

Fulton County LOST Negotiations

Continuation of the County Presentation

Law

- Basis of County's portion of LOST proceeds not limited to geographical boundaries of unincorporated areas, nor to the services enumerated in Art. 9, § 2, ¶ III of the Georgia Constitution.
- LOST special tax district boundaries = county boundaries.
- County services not limited to supplementary powers.

Authorities

Neither the population nor special service district in unincorporated Fulton County are relevant to LOST. The County must use LOST proceeds to fund countywide services, because the special tax district for LOST is countywide and should not be confused with special services districts.

- *Nielubowicz v. Chatham County*, 252 Ga. 330, 332 (1984) (citing *Salem v. Tattnall County*, 250 Ga. 881(2) (1983) and *Martin v. Ellis*, 242 Ga. 340 (1978)).
 - The “ad valorem tax reduction created by the local option sales tax is applicable to ‘tangible property within the political subdivision’, not to property within the unincorporated area...”
 - LOST “countywide tax reduction was mandated by...the constitutional requirement of uniformity [of taxation].”
 - “[C]ounty[‘s]...use of [LOST] sales tax proceeds to reduce the county's general maintenance and operation tax countywide” was proper.
- Attorney General letter to Sumter and Dooly Counties dated October 3, 2012:
 - “[I]n the consideration of the distribution of Local Option Sales Tax (LOST) proceeds in accordance with O.C.G.A. § 48-8-80, et seq., ...the statute contemplates that the service delivery responsibilities to the county's entire population should be considered.
- Attorney General letter to Lowndes County dated June 14, 2012:
 - “[D]istribution of Local Option Sales Tax (LOST) proceeds in accordance with O.C.G.A. § 48-8-80, et seq. should consider [a county’s] service delivery responsibilities to the population of the entire county...[because] O.C.G.A. § 48-8-89(b)(2) refers to the service delivery responsibilities to the county's entire population.”

Authorities

- ▶ County's supplemental powers are in addition to its other powers, as indicated by the clear language and the title of the constitutional provision regarding “supplementary” powers.
 - **“In addition to and supplementary of all powers possessed by or conferred upon any county,** municipality, or any combination thereof, any county, municipality, or any combination thereof may exercise the following powers and provide the following services....” GA CONST Art. 9, § 2, ¶ III, Supplementary powers (emphasis added).
 - “Art. IX, Sec. II, Par. III of the 1983 Georgia Constitution...is designed to supplement the powers specifically conferred by local law upon each municipality and county in order to make such powers uniform and to reduce the need for special legislation....” *Coweta County. v. City of Newnan*, 253 Ga. 457, 458–59 (1984).

Conclusion

- ▶ The County's reading of the law is that a county's portion of the LOST distribution must be based on countywide services, and this reading is supported by:
 - the plain language of the LOST statute and GA CONST Art. 9, § 2, ¶ III,
 - Georgia Supreme Court jurisprudence, and
 - two Attorney General opinions.

Increased Costs Required to Meet the Service Demands and Need for County Services

Commit LOST proceeds estimated at \$950M to fund future costs:

- ▶ Like cities, County facing increased costs (personnel, construction costs, etc) to deliver basic services
 - Public Safety and Court Operations: \$450M– \$500M
 - Public Health: \$400M – \$500M
 - Behavioral and Human Services: \$200M–\$300M
- ▶ Cities will benefit from \$1B in TSPLOST funds over 10 year Period. The County needs similar support from sales tax to address future needs

Increased Costs Required to Meet the Service Demands and Need for County Services

- ▶ Public Safety: \$450M– \$500M
 - Housing 3,400 inmates 24/7 (including outsourcing)
 - Increased court activity as result of growth and increased crime
 - New/Significantly renovated jail facilities
 - Wrap around services to decrease recidivism and address mental health and substance abuse issues
 - Court Personnel

Increased Costs Required to Meet the Service Demands and Need for County Services

Commit LOST proceeds estimated at \$950M to fund future costs:

- ▶ Public Health: \$400M – \$500M
 - Operation and support of Grady
 - Increased indigent care demand
 - Need to strengthen chronic disease response
 - Increased demand for public health services

Increased Costs Required to Meet the Service Demands and Need for County Services

Commit LOST proceeds estimated at \$950M to fund future costs:

- ▶ **Behavioral and Human Services: \$200M–\$300M**
 - Increased demand for Behavioral Health Services
 - Need for a 24/7 Behavioral Health Crisis Center for youth and adults (we are a county 1M + and don't have one)
 - Increased demand for Senior Services (transportation to meet basic needs, senior center facilities)
 - Buildout of Human and Health Service Centers in North and South end of county, which will include facilities for Senior and Developmentally Disabled

Citizen Services

- ▶ Libraries– 10.4 Million Total visits
- ▶ Public Health
 - Total People Vaccinated Covid 555K
 - HIV Services– Funded 23 agencies serving 18K persons living with HIV
 - Grady– 428K Fulton County Patient Encounters
- ▶ County Courts – 600K annual visitors
- ▶ County Jail – 3,400 daily population count
- ▶ Community Service Program – 71K served
- ▶ Senior Centers – 5K seniors served daily
- ▶ Behavioral Health – 4.2K clients served
- ▶ Tax and Tag Interactions – 238K combined

A Failure to Agree

- ▶ A failure to agree is not on one party alone.
- ▶ Agreements require two reasonable groups working together and making compromises.
- ▶ Our citizens are counting on a rational discussion with a fair result. We respect the services provided by the cities. Cities should respect services we provide to all citizens.
- ▶ County is willing to work with our partners. We need to work together in a respectful and positive manner, not castigate each other in the media.

County Offer

Municipal Pool	65%
County	35%

Next Steps

- ▶ Prior to August 31st: Meeting on previously announced schedule, negotiation teams (Commissioners Pitts, Arrington, Ellis and Mayors Dickens, Gilvin, Paul, Holiday–Ingraham, and Boddie) meet in person or by zoom.
 - *Understanding that the only people that would be present at the negotiating meetings would be those designated individuals listed.*
- ▶ Seek to understand the financial constraints of both sides and determine if an agreement can be reached.
- ▶ Post September 1st: Utilize mediation to facilitate agreement.