

KING & SPALDING LLP
CLIENT ALERT

**Impact of Revisions to County SPLOST Laws on
SPLOSTs for Educational Purposes**

July 1, 2004

To Our Friends and Clients:

On April 23, 2004 Georgia Governor Sonny Perdue signed into law the State and Local Taxation, Financing, and Service Delivery Revision Act of 2004 (the "Act"). The Act significantly revises Georgia law relating to county and municipal local sales and use taxes, including the one percent special purpose local option sales tax ("SPLOST"). The Act applies to all SPLOSTs imposed under resolutions adopted on or after July 1, 2004. This update discusses several of the revisions and how the changes may affect the law regulating SPLOSTs for educational purposes.

Maximum Time Period for Educational SPLOST Has Not Changed

One of the significant revisions in the Act relates to the maximum time period during which a SPLOST may be imposed. Under prior law, a SPLOST could only be collected for a maximum period of five years. The new law authorizes a county SPLOST to be collected for a maximum of six years under several specific circumstances.

The revision allowing the maximum six-year period, however, does not affect SPLOSTs imposed for educational purposes. The Constitution of the State of Georgia specifically states that educational purpose sales taxes "shall be imposed for a period of time not to exceed five years." Since the Act revises the Georgia Code but not the Georgia Constitution, governing authorities collecting SPLOSTs for educational purposes must continue to adhere to the five-year maximum time period.

Termination of Educational SPLOST Has Not Changed

Under the previous law, a SPLOST terminated upon (i) the collection of the maximum amount of revenue to be raised by the tax as stated in the referendum or (ii) the end of the maximum five-year term, whichever came first. The Act now requires governing authorities to state the estimated, rather than maximum, amount of revenue to be raised by the tax. The Act also provides that, in certain specific situations, the SPLOST may be collected during the entire length of time for which the tax is authorized by the referendum, even if the estimated amount is exceeded.

Nevertheless, in situations in which no intergovernmental agreement is in place, or if the project is not a "level one county-wide project," the tax must terminate upon raising revenues equal to the estimated amount or the expiration of the maximum five-year period, whichever occurs first. As a result, the termination provisions for SPLOSTs imposed for educational purposes have not changed under the Act. First, educational projects are not included in the Act's definition of level one county-wide projects. Second, although an educational purpose sales tax may be collected for the entire term when an intergovernmental agreement is in place, educational projects rarely involve such intergovernmental agreements. Accordingly, in most situations involving educational projects, the tax must terminate at the earlier of either the expiration of the

maximum five-year period, or upon raising revenues equal to the estimated amount stated in the referendum.

If you have any questions about this Client Alert, please contact Rachel Spears at (404) 572-4682 or rspears@kslaw.com.

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CLIENT ALERT

Revisions to SPLOST Law Effective July 1, 2004

July 8, 2004

To Our Friends and Clients:

On April 23, 2004 Georgia Governor Sonny Perdue signed into law the State and Local Taxation, Financing, and Service Delivery Revision Act of 2004 (the "Act"). The Act significantly revises Georgia law relating to county and municipal local sales and use taxes, including the one percent special purpose local option sales tax ("SPLOST") authorized in O.C.G.A. §48-8-110 et seq. The Act applies to all SPLOSTs imposed under resolutions adopted on or after July 1, 2004. Some of the important changes to SPLOST include:

- Cities, and not just the county, may issue general obligation debt in conjunction with a SPLOST.
- Cities and counties may issue general obligation debt for road, street and bridge purposes in conjunction with a SPLOST referendum. SPLOST funds may be used for maintenance and repair of roads.
- Each city or county receiving SPLOST proceeds must keep a record of each project funded by SPLOST and must publish a simple, nontechnical SPLOST report in a newspaper of general circulation within that city or county. Unlike some of the other revisions to the law, the new reporting requirements apply to all SPLOSTs in effect as of July 1, 2004 as well as future SPLOSTs.
- If the county and cities representing at least 50 percent of the municipal population enter into an intergovernmental contract, the SPLOST may be collected for a maximum of six years (rather than five years) and the SPLOST may be collected for the entire term regardless of whether the projects are fully funded at an earlier date.
- The county may use some or all of the SPLOST proceeds for a "level one county-wide project", meaning a county courthouse, a county administrative building primarily used for constitutional officers or elected officials, a county or regional jail, correctional institution, or other detention facility, a county health department, or any combination of such projects.
- If the county uses some or all of the SPLOST proceeds for a level one county-wide project without an intergovernmental agreement in place, the SPLOST must be levied for at least five years. If level one projects are projected to require more than 24 months of SPLOST proceeds, the SPLOST must be levied for a full six years.
- If no level-one project is funded, the county may allocate up to 20 percent of the anticipated SPLOST revenues to fund "level two county-wide projects" which are county-wide projects of the county or one or more municipalities other than a level one county-wide project. If the county chooses to fund level two county-wide projects and if no intergovernmental agreement is in place, the SPLOST may be collected for a maximum of five years and the SPLOST will terminate after the estimated amount, as specified in the referendum, is raised.
- If an intergovernmental contract is not in place, SPLOST proceeds remaining

after the funding of the level one or level two projects will be distributed among the county and the qualified municipalities in the county subject to a population-based division.

If you have specific questions about the revised SPLOST law, please feel free to contact Rachel Spears at (404) 572-4682 or rspears@kslaw.com or any one of our other Public Finance Attorneys listed below.

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