used for this purpose and no other bill shall be placed or voted upon on the local calendar utilizing this method of qualification for placement thereon. This Act shall be treated procedurally by the General Assembly as a local Act and all counties within the region shall receive the legal notice requirements of a local Act.~~ Reserved."

SECTION 7-3.

Said chapter is further amended by revising subsection (c) of Code Section 48-8-245, relating to the collection and cessation of special district transportation sales and use tax, as follows:

"(c)(1) No more than a single ~~1 percent~~ tax under this article may be collected at any time within a special district.

(2) Upon the ~~enactment by the General Assembly of a Special Regional Transportation Funding Election Act and the~~ adoption of resolutions by the governing bodies of a majority of the counties within a special district in which a tax authorized by this article is in effect, an election may be held for the reimposition of the tax while the tax is in effect. Proceedings for the development of an investment list and for the reimposition of a tax shall be in the same manner as provided for in Code ~~Section~~ Sections 48-8-241 and 48-8-243.

(3) Following the expiration of the special district transportation sales and use tax under this article, or following a special election in which voters in a special district rejected the imposition of the tax, upon the ~~passage by the General Assembly of a Special Regional~~

~~Transportation Funding Election Act and the~~ adoption of resolutions by the governing bodies of a majority of counties within a special district, an election may be held for the imposition of a tax under this article in the same manner as provided in this article for the initial imposition of such tax. ~~Such subsequent election shall be held on the date of a state-wide general primary.~~ The election superintendents shall issue the call and conduct the election in the manner authorized by general law. The development of the investment list for such special district shall follow the dates established in Code Section 48-8-243 with the years adjusted appropriately, and such schedule shall be posted on a website developed by the state revenue commissioner to be used exclusively for matters related to the special district transportation sales and use tax within 30 days of the later of the state revenue commissioner's receipt of notice from the final county governing body required to adopt a resolution ~~or of the passage of the Special Regional Transportation Funding Election Act by the General Assembly~~."

SECTION 7-4.

Said chapter is further amended in subsection (a) of Code Section 48-8-6, relating to the ceiling on local sales and use taxes, by revising paragraphs (4) and (5) and adding a new paragraph to read as follows:

"(4) A sales and use tax levied under Article 4 of this chapter; ~~and~~

(5) A sales and use tax levied under Article 5 of this chapter~~.~~; and

(6) A sales and use tax levied under Article 5A of this chapter."

SECTION 7-5.

Said chapter is further amended by adding a new article to read as follows:

"ARTICLE 5A

48-8-260.

As used in this article, the term:

(1) 'Dealer' means a dealer as defined in paragraph (8) of Code Section 48-8-2.

(2) 'District' means a special district created pursuant to subsection (a) of Code Section 48-8-261.

(3) 'Intergovernmental agreement' means a contract entered into pursuant to Article IX, Section III, Paragraph I of the Constitution.

(4) 'Levy' means the collection within a special district of the tax authorized pursuant to this article.

758 (5) 'Mass transportation' means any mode of transportation serving the general public
759 which is appropriate to transport people by highways or rail.
760 (6) 'Mass transportation regional system participant' means any county within a special
761 district created pursuant to Article 5 of this chapter wherein mass transportation service
762 is provided within the district, to the district, or from the district by a multicounty
763 regional transportation authority created by an Act of the General Assembly, including
764 but not limited to the Georgia Regional Transportation Authority or the Metropolitan
765 Atlanta Rapid Transit Authority.
766 (7) 'Qualified municipality' means a qualified municipality as defined in paragraph (4)
767 of Code Section 48-8-110 situated wholly or partly within a district.
768 (8) 'Transportation purposes' means and includes roads, bridges, public transit, rails,
769 airports, buses, seaports, including without limitation road, street, and bridge purposes
770 pursuant to paragraph (1) of subsection (b) of Code Section 48-8-121, and all
771 accompanying infrastructure and services necessary to provide access to these
772 transportation facilities, including general obligation debt and other multiyear obligations
773 issued to finance such purposes.

774 48-8-261.
775 (a) Pursuant to the authority granted by Article IX, Section II, Paragraph VI of the
776 Constitution of this state, 159 special districts are created within this state. The
777 geographical boundary of each county shall correspond with and shall be conterminous
778 with the geographical boundary of the 159 districts created.
779 (b) On or after July 1, 2015, any county:
780 (1) That is not located within a special district levying a special sales and use tax
781 pursuant to Article 5 of this chapter;
782 (2) That is a mass transportation regional system participant; and
783 (3) In which a tax is currently being levied and collected pursuant to:
784 (A) Part 1 of Article 3 of this chapter;
785 (B) A local constitutional amendment for purposes of a metropolitan area system of
786 public transportation set out at Ga. L. 1964, p. 1008, and the laws enacted pursuant to
787 such local constitutional amendment; or
788 (C) Code Section 48-8-96
789 may, by following the procedures required by this article, impose for a limited period of
790 time within the special district under this article a transportation special purpose local
791 option sales tax, the proceeds of which shall be used only for transportation purposes.
792 (c) On or after July 1, 2017, any county:

793 (1) That is not located within a special district levying a special sales and use tax
794 pursuant to Article 5 of this chapter; and
795 (2) In which a tax is currently being levied and collected pursuant to:
796 (A) Part 1 of Article 3 of this chapter;
797 (B) A local constitutional amendment for purposes of a metropolitan area system of
798 public transportation set out at Ga. L. 1964, p. 1008, and the laws enacted pursuant to
799 such local constitutional amendment; or
800 (C) Code Section 48-8-96
801 may, by following the procedures required by this article, impose for a limited period of
802 time within the special district under this article a transportation special purpose local
803 option sales tax, the proceeds of which shall be used only for transportation purposes.

804 48-8-262.
805 (a)(1) Prior to the issuance of the call for the referendum required by Code Section
806 48-8-263, any county that desires to levy a tax under this article shall deliver or mail a
807 written notice to the mayor or chief elected official in each qualified municipality located
808 within the district. Such notice shall contain the date, time, place, and purpose of a
809 meeting at which the governing authorities of the county and of each qualified
810 municipality are to meet to discuss possible projects for inclusion in the referendum. The
811 notice shall be delivered or mailed at least ten days prior to the date of the meeting. The
812 meeting shall be held at least 30 days prior to the issuance of the call for the referendum.
813 (2) When a qualified municipality or combination of qualified municipalities within the
814 special district whose population within the special district is 90 percent or more of the
815 aggregate population of all qualified municipalities within the special district desires to
816 levy a tax under this article, such qualified municipality or combination of qualified
817 municipalities may deliver or mail written notice to the chief elected official of the
818 governing authority of the county located within the special district calling for a meeting
819 to discuss projects for inclusion in the referendum and the rate of levy of the tax. Such
820 notice shall contain the date, time, place, and purpose of the meeting and shall be
821 delivered or mailed at least ten days prior to the date of the meeting. The meeting shall
822 be held at least 30 days prior to the issuance of the call for a referendum. If the county
823 and all qualified municipalities within the special district do not enter into an
824 intergovernmental agreement meeting the requirements of subsection (b) of this Code
825 section within 30 days after the meeting, the qualified municipality or combination of
826 qualified municipalities within the special district whose population within the special
827 district is 90 percent or more of the aggregate population of all qualified municipalities

828 within the special district may issue the call for a referendum on the levy of a tax under
829 this article.
830 (b)(1) Following the meeting required by subsection (a) of this Code section and prior
831 to any tax being imposed under this article, the county and all qualified municipalities
832 therein shall execute an intergovernmental agreement memorializing their agreement to
833 the levy of a tax and the rate of such tax.
834 (2) At a minimum, the intergovernmental agreement authorized by paragraph (1) of this
835 subsection shall include the following:
836 (A) A list of the projects and purposes qualifying as transportation purposes proposed
837 to be funded from the levy, including an expenditure of at least 30 percent of the
838 estimated revenue from the tax on projects included in the state-wide strategic
839 transportation plan as defined in paragraph (6) of subsection (a) of Code Section
840 32-2-22;
841 (B) The estimated or projected dollar amounts allocated for each transportation
842 purpose from proceeds from the levy;
843 (C) The procedures for distributing proceeds from the levy to qualified municipalities;
844 (D) A schedule for distributing proceeds from the levy to qualified municipalities
845 which shall include the priority or order in which transportation purposes will be fully
846 or partially funded;
847 (E) A provision that all transportation purposes included in the agreement shall be
848 funded from proceeds from the levy except as otherwise agreed;
849 (F) A provision that proceeds from the levy shall be maintained in separate accounts
850 and utilized exclusively for the specified purposes;
851 (G) Record-keeping and audit procedures necessary to carry out the purposes of this
852 article; and
853 (H) Such other provisions as the county and qualified municipalities choose to address.
854 (c)(1) If an intergovernmental agreement is entered into by the county and all qualified
855 municipalities, the rate of the tax may be up to 1 percent.
856 (2) If an intergovernmental agreement is not entered into by the county and all qualified
857 municipalities, the maximum rate of the tax shall not exceed .75 percent and shall be
858 determined by the governing authority of the county.
859 (d)(1) As soon as practicable after the meeting between the governing authorities of the
860 county and qualified municipalities and the execution of an intergovernmental agreement,
861 if applicable, the governing authority of the county may by a majority vote on a
862 resolution offered for such purpose submit the list of transportation purposes and the
863 question of whether the levy should be approved to electors of the district in the next
864 scheduled election and shall notify the county election superintendent within the district

865 by forwarding to the superintendent a copy of such resolution calling for the imposition
866 of the levy. Such list, or a digest thereof, shall be available during regular business hours
867 in the office of the county clerk.
868 (2) The resolution authorized by paragraph (1) of this subsection shall describe:
869 (A) The specific transportation purposes to be funded;
870 (B) The approximate cost of such transportation purposes, which shall also be the
871 maximum amount of net proceeds to be raised by the levy; and
872 (C) The maximum period of time, to be stated in calendar years, for which the levy
873 may be levied and the rate thereof. The maximum period of time shall not exceed five
874 years.

875 48-8-263.
876 (a)(1) The ballot submitting the question of the imposition of the levy to the voters
877 within the district shall have written or printed thereon the following:
878 '( ) YES Shall a special ___ percent sales and use tax be imposed in the district
879 consisting of_____County for a period of time not to exceed _____
880 ( ) NO and for the raising of not more than an estimated amount of $_____for
881 transportation purposes?'
882 (2) If debt is to be issued pursuant to an intergovernmental agreement, the ballot shall
883 also have written or printed thereon, following the language specified by paragraph (1)
884 of this subsection, the following:
885 'If imposition of the tax is approved by the voters, such vote shall also constitute
886 approval of the issuance of general obligation debt of _____ County in the
887 principal amount of $_____ for the above purpose.'
888 (b) The election superintendent shall issue the call and conduct the election in the manner
889 authorized by general law. The superintendent shall canvass the returns, declare the result
890 of the election, and certify the result to the Secretary of State and to the commissioner. The
891 expense of the election shall be paid from county funds. All persons desiring to vote in
892 favor of imposing the levy shall vote 'Yes,' and all persons opposed to imposing the levy
893 shall vote 'No.' If more than one-half of the votes cast throughout the entire district are in
894 favor of imposing the levy, then the levy shall be imposed as provided in this article.
895 (c) Where such question is not approved by the voters, the county may resubmit such
896 question from time to time upon compliance with the requirements of this article.
897 (d)(1) If the intergovernmental agreement and proposal include the authority to issue
898 general obligation debt and if more than one-half of the votes cast are in favor of the
899 proposal, then the authority to issue such debt in accordance with Article IX, Section V,
900 Paragraph I of the Constitution is given to the proper officers of the county; otherwise,

901 such debt shall not be issued. If the authority to issue such debt is so approved by the
902 voters, then such debt may be issued without further approval by the voters.
903 (2) If the issuance of general obligation debt is included and approved as provided in this
904 Code section, then the governing authority of the county may incur such debt either
905 through the issuance and validation of general obligation bonds or through the execution
906 of a promissory note or notes or other instrument or instruments. If such debt is incurred
907 through the issuance of general obligation bonds, such bonds and their issuance and
908 validation shall be subject to Articles 1 and 2 of Chapter 82 of Title 36 except as
909 specifically provided otherwise in this article. If such debt is incurred through the
910 execution of a promissory note or notes or other instrument or instruments, no validation
911 proceedings shall be necessary, and such debt shall be subject to Code Sections 36-80-10
912 through 36-80-14 except as specifically provided otherwise in this article. In either event,
913 such general obligation debt shall be payable first from the separate account in which are
914 placed the proceeds received by the county from the levy. Such general obligation debt
915 shall, however, constitute a pledge of the full faith, credit, and taxing power of the
916 county; and any liability on such debt which is not satisfied from the proceeds of the levy
917 shall be satisfied from the general funds of the county.

918 48-8-264.
919 (a) If the imposition of the levy is approved at the election, the tax shall be imposed on the
920 first day of the next succeeding calendar quarter which begins more than 80 days after the
921 date of the election at which the levy was approved by the voters. With respect to services
922 which are regularly billed on a monthly basis, however, the resolution shall become
923 effective with respect to and the levy shall apply to services billed on or after the effective
924 date specified in the previous sentence.
925 (b) The levy shall cease to be imposed on the earliest of the following dates:
926 (1) If the resolution calling for the imposition of the tax provided for the issuance of
927 general obligation debt and such debt is the subject of validation proceedings, as of the
928 end of the first calendar quarter ending more than 80 days after the date on which a court
929 of competent jurisdiction enters a final order denying validation of such debt;
930 (2) On the final day of the maximum period of time specified for the imposition of the
931 levy; or
932 (3) As of the end of the calendar quarter during which the commissioner determines that
933 the levy will have raised revenues sufficient to provide to the district net proceeds equal
934 to or greater than the amount specified as the maximum amount of net proceeds to be
935 raised by the levy.

936 (c)(1) At any time, no more than a single tax under this article shall be imposed within
937 a district. Any tax imposed under this article may be at a rate of up to 1 percent but shall
938 not be more than 1 percent. Any rate less than 1 percent shall be in an increment of .05
939 percent.
940 (2) The governing authority of the county in which a levy is in effect under this article
941 may, upon approval of all qualified municipalities, while the levy is in effect, adopt
942 resolutions calling for the reimposition of the levy upon the termination of the levy then
943 in effect; and an election may be held at the next regularly scheduled general election for
944 this purpose while the levy is in effect. Proceedings for the reimposition of a levy shall
945 be in the same manner as proceedings for the initial imposition of the levy, but the newly
946 authorized levy shall not be imposed until the expiration of the levy then in effect.
947 (3) Following the expiration of a levy under this article, the county may initiate
948 proceedings for the reimposition of a levy under this article in the same manner as
949 provided in this article for initial imposition of such levy.

950 48-8-265.
951 A tax levied pursuant to this article shall be exclusively administered and collected by the
952 commissioner for the use and benefit of the county and qualified municipalities within the
953 district imposing the tax. Such administration and collection shall be accomplished in the
954 same manner and subject to the same applicable provisions, procedures, and penalties
955 provided in Article 1 of this chapter; provided, however, that all moneys collected from
956 each taxpayer by the commissioner shall be applied first to such taxpayer's liability for
957 taxes owed the state; and provided, further, that the commissioner may rely upon a
958 representation by or on behalf of the district or the Secretary of State that such a tax has
959 been validly imposed, and the commissioner and the commissioner's agents shall not be
960 liable to any person for collecting any such tax which was not validly imposed. Dealers
961 shall be allowed a percentage of the amount of the tax due and accounted for and shall be
962 reimbursed in the form of a deduction in submitting, reporting, and paying the amount due
963 if such amount is not delinquent at the time of payment. The deduction shall be at the rate
964 and subject to the requirements specified under subsections (b) through (f) of Code Section
965 48-8-50.

966 48-8-266.
967 Each sales tax return remitting taxes collected under this article shall separately identify
968 the location of each retail establishment at which any of the taxes remitted were collected
969 and shall specify the amount of sales and the amount of taxes collected at each
970 establishment for the period covered by the return in order to facilitate the determination

971 by the commissioner that all taxes imposed by this article are collected and distributed
972 according to situs of sale.

973 48-8-267.
974 (a) The proceeds of the tax collected by the commissioner in each special district under
975 this article shall be disbursed as soon as practicable after collection as follows:
976 (1) One percent of the amount collected shall be paid into the general fund of the state
977 treasury in order to defray the costs of administration; and
978 (2) Except for the percentage provided in paragraph (1) of this Code section, the
979 remaining proceeds of the tax shall be distributed:
980 (A) Pursuant to the terms of the intergovernmental agreement, if applicable; or
981 (B) If no intergovernmental agreement has been entered into, in accordance with
982 subsection (b) of this Code section.
983 (b) In the event an intergovernmental agreement has not been entered into, distribution of
984 the proceeds shall be as follows:
985 (1) The state auditor shall determine the most recent three fiscal years for which an audit
986 under Code Section 36-81-7 has or should have been made or for which other equivalent,
987 reliable information is available for the county and all qualified municipalities; and
988 (2) Utilizing the audit information under paragraph (1) of this subsection, the county and
989 each qualified municipality shall receive a proportional amount of proceeds of the tax
990 based upon the amount of expenditures made for transportation in the fiscal year. The
991 proportional amount for the county and each qualified municipality shall be determined
992 by dividing the average expended on transportation during the most recent three fiscal
993 years by the county or qualified municipality by the aggregate average expended on
994 transportation by the county and all qualified municipalities in the district during the most
995 recent three fiscal years. Amounts expended on transportation include transportation
996 maintenance and operation costs and shall correspond with classifications and
997 subclassifications specified in section 4200, including noncapital expenditures in sections
998 4210-4270, of the uniform chart of accounts in subsection (e) of Code Section 36-81-3
999 and shall be reported in the local government audit. Total general fund expenditures by
1000 the local government within these categories shall be specified in the footnotes of the
1001 audited financial statement. If such transportation expenditures include maintenance and
1002 operation costs to support local government airport and transit operations, reported in
1003 function 7561 and 7563 of the uniform chart, the general fund costs for those functions
1004 shall be included in the footnotes of the local government's audited financial statement.

1005 48-8-268.
1006 (a) The levy shall not be subject to any allocation or balancing of state and federal funds
1007 provided for by general law, nor may such proceeds be considered or taken into account
1008 in any such allocation or balancing.
1009 (b) The approval of the levy of the tax under this article shall not in any way diminish the
1010 percentage of state or federal funds allocated to any of the local governments within the
1011 special district levying the tax under the provisions of Code Section 32-5-27. The amount
1012 of state or federal funds expended in the county or any municipality within the special
1013 district shall not be decreased or diverted due to the use of proceeds from the tax levied
1014 under this article for transportation purposes that have a high priority in the state-wide
1015 strategic transportation plan.

1016 48-8-269.
1017 (a) Except as to rate, a tax imposed under this article shall correspond to the tax imposed
1018 by Article 1 of this chapter. No item or transaction which is not subject to taxation under
1019 Article 1 of this chapter shall be subject to a tax imposed under this article, except that a
1020 tax imposed under this article shall not apply to:
1021 (1) The sale or use of any type of fuel used for off-road heavy-duty equipment, off-road
1022 farm or agricultural equipment, or locomotives;
1023 (2) The sale or use of jet fuel to or by a qualifying airline at a qualifying airport;
1024 (3) The sale or use of fuel that is used for propulsion of motor vehicles on the public
1025 highways;
1026 (4) The sale or use of energy used in the manufacturing or processing of tangible goods
1027 primarily for resale;
1028 (5) The sale or use of motor fuel as defined under paragraph (9) of Code Section 48-9-2
1029 for public mass transit; or
1030 (6) The purchase or lease of any motor vehicle pursuant to Code Section 48-5C-1.
1031 (b) Except as otherwise specifically provided in this article, the tax imposed pursuant to
1032 this article shall be subject to any sales and use tax exemption which is otherwise imposed
1033 by law; provided, however, that the tax levied by this article shall be applicable to the sale
1034 of food and food ingredients as provided for in paragraph (57) of Code Section 48-8-3.

1035 48-8-269.1.
1036 Where a local sales or use tax has been paid with respect to tangible personal property by
1037 the purchaser either in another local tax jurisdiction within this state or in a tax jurisdiction
1038 outside this state, the tax may be credited against the tax authorized to be imposed by this
1039 article upon the same property. If the amount of sales or use tax so paid is less than the

1040 amount of the levy due under this article, the purchaser shall pay an amount equal to the
1041 difference between the amount paid in the other tax jurisdiction and the amount due under
1042 this article. The commissioner may require such proof of payment in another local tax
1043 jurisdiction as he or she deems necessary and proper. No credit shall be granted, however,
1044 against the levy for tax paid in another jurisdiction if the tax paid in such other jurisdiction
1045 is used to obtain a credit against any other local sales and use tax levied in the county or
1046 in a special district which includes the county.

1047 48-8-269.2.
1048 No levy shall be imposed upon the sale of tangible personal property which is ordered by
1049 and delivered to the purchaser at a point outside the geographical area of the county in
1050 which the levy is imposed regardless of the point at which title passes, if the delivery is
1051 made by the seller's vehicle, United States mail, or common carrier or by private or contract
1052 carrier.

1053 48-8-269.3.
1054 The commissioner shall have the power and authority to promulgate such rules and
1055 regulations as shall be necessary for the effective and efficient administration and
1056 enforcement of the collection of the levy.

1057 48-8-269.4.
1058 Except as provided in Code Section 48-8-6, the tax authorized under this article shall be
1059 in addition to any other local sales and use tax. Except as otherwise provided in this article
1060 and except as provided in Code Section 48-8-6, the imposition of any other local sales and
1061 use tax within a county or qualified municipality within a special district shall not affect
1062 the authority of a county to impose the tax authorized under this article, and provided that
1063 a county is not currently collecting a levy under Article 5 of this chapter, the imposition of
1064 a tax under this article shall not affect the imposition of any otherwise authorized local
1065 sales and use tax within the special district.

1066 48-8-269.5.
1067 (a)(1) The proceeds received from the levy shall be used by the county and qualified
1068 municipalities within the district exclusively for the transportation purposes specified in
1069 the resolution calling for imposition of the levy. Such proceeds shall be kept in a separate
1070 account from other funds of any county and qualified municipality receiving proceeds of
1071 the levy and shall not in any manner be commingled with other funds of any county or
1072 qualified municipality prior to the expenditure.

1073 (2) The governing authority of each county and the governing authority of each qualified
1074 municipality receiving any proceeds from the tax under this article shall maintain a record
1075 of each and every purpose for which the proceeds of the tax are used. A schedule shall
1076 be included in each annual audit which shows for each purpose in the resolution calling
1077 for imposition of the levy the original estimated cost, the current estimated cost if it is not
1078 the original estimated cost, amounts expended in prior years, and amounts expended in
1079 the current year. The auditor shall verify and test expenditures sufficient to provide
1080 assurances that the schedule is fairly presented in relation to the financial statements. The
1081 auditor's report on the financial statements shall include an opinion, or disclaimer of
1082 opinion, as to whether the schedule is presented fairly in all material respects in relation
1083 to the financial statements taken as a whole.
1084 (b) No general obligation debt shall be issued in conjunction with the imposition of the
1085 levy unless each county governing authority determines that, and if the debt is to be
1086 validated it is demonstrated in the validation proceedings that, during each year in which
1087 any payment of principal or interest on the debt comes due, the county will receive from
1088 the levy net proceeds sufficient to fully satisfy such liability. General obligation debt
1089 issued under this article shall be payable first from the separate account in which are placed
1090 the proceeds received by each county from the levy. Such debt, however, shall constitute
1091 a pledge of the full faith, credit, and taxing power of each county; and any liability on said
1092 debt which is not satisfied from the proceeds of the levy shall be satisfied from the general
1093 funds of the county.
1094 (c) The intergovernmental agreement, if applicable, and resolution calling for imposition
1095 of the levy may specify that all of the proceeds of the levy will be used for payment of
1096 general obligation debt issued in conjunction with the imposition of the levy. If the
1097 intergovernmental agreement, if applicable, and resolution so provide, then such proceeds
1098 shall be used solely for such purpose except as provided in subsection (f) of this Code
1099 section.
1100 (d) The intergovernmental agreement, if applicable, and resolution calling for the
1101 imposition of the levy may specify that a part of the proceeds of the levy will be used for
1102 payment of general obligation debt issued in conjunction with the imposition of the tax.
1103 The intergovernmental agreement, if applicable, and resolution shall specifically state the
1104 other purposes for which such proceeds will be used. In such a case, no part of the net
1105 proceeds from the levy received in any year shall be used for such other purposes until all
1106 debt service requirements of the general obligation debt for that year have first been
1107 satisfied from the account in which the proceeds of the levy are placed.
1108 (e) The resolution calling for the imposition of the tax may specify that no general
1109 obligation debt is to be issued in conjunction with the imposition of the tax. The

1110 intergovernmental agreement and resolution shall specifically state the purpose or purposes
1111 for which the proceeds will be used.
1112 (f)(1)(A) If the proceeds of the levy are specified to be used solely for the purpose of
1113 payment of general obligation debt issued in conjunction with the imposition of the
1114 levy, then any net proceeds of the levy in excess of the amount required for final
1115 payment of such debt shall be subject to and applied as provided in paragraph (2) of this
1116 subsection.
1117 (B) If the district receives from the levy net proceeds in excess of the maximum cost
1118 of the transportation projects and costs stated in the resolution calling for the imposition
1119 of the levy or in excess of the actual cost of such purpose or purposes, then such excess
1120 proceeds shall be subject to and applied as provided in paragraph (2) of this subsection
1121 unless otherwise specified in the intergovernmental agreement, if applicable.
1122 (C) If the tax is terminated under paragraph (1) of subsection (b) of Code Section
1123 48-8-264 by reason of denial of validation of debt, then all net proceeds received by the
1124 special district from the tax shall be excess proceeds subject to paragraph (2) of this
1125 subsection.
1126 (2) Excess proceeds subject to this subsection shall be used solely for the purpose of
1127 reducing any indebtedness of any county or qualified municipality within the district
1128 other than indebtedness incurred pursuant to this article. If there is no such other
1129 indebtedness or if the excess proceeds exceed the amount of any such other indebtedness,
1130 then the excess proceeds shall next be paid into the general fund of such county or
1131 qualified municipality, it being the intent that any funds so paid into the general fund of
1132 such county or qualified municipality be used for the purpose of reducing ad valorem
1133 taxes.

1134 48-8-269.6.
1135 Not later than December 31 of each year, the governing authority of each county and each
1136 qualifying municipality receiving any proceeds from the tax under this article shall publish
1137 annually, in a newspaper of general circulation in the boundaries of such county or
1138 municipality, a simple, nontechnical report which shows for each purpose in the resolution
1139 calling for imposition of the levy the original estimated cost, the current estimated cost if
1140 it is not the original estimated cost, amounts expended in prior years, and amounts
1141 expended in the current year. The report shall also include a statement of what corrective
1142 action the county or municipality intends to implement with respect to each purpose which
1143 is underfunded or behind schedule and a statement of any surplus funds which have not
1144 been expended for a purpose."

1145 **PART VIII**

1146 **SECTION 8-1.**

1147 This Act shall be known and may be cited as the "Transportation Funding Act of 2015."

1148 **SECTION 8-2.**

1149 It is the intention of the General Assembly, subject to appropriations and other constitutional
1150 obligations of this state, that year to year revenue increases be prioritized to fund education,
1151 transportation, and health care in this state.

1152 **PART IX**

1153 **SECTION 9-1.**

1154 (a) This Act shall become effective on July 1, 2015.
1155 (b) Tax, penalty, and interest liabilities and refund eligibility for prior taxable years shall not
1156 be affected by the passage of this Act and shall continue to be governed by the provisions of
1157 Title 48 of the Official Code of Georgia Annotated as it existed immediately prior to the
1158 effective date of this Act.

1159 **SECTION 9-2.**

1160 All laws and parts of laws in conflict with this Act are repealed.