House Bill 575 (AS PASSED HOUSE AND SENATE)
By: Representatives Dickey of the 140th, Watson of the 172nd, Pirkle of the 155th, and Holmes of the 129th

A BILL TO BE ENTITLED

AN ACT

To amend Article 2 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to joint county and municipal sales and use tax, so as to provide for the levy of the joint county and municipal sales and use tax by consolidated governments and use of proceeds of such tax; to provide for payments in lieu of taxes; to provide for sunset provisions and renewals; to provide for referenda; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 2 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to joint county and municipal sales and use tax, is amended by adding a new Code section to read as follows:

"48-8-97.

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

H. B. 575
- 1 -
(b) In a special district containing a consolidated government referred to in subsection (a) of this Code section, the rate of tax imposed under this article may be increased from 1 percent to 2 percent if such increase is approved by:

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) A referendum conducted in the same manner as otherwise required for
discontinuation of the tax under Code Section 48-8-92, except that the ballot shall have
written or printed thereon the following:
'( ) YES  Shall the retail sales and use tax levied within the special district within
( ) NO  __________ County be decreased from 2 percent to 1 percent?'

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

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

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

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

'( ) YES  Shall the retail sales and use tax levied within the special district within
( ) NO  __________ County be renewed at 2 percent?'

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

(3) Any renewed term for the increased tax rate is subject to the condition precedent as
described in paragraph (2) of subsection (d) of this Code section, provided that the
proceeds of such tax shall be expended in accordance with the provisions of
subparagraph (d)(2)(B) of this Code section during the entirety of any subsequent
renewed terms.
(h) In all respects not otherwise provided for in this Code section, the levy of a tax under this article by a consolidated government referred to in subsection (a) of this Code section shall be in the same manner as the levy of the tax by any other county.

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

SECTION 2.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 3.

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