The State Senate
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FINAL REPORT
OF THE
SENATE LOCAL SALES TAX COLLECTION
STUDY COMMITTEE

Honorable Chip Rogers, Chair
Senator, District 21

Honorable Tim Golden
Senator, District 8

Honorable Emanuel Jones
Senator, District 10

Honorable Mitch Seabaugh
Senator, District 28

Honorable John Wiles
Senator, District 37

Honorable Mike Bodker
Mayor, City of Johns Creek

Honorable Donnie Henriques
Mayor, City of Woodstock

Honorable Tom McMichael
Commissioner, Houston County

Honorable Lamar Paris
Commissioner, Union County

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I. INTRODUCTION

The Senate Local Sales Tax Collection Study Committee was created pursuant to Senate Resolution 1167 of the 2008 Legislative Session and sponsored by Senator Chip Rogers of the 21st Senate District. The Senate Local Sales Tax Collection Study Committee (LSTC Study Committee) was authorized to review "whether it is feasible and advisable to permit local governments to exercise the option of making their own arrangements for the collection of local sales and use taxes in lieu of collection of those taxes by the state revenue commissioner."

The LSTC Study Committee was chaired by Senator Chip Rogers of the 21st Senate District. The following members served on the LSTC Study Committee:

- Senator Tim Golden of Lowndes County;
- Senator Emanuel Jones of DeKalb County;
- Senator Mitch Seabaugh of Coweta County; and
- Senator John Wiles of Cobb County.

The LSTC Study Committee was also comprised of four citizen members representing two cities and two counties:

- Mayor John Bodiker of the City of Johns Creek;
- Mayor Donnie Henriques of the City of Woodstock;
- Commissioner Tom McMichael of Houston County; and
- Commissioner Lamar Parrish of Union County.

The LSTC Study Committee convened on five separate occasions:

- Thursday, June 26, 2008, in Savannah, Georgia;
- Thursday, August 14, 2008, in Atlanta, Georgia;
- Thursday, September 26, 2008, in Atlanta, Georgia;
- Thursday, December 11, 2008, in Atlanta, Georgia; and
- Monday, January 5, 2009, in Atlanta, Georgia.

The LSTC Study Committee convened to hear from interested parties about the current nature of local sales tax revenue collection in Georgia, examine how this process compares to other states, and discuss applicable remedies and potential solutions that may ease the evolving frustrations of local government officials in Georgia.

II. EXECUTIVE SUMMARY

The LSTC Study Committee arose out of a need to review Georgia's revenue collection process for local government sales tax receipts. Currently, the Georgia Department of Revenue (GDOR) collects all local sales tax revenue; the funds are then disbursed back to the respective local government entity. The study committee examined whether Georgia's local governments and school districts should be granted the authority to collect the revenue in-house or by an independent third party.

All Georgia local governments rely upon ad valorem property tax as a primary revenue source; however, sales tax collections are authorized for local government use through Local Option Sales (LOST), Special Purpose Local Option Sales (SPLOST), and Education Local Option Sales Taxes (ELOST). The GDOR receives these collections from retail vending locations and remits a check back to the respective county which then drafts a check to the various municipalities within the county per the controlling inter-governmental agreement.[1]

Thirty two states operate in the same vein as Georgia—the state department of revenue collects both state and local portions of the sales tax. The GDOR requires online sales tax reporting for certain high-profit businesses; however, paper filing is still acceptable for most small business venders.[2] The online filing operation was made available in June 2006. The GDOR reports that the state has 74 sales tax auditors who completed over 1,180 audits in Fiscal Year 2008, attributing to over $71 million in payments.

The GDOR assesses a statutory 1 percent collection fee to local governments for revenue collection; most state departments of revenue charge and retain accrued interest. This fee annually garners approximately $40 million for the GDOR.

In the contrary, states that currently provide local governments the option to collect and audit their own sales/use taxes include: Alabama, Alaska, Arizona, Colorado, Louisiana, and Mississippi. Local autonomy in revenue collection generally has turned on issues relating to auditing, timeliness of payments, and use of information.

The LSTC Study Committee finds that local governments should have the option to not utilize the GDOR for sales tax collection, and that respect for Georgia Home Rule should include the ability for local governments to choose the best method for their respective sales tax collection.

Legislation will be introduced affording local governments with this option.

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[1] See O.C.G.A. §§ 8-8-104 and 48-8-89.

[2] In Georgia, 22,000 taxpayers are required to file online.

III. PERSPECTIVE AND DISCUSSION

A. Thursday, June 26, 2008
Savannah, Georgia

1. Association County Commissioners of Georgia

Mr. Clint Mueller, Director of Policy Development/Revenue and Finance, provided information on behalf of Georgia's county commissioners. He stated that all counties are authorized to levy, upon voter approval, a LOST which can also be a SPLOST. He noted that all but five Georgia counties currently levy a LOST, and in eight counties, the proceeds are dedicated to the local school board; moreover, there are about 12 counties that levy no SPLOST.[3] Fulton and DeKalb Counties levy a penny sales tax dedicated to the Metropolitan Atlanta Rapid Transit Authority (MARTA)[4]; and DeKalb and Rockdale Counties levy a Homestead Option Sales Tax (HOST) which dedicates a penny for residential homestead rollback on property tax liability.[5] It is important to note that a county is not statutorily authorized to levy a LOST and a HOST simultaneously.[6] Mr. Mueller also pointed out that off-premises food consumption is exempt from state sales tax, but is subject to an applicable local LOST; DeKalb and Rockdale HOSTs do not apply to grocery purchases.

Mr. Mueller further noted that counties and cities must mutually agree to a SPLOST revenue distribution scheme every two years, and that a SPLOST may last up to six years before being resubmitted for voter renewal. Each six-year SPLOST must specifically list each project that will benefit from the tax proceeds. Revenues are collected by the GDOR which then provides a check to the counties who then provide the mutually agreed upon revenue to the local cities. SPLOSTs assist in alleviating property tax burdens, and projects may be scaled back, if necessary, rather than trimming the general operating budget.

Senator Rogers questioned the success of local sales tax referenda. Mr. Mueller responded that SPLOST referenda have generally enjoyed a 90 percent approval rate by voters. Senator Rogers further noted that some services are taxed by SPLOST, and Mr. Mueller agreed stating that Hawai'i taxes the most services with New Mexico, Delaware, and Washington taxing a just few less services.[7]

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[3] A LOST is a permanent penny sales tax that will be collected in perpetuity unless specifically repealed by local voters.

[4] The City of Atlanta was legislatively allowed to levy a MOST for water and sewer upgrades.

[5] Eighty percent of the HOST revenue must be apportioned for rollback while 20 percent may be used for capital projects.

[6] Cherokee, Cobb, and Gwinnett Counties levy no LOST or HOST; however, Towns County levies two LOSTs.

[7] Hawai'i currently levies a state sales tax on over 160 services.

Mayor Henriques asked about the rise of black market services in the event more services are taxed, and Mr. Mueller responded that each service that is taxed must be reviewed and audited in order to avoid rise of an underground economy.

Mayor Bodiker asked whether there is analysis on surrounding states' impact on taxation of services. Mr. Mueller replied that there have been no in-depth studies in border communities on that topic. Mayor Bodiker further questioned about uncollected sales tax in Georgia. Mr. Mueller responded that Tennessee conducted a study noting that Georgia and the state to the north share a common revenue structure: the departments of revenue collect and remit to the local governments.

Senator Rogers stated that the sales tax system needs simplification; he illustrated an example that a roast chicken purchased at a grocery store to be eaten at home will not be subject to sales tax while that same roast chicken purchased to be eaten on site will be taxed. Commissioner McMichael asked about sales tax on internet transactions; Mr. Mueller noted that the internet taxation turns on the nexus of the vender selling the goods in Georgia. Georgia retailers are at a disadvantage against internet retailers because of the state sales tax. Under current law, a use tax remains due but not collected, for payment relies upon unilateral action by the purchaser.[8]

Mr. Mueller commented that the GDOR recently changed its reporting practice, but counties were not informed of such change, and this has been frustrating to Georgia's 159 counties. The Local Government Advisory Council no longer exists despite requests from local governments for its renewal. Further, GDOR uses vague commodity codes for reporting with no specific information for local retailers. It was also noted that, in Cobb County, the county's occupation tax list does not equal the sales tax identification list provided by the GDOR.

2. Georgia Municipal Association

Ms. Gwin Hall, Associate General Counsel for the Georgia Municipal Association (GMA), spoke on behalf of Georgia's 450 cities, and noted that a survey of GMA members showed $6.5 billion in capital needs.[9] In reference to LOST, SPLOST, and ELOST, she stated that sales tax levies should tax the same goods and services. The GDOR retains over $40 million annually from its 1 percent charge to local governments for their revenue collection, but GMA desires more accountability and better customer service in exchange for retention of the $40 million. Auditing is another problem, for audits of sales tax collections are small in comparison to income tax; the GDOR released 1,300 pages of delinquent income tax payers, but that is not reflective of sales tax arrears. Georgia cities want more data of sales tax collections within their respective corporate limits;

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[8] GDOR provides forms for use tax liability on its website: *http://www.etax.dor.ga.gov/salestax/st3forms/st3_indx.aspx*.

[9] This sum does not include the City of Atlanta.

point of sale information is critical to assist with local government budgeting and operations.

Ms. Hall further suggested that Georgia is nearly 20 years behind Alabama in terms of local revenue collection.

3. City of Valdosta, Georgia

Mr. Larry Hanson, City Manager for the City of Valdosta, spoke in favor of allowing local government revenue collection. He stated that local collection lends to economic development; he further stated that Valdosta is currently developing a $300 million project, and with it and its sales tax base, the city could eliminate property taxes assuming that municipalities were authorized to levy a sales tax.

Under current operations, Valdosta is unable to obtain the best sales tax information from GDOR except through mayor and council resolution. Mr. Hanson further stated that when information was obtained it was slow to arrive, and the city had to strictly comply with GDOR-based restrictions on use of such information. The GDOR unilaterally changed its reporting method which resulted in approximately a $400,000 decrease for Valdosta because of the lag time in paper reports from retailers; Mr. Hanson alleges that the GDOR did not notify local governments of this unilateral change, and further opines that Georgia's cities and counties are not high priorities for the GDOR.

Mr. Hanson asserts that Valdosta would reap additional revenue of $1 million if full sales tax collection compliance was achieved; an increase of 4 or 5 percent would be dramatic. Local governments could avoid millage increases just by collecting what is owed from retailers' sales tax collections. Sales tax revenue averages about 23 percent of the total Valdosta budget.

Senator Jones asked Mr. Hanson about maintenance being included in SPLOST proceeds. Mr. Hanson responded that maintenance should be included in SPLOST projects especially for the buildings constructed from SPLOST proceeds, but the state needs to be careful in defining maintenance because it is not an annual recurring cost.[10]

4. Revenue Discovery Systems

Mr. David McCleod, Senior Vice President for Revenue Discovery Systems (RDS), spoke on behalf of benefits of, and services provided by, RDS in terms of revenue collection. He noted that RDS provides various government services whose point is to raise revenue and not raise taxes. Services provided by RDS are centered on tax administration,[11] audit compliance,[12] revenue discovery and

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[10] Mr. Hanson cited the Internal Revenue Service's definition of "maintenance."

[11] Includes sales/use, tobacco, alcohol, and occupational licenses.

recovery, [13] and aged receivables management. Essentially, RDS provides a public/private revenue collection partnership in which RDS provides administrative, management and back-office revenue enhancement support services, and has been strengthening its "government-only" experience for over 25 years.

Mr. McCleod noted that the Alabama Department of Revenue (ADOR) was not communicating with local governments, which led the same local governments to believe that that the ADOR was not collecting the taxes it was charged to collect. Further, the ADOR was holding funds for over 45 days, retaining interest on said funds, not providing reports of its activities and collections, and not providing online payment access to taxpayers. RDS accelerated fund disbursement to make them more timely for its local government clients, and enjoyed a first year revenue increase of 4 to 10 percent over the previous year's collections. Further, RDS initiated a more active field of auditing for its clients, and pushed for "Uniform Audit Procedures" in Alabama to encourage more organized and efficient auditing. Additionally, Mr. McCleod noted that maintaining a third-party revenue collector enables local governments to enjoy greater control without having to make resource and infrastructure control; moreover, receipt of timely reports encourages more timely decision-making and appropriate audit planning.

Tuscaloosa County, Alabama, initiated private revenue collection, and experienced an immediate increase of 4 percent in revenue collection.

Commissioner Parish asked about the impact that RDS had on the ADOR. Mr. McCleod responded that ADOR seemed to have mixed priorities, meaning it preferred to remove itself from local revenue collection altogether, but no jobs were lost at the state or local level. Commissioner Parish further stated that Union County has not seen a GDOR auditor in over 20 years; therefore, he noted, there is no fear in the retail locations on sales tax compliance.

Senator Jones inquired about the legal authority for private compensation, and Mr. McCleod replied that it would require legislative authority to allow local governments the ability to outsource and compensate for such service; he further explained that RDS does not allow for contingent-based auditing.

Chairman Rogers asked what GDOR assessed for its collection services. Mr. McCleod stated that GDOR is required by law to assess a 1 percent fee for revenue collection and to retain interest. Currently, GDOR has a two-month turnaround on refunding revenues to local governments.

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[12] Includes audit services for sales/use, hotel/motel, and unclaimed property.

[13] Includes discovery of unknown or non-paying taxpayers and recovery of outstanding receivables.

B. Thursday, August 14, 2008
Atlanta, Georgia

1. Revenue Discovery Systems

Mr. David McCleod returned before the LSTC Study Committee to provide some additional comments following the previous meeting. He stated that RDS provides a private service which expands local control and increases local options. Third-party collectors provide a service to local governments which do not prefer to self collect or defer from centralized revenue collection.

Mr. McCleod further noted that local governments have genuine concerns about continued delay in funds distribution owed to the counties. Field auditing is a critical component to revenue collections. Over 200 Alabama cities and 75 percent of the counties are current RDS clients.[14]

2. City of Opelika, Alabama

Mr. Mike Moore, Revenue Director for the City of Opelika, Alabama, appeared before the LSTC Study Committee to speak on his experiences with local revenue collection. Mr. Moore explained that he has extensive sales tax experience and knowledge with Alabama revenue procedures; moreover, he has served as revenue director for over 24 years. He stated that there used to be no certainty in the amount of revenue received; mistakes were often cited with no explanation or proof. Other cities and counties experience the same problems noting that ADOR "would not collect local revenue if not required by state law."

Mr. Moore referenced the City of Gulf Shores, Alabama, and stated that officials there commented that local revenue increased 20 percent after initiating self-collection.

Audit controls are a necessary vehicle for efficient local government revenue collection; moreover, Opelika started receiving monthly reports once the city broke with the ADOR and RDS commenced revenue collection. The city had never received such valuable information before in terms of sales tax revenue; the monthly reports described new retail accounts that were previously unknown, and audits were immediately performed. Mr. Moore noted that there was a mass exodus from ADOR, and that Opelika's revenue collections immediately rose over 10 percent. Most importantly, he explained, the citizenry seem pleased and are better served.

Chairman Rogers asked if Opelika started the privatization process because the city desired more information about the revenue it was receiving; Mr. Moore agreed.

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[14] There are 67 counties in Alabama.

Commissioner McMichael asked if Opelika and RDS have a "hold harmless" clause in their contract; Mr. Moore affirmed noting that RDS enjoys autonomous performance.

Commissioner Parrish asked if there are random audits under the contract, and Mr. Moore said that the city has very arbitrary discretion on who gets audited.

Mayor Enriques asked whether there were immediate savings; Mr. Moore replied yes, and that the savings were immediate at the execution of the contract with RDS.

3. Fayette County, Alabama

Mr. John Gordon, County Administrator of Fayette County, Alabama, spoke on behalf of his county's experience with private revenue collection.[15] He opened by stating that Alabama counties are blessed to have the choice of the manner in which sales and use tax revenue is collected. Fayette County, Alabama, is too small to maintain its own revenue collection and audit department; it contracts with a private third party to collect its sales and local tobacco tax. Mr. Gordon explains that, for a minimal fee, his county receives a full array of services that provide three "imperative keys" to responsible and efficient tax collection: accountability, timeliness, and full disclosure.

Mr. Gordon asserted that accountability keeps public servants answerable to their citizens and voters. Efforts to be fully accountable include receipt, from the third- party revenue collector, of full and complete reviews of total gross revenues in Fayette County, Alabama; it is provided monthly and annually and is held in strict confidence. Further, Mr. Gordon explained that ADOR used to take six to eight weeks to refund revenues to the county; now funds may be received within 48 hours from the time the sales tax is remitted from the retailer. When funds are received, a full RDS report shows complete reconciliation, full revenue charts, top remitters, and delinquent accounts, if requested. Previously, ADOR would only provide a check with no additional information on what those funds represented in terms of point of sale or productivity. Mr. Gordon concluded that the ability to choose is key to successful county operations.

Senator Wiles asked whether Fayette County, Alabama, allows sale of alcohol, and Mr. Gordon answered in the negative.

Chairman Rogers questioned about confidentiality; Mr. Gordon explained that reports are kept under lock and key in the revenue office. These reports are valuable tools to understand how the local economy is faring and individual businesses are doing. Further, the State of Alabama prohibits the sharing of this information.

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[15] Fayette County, Alabama, is located in northwest Alabama, and has a population of 18,400.

Commissioner McMichael asked whether the reports are subject to Alabama's Open Records Act, yet Mr. Gordon answered that they are protected by law.

4. Alabama League of Municipalities

Mr. Perry Roquemore, Executive Director of the Alabama League of Municipalities, spoke on behalf of Alabama's cities.[16] He started his remarks by stating that Alabama is unique in terms of local taxing and revenue. Property taxes are very low because counties and cities rely so greatly upon various sales and use taxes.[17] The ADOR has generally seemed to be indifferent with the revenue needs of Alabama's cities, and this goes back to when local governments were authorized to levy taxes on gross receipts and sales and use; however, Mr. Roquemore concedes that the ADOR has been making strides in terms of performance. Mr. Roguemore advocates competition and options for revenue collection by local governments; he also stressed that the ability to electronically file is very important. Generally, cities desire better information stemming from their sales tax revenue because this information is critical to local budgeting.

Senator Wiles asked about Alabama cities' ability to tax alcohol sales by the drink. Mr. Roquemore stated that it is called the license tax which is comprised of varying rules for beer/wine sales and liquor sales, but cities do have the option to tax them if that is their policy.

Chairman Rogers inquired whether it is mandatory to file returns electronically. Mr. Roquemore stated that that there is a $750 threshold for all filings, and that there is a 98 percent compliance rate.

Senator Wiles then asked about point of sale and address specificity. Mr. Roquemore explained that there are problems in Jefferson County with its 34 municipalities, and that use of zip code plus four assists with minimizing problems.

Mayor Bodiker asked who levies the highest tax rate in Alabama. Mr. Roquemore answered that both Birmingham and Montgomery levy a 10 percent rate, and further noted that sales tax may equal up to 70 percent of total revenue for some local governments.

Chairman Rogers inquired whether there are many sales tax rate increases, and if so, who decides on the increase. Mr. Roquemore explained that rate increases are controlled by local ordinance; tobacco, alcohol, sales, and occupation tax rates are all decided by local city councils and county commissions.[18]

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[16] There are 460 recognized chartered cities in Alabama.
[17] Alabama enjoys some of the lowest property taxes in the nation.
[18] Property tax rates are more strictly controlled.

Mayor Bodiker asked about the role of audits, and Mr. Roquemore replied that auditing resources are better with competition for that service. There are limits set by state law, and the ADOR may still receive the same audit information that is provided to cities by RDS and other third-party contractors.

Senator Wiles inquired as to finders' fees for audits; Mr. Roquemore explained that state law prohibits finders' fees, and further noted that most contracts provide for hourly-based fees.

5. Association of County Commissioners of Alabama

Mr. O.H. "Buddy" Sharpless, Executive Director of the Association of County Commissioners of Alabama, spoke on behalf of Alabama's counties. He noted that Alabama cities have more authority to levy taxes than counties possess. Counties have statutory authority to levy an education sales tax whereas cities do not.[19] County self-collection is a recent action and it was done by local act; previously, ADOR charged 5 percent of revenue collection for an administrative fee. Mr. Sharpless asserted that Alabama counties were essentially subsidizing state general funds for operations of the ADOR; moreover, ADOR retained the interest on holding the revenue for such long periods of time prior to remittance.

Mr. Sharpless eludes to Shelby County, Alabama, as an example of self-revenue collection. That county moved to self-collection in 1995, and enjoyed an immediate 5 percent increase in revenue collection. Following such success, the state legislature passed a law in 1996 authorizing all Alabama counties the option of self-collection. Competition has ADOR improving its service and collection for a lower fee; moreover, ADOR does not have the proper staff to conduct the audits requested by the counties and cities. Mr. Sharpless did concede that fallout from self-collection included too many audits being performed, but the state changed auditing requirements in 1998 which sought to regulate the auditing procedures.[20] Mr. Sharpless concluded by fully endorsing and recommending self-collection in Georgia.

Mayor Bodiker asked whether any counties or cities have experienced a decline in sales tax revenue. Mr. Sharpless replied in the affirmative noting that maintaining quick and itemized collections assists in easing the budget process.

Senator Wiles asked about a diminimus rule and an applicable threshold. Mr. McCleod answered on behalf of Mr. Sharpless stating that a very small percentage may be disregarded with a warning for future expectations and allowance for the local government to decide future action. Senator Wiles further asked about payment for audits; Mr. McCleod again answered that local governments pay for any auditing fees.

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[19] All but one Alabama county levies a sales tax.

[20] See 1998 Local Simplification Act; the auditing requirements include uniformity, education, and training classes.

Senator Jones asked about the aggressiveness of collections by the third-party collectors. Mr. McCleod replied that legal authority mirrors any authority given to the ADOR; local governments possess the decision to proceed with collection noting that there are no benefits or gains from closing local businesses, for that is counterproductive.

C. Thursday, September 26, 2008
Atlanta, Georgia

1. Georgia Department of Revenue

Commissioner Bart Graham of the Georgia Department of Revenue presented information to the LSTC Study Committee regarding Georgia's current revenue collection method. Commissioner Graham stated that 46 states currently authorize sales tax collection, and 36 states allow for local sales tax levies. Further, 32 states similar to Georgia collect both state and local portions of the sales tax. Commissioner Graham reported that four states allow for local governments to collect their own sales tax.[21]

Under the current sales tax collection scheme, retailers collect the current month, and must remit by the 20th day of the following month. The GDOR distributes the local portion on the 20th of the next month (hence two months after collection), but GDOR electronic filers receive funds in the second month. He also provided a thorough explanation of GDOR forms online available for electronic filing.

Commissioner Graham stated that 80 percent of sales tax revenue stems from out-of-state vendors. Currently, there is one form to complete for sales tax remittance, and the form provides a listing of all 159 counties and applicable sales tax rates. The vendor only to has comply with one audit jurisdiction, and Commissioner Graham explained that audit conferences often must be planned months in advance due to audit meetings with other states and the Internal Revenue Service.

Georgia has approximately 180,000 taxpayers registered for sales tax; taxpayers filing paper returns average 133,000 while electronic filing is mandated on 22,100 taxpayers. The GDOR currently employs 74 sales tax auditors who completed 1,181 sales tax audits in Fiscal Year 2008. Audits netted payments of $7.1 million to the GDOR.

Commissioner Graham then discussed Alabama's current sales tax collection scheme noting that the state has approximately 66,500 active state sales tax accounts, and that the state has always allowed local governments to collect its own revenue. Separate returns in addition to state returns are required. Alabama authorized local collection due to slow reporting and processing by the

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[21] Alabama, Arizona, Colorado, and Louisiana.

ADOR. Local governments enjoyed a one-time windfall partially due to the elimination of distribution time by the ADOR. Further, electronic filing is mandatory for *all* state returns [emphasis preserved].

Commissioner Graham then discussed some negative issues relating to Alabama's local revenue collection. For example, taxpayers and accountants do not like sending multiple returns to multiple jurisdictions, noting that many local governments still require paper returns. Additionally, completed returns and payments are often sent to incorrect jurisdictions.

Commissioner Graham recommends that a $500 per month or greater threshold electronic filing should be mandated; electronic filing eliminates most human math errors and transposition errors. There should be penalties for not filing electronically and paying when mandated. All companies filing returns should be classified by the National Association of Industry Classification System of the United States Census Bureau.[22] There needs to be taxpayer data exchange between the local governments and the GDOR similar to the Treasury Offset Program with IRS. Local distribution should be made within three days of electronic return and payment processing. Further, Commissioner Graham desires that there be a single interpreter of the sales tax code: either the GDOR or the Law Department; there should be an avoidance of for-profit auditors and collectors; there needs to be a significant impediment to due process and greater litigation expenses; and there should further be avoidances of selling past due tax to private collection companies, for this distorts collection rates when bad dates are sold.

Mayor Bodiker inquired about the methodology of GDOR audits. Commissioner Graham stated that equity only exists in the system if everyone participates in the electronic filing program. There are options available to the client, but they are time consuming. The state needs more taxpayers to electronically file to allow more analytical work. He provided an example: the need for a requirement to have a taxpayer identification number prior to obtaining local business registration; the GDOR needs more direction from Georgia's cities to explain what they desire.

Mayor Bodiker further stated that information is a derivative, noting that it is collected wisely on the front end. He noted that a large retailer like Wal-Mart currently has single reporting for all stores; multi-jurisdiction reporting is scary for small businesses. Mayor Bodiker offered the idea of a clearinghouse which disseminates reports; however, Commissioner Graham explained that a private acting clearinghouse would probably be a bad idea.

Chairman Rogers asked why local governments cannot collect sales tax revenue themselves since the primary issue here turns on special sales taxes. Commissioner Graham stated that any local government can do that, but it will

[22] NAICS is used for statistical reporting and economic analysis.

not get done for free regardless of who collects it. There are necessary costs associated with revenue collection. After local collection was authorized in Alabama, the ADOR improvements included better funding remittance and updated technology. Further, Commissioner Graham explained that paper filing is slower and requires more staff to process; the GDOR needs statutory authority to require electronic filing. Further, GDOR needs more penalties for not paying by electronic filing; currently, nine percent are filing electronically.

Mayor Bodiker noted that there is no reason for a local government to change if there is no problem with the collection scheme; he cited the privatization of Johns Creek's services because of the inadequacy of existing services, but other local governments may not find issue with their collection. Additionally, cities would like to receive more analysis from special events to determine whether these events should even occur. Commissioner Graham answered noting that such information is not mandated under current law. The state economist/controller controls statistics and economic data; perhaps he hypothesized that it is an economic development function.

Chairman Rogers asked about the average payment of electronic filers; Commissioner Graham responded that a guess would be lower than $25,000.

D. Thursday, December 11, 2008
Atlanta, Georgia

1. City of Peachtree City, Georgia

Mayor Harold Logsdon of Peachtree City, Georgia, presented information regarding Georgia's cities and the need for point-of-sale information. He noted that cities across Georgia want data disclosing the amount of sales taxes generated within respective city limits. He explained that the data will help cities ascertain whether special events contribute to the local economy, whether such contributions outweigh the costs to the city associated with the special event, and which special events are most beneficial to the city and its taxpayers.

Mayor Logsdon cited his own city as an example. He stated that Peachtree City recently hosted the overall start of the *Tour de Georgia*. A report on sales tax collections for that weekend event would provide valuable information on the economical benefit to Peachtree City from that event; moreover, this data provides more than event data. It also serves as a barometer for the viability of a city's retail sector and can be a critical indicator of necessary investment or increased services to the local retail sector. Further, Mayor Logsdon explained that consumer product reports at the municipal level would benefit cities from an economic development and business recruitment perspective; the information is helpful to city planners, city economic development staff, and city officials in order to have a clear understanding of which economic sectors perform well in the city and which ones do not.

It was stated that city managers and fiscal officers use monthly sales tax figures when compiling budget data and estimating revenues for each fiscal year. While the new sales tax collection and distribution system has been more efficient, the distributions to local governments have been erratic. Mayor Logsdon noted that Peachtree City receives LOST and SPLOST 1 percent tax collections for Fayette County; however, there are differences in collection for each month amounting to about $148,000 over a twelve-month period. Consider though that this amount grows in just over two years to a difference of $580,000.

Mayor Logsdon noted that the most accurate process for the GDOR is to collect sales tax information in real-time. Other states, such as Alabama, require sales tax remittance more often than monthly. The reason for this policy is that the shorter the length of time that vendors hold on to sales tax returns, the more likely they are to properly report it. Mayor Logsdon stressed that it is basic logic that reducing reporting periods from a collections standpoint will increase compliance and ultimately increase state and local revenues.

Mayor Logsdon noted that Georgia cities need accurate and timely information to make sound decisions regarding economic development. Currently, municipal elected officials depend on commercial banking information, but that information utilizes many assumptions in their calculations. Real-time sales tax information should be much more accurate, and the most cost-effective way to transition to a point-of-sale (POS) process is via privatized collections. Such transition would be far more expensive for the GDOR to initiate; however, privatized collections would be able to instantly provide this service to increase revenue for Georgia and local governments.

Mayor Logsdon explained that there are two central issues that must be articulated during this study process: (1) good information; and (2) accurate monetary remissions to local governments. Privatized collections should provide increased and timely collection of sales data and taxes at the local level. Privatized companies are more capable of providing the vital data necessary to make the important decisions that citizens expect.

Further, Mayor Logsdon stressed another issue needing clarification: the process of controls which shape revenue collection procedures. There are generally two kinds of controls: (1) manual; and (2) electronic. Privatized collection merely provides for manual controls which are only as good as the person implementing or processing the control; however, POS would provide an electronic control ensuring accurate collections of revenue and data. POS turns on the tracking of funds at the cash register. The current Georgia lottery system is a great example of a system that can accomplish the task.

Consider that as soon as the numbers are drawn, the system knows exactly where and when the winning ticket was bought. Without a POS system in place, there are too many ways to abuse the system. There exist some very inexpensive software products that can be used by even small Main Street businesses. Further, a widely published case in *The New York Times* reported in August of 2008, that a small chain-restaurant skimmed more than $20M over four years. These types of circumstances warrant that any POS system must require the sales transaction to be transmitted immediately to a server located somewhere other than the business location.

Mayor Logsdon stressed that the overwhelming majority of businesses pay their taxes accurately and on time; however, it is the ones that do not which cost-affect other Georgia taxpayers. Accurate real-time data is the only way to address this problem.

Additionally, Mayor Logsdon explained that another electronic control to consider is the threshold for filing electronically. Today, only retailers which owe the state more than $5,000 are required to file electronically; the GDOR recommends that the threshold should be lowered to $500. In regards to POS, Mayor Logsdon fabled that a wise man said "that which cannot be quantified cannot be obtained." He rhetorically asked if Georgia cannot quantify accurate economic data, then how can it serve its citizens.

Chairman Rogers noted that this topic seems to be gaining traction, and the current revenue collections system certainly has flaws with solutions in sight. POS information is important and the technology is present to provide it.

Senator Seabaugh asked why Fayette County LOST revenue surpasses SPLOST revenue; Mayor Logsdon could not explain the variance. Senator Seabaugh stated that auditors should want to know the answer, and the Mayor noted that Peachtree City would like to know the answer, as well.

Mayor Bodiker stated that the City of Johns Creek is hosting the 2011 Professional Golf Association Championship, and it would be important to have the data preferred by Mayor Logsdon.

2. Cobb County, Georgia

Mr. Virgil Moon, Support Services Agency Director for Cobb County, Georgia, appeared before the LSTC Study Committee to discuss vendor identification and POS zip code issues. Mr. Moon stated that he met with the GDOR in June 2006 to discuss concerns regarding sales tax collection in the Cumberland/Galleria area of Cobb County. The retailers are in Cobb County, but are assigned an Atlanta address. The 30339 zip code sales are charged to the City of Atlanta and/or Fulton County instead of being charged to Cobb County. To examine the issue, Mr. Moon explained that it was necessary to compare the two databases:

Cobb County Business License Division and the GDOR listing of retailers in that zip code. The findings showed major discrepancies between the two databases. For example: Cobb County lists 978 vendors while the GDOR lists 1,265, and the concurrent matches between the two databases show 266 tax identification matches between them; moreover, there were 202 partial matches, and between 500 and 784 completely unmatched vendor listings.[23] Mr. Moon noted that the State has a large number of businesses to match and verify. Various database errors and formatting inconsistencies will prevent data matching by any computer in an attempt to reconcile tax identifications and vendors. Another example turns on the issue that Cobb County provides two columns for a business name;[24] however, the GDOR only provides one column and one name. Further, there needs to be multiple address listings for businesses at malls and shopping centers.

Mr. Moon stated that following their examination, it was agreed that a single identifying number would allow the GDOR and local governments to compare, with greater accuracy, the various databases. The sales tax number, while not perfect he noted, was the most logical option. Cobb County reformatted the business license renewal form so that the request for the sales tax number from retailers would be emphasized and included. Following the 2006 meeting with the GDOR, the same databases were completely reconciled showing 1372 listings each for Cobb County and the GDOR. It took two years, but the 2008 comparison shows 14.8 percent of all the businesses listed had the same sales tax identification numbers while 60 percent of the businesses did not match. The effort shows that there is a need for better identification methods between the GDOR and local governments.

Additionally, there remains a need for an improved and more accurate means to identify the correct sales tax jurisdictions. The best option would have the GDOR and all vendors to utilize the zip plus four for sales tax collections.

Chairman Rogers asked the amount that Cobb County has paid to the GDOR for revenue collection, and Mr. Moon responded that it is $14 million and counting.

Senator Wiles commented that vendors are stating that the zip-plus-four system can fix the situation, but that it is not getting fixed. Senator Wiles then asked if Cobb County would be better served with a third party collector; Mr. Moon responded that competition is good for all parties involved. Senator Wiles then stated that Tax Allocation Districts would be better served, as well, and Mr. Moon agreed.

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[23] Partial matches may include name, address, phone, or proximate numerical listing information.
[24] To include legal name and doing-business-as name.

3. Georgia School Boards Associations

Mr. Don Rooks, Director of Legislative Affairs of the Georgia Schools Boards Association (GSBA), spoke on behalf of Georgia's 185 school boards.[25] He stated that Georgia could learn from Alabama and the other states which allow the option of choosing their revenue collector. School board members across Georgia have been presented with the discussion presented by the LSTC Study Committee, and are in general acceptance and agreement with local government revenue collection. Mr. Rooks conveyed that Georgia's school boards are grateful for LOST, but there exist many examples of collection confusion with the GDOR. Utilizing third-party revenue collectors, local governments and school boards are almost guaranteed higher revenue with better supporting information to assist elected officials with their decision-making. Mr. Rooks stated in summation that the GSBA supports local option.

4. Jackson County, Georgia

Mr. Darrell Hampton, County Manager for Jackson County, Georgia, spoke to the LSTC Study Committee regarding sales tax collection in a fast-growing exurban county. Jackson County has grown quickly from 45 to 68 thousand residents and has placed demand on growth in services and infrastructure. He initiated his testimony by noting that the second most significant source of revenue to Jackson County is the LOST. The county receives approximately $6 million LOST dollars annually. It is imperative that local governments receive all the monies due in a timely manner; otherwise, he explained, counties must increase the property tax levy to sustain current service levels or reduce existing local services.

Mr. Hampton explained that several years previously, Jackson County invested a significant amount of public funds in infrastructure for the purpose of attracting a Tanger Outlet Mall. The county expected a dividend from the investment in terms of increased sales tax receipts; however, when the sales tax collections did not increase, county officials began to investigate and found, to much dismay, that $706,894.33 had been erroneously remitted by the GDOR to various other counties. While a significant share of the proceeds had been remitted to Banks County, other counties such as Dawson, Chatham, Jasper, Whitfield, Calhoun, Henry, Gordon, and McIntosh received their proceeds, as well.[26]

Jackson County discovered the misdirected receipts by requiring businesses located in Jackson County to remit a copy of their sales tax form, that they had filed with the GDOR, directly to the Jackson County Finance Department. Upon review of the supplied forms, it was discovered that there were a large number of

[25] This number includes the Georgia Department of Juvenile Justice because it operates a school system but the board is appointed. The others included in the 185 count are state special charter schools.
[26] It should be important to note that both Calhoun and McIntosh Counties are nearly 250 miles from Jackson County in northeast Georgia.

reporting errors; moreover, it was not easy to come by the respective necessary forms, for Jackson County had to amend the business license ordinance to require this information from local retailers. Mr. Hampton explained that this local legislative action by the Jackson County Board of Commissioners was necessary because the GDOR considers the sales data information contained in the necessary forms to be of a proprietary nature; therefore, the GDOR could not share the application distribution reports that make up the monthly distribution to Jackson County.

Mr. Hampton explained that while the GDOR retains a portion of the tax for collection, processing, and distribution, Jackson County commissioners felt it necessary to create an additional position for the express purpose of analyzing monthly returns remitted to the county. The county invested approximately $36,000 in a Sales Tax Analyst/Finance Specialist position; the position paid for itself after the first round of reviews were completed.

Further, a first-hand visit to the GDOR's processing center for sales tax revealed that there are too many manual processes in practice and that the equipment used for processing the returns is outdated. Jackson County recommends, at a minimum, investing funds in necessary new technology, including: optical character recognition equipment, education for retailers, and re-tooling the process to better assist local governments that are forced to utilize the GDOR for the revenue collection. Mr. Hampton concluded by requesting that each county and local government be given the opportunity to explore the options available to best ascertain what works best for each county.

E. Monday, January 5, 2009 Atlanta, Georgia

1. ADP Taxware

Mr. Charles Collins, Vice-President of Government Affairs for ADP Taxware (ADP), appeared before the LSTC Study Committee to promote the services of ADP. He stated that ADP offers various services for local governments including revenue collection services and software to over 12,000 state and local government jurisdictions. He noted that it is ADP's purpose to reduce complexity in the common tax structure between state and local governments. Additionally, Mr. Collins explained that the standard notice requirement needs to be enforced throughout the state which should accompany a uniform return and remittance form. Further, Georgia should mandate electronic filing and payment for all vendors operating in the state.

2. Macy's, Inc.

Mr. Frank Julian, Operating Vice President and Tax Counsel of Macy's Department Stores, presented information to the LSTC Study Committee and expressed pleasure with the current revenue collection scheme. He stated that Macy's operates 24 Macy's and two Bloomingdales stores in Georgia, and this includes the central systems group which is headquartered in the Atlanta area. Macy's employs over 12,500 Georgians and collected more than $57 million in sales tax for the state and local governments.

Macy's recognizes the frustration exhibited by Georgia's local governments with the current revenue collection scheme, but opposes the proposal which would allow for local governments to maintain the option for self-collection or administration. Mr. Julian stated that local revenue collection would impose significant additional expense and burden on Georgia's retailers; however, it would support certain measures to ensure accurate and timely distribution of tax revenue to local governments which would not subject Georgia retailers to varying rules and collection practices among Georgia's 159 counties and 450 cities. Mr. Julian stressed that retailers incur costs for every sales tax return filed; if retailers were required to file in every taxing jurisdictions the costs would increase over 150 times for the retailers who operate throughout the state; moreover, there would be substantial one-time costs in setting up new systems for remittances to all the local governments.

Mr. Julian then asserted that audit administration expenses would increase, as well. He stated that it is very time consuming and costly for retailers to gather all the necessary records for a tax audit and review of said documents with the auditor. Currently, the GDOR conducts a single audit on behalf of the state and all local governments; authorizing each local government to conduct their own audits would mean significant needless duplication of a retailer's time, resources, and expense. He further noted that tax departments do not generate revenue for retailers; the more time and resources retailers must devote to tax compliance equates to less resources for revenue-producing activities. Additionally, local revenue would be expensive for local governments; duplicating local government operations throughout the state would also be expensive. Audits would present a larger expense for local governments, and the use of third-party auditors raises a myriad of issues including objectivity, competency, efficiency, quality, and confidentiality. Mr. Julian asserted that paying auditors on a contingency basis would be illegal;[27] however, hourly billing for audits may prove to be too expensive for some local governments because auditing larger retailers, like Macy's, is time consuming.

Further, Mr. Julian noted that authorizing local revenue collection would place Georgia in contrast with most other states; he stressed the fact that 41 states

[27] Citing to Sears v. Parson, 401 S.E.2d 4 (Ga.1991), noting that contingency pay for audits if "void as against public policy."

have not enacted similar legislation. The Streamlined Sales Tax Agreement requires state level administration of all sales tax collection, and congress is considering legislation that would enable Streamlined Sales Tax Agreement members to require remote sellers to collect their sales tax; if Georgia would authorize local administration then the state would be prohibited from joining the Streamlined Sales Tax Agreement and could miss out on potential sources of revenue. Mr. Julian concluded by stating that large retailers would endure a heavy burden if local revenue collection is allowed.

Commissioner Parrish asked about audit findings, and Mr. Julian responded that the compliance rate is extremely high. In general, exemptions lead to auditing problems, but Georgia levies a sales tax on most goods; therefore, retailers do not find problems. Further, third-party auditors need to justify their work and existence so they tend to find more noncompliance and less overpayment of sales tax. Commissioner Parrish then asked about data variations between Georgia and Alabama. Mr. Julian answered by stating that expenses in Alabama are significantly higher because varying auditors find different things, and Alabama is lacking consistency.

Commissioner McMicheal noted that in a line of business, an audit is an audit, and it works.

Mayor Henriques asked what states should be a model for local revenue collection while satisfying large retailers. Mr. Julian noted that Georgia requires more breakout data of local revenue data than any other state. Texas, with its 1700 local taxing jurisdictions, is a good example, followed by Washington and California.

Mayor Bodiker asked if Georgia proceeds, would requiring a single electronic return for auditing purposes satisfy large retailers. Mr. Julian answered by stating that it is a positive step, but states that allow local administrations require much more compliance costs like a "millstone around the next retailers."

3. Association County Commissioners of Georgia

Mr. Clint Mueller returned to appear before LSTC Study Committee with a summation of the material and a discussion of the issues present. He noted that legitimate concerns have been raised by large retailers. Further, Mr. Mueller cited Fulton County as a unique county which is fully incorporated; therefore, the county has a special role in working with cities and the school board; moreover, school boards need to be involved in this process.

Mayor Bodiker noted that Fulton County does not share audit information, and that perhaps a single state agency other than GDOR could collect information on a uniform return.

Mayor Henriques asked whether there needs to be any threshold for electronic filing; but Commissioner Paris noted that some counties do not maintain the technology for such requirement. Mayor Bodker responded that there could be an opt-out for online filing if certain requirements are met, and that there needs to be language for various taxes that must be filed.

Mr. Mueller noted that some provisions need to be included in proposed legislation, including language stating that: returns need to be standard, administration costs must be shared between taxing jurisdictions within a single county, and local elected officials must meet most consensus to require local revenue collection.

Mayor Henriques commented that the purpose of this study is to find ways to simplify the system--not to complicate it.

Chairman Rogers noted that this study seeks to correct a flawed system, but not to increase any burden on taxpayers or retailers. The ultimate goal is to assist local elected officials in making better decisions with better information about their own tax revenue.

IV. RECOMMENDATIONS OF PROPOSED LEGISLATION

The LSTC Study Committee finds that Georgia's local governments should have the opportunity to opt out of GDOR sales tax revenue collection in favor of internal and third-party collection services.

Further, the LSTC Study Committee finds that the GDOR should retain compliance determination and continue to provide auditing services to local governments; this finding is made to reflect concerns voiced by retailers and taxpaying vendors who have locations in multiple counties.

Additionally, the Georgia Technology Authority (GTA) should provide centralized electronic filing services for returns which show an estimated tax liability exceeding $1000.

The GDOR and GTA may assess a nominal fee for providing these services to the local governments who opt for internal or third-party sales tax revenue collection.

These findings and revisions are included in House Bill 458.

Prepared by:
Brian Scott Johnson
Deputy Director
Senate Research Office

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