



A RESOLUTION  
BY

Three handwritten signatures in black ink are written over the text "A RESOLUTION BY". The signatures are stylized and appear to be those of city council members.

**A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO ARBITRATION, MEDIATION OR OTHER APPROPRIATE DISPUTE RESOLUTION PROCESS WITH FULTON COUNTY AND THE OTHER FULTON COUNTY MUNICIPALITIES REGARDING THE LOCAL OPTION SALES TAX; AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT ON BEHALF OF THE CITY OF ATLANTA WITH FULTON COUNTY AND THE MUNICIPALITIES PRIOR TO THE DECEMBER 31, 2002 DEADLINE; AND FOR OTHER PURPOSES.**

**WHEREAS**, Georgia laws allows for the imposition of a joint county and municipal sales and use tax, known as the Local Option Sales Tax ("LOST"); and

**WHEREAS**, in authorizing local governments to levy the LOST, the Georgia General Assembly intended that all qualified municipalities share proportionally in the proceeds of the sales and use tax approved and paid for by their citizens; and

**WHEREAS**, since 1994, the Georgia Tax Commissioner's Certificate authorizing distribution of the LOST proceeds expires on December 31st of the second year following the decennial census, *i.e.* December 31, 2002, pursuant to O.C.G.A. §48-8-89(d)(1); and

**WHEREAS**, if the decennial renegotiation, mediation or arbitration of the sales tax allocation is unsuccessful, and therefore the renegotiated certificate is not sent to the Revenue Commissioner by December 31<sup>st</sup>, then the tax *cannot* be levied until it is authorized again pursuant to OCGA § 48-8-85; and

**WHEREAS**, should the LOST fail to be reauthorized on December 31, 2002, the shortfall to the City's budget would be catastrophic; and

**WHEREAS**, pursuant to O.C.G.A. 48-8-89 (b)(1)n or after July 1, 1995, the distribution of proceeds of the tax as specified in the certificate shall be based upon, but not be limited to, the following criteria:

- (1) The service delivery responsibilities of each political subdivision to the



population served by the political jurisdiction and served during normal business hours, conventions, trade shows, athletic events and the inherent value to a community of a central business district and the unincorporated areas of the county and the obligation of all residents of the county for the maintenance and prosperity of the central business district and the unincorporated areas of the county;

(2) The service delivery responsibilities of each political subdivision to the resident population of the subdivision;

(3) The existing service delivery responsibility of each political subdivision;

(4) The effect of a change in sales tax distribution on the ability of each political subdivision to meet its short-term and long-term debt;

(5) The point of sale and use which generates the tax to be apportioned;

(6) The existence of intergovernmental agreements among and between the political subdivisions;

(7) The use by any political subdivision of property taxes and other revenues from some taxpayers to subsidize the cost of services provided to other taxpayers of the levying subdivision; and

(8) Any coordinated plan of county and municipal service delivery and financing; and

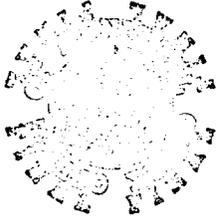
**WHEREAS**, the City of Atlanta's current share of the LOST, based upon the 1990 decennial census is 47.3870%; and

**WHEREAS**, the LOST resulted in revenues of \$94,780,000 in 2001 and is projected to result in revenues of \$87,000,000 in 2002; and

**WHEREAS**, historically the LOST revenues comprise between 20% and 25% of total general fund revenues; and

**WHEREAS**, although initial attempts at arbitrating the revised allocation with Fulton County have heretofore been unsuccessful, the Mayor seeks to protect the City of Atlanta's allocation by pursuing dispute resolution up until the deadline; and

**WHEREAS**, the final City Council Meeting of 2002 is on December 2, 2002, at which time it is doubtful that any agreement will be available to present to Council for approval prior to the December 31, 2002 deadline; and



**WHEREAS**, the City Council is desirous of providing the maximum opportunity for the City of Atlanta to retain its rightful allocation and use of the LOST.

**THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA** hereby resolves that the Mayor be and is authorized to continue to negotiate with Fulton County and the Fulton County municipalities, including mediation or arbitration, to obtain a fair share of the LOST proceeds consistent with the statutory criteria set forth above.

**BE IT FURTHER RESOLVED** that the Mayor be and is authorized to enter into a binding agreement on behalf of the City of Atlanta with Fulton County and the Fulton County municipalities as to the LOST allocation such that a renegotiated certificate can be sent to the Georgia State Revenue Commissioner by December 31, 2002; and

**BE IT FINALLY RESOLVED** that the Mayor shall make a report to the Atlanta City Council at its January 6, 2003 Meeting relative to the results of the LOST renegotiations and allocation.

A true copy,

*Rhonda Daughin Johnson*  
Municipal Clerk, CMC

ADOPTED by the Council  
APPROVED by the Mayor

DEC 02, 2002  
DEC 10, 2002

OFFICIAL CODE OF GEORGIA ANNOTATED  
Copyright © 2002 by The State of Georgia  
All rights reserved.

\* THIS DOCUMENT IS CURRENT THROUGH THE 2002 REGULAR LEGISLATIVE  
SESSION \*

TITLE 48. REVENUE AND TAXATION  
CHAPTER 8. SALES AND USE TAXES  
ARTICLE 2. JOINT COUNTY AND MUNICIPAL SALES AND USE TAX

**GO TO CODE ARCHIVE DIRECTORY FOR THIS JURISDICTION**

**O.C.G.A. § 48-8-89.1 (2002)**

**§ 48-8-89.1. Procedure for certifying additional qualified municipalities;  
issuance of new distribution certificate; cessation of authority to collect tax  
ceases upon failure to file new certificate**

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

(b) Within 60 days after the effective date of the notice referred to in subsection (a) of this Code section, a new distribution certificate shall be filed with the commissioner for the special district. This distribution certificate shall specify by percentage what portion of the proceeds of the tax available for distribution within the special district shall be received by the county in which the special district is located and by each qualified municipality located wholly or partially within the special district, including the new qualified municipality. No distribution certificate may contain a total of specified percentages in excess of 100 percent.

(c) Except as otherwise provided in this subsection, a distribution certificate required by this Code section must be executed by the governing authorities of the county within which the special district is located and each qualified municipality located wholly or partially within the special district, including the new qualified municipality. Notwithstanding the fact that a certificate shall not contain an execution in behalf of one or



more qualified municipalities within the special district, if the combined total of the populations of all such absent municipalities is less than one-half of the aggregate population of all qualified municipalities located within the special district, the submitting political subdivisions shall, in behalf of the absent municipalities, specify a percentage of that portion of the remaining proceeds which each such municipality shall receive, which percentage shall not be less than that proportion which each absent municipality's population bears to the total population of all qualified municipalities within the special district multiplied by that portion of the remaining proceeds which are received by all qualified municipalities within the special district. For the purpose of determining the population of the absent municipalities, only that portion of the population of each such municipality which is located within the special district shall be computed.

(d) If a new certificate is not filed for any special district as required by this Code section, the authority to impose the tax authorized by Code Section 48-8-82 within that special district shall cease on the first day of January of the year following the year in which the required distribution certificate could last have been timely filed. In any special district in which the authority to impose the tax is terminated pursuant to this subsection, the tax may thereafter be reimposed only pursuant to the procedures specified in Code Sections 48-8-84 through 48-8-86.

(e) If a new certificate is filed as required by this Code section, the commissioner shall begin to distribute the proceeds as specified in the new certificate on the first day of January of the first calendar year which begins more than 60 days after the effective date of the notice referred to in subsection (b) of this Code section. The commissioner shall continue to distribute the proceeds of the tax according to the new certificate until a subsequent certificate is filed and becomes effective as provided in Code Section 48-8-89.

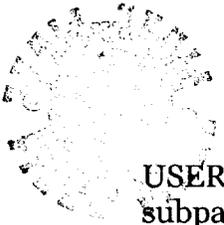
HISTORY: Code 1981, § 48-8-89.1, enacted by Ga. L. 1983, p. 1461, § 1; Ga. L. 1985, p. 149, § 48.

## JUDICIAL DECISIONS

**ALL QUALIFIED MUNICIPALITIES SHARE PROPORTIONALLY IN SALES AND USE TAX PROCEEDS.** --The General Assembly intended that all qualified municipalities share proportionally in the proceeds of the sales and use tax approved and paid for by their citizens. *City of Winder v. Collins*, 259 Ga. 570, 385 S.E.2d 71 (1989).

**WHEN QUALIFIED MUNICIPALITY ELECTS TO BE "ABSENT MUNICIPALITY."** --A municipality that becomes qualified after a certificate of distribution has been submitted to the revenue department is also guaranteed a proportional share of the taxes collected if it elects to be an "absent municipality." *City of Winder v. Collins*, 259 Ga. 570, 385 S.E.2d 71 (1989).

**ONLY THE PORTION OF A CITY'S POPULATION** that resides within the special tax district is included when calculating a municipality's pro rata share of the **local option sales tax** proceeds in that district. *City of Atlanta v. Collins*, 262 Ga. 261, 417 S.E.2d 141 (1992).



**USER NOTE:** For more generally applicable notes, see notes under the first section of this subpart, part, article, chapter or title.

RCS# 4338  
12/02/02  
9:45 PM

Atlanta City Council

Regular Session

02-R-2169

Enter Agreement with Fulton County  
Regarding Local Option Sales Tax  
ADOPT

YEAS: 10  
NAYS: 3  
ABSTENTIONS: 0  
NOT VOTING: 2  
EXCUSED: 1  
ABSENT 0

Y Smith	Y Archibong	N Moore	N Mitchell
Y Starnes	Y Fauver	NV Martin	Y Norwood
Y Young	Y Shook	E Maddox	Y Willis
Y Winslow	Y Muller	N Boazman	NV Woolard

**02-R-2169**

(Do Not Write Above This Line)

A RESOLUTION BY *J.F. [Signature]*

A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO ARBITRATION, MEDIATION OR OTHER APPROPRIATE DISPUTE RESOLUTION PROCESS WITH FULTON COUNTY AND THE OTHER FULTON COUNTY MUNICIPALITIES REGARDING THE LOCAL OPTION SALES TAX; AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT ON BEHALF OF THE CITY OF ATLANTA WITH FULTON COUNTY AND THE MUNICIPALITIES PRIOR TO THE DECEMBER 31, 2002 DEADLINE; AND FOR OTHER PURPOSES. *Motion to Amend FAILED*

- CONSENT REFER
- REGULAR REPORT REFER
- ADVERTISE & REFER
- 1st ADOPT 2nd READ & REFER
- PERSONAL PAPER REFER

Date Referred  
 Referred To:  
 Date Referred  
 Referred To:  
 Date Referred  
 Referred To:

*Adopted By Roll Call*

First Reading  
 Committee \_\_\_\_\_  
 Date \_\_\_\_\_  
 Chair \_\_\_\_\_  
 Referred To \_\_\_\_\_

Committee \_\_\_\_\_  
 Date \_\_\_\_\_  
 Chair \_\_\_\_\_  
 Action Fav, Adv, Hold (see rev. side) \_\_\_\_\_  
 Other \_\_\_\_\_  
 Members \_\_\_\_\_  
 Refer To \_\_\_\_\_

Committee \_\_\_\_\_  
 Date \_\_\_\_\_  
 Chair \_\_\_\_\_  
 Action Fav, Adv, Hold (see rev. side) \_\_\_\_\_  
 Other \_\_\_\_\_  
 Members \_\_\_\_\_  
 Refer To \_\_\_\_\_

Committee \_\_\_\_\_  
 Date \_\_\_\_\_  
 Chair \_\_\_\_\_  
 Action Fav, Adv, Hold (see rev. side) \_\_\_\_\_  
 Other \_\_\_\_\_  
 Members \_\_\_\_\_  
 Refer To \_\_\_\_\_

Committee \_\_\_\_\_  
 Date \_\_\_\_\_  
 Chair \_\_\_\_\_  
 Action Fav, Adv, Hold (see rev. side) \_\_\_\_\_  
 Other \_\_\_\_\_  
 Members \_\_\_\_\_  
 Refer To \_\_\_\_\_

FINAL COUNCIL ACTION  
 2nd  1st & 2nd  3rd  
 Consent  V Vote  RC Vote

CERTIFIED

DEC 02 2002

**CERTIFIED**  
 DEC 02 2002  
*Raul Douglas Johnson*  
 MUNICIPAL CLERK

MAYOR'S ACTION

*[Signature]*  
 DEC 10 2002

Stamp area with date and signature.