

All Projects Must be Approved – The law sets forth the specific language to be used in seeking approval of the voters in a SPLOST referendum [O.C.G.A. § 48-8-111]. As noted above, state law does not authorize any alternative ballot questions or ballot 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.

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 [O.C.G.A. § 48-8-111 (d)].

PROJECTS ELIGIBLE FOR FUNDING

SPLOST proceeds can only be used to fund capital outlay projects. 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.³

Capital Outlay Defined - Capital outlay projects are 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 [O.C.G.A. § 48-8-110].

Authorized Projects - Although O.C.G.A. § 48-8-111 (a)(1) contains a list of specific types of projects which are eligible for SPLOST funding, counties and municipalities are not limited to that list and may fund any capital project so long as it is owned or operated by a county, qualified municipality or a local authority [O.C.G.A. § 48-8-111 (a)(1)(D)]. 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 is a list of eligible expenditures for 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;

³ 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.

- Improvement of surface water drainage for roads, streets, bridges, sidewalks and bicycle paths; and
- Patching, leveling, milling, widening, shoulder preparation, culvert repair, and other repairs necessary for the preservation of roads, streets, bridges, sidewalks and bicycle paths.

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.

Frequently Asked Questions

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 SPLOST funds be used to construct projects for local charities or other non-profit organizations?

No. The gratuities clause of the Georgia Constitution bars local governments from using SPLOST or any other public funds to fund capital outlay projects for non-public entities. This restriction applies to for-profit organizations as well as not-for-profit organizations, including charitable organizations (although the General Assembly may authorize the expenditure of public funds to assist charitable organizations). Ga. Const. 1983, art. IX, § II, par. VIII.

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?

Yes. Several types of regional facilities may be financed through SPLOST. They include the following: 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 funds be used to reduce property taxes?

Yes, but not directly. Although counties cannot directly include a property tax rollback as an eligible expenditure on their referendum, counties can use SPLOST funds to pay for capital outlay projects that would otherwise be funded through property tax revenues.

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

No. While SPLOST can be used to retire existing general obligation debt, it 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 (O.C.G.A. § 48-8-121 (a)).

Appendix A

COUNTY SPECIAL PURPOSE LOCAL OPTION SALES TAX

[Effective July 1, 2004]

§ 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 XI, 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 that term is defined by Code Section 48-9-2 and shall be applicable to the sale of food and beverages as provided for in division (57)(D)(i) of Code Section 48-8-3.

§ 48-8-111. Procedure for imposition of tax; notice to chief elected municipal officials; meeting on possible projects; content of resolution or ordinance calling for referendum; notice to county election superintendent; ballot language; election; results of 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 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 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; or

(L) 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
() NO district of _____ County for a period of time not to exceed _____
 and for the raising of not more than 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 article 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 article to consolidated governments.

(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 article.

(b) The tax authorized by this article, 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.

§ 48-8-112. Effective date of tax; termination of tax; limitation on tax; 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.

(d) Notwithstanding any other provision of this part to the contrary, if a county has imposed the tax authorized by this part which tax has become effective in the calendar quarter beginning October 1, 2003, for road, street, and bridge purposes; courthouse capital repair purposes; capital outlay hospital authority purposes; and other purposes, and unanticipated retail development occurs prior to the fourth year of the tax being in place which will cause the tax to terminate under paragraph (3) of subsection (b) of this Code section, then the provisions of this subsection shall apply. This subsection shall not apply until and unless the governing authority of the county adopts a resolution under this subsection which calls for the tax to continue to be collected for the maximum period of time originally specified for the imposition of the tax. A copy of such resolution shall, upon adoption, be transmitted to the commissioner. Upon the adoption of such resolution, the tax shall continue to be imposed for the same period of time as originally authorized without regard to the amount of revenue collected. The commissioner shall notify the county governing authority as of the end of the calendar quarter during which the commissioner makes the determination otherwise required under paragraph (3) of subsection (b) of this Code section. From the beginning of the immediately following calendar quarter until the final day of the maximum period of time specified for the imposition of the tax, the county shall only be authorized to use the proceeds collected from such tax for a county-wide project or projects or for a recreational facility or facilities and only pursuant to an intergovernmental agreement between such county and all municipalities, whether qualified municipalities or not, which were originally to receive a share of proceeds of such tax regarding such projects or facilities. This subsection shall stand repealed in its entirety on December 31, 2008.

§ 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; 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 article 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 article 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;

(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; or

(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 article upon the same property. If the amount of sales or use tax so paid is less than the amount of the use tax due under this article, the purchaser shall pay an amount equal to the difference between the amount paid in the other tax jurisdiction and the amount due under this article. The commissioner may require such proof of payment in another local tax jurisdiction as he deems necessary and proper. No credit shall be granted, however, against the tax imposed under this article for tax paid in another jurisdiction if the tax paid in such other jurisdiction is used to obtain a credit against any other local sales and use tax levied in the 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 article.

§ 48-8-117. Inapplicability of tax to certain sales of tangible personal property outside the county.

No tax provided for in this article 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 Interstate Commerce Commission or the Georgia Public Service Commission.

§ 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 article 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 article.

§ 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 part and the imposition of the tax authorized by 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; maintenance of separate account; record keeping; audit; use for road, street and bridge purposes; issuance of general obligation debt; distribution of excess proceeds.

(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 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.