

The House Committee on Ways and Means offers the following substitute to HB 181:

A BILL TO BE ENTITLED
AN ACT

To amend Code Section 48-2-15 of the Official Code of Georgia Annotated, relating to confidential information secured in the administration of taxes, so as to change the provisions regarding the furnishing of sales and use tax information to municipalities and counties; to provide for additional procedures, conditions, and limitations; to provide for confidentiality; to provide for a criminal penalty; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 48-2-15 of the Official Code of Georgia Annotated, relating to confidential information secured in the administration of taxes, is amended by repealing and reserving subsection (d) and enacting a new subsection to read as follows:

~~“(d) Notwithstanding this Code section, the commissioner, upon request by resolution of the governing authority of any municipality of this state having a population of 350,000 or more according to the United States decennial census of 1970 or any future such census, shall furnish to the finance officer or taxing official of the municipality any pertinent tax information from state tax returns to be used by those officials in the discharge of their official duties. Any information so furnished shall retain, in the hands of the local officials, its privileged and confidential nature to the same extent and under the same conditions as that information is privileged and confidential in the hands of the commissioner. The commissioner may make a nominal charge for any information so furnished, not to exceed the actual cost of furnishing the information. Nothing contained in this subsection shall be construed to prevent the use of the information as evidence in any state or federal court in the event of litigation involving any municipal or county tax liability of a taxpayer. Reserved.~~

(d.1)(1) Notwithstanding this Code section, the commissioner, upon request by resolution of the governing authority of any county, consolidated government, or

municipality of this state, shall furnish to the designated finance officer or taxing official of the county, consolidated government, or municipality information included on the vendor's sales tax certificate for all vendors that have filed a report for the designated period, to be used by such designated officer or official in the discharge of his or her official duties.

(2)(A) Such designated officer or official shall not be authorized to contact in any manner any taxpayer identified in such confidential information.

(B) Such designated officer or official to whom such confidential information is provided under this subsection may request the commissioner to validate the political subdivision to which a taxpayer with a business location within the political subdivision has remitted sales and use taxes for the designated period. Upon inquiry by such designated officer or official, the commissioner shall, within thirty days, respond to the inquiry and validate that the sales tax being collected from a taxpayer is being remitted to the proper political subdivision and take other appropriate action as provided by law.

(C) Any information furnished under this subsection to such designated officer or official shall retain its privileged and confidential nature to the same extent and under the same conditions as such information is privileged and confidential in the hands of the commissioner.

(3) Any such information furnished under this subsection shall constitute confidential tax information for purposes of paragraph (2) of Code Section 50-14-2 and paragraph (43) of subsection (a) of Code Section 50-18-72 and shall not be discussed or disclosed except as specifically authorized under this subsection.

(4) Such information may be discussed with or disclosed to the members of the governing authority of such county or municipality levying a tax pursuant to the provisions of Article 4 of Chapter 8 of this title, but only when the members of such governing authority are in executive session as defined in paragraph (2) of subsection (a) of Code Section 50-14-1. In the event of such discussion with or disclosure to the members of such governing authority, any such information so discussed or disclosed shall retain its privileged and confidential nature to the same extent and under the same conditions as such information is privileged and confidential in the hands of the commissioner and any further disclosure by the members of such governing authority is prohibited. Prior to such discussion with or disclosure to the members of such governing authority, any member of the governing authority who has a conflict of interest shall be required to recuse himself or herself from the executive session. For purposes of such recusal, a conflict of interest shall include, but not be limited to, engaging in similar business to those which are identified in the confidential information or having a financial or other personal interest, direct or indirect, in such matter which is incompatible with the

impartial and proper discharge of that person's official duties, which would tend to impair the independence of that person's judgment or actions, or which would make such person privy to information that would provide a competitive business advantage.

(5) It shall be unlawful for any person to divulge confidential tax information in violation of this subsection. Any person who violates this paragraph shall, upon conviction thereof, be subject to the same penalties that would apply to an employee of the department convicted of divulging confidential tax information.

(6) The commissioner may make a nominal charge for any information so furnished, not to exceed the actual cost of furnishing the information; provided, however, that any such charge shall be in addition to the 1 percent administrative fee otherwise allowed to the commissioner for defraying the cost of collecting a local sales and use tax.

(7) Nothing contained in this subsection shall prevent or be construed to prevent:

(A) The use of the information as evidence in any state or federal court in the event of litigation involving any municipal or county tax liability of a taxpayer; or

(B) The release of the information pursuant to a subpoena or court order."

SECTION 2.

All laws and parts of laws in conflict with this Act are repealed.