

A GUIDE
FOR COUNTY
OFFICIALS

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SPECIAL PURPOSE LOCAL OPTION SALES TAX A GUIDE FOR COUNTY OFFICIALS



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Association County Commissioners of Georgia, Inc.
50 Hurt Plaza, Suite 1000, Atlanta, Georgia 30303
Telephone: (404) 522-5022; Internet: www.accg.org

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Special Purpose Local Option Sales Tax (SPLOST)

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 with their questions about SPLOST and to help ensure that counties do not run afoul of the requirements of the SPLOST law.

DEFINITION

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. County and municipal governments may not use SPLOST proceeds for operating expenses or maintenance of a SPLOST project or any other county or municipal facility or service. Technically, the SPLOST is levied in what the law refers to as a special district comprising the entire territory of the county calling for the SPLOST.

The tax is imposed when the county board of commissioners or sole commissioner¹ calls a local referendum 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 state sales and use tax within the county, including the sale of motor fuels as defined in O.C.G.A. § 48-9-2. The SPLOST is also imposed on the sale of food and beverages, which are not subject to the state sales tax [O.C.G.A. § 48-8-3 (57)(D)(i)].

Several factors determine the length of time that a SPLOST may be imposed. In general, the tax may be levied for five years. If the county and qualified municipalities enter into an intergovernmental agreement, the tax may be imposed for six years. If no intergovernmental agreement exists and a Level One project 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. Once the tax terminates, it can be immediately continued without a gap in collections if a referendum is timely held in which the voters approve the new SPLOST.

HISTORY

The SPLOST law was enacted in 1985 at the request of ACCG. The SPLOST tax was conceived of and was 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 [O.C.G.A. § 48-8-110 and Op. Atty. Gen. U85-24].

¹ For convenience, the term “board of commissioners” will be used throughout this document 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.

Due to concerns from municipalities regarding adequate access to SPLOST funds for their capital improvement needs, ACCG and the Georgia Municipal Association negotiated legislative language promoting more cooperation between counties and municipalities thus hopefully generating greater countywide support for future SPLOST referenda. House Bill 709 [Ga. L. 2004, p. 69] was passed during the 2004 Session of the General Assembly and signed into law on April 23, 2004. A copy of the SPLOST law is included as Appendix A.

Frequently Asked Question

Do the provisions of the new SPLOST law apply to SPLOST referenda passed before July 1, 2004?

No. With the exception of the new reporting requirements in O.C.G.A. § 48-8-122, which apply to new and existing SPLOSTs, the 2004 amendments to the SPLOST law only apply to SPLOST levies where the resolution calling for the SPLOST was adopted by a county governing authority on or after July 1, 2004

PLANNING A SPLOST PROGRAM

Although not a legal requirement, counties and municipalities are encouraged to develop a capital improvements plan (CIP) which represents the county's and municipalities' short- and long-term program goals. A capital improvements planning program should include the development of cost estimates for each element. Those 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 provided with sufficient detail to describe the proposals and their impact on the community 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 organization for any purpose [O.C.G.A. § 21-5-30.2(b)]. 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 [Harrison v. Rainey, 227 Ga. 240 (1971); McKinney v. Brown, 242 Ga. 456 (1978)].

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 not express an opinion regarding the SPLOST proposal or advocate 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 State Ethics Commission and meet that agency's reporting requirements for campaign financing [O.C.G.A. § 21-5-30]. For details, including further information on permissible campaign activities under Georgia law, contact the State Ethics Commission by telephone at (404) 463-1980 or by e-mail at ethics@ethics.state.ga.us. The commission's website may be accessed at <http://ethics.georgia.gov/>.

MUNICIPALITIES ELIGIBLE TO RECEIVE FUNDING

While all counties are automatically eligible to receive SPLOST funds, a municipality must be a "qualified municipality" as defined in O.C.G.A. § 48-8-110 to be eligible.

Qualified Municipalities - To be "qualified," a municipality must provide three of the following 12 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
- Waste water treatment
- Storm water 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

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. See below and Appendices B and C for a detailed description of steps, checklist and timeframes. Failure to adhere to the procedures could result in a SPLOST levy being susceptible to legal challenge.

Meet and Confer – At least 30 days before the board of commissioners issues the call for a SPLOST referendum, the board must set up a meeting with all qualified 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 [O.C.G.A. § 48-8-111 (a)].

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 [O.C.G.A. § 48-8-115(b) (1)]. Alternatively, the county may choose to call for the referendum without first entering into an intergovernmental agreement if it is unlikely that one can be successfully negotiated or if only Level One projects are to be financed through the SPLOST [O.C.G.A. § 48-8-115(b) (2)].

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 the proceeds of the tax are to be used;
- The estimated cost of each project which will be funded from the proceeds of the tax; and
- The time period of the levy stated in calendar years or calendar quarters.

See Appendix F for a model resolution.

When General Obligation Debt is to be Issued - If the board chooses to ask the voters to approve the issuance of general obligation debt in conjunction with the SPLOST referendum, the resolution must also include:

- The principal amount of the debt
- The purpose for which the debt is to be issued
- The local government issuing the debt
- The maximum interest rate or rates which the debt will bear, and
- The amount of principal to be paid in each year during the life of the debt.

Call for the Referendum – Following adoption, the board 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 a 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 specifies that special elections may be held on one of four days each year. The dates vary depending on whether the vote is to occur in an odd or even-numbered year. See Appendix F for more information.

Frequently Asked Question

Do Federal preclearance requirements apply to a SPLOST referendum?

Yes. The county must ensure that the requirements of the federal Voting Rights Act (42 U.S.C. §1973 et seq.) are met. For details on these requirements, contact the U.S. Department of Justice, Civil Rights Division, Voting Section, 950 Pennsylvania Ave., NW, Washington, D.C. 20530, (800) 253-3931 (<http://www.usdoj.gov/crt/voting/index.htm>).

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 preceding the election in the newspaper approved for county legal notices. If general obligation debt is to be issued in conjunction with the imposition of 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.²

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.

If general obligation debt is to be issued, 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.

Frequently Asked Questions

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 to be specified on the ballot. The degree of specificity required is not addressed in the law. However, the Attorney General of Georgia has concluded:

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. Op. Att’y. Gen. U90-18 (1990)

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

Can the SPLOST ballot be designed so as to authorize voters to approve 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 (O.C.G.A. § 48-8-111). It does not authorize any alternative ballot questions or ballot form that would allow for a “pick and choose” ballot.

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 county projects to be submitted. The county should also ensure that the sum of all project costs, including those submitted by any municipality, equals the estimated revenues (O.C.G.A. § 48-8-111 (a) (3)). Because all approved projects must be funded as provided under Dickey, counties should be careful not to overestimate SPLOST revenues, thereby requiring the use of other county funds to make up any shortfalls.

² Special Note Regarding GO Debt: Georgia law requires that, if general obligation 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 (O.C.G.A. § 36-82-1(d)). 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.

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)).

Frequently Asked Questions

Is the State of Georgia responsible for pre-clearing or approving SPLOST projects either before or after a referendum is held?

No. The Department of Revenue has no responsibility for determining the validity of any SPLOST levy or the validity of any SPLOST projects funded. However, the law does provide that the Department may rely upon the opinion of the county attorney or the county itself that the tax has been validly imposed. Furthermore, the Revenue Commissioner can not be held liable for collection of any tax which has not been validly imposed (O.C.G.A. § 48-8-113). Nonetheless, counties must provide the Department a copy of the resolution calling for the referendum, the ballot question and any intergovernmental agreement to be used by the Department in establishing the initiation and termination dates 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 estimated 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. In a 1992 decision, the Georgia Supreme Court ruled that the governing authority was obliged to use proceeds from the SPLOST tax for the projects approved in the SPLOST referendum. The Court held that the governing authority

...is bound by the SPLOST budget and account reports 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. Dickey v. Storey, 262 Ga. 452 (1992).

The Supreme Court, in the same ruling, 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.

Frequently Asked Questions

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.

If an approved SPLOST project becomes “infeasible,” what happens?

The Georgia Supreme Court has recognized that a project could be affected by circumstances outside the control of a governing authority. It is possible that those circumstances could make an approved project infeasible even though the project was considered feasible when it was proposed and approved. When that happens, the governing authority can make adjustments to the project to enhance its feasibility, but the project cannot be abandoned. Dickey v. Storey, 262 Ga. 452 (1992).

Be aware, however, that the term “infeasible” is not defined in the SPLOST law and is open to interpretation. However, it is clear from the Dickey case, that there must be some intervening circumstance outside the control of the county or municipality before it would be considered infeasible. In contrast, diminished support for a project among the elected officials, a shortfall in SPLOST revenues, or increased project costs would not likely be sufficient for a project to cross the threshold from feasible to infeasible. Likewise, a technical problem in constructing a facility would not make a project infeasible so long as there is a reasonable engineering solution to the problem.

ALLOCATION OF REVENUES BETWEEN THE COUNTY AND QUALIFIED MUNICIPALITIES

The law provides that the proceeds of the SPLOST tax collected by the Department of Revenue on behalf of the county are to be disbursed as soon as practicable after collection. The Department retains one percent of the proceeds to defray the cost of collecting the SPLOST. 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 qualified municipalities:

- Method 1. By intergovernmental agreement [O.C.G.A. § 48-8-115 (a)(1)]; or
- Method 2. According to a population-based formula in the absence of an intergovernmental agreement [O.C.G.A. § 48-8-115 (a)(2)].

Regardless of which method is used, where there are approved municipal SPLOST projects, the board of commissioners will disburse the designated SPLOST proceeds to the qualified municipal governments 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 the qualified 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. The primary objective of the agreement is to specify how the SPLOST proceeds would be disbursed among the parties to 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:

1. The specific capital outlay project or projects to be funded;
2. The estimated dollar amount allocated for each project from the SPLOST proceeds;
3. Procedures for distributing SPLOST proceeds to the qualified municipalities;
4. A schedule for distributing proceeds to the municipalities that includes the order or priority in which the projects will be fully or partially funded;
5. A provision providing that all projects in the agreement will be funded, unless otherwise agreed;
6. A provision stating that proceeds from the tax shall be kept in separate accounts and used exclusively for the specified purposes;
7. Record-keeping and audit procedures necessary to meet the requirements of the law; and
8. Any other provisions the county and participating municipalities choose to address.

Model Intergovernmental Agreement and Resolution - See Appendix D for a model intergovernmental agreement and Appendix E for a model resolution authorizing execution of an intergovernmental agreement.

Benefits of the Intergovernmental Agreement Method - Choosing the intergovernmental agreement method provides benefits to both the county and the municipalities. The negotiation process allows the county and 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 SPLOST 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 the 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 period approved by the voters is reached, even if the revenues exceed the estimated costs of all projects.

Frequently Asked Questions

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

If a qualified municipality or municipalities representing 50 percent or more of the total municipal population in a county reach an intergovernmental agreement with the county, other qualified municipalities must become party to that agreement in order to receive a distribution of SPLOST proceeds. There is no reason why all qualified municipalities in a county cannot be party to the intergovernmental agreement.

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

Yes. Where a county and its 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. Since O.C.G.A. § 48-8-115 (b)(2)(B) provides that funds "remaining" after any countywide projects are funded are to be distributed to the county and the municipalities according to population on a monthly basis, the county may fund the countywide projects first and then shift to the monthly population-based distribution for the balance of the SPLOST levy. As to the funds each county and municipal government receives from the monthly distribution, each governing authority sets its own project priority schedule.

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

Yes. Where the county and municipalities enter into an intergovernmental agreement, O.C.G.A. § 48-8-115 (b)(1) requires the agreements between a county and its municipalities 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 the agreements are entered into prior to the referendum, the public has an opportunity to ratify not only the priorities but 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.

METHOD 2. Population Distribution

If a county and the necessary number of qualified municipalities 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 countywide 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 needed to implement state mandated county responsibilities. The law specifically limits Level One projects 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; and
- 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 facilities.

Step 2. If No Level One Projects, Select Level Two County-Wide Projects

Level Two projects are capital projects (other than the Level One projects described above) that, in the discretion of the board of commissioners, are accessible to all county residents or benefit the citizens of the entire county.

Unlike the Level One projects, if the commissioners decide 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 4 below. 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 qualified municipalities as follows:

- As specified in an intergovernmental agreement [O.C.G.A. § 48-8-115 (b)(2)(B)(i)], 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 qualified municipality is allocated a share of the proceeds equal to the ratio of the municipality's population relative to the total county population [O.C.G.A. § 48-8-115 (b)(2)(B)(ii)].

Municipality Located in More than One County - If any qualified 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. Bureau of Census.

Municipal Shares Not Guaranteed - Depending on the allocation method selected, not all qualified 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 qualified 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 qualified municipalities representing 50 percent or more of the municipal population in the county. As such, one or more qualified municipalities may not be included in the intergovernmental agreement and would not be entitled to share in the SPLOST funds.

Frequently Asked Questions

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

As discussed in the previous question, if a qualified municipality that is entitled to SPLOST revenues refuses to specify any SPLOST project to be included on the ballot, it is reasonable to assume the county would have the discretion to select a project on behalf of the non-participating municipality.

By way of suggestion, in the absence of any guidance from the municipality, the county may want to 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.

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 qualified 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.

TERMINATION OF THE TAX

A SPLOST levy is terminated by the State Department of Revenue 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 a maximum time period stated on the ballot, the department 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 department requires retailers to stop collecting the tax at the end of the calendar quarter during which the estimated revenues have been collected [O.C.G.A. § 48-8-112 (b)].

In most cases, termination at the end of a calendar quarter will produce a small amount of excess revenues (discussed below).

Frequently Asked Question

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

If a consolidated government issues general obligation bonds in conjunction with the SPLOST referendum, it can collect SPLOST revenues until the estimated total revenues stated on the ballot are collected. For those consolidated governments that have at least one qualified municipality within the county boundaries, an intergovernmental agreement can be reached allowing the consolidated government to collect the SPLOST up to six years. If the consolidated government does not have any qualified municipalities within its county boundaries, it cannot collect the SPLOST for more than five years (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. [O.C.G.A. § 48-8-112 (c)(3)] However, the commissioners do 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 [O.C.G.A. § 48-8-112 (c)(2)].

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, the board 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 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 80 days after the election before the existing tax terminates. (see Appendix H for eligible dates) This time frame is 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.

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 one year before their current SPLOST is set to expire.

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 Commissioner of the State Department of Revenue 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 the election. The waiver, if granted by the Revenue Commissioner, would allow continuation of the existing SPLOST until the new SPLOST can begin. The 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 [O.C.G.A. § 48-8-112 (c)(2)].

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 term is defined as proceeds in excess of the estimated cost of the projects or in excess of the actual cost of the projects [O.C.G.A. § 48-8-121 (g)(1)(B)].

If one of the approved projects is completed under budget, the law allows counties and municipalities to shift the excess 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.

If an intergovernmental agreement exists, the agreement can define how excess proceeds will be allocated among the parties to the agreement and how they can 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.

Where there are excess proceeds, the law requires that they be used solely to reduce or pay off existing debt of the county. If there is no county debt, any excess proceeds must be paid into the general fund of the county to reduce property taxes. Note that the SPLOST law does not require that the excess proceeds deposited in the general fund be shown as a property tax credit or offset. Instead, a county may expend 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 [O.C.G.A. § 48-8-121(g)].

Frequently Asked Questions

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." Section 48-8-121 (g) of the Official Code of Georgia Annotated 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 could 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 debt of a local authority?

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.

EXCLUSIVE USE / SEPARATE ACCOUNTS

SPLOST proceeds must be used by the county and any qualified 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 funds of the county and municipalities and cannot in any manner be commingled with other county or municipal funds prior to their expenditure [O.C.G.A. § 48-8-121(a)].

Frequently Asked Question

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 (i.e., 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 (2001 Op. Att’y. Gen. 01-3). 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.

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 [O.C.G.A. § 48-8-121 (a)(2) and § 48-8-122].

Audit - A schedule must be included in the annual audit of the county and each municipality receiving SPLOST funds that includes the following information for each approved project:

- The original estimated cost;
- The current estimated cost;
- The amounts expended in prior years; and
- The 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 [O.C.G.A. § 48-8-121 (a)(2)].

Annual Reporting - Prior to December 31st of each year, the county and each municipality receiving SPLOST funds must publish a nontechnical report in a local newspaper of general circulation that includes the following information on each approved project:

- The original estimated cost;
- The current estimated cost if different from the original estimated cost;
- The amounts expended in prior years; and
- The amounts expended in 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 a statement of any surplus funds which have not been expended for a project [O.C.G.A. § 48-8-122].

The county is not responsible for reporting information on municipal projects. The report may be published at anytime 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.

In accordance with O.C.G.A. § 48-8-122, the annual report must include all unexpended SPLOST funds including those held from prior SPLOSTs. See Appendix G for a sample annual report.

Frequently Asked Question

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

Yes. Section 48-8-122 of the Official Code of Georgia Annotated provides that an annual report must be published addressing each project for which SPLOST proceeds are used.

PROTECTION FROM LIABILITY

The SPLOST law specifically provides that counties may not be held liable for any qualified municipality's failure to comply with the requirements of the act [O.C.G.A. § 48-8-121 (a)(3)].

THE STATE'S ROLE IN ADMINISTERING THE SPLOST

A SPLOST is essentially administered by the state in the same manner as the state and regular local option sales tax (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 occur for the following reasons:

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

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. 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, it would appear that 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 Facilities Authority (GEFA) are probably the most common form of state loans.

General Obligation Bond Financing - To utilize GO Bond financing or a loan from a bank, the voters must specifically authorize through the SPLOST referendum authority for the local government to issue general obligation debt. This form of debt typically provides the local government with a lower interest rate than revenue bonds or lease-purchase financing.

Revenue Bonds through Intergovernmental Agreements - If a local government has an authority that can issue revenue bonds, the local government can enter into an intergovernmental agreement with the authority. 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 a voter referendum.

Lease-Purchase - Financing SPLOST projects through lease-purchase agreements and certificates of participation (COPs) is not directly authorized in the SPLOST law. However, the use of lease-purchase transactions has been validated by the courts. [Bauerband v. Jackson County, 278 Ga. 222 (2004)] This approach has developed into a common method of financing SPLOST projects. Lease-purchase obligations are not general obligation debt of the county and 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 discrete project that could be repossessed, if the county does not meet its obligation. For example, renovations of a courthouse would not qualify. Lenders may be unwilling to take lease-purchase financing if it regards the project as one that is not "essential", that is one that the county might choose to cease payments on later.

The structure of a lease-purchase financing differs from other types of financing. First, the interest rate on a 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.

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.

Appendix B SPLOST Timeline

Special Purpose Local Option Sales Tax Implementation

[O.C.G.A. § 48-8-111 (a)]

Action:

Commissioners send notice inviting mayors to a meeting to discuss SPLOST projects. Notice must specify time, place, and purpose of the meeting.

Meeting is held with municipal officials to discuss potential SPLOST projects, including possible municipal projects.¹

County commissioners adopt 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.

Commissioners forward a copy of the resolution to the county election superintendent.

Superintendent issues the call for the referendum and publishes notice in a newspaper of general circulation as required by law.²

Referendum is held and projects are approved or disapproved by voters.

Timeline:

Notice must be mailed or delivered to each mayor at least 10 days prior to the meeting.

Meeting must take place at least 30 days prior to the call for the election.

Resolution is adopted after the meeting with the municipal officials, but prior to the call for the election.

After adoption of the resolution.

The call is issued by the superintendent when he or she receives the resolution from the county. The call must be at least 29 days before the date of the special or general election at which the SPLOST question will be presented to the public for ratification.³ Note that the date of the call is the date it appears in the newspaper [O.C.G.A. § 21-2-2 (2.1)]

NOTE: *Minimum time for the above process: the notice to the mayors must be delivered at least 69 days prior to the election date. However, that is the bare minimum. In fact, it is likely to take several days more especially if there is not a daily newspaper in which to publish the call. In sum, the date the call is published in the newspaper must be at least 29 days before the election date and the notice to the mayors must be at least 40 days before the issuance of the call. Count back from the quarterly special election date to determine the latest date for giving notice to your mayors about the SPLOST meeting.*

¹ County commissioners and officials of one or more municipalities within the county representing at least 50 percent of the county's municipal population may enter into an intergovernmental agreement regarding allocation of SPLOST proceeds. If no intergovernmental agreement is reached, allocation is made by population distribution method.

² The date and purpose of the election must be published once a week for four weeks immediately preceding the date of the election in the official organ of the county per O.C.G.A. § 48-8-111 (b).

³ See O.C.G.A. § 21-2-540 for quarterly special election dates.

Appendix C 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 (page 10) or Method 2 (page 11).
- _____ Adopt resolution authorizing signature of intergovernmental agreement (see Appendix E).
- _____ Prepare and sign intergovernmental agreement, if desired (see Appendix D).
- _____ Adopt resolution calling for the imposition of a SPLOST (see Appendix F).
- _____ Submit resolution/ballot question to the U.S. Department of Justice for pre-clearance.¹
- _____ 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.
- _____ Send copy of resolution and ballot language to Georgia Department of Revenue. Include intergovernmental agreement, if one is executed.²

1 U.S. Department of Justice, Civil Rights Division, Voting Section, 950 Pennsylvania Ave., NW, Washington, D.C. 20530, (800) 253-3931 (<http://www.usdoj.gov/crt/voting/index.htm>).

2 Georgia Department of Revenue, Local Government Services Division, Distribution Section, 4245 International Parkway, Suite A, Hapeville, Georgia 30354-3918.

Appendix D
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;
- (iii) 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 within 10 years of the SPLOST expiration, 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 Department of Revenue 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 department of revenue 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:

- (i) The official declaration of the failure of the election described in this Agreement;
- (ii) 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
- (iii) The completion of all projects described in Exhibit A.

Section 5. County SPOST 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 of 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: _____
[Name], Chairman

(Seal)
Attest:

_____ Clerk

MUNICIPALITY OF _____, GEORGIA

By: _____
[Name], Mayor

(Seal)
Attest:

_____ Clerk

MUNICIPALITY OF _____, GEORGIA

By: _____
[Name], Mayor

(Seal)
Attest:

_____ Clerk

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.

2005 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.

2005 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	82.0%
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.

2005 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%

Appendix E
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 INTERGOVERNMENTAL 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 the 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

CHAIRMAN

ATTEST:

COUNTY CLERK

Appendix F
**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:

<u>County Projects</u>	<u>Estimated Costs</u>
------------------------	------------------------

<u>Municipal Projects</u>	<u>Estimated Costs</u>
---------------------------	------------------------

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 o 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 Board of Elections 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 I. 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 Municipality of _____?

() No

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 Board of Elections 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 Board of Elections of _____ County canvass the returns declare the result of the election and certify the result to the Secretary of State and to the Commissioner of Revenue.

4. The Board of Elections 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 Board of Elections of _____ County, with a request that the Board of Elections 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.

_____ COUNTY, GEORGIA

Chairman

ATTEST:

County Clerk

Date Adopted _____

MUNICIPALITY OF _____, GEORGIA

Mayor

ATTEST:

City Clerk

Date Adopted _____

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.

Appendix G Sample Annual Report

FY ____ Report on Projects Funded Through Special Local Option Sales Tax
(as required by O.C.G.A. §48-8-122)

Project*	Year Approved	Original Estimated Cost	Current Estimated Cost	Amount Expended					Total Amount Expended	Excess Proceeds**	Project Behind Schedule	Project Underfunded
				Year 1	Year 2	Year 3	Year 4	Year 5				
Project One		\$	\$	\$	\$	\$	\$	\$	\$	\$	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.

Appendix H Special Election Dates

§ 21-2-540. Conduct of special elections generally.

(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. Municipal special elections which are to be held in conjunction with a state-wide general primary or state-wide general election shall be called at least 60 days prior to the date of such 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 state-wide general primary or state-wide general election but conducted separate and apart from such state-wide general primary or state-wide general election.

(c)(1) Notwithstanding any other provision of law to the contrary, a special election to present a question to the voters or a special primary or special election to fill a vacancy in a county or municipal office 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:

- (i) The third Tuesday in March;
- (ii) The third Tuesday in June;
- (iii) The third Tuesday in September; or
- (iv) 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 third Tuesday in March; provided, however, that in the event that a special election is to be held under this provision in a year in which a presidential preference primary is to be held, then any such special election shall be held on the date of and in conjunction with the presidential preference primary;

- (ii) The date of the general primary;
- (iii) The third Tuesday in September; or
- (iv) The Tuesday after the first Monday in November.

(2) The provisions of this subsection shall not apply to:

(A) Special elections held pursuant to Chapter 4 of this title, the "Recall Act of 1989," to recall a public officer or to fill a vacancy in a public office caused by a recall election;

(B) Special primaries or special elections to fill vacancies in federal or state public offices.

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

(e) Candidates in special elections shall not be listed on the ballot according to party affiliation unless a candidate has been nominated in a special primary, in which event such a candidate shall have his or her name placed in a column under the name of his or her party. The incumbency of a candidate seeking election for the public office he or she then holds shall be indicated on the ballot.



**Association County Commissioners
of Georgia**
50 Hurt Plaza, Suite 1000
Atlanta, Georgia 30303
www.accg.org