

RENEGOTIATING LOCAL OPTION SALES TAX (LOST)

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History of LOST

1975 – Enactment and 1976 Amendments

1. Revenue split between counties and cities based on population
2. Required counties to use their LOST to fund an annual property tax rollback to the unincorporated area of the county
3. Required cities to provide a one time rollback equal to their portion of LOST proceeds

1978 – Differential Rollback Rates Ruled Unconstitutional

1979 – No Authorization to Share County Tax with Cities



1979 – New LOST Law Enacted

- 1. Set-up special taxing districts**
- 2. Joint city/county tax**
- 3. Creation of “qualified cities”**
- 4. County rollback countywide**
- 5. No required renegotiation**

1994 – Amendments

- 1. Required periodic renegotiation**
- 2. Established eight criteria to be considered**
- 3. Established measure for conflict resolution**

2010 – Amendments

- 1. Binding Arbitration Dispute Resolution Process**
- 2. City/County approval to call for termination of the tax**



Purpose of LOST

❖ Property Tax Relief

❖ Funding Services

Preliminary Renegotiation Issues

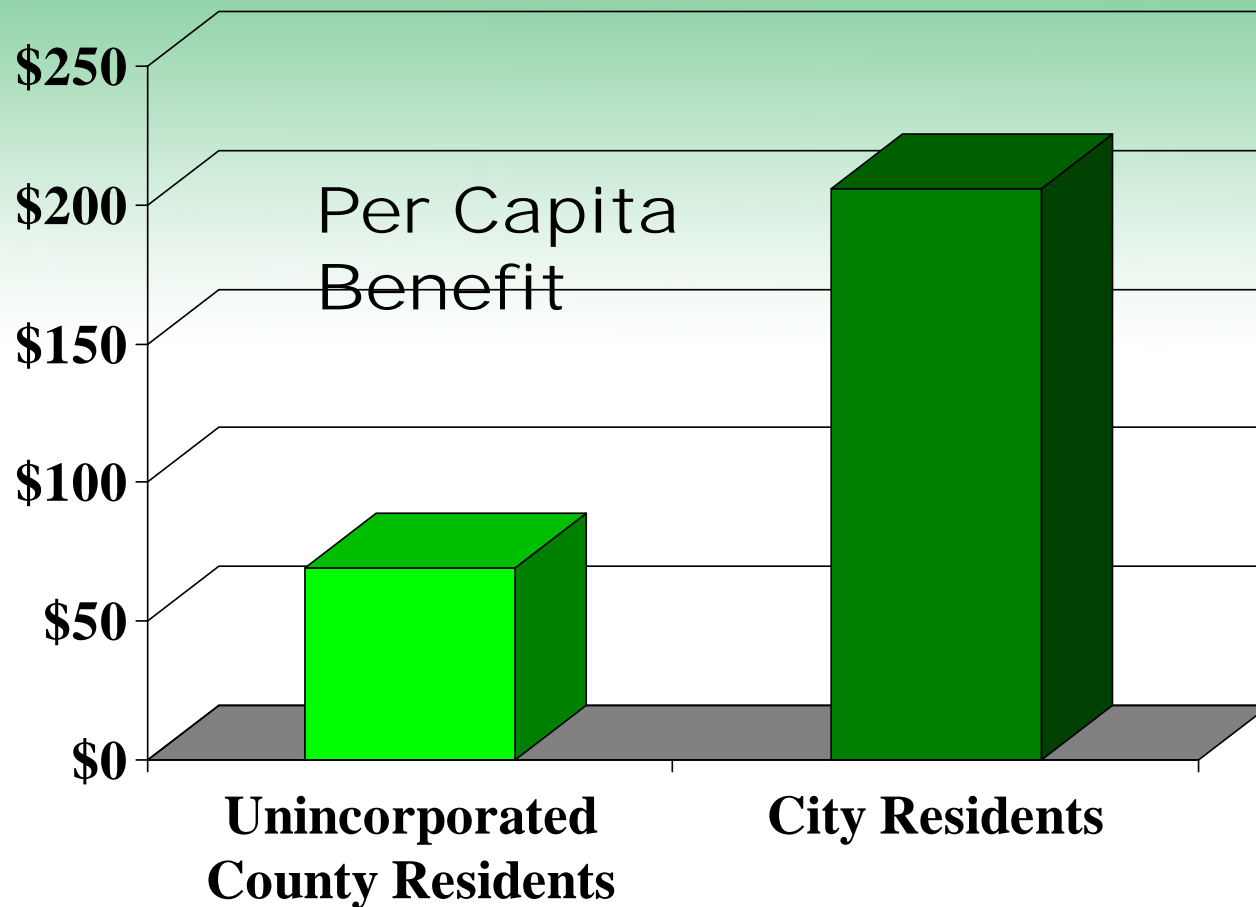
- ✓ Who is Eligible to Participate?
- ✓ Absent Municipality Provision
- ✓ Scope of the Renegotiations
- ✓ Putting Together a Negotiating Team
- ✓ Establishing a commitment to Renegotiate
- ✓ Open Meetings Law
- ✓ Resolving Disputes

Timeline For LOST Renegotiation

July 1, 2012	The DOR Commissioner must be notified in writing by the county governing authority that renegotiation is underway. If the county governing authority does not issue the call by that date, any eligible city may issue the call and notify the Commissioner
60 Days After Negotiations Start	If agreement on a renegotiated distribution certificate is not reached, the parties must submit the dispute to nonbinding arbitration or mediation.
60 Days After Start of Alternative Dispute Resolution	If agreement on a renegotiated distribution certificate is not reached , any party may submit the dispute to binding arbitration . If arbitration is not requested within 30 days of the expiration of the alternative dispute resolution period the LOST will terminate December 31, 2012.

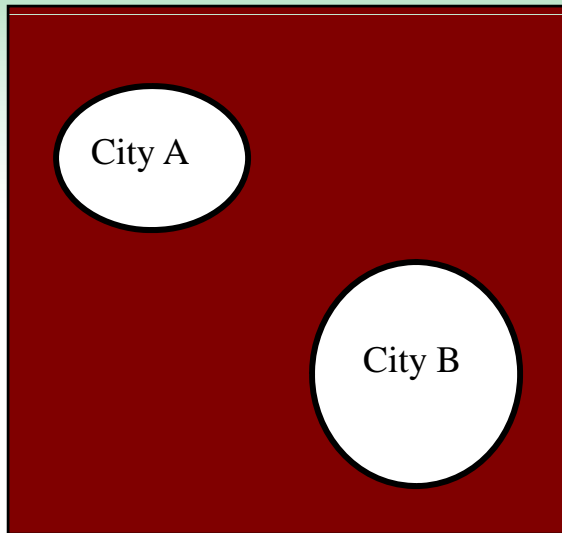


Do your Constituents Receive an Equitable Return on Their Sales Tax Dollars?

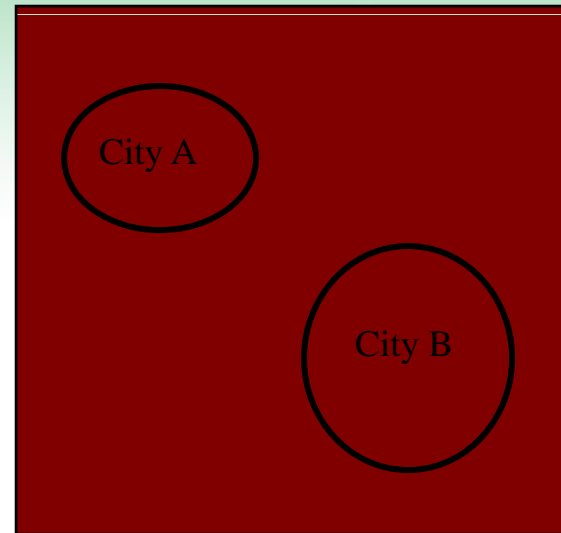


Don't Get Caught in the “Unincorporated Trap”

Unincorporated
Criteria Only



Countywide
Criteria



The Eight Criteria

1. The service delivery responsibilities of each political subdivision to the population served
2. The service delivery responsibilities of each political subdivision to the resident population
3. The existence of intergovernmental agreements among and between the political subdivisions
4. The existing service delivery responsibilities of each political subdivision
5. Any coordinated plan of county and municipal service delivery and financing



6. The use by any political subdivision of property taxes and other revenue from some taxpayers to subsidize the cost of services provided to other taxpayers of the levying subdivision
7. 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.
8. The point of sale and use which generates the tax to be apportioned

Formulas for Determining New Distribution Percentages

- Population
- Ad valorem Tax Collections
- General Fund Revenue
- General Fund Expenditures
- Property Tax Digest
- Combination

Project Approach

Distribution Guidelines

- **Discuss Legal requirements:**
 - **Purpose** of LOST O.C.G.A. § 48-8-91
 - **Distribution methodologies** O.C.G.A § 48-8-89(b)
 - **Examine Service Delivery Demands** O.C.G.A § 48-8-89 (d)(1)

Data Analysis

- Test Data scenarios including: **Tax Equity scenarios**
- **Population, Employment**
- **Tax Digest & Daytime Population**
- **General Fund Expenses Commercial and Industrial Tax Digest**
- Prepare various **combinations of data** for discussion

Comprehensive Report

- Prepare **supporting arguments** for the preferred methodology
- Develop an **alternative methodologies**
- **Prepare Executive summary**

LOST Negotiation Regulations

O.C.G.A § 48-8-89 (b) and § 48-8-89 (d) (1)

- **Population not sole criteria:** government services are not always in direct correlation with population.
- **Local service delivery responsibilities:**
 - analyze local service delivery responsibilities,
 - existing allocation of proceeds, and
 - allocation of resources to meet service delivery responsibilities. O.C.G.A § 48-8-89 (d) (1)
- **Consider the 8 criteria:** distributions shall be “based upon, but not be limited to, the following criteria:”
O.C.G.A § 48-8-89 (b)

Relevant, Reliable and Available Data

1. Population – Census
2. General Fund Expenses
3. Gross Property Tax Digest
4. Commercial digest
5. Industrial digest
6. Employment Data
7. Daytime Population



Calculation of City's Double Dip

City Population = 1000 / Unincorporated County Population = 1000 County-wide Population = 2,000 Because of equal populations the City's distribution from LOST =50% and the county's distribution is =50% Actual 'benefits of LOST funds' = 50% city/ 50% county	
Amount of LOST revenue is	\$1,000,000
Amount of LOST revenue receive by the City Government = 50%	\$500,000
Amount of LOST revenue receive by the County Government = 50%	\$500,000
Property Tax Rollback (or benefit) to City residents = in city Tax Rollback	\$500,000
Property Tax Rollback (or benefit) to City residents – in county Tax Rollback	\$250,000
Total City Resident's Rollback	\$750,000
Property Tax Rollback (or benefit) to Unincorporated County residents =	\$250,000

Net result: City Resident's Disproportionate Share of LOST benefits = 50% of the County LOST portion.
 Unincorporated Resident's Disproportionate Contribution of LOST = 50% of the County LOST portion.

O.C.G.A. § 48-8-89(b) (1): *Central Business District & Unincorporated*

- (1) The service delivery responsibilities 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

Disproportionately increases costs: The cities' central business district with more concentrated activity levels and disproportionately increases LOST revenue.

Daytime Population and Employment

Increased daytime population and employment and disproportionately increase LOST revenue relative to their population

Industrial and Commercial Tax Digest:

Is a proxy measure for Point of Sale

O.C.G.A. § 48-8-89(b) (1): *Central Business District*

Employment	Employment in area 2005-2009 Census	% distribution
Unincorporated County	26,598	48.4%
City A	1,825	3.3%
City B	2,567	4.7%
City C	13,576	24.7%
City D	<u>10,427</u>	<u>19.0%</u>
Total County	54,993	100.0%

Daytime Population	Daytime Population 2005-2009	% distribution
Unincorporated County	100,605	66.1%
City A	4,566	3.0%
City B	4,950	3.3%
City C	24,039	15.8%
City D	<u>18,090</u>	<u>11.9%</u>
Total County	152,250	100.0%

O.C.G.A. § 48-8-89(b) (1): *Central Business District*

	Commercial Digest	% distribution
Unincorporated County	573,550,336	44.77%
City A	14,058,652	1.10%
City B	70,154,905	5.48%
City C	291,371,809	22.74%
City D	<u>332,087,272</u>	<u>25.92%</u>
Total County	1,281,222,974	100.00%

Commercial Digest:

Point of Sale indicator

Employment indicator

	Industrial Digest	%
Unincorporated County	882,642,773	83.64%
City A	9,716,984	0.92%
City B	9,429,504	0.89%
City C	110,444,880	10.47%
City D	<u>43,004,291</u>	<u>4.08%</u>
Total County	1,055,238,432	100.00%

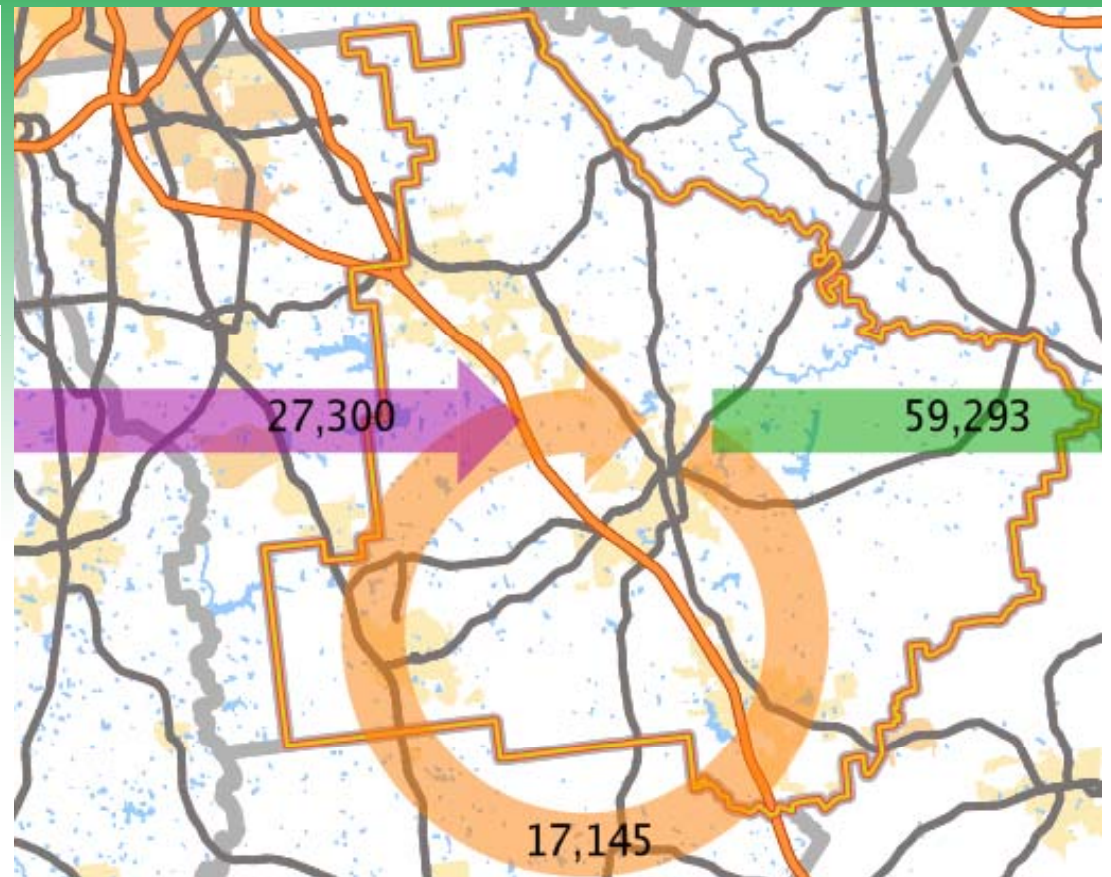
Industrial Digest:

Employment indicator

County

Inflow/Outflow Primary Job Counts 2009

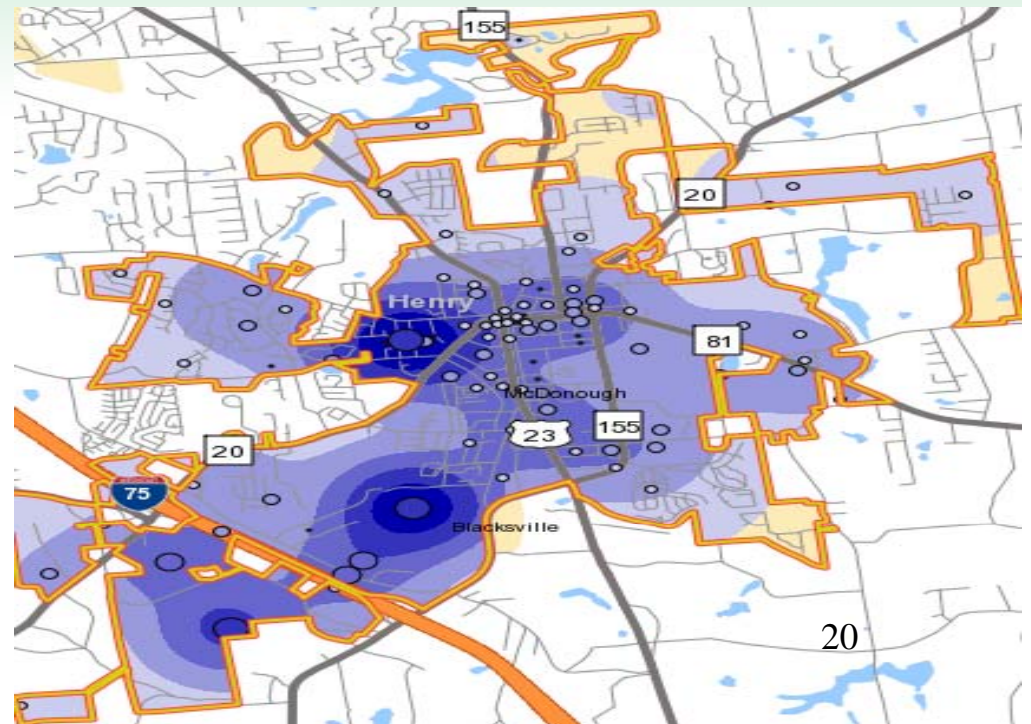
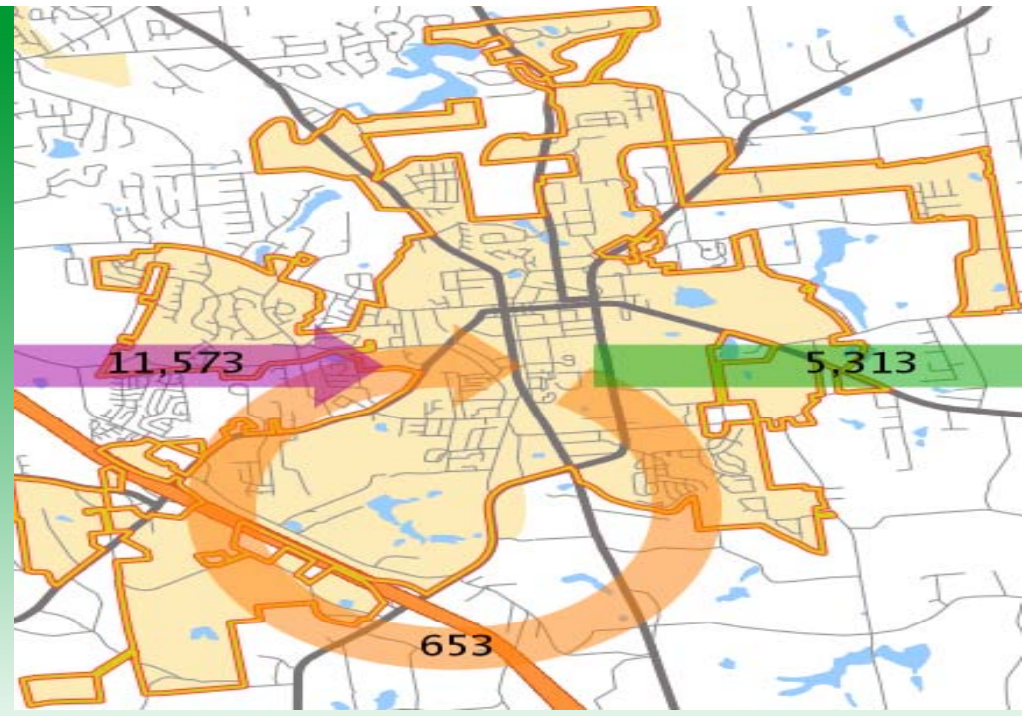
	Count	Share
Employed in the Area	44,445	100.0%
Employed in the Area but Living Outside	27,300	61.4%
Employed and Living in the Area	17,145	38.6%
Living in the Area	76,438	100.0%
Living in the Area but Employed Outside	59,293	77.6%
Living and Employed in the Area	17,145	22.4%



City A

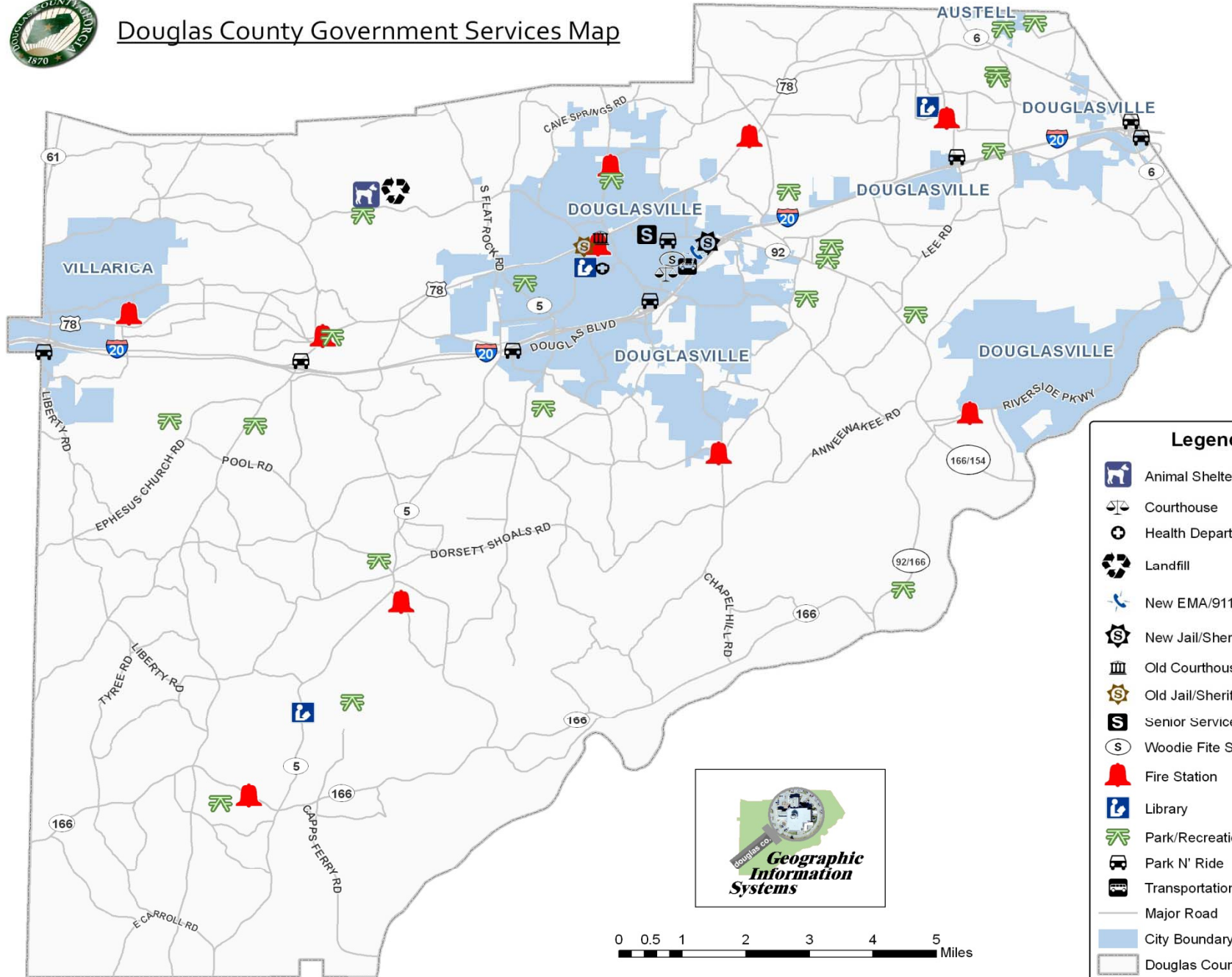
Inflow/Outflow 2009

	Count	Share
Employed in Area	12,226	100.0%
Employed in Area but Living Outside	11,573	94.7%
Employed and Living in the Area	653	5.3%
Living in the Selection Area	5,966	100.0%
Living in the Area but Employed Outside	5,313	89.1%
Living and Employed in the Area	653	10.9%



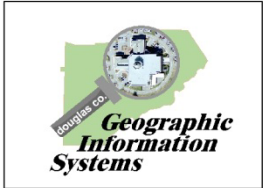


Douglas County Government Services Map



Legend

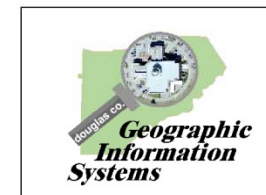
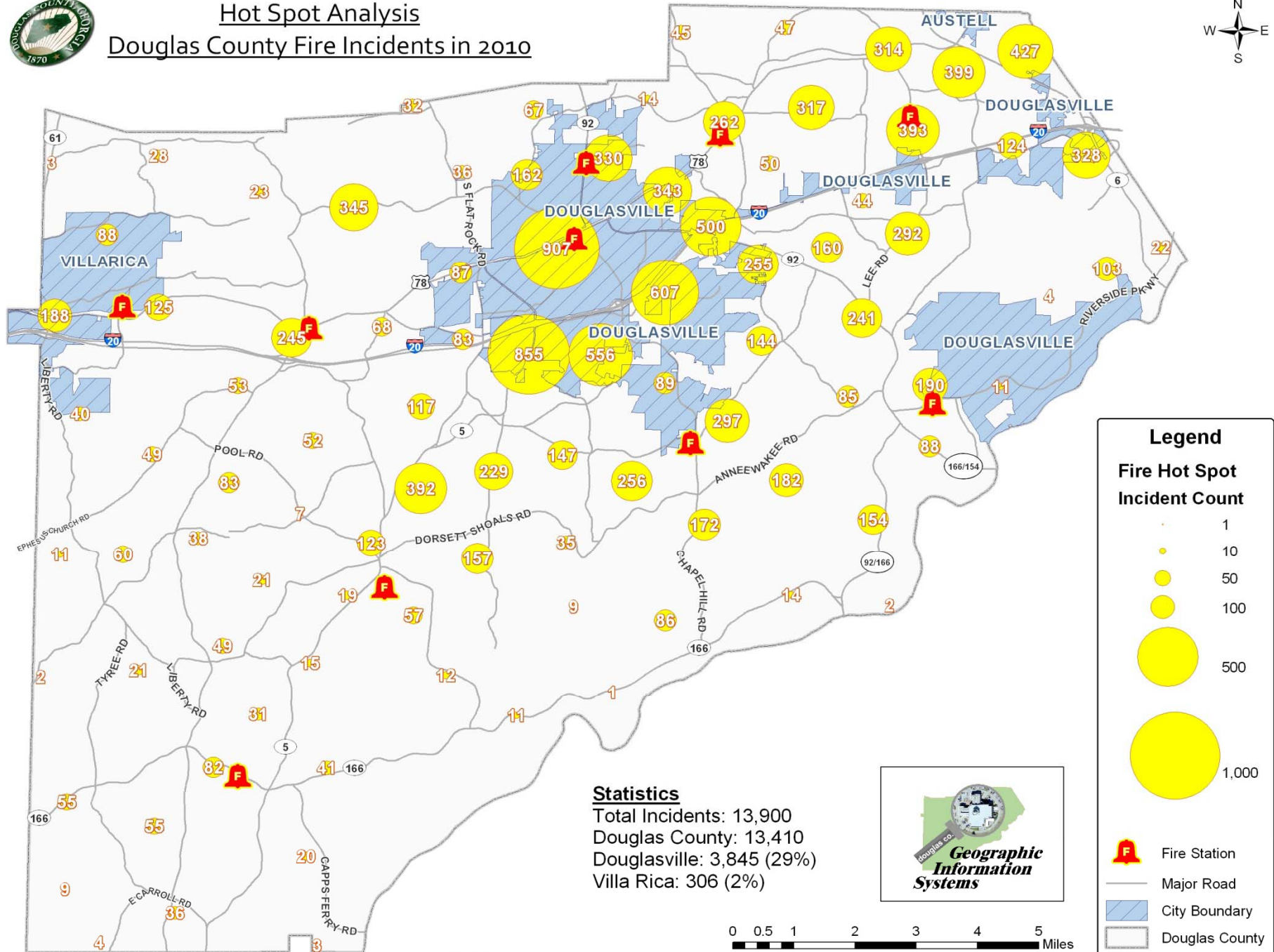
- Animal Shelter
- Courthouse
- Health Department
- Landfill
- New EMA/911 Center
- New Jail/Sheriff Office
- Old Courthouse
- Old Jail/Sheriff Office
- Senior Services
- Woodie Fite Senior Center
- Fire Station
- Library
- Park/Recreation
- Park N' Ride
- Transportation Center
- Major Road
- City Boundary
- Douglas County



Plot Date: Tuesday, August 23, 2011



Hot Spot Analysis Douglas County Fire Incidents in 2010



O.C.G.A. § 48-8-89(b) (2): *Residential Population*

- **Resident Population Pays and Should Benefit From Sales Tax Collections.**
- **Residential population creates the primary and most costly service demands.** Average cost of residential service is \$1.35 for each \$1.00 collected in revenue. (COCS studies. Dr. J. Dorfman)

	Unincorporated Population 2010	2012 %	Aggregate Population 2010	% distribution
County	143,813	70.52%	203,922	77.234%
City A	6,987	3.43%	6,987	2.646%
City B	5,402	2.65%	5,402	2.046%
City C	22,084	10.83%	22,084	8.364%
City D	25,636	12.57%	<u>25,636</u>	<u>9.709%</u>
Total	203,922	100.00%	264,031	100.000%

Residents pay LOST & should benefit from the local services

2010 US Census Data

O.C.G.A. § 48-8-89(b) (3): *Service delivery responsibility*

- Refer to General funds which are supported by property tax and LOST, not SPLOST or Enterprise Funds.
- Each government's CAFR is required to contain the following schedule:
- Statement of Revenues, Expenditures and Changes to Fund Balances of Governmental Funds,

General Fund Expenses	General Fund Expenses	% distribution
County	120,022,497	85.52%
City A	3,185,139	2.27%
City B	2,985,980	2.13%
City C	9,541,051	6.80%
City D	4,606,865	3.28%
Total	140,341,532	100.00%

General Fund Expenses: Direct measure of service demands & responsibilities

O.C.G.A. § 48-8-89(b) (3): *Service delivery responsibility*

Gross Tax Digest	Property Tax Digest 2011	2012 Digest based LOST	Aggregate Gross Tax digest	Aggregate digest 2011	LOST revenue
Unincorporated County	4,800,003,250	72.851%	Total County	6,588,831,328	78.648%
City A	140,113,898	2.127%	City A	140,113,898	1.672%
City B	172,168,296	2.613%	City B	172,168,296	2.055%
City C	720,634,908	10.937%	City C	720,634,908	8.602%
City D	755,910,976	11.473%	City D	<u>755,910,976</u>	<u>9.023%</u>
Total	6,588,831,328	100.000%	Total County + cities	8,377,659,406	100.000%

Unincorporated Property Tax Digest: suggests unincorporated-only responsibility

Aggregate Property Tax Digest: reflex County-wide service delivery responsibility

O.C.G.A. § 48-8-89(b) (5): *Point of sale*

- **Point of Sale:** Most of the commercial businesses reside in the cities and they are the primary economic engines that produce sales tax
- **Day Time Residents And Tourism:** Cities are clearly the center for shopping, restaurants, medical, industrial, and banking.
- **Commercial & Industrial Tax Digest is a direct measure of the concentration of Business activity:** A disproportionally higher amount of commercial property located in the cities relative to the residential population.

Aggregate Commercial & Industrial Digest	Commercial & Industrial Digest	% distribution
Total County	2,336,461,406	72.6%
City A	23,775,636	0.7%
City B	79,584,409	2.5%
City C	401,816,689	12.5%
City D	<u>375,091,563</u>	<u>11.7%</u>
Total County + cities	3,216,729,703	100.0%

Sales tax collected in cities primarily

Watch of Irrelevant and Incomplete DATA for Point of Sale

2007 Economic Sectors Sales and Shipments	Aggregate Total	County	Balance of County (unincorp)	City A	City B (2 counties)	City B within County (40%)
Manufacturing	1,218,129	989,859	D	Blank	570,676	228,270
Retail Trade	3,205,220	2,055,804	1,014,227	1,034,466	287,375	114,950
Information	#VALUE!	N	N	N		N
Real Estate and rental	115,937	78,451	45,163	32,962	11,310	4,524
Professional, technical	171,017	115,550	61,312	51,923	8,861	3,544
Administrative, Waste Mtg	203,055	171,860	146,884	23,724	18,678	7,471
Educational Services	5,491	3,285	1,079	2,206		D
Health Care, Social services	713,720	392,521	D	290,084	77,787	31,115
Arts and entertainment	#VALUE!	D	D	D		D
Accommodations & Food services	369,031	212,285	D	145,236	28,774	11,510
Other services except public sector	163,584	121,221	D	42,363		D
	6,165,184	4,140,836	1,268,665	1,622,964	1,003,461	401,384
% of total county	100.0%	67.2%		26.3%		6.5%

O.C.G.A. § 48-8-89(b) (7): *Tax Equity* –

- **Double Taxation**

The legislation recognizes that tax inequities exist between cities and counties and the LOST distribution formula should attempt to correct these inequities.

- **County-only Services**

Some county services are provided to only county residents and businesses in the unincorporated areas of the county and are funded through property taxes.

Analyze General Fund Funding Sources and Service Delivery Responsibilities

General Fund Expense Comparison	Total General Fund Expenses	County-wide Expenses	Unincorp. Only
General Government	\$10,538,190	\$9,811,055	\$727,135
County-wide General Services	\$2,626,701	\$2,626,701	
Judicial	\$9,959,550	\$9,959,550	
Public Safety	\$37,015,797	\$37,015,797	
Health and Welfare	\$1,629,390	\$1,629,390	
Parks, Recreation & Culture	\$5,862,375	\$5,862,375	
Public Works	\$4,380,484	\$1,207,391	\$3,173,093
Planning/Community Development	\$2,125,588	\$917,706	\$1,207,882
Total General Fund	\$74,138,075	\$69,029,965	\$5,108,110
Service delivery county-wide %		93.11%	6.89%

How important is this analysis?

	2012 revenue change based on Population	2012 revenue change based on Tax Digest	2012 revenue change using Aggregate Tax digest	2012 revenue change using aggregate population	2012 revenue change based on General Fund Expenses
	70.52%	72.85%	78.65%	77.23%	85.52%
1	\$1,531,068	\$2,176,107	\$3,782,987	\$3,391,172	\$5,688,414
2	\$1,607,621	\$2,284,913	\$3,972,137	\$3,560,731	\$5,972,835
3	\$1,688,002	\$2,399,158	\$4,170,743	\$3,738,767	\$6,271,476
4	\$1,772,402	\$2,519,116	\$4,379,281	\$3,925,706	\$6,585,050
5	\$1,861,022	\$2,645,072	\$4,598,245	\$4,121,991	\$6,914,303
6	\$1,954,073	\$2,777,325	\$4,828,157	\$4,328,090	\$7,260,018
7	\$2,051,777	\$2,916,192	\$5,069,565	\$4,544,495	\$7,623,019
8	\$2,154,366	\$3,062,001	\$5,323,043	\$4,771,720	\$8,004,170
9	\$2,262,084	\$3,215,101	\$5,589,195	\$5,010,306	\$8,404,378
10	<u>\$2,375,188</u>	<u>\$3,375,856</u>	<u>\$5,868,655</u>	<u>\$5,260,821</u>	<u>\$8,824,597</u>
	\$19,257,603	\$27,370,842	\$47,582,008	\$42,653,798	\$71,548,259

Final Comments

- **Legal Compliance:** ensure legal compliance & identify all relevant criteria, gather data, and develop various strategies and formulas to present during the negotiation process.
- **Lost Negotiations Goal:** Sales Tax Distribution must be independently verified, and logically and persuasively defended throughout the negotiation process.
- **Standard for review by the court:** If mediation or arbitration becomes necessary – show that **you consider all the right criteria.**
- **Objectively verifiable and defensible.**

Adapting to the New Agreement

- Mitigating the effects of shifting LOST revenue
 - Intergovernmental contracts
 - Phase in agreements
- Notify all parties of new changes
- Revisit Service Delivery Strategy Agreement

Points To Remember

- Don't Get Caught in the “Unincorporated Trap”
- Account for Shifts in Population and New Service Demands Since 2002
- Counties Addressed the Cities’ “Double Taxation” Issues During Service Delivery Negotiations.
- Educate the local media

Case Studies

- 2002 Harris County Renegotiations
- Group Discussion

Good Luck! In Your
Negotiations

