

House Resolution 1139

By: Representative Williams of the 5th

A RESOLUTION

1 Proposing an amendment to the Constitution so as to repeal the provisions requiring the
 2 funding of education by ad valorem taxation and provide for the imposition of a state sales
 3 and use tax of 3 percent, which rate of taxation may be adjusted as necessary by the General
 4 Assembly, the proceeds of which shall be used exclusively for educational purposes prior to
 5 the college or postsecondary level; to provide for the submission of this amendment for
 6 ratification or rejection; and for other purposes.

7 BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article VIII of the Constitution is amended by striking Section VI and inserting in its place
 10 a new Section VI to read as follows:

11 **"SECTION VI.**

12 **~~LOCAL~~ TAXATION FOR EDUCATION**

13 Paragraph I. ~~*Local taxation*~~ *Taxation for education.* (a) ~~The board of education of each~~
 14 ~~school system shall annually certify to its fiscal authority or authorities a school tax not~~
 15 ~~greater than 20 mills per dollar for the support and maintenance of education. Said fiscal~~
 16 ~~authority or authorities shall annually levy said tax upon the assessed value of all taxable~~
 17 ~~property within the territory served by said school system, provided that the levy made by~~
 18 ~~an area board of education, which levy shall not be greater than 20 mills per dollar, shall~~
 19 ~~be in such amount and within such limits as may be prescribed by local law applicable~~
 20 ~~thereto.~~

21 ~~(b)~~ School tax funds shall be expended only for the support and maintenance of public
 22 schools, ~~public vocational-technical schools~~, public education, and activities necessary or
 23 incidental thereto, including school lunch purposes.

24 (b)(1) The authority provided under this Constitution on January 1, 2002, to levy and
 25 collect ad valorem taxes for educational purposes shall continue until December 31, 2003.

1 On and after January 1, 2004, such authority shall cease and no ad valorem taxes for
2 educational purposes shall be levied in this state.

3 (2) In addition to any state or local sales and use tax in effect on July 1, 2003, there is
4 imposed effective on that date and thereafter a state sales and use tax of 3 percent. The
5 General Assembly shall be authorized to adjust as necessary the rate of the tax imposed
6 by this subparagraph. The sales and use tax imposed by this subparagraph shall
7 correspond to the state sales and use tax imposed by the revenue laws of this state, as now
8 or hereafter amended, except that the rate shall be as specified in this subparagraph and
9 except that the tax shall apply to all sales of motor fuels and shall not be subject to Article
10 III, Section IX, Paragraph VI(b) of this Constitution. The tax imposed pursuant to this
11 subparagraph shall be subject to any sales and use tax exemption with respect to the sale
12 or use of food and beverages which is imposed by law. The tax imposed by this
13 subparagraph shall be levied and collected in the same manner as the other state sales and
14 use tax is levied and collected without the necessity for further action by the General
15 Assembly. The total proceeds derived by the state from the sales and use tax imposed by
16 this subparagraph shall be used exclusively for educational purposes prior to the college
17 or postsecondary level. The General Assembly, through appropriations, shall control the
18 expenditure of the educational funds provided for in this subparagraph, which funds shall
19 be expended for the educational purposes authorized under this subparagraph prior to the
20 college or postsecondary level. In addition, an amount sufficient to continue to retire any
21 outstanding public debt or any bonds or obligations issued or incurred by political
22 subdivisions of this state for educational purposes on or before December 31, 2003, shall
23 be appropriated by the General Assembly and the State of Georgia expressly assumes any
24 and all such outstanding debt, bonds, or obligations. Such outstanding debt, bonds, or
25 obligations shall not be counted for purposes of calculating the state debt limitation
26 specified in Article VII, Section IV, Paragraph II of this Constitution. The General
27 Assembly may also provide by law, other than appropriations, for any matters the
28 General Assembly finds necessary or appropriate in controlling the expenditure of
29 educational funds provided for in this subparagraph.

30 ~~(c) The 20 mill limitation provided for in subparagraph (a) of this Paragraph shall not~~
31 ~~apply to those school systems which are authorized on June 30, 1983, to levy a school tax~~
32 ~~in excess thereof.~~

33 ~~(d) The method of certification and levy of the school tax provided for in~~
34 ~~subparagraph (a) of this Paragraph shall not apply to those systems that are authorized on~~
35 ~~June 30, 1983, to utilize a different method of certification and levy of such tax; but the~~
36 ~~General Assembly may by law require that such systems be brought into conformity with~~
37 ~~the method of certification and levy herein provided.~~

1 Paragraph H. ~~*Increasing or removing tax rate.*~~ The mill limitation in effect on June 30,
 2 1983, for any school system may be increased or removed by action of the respective
 3 boards of education, but only after such action has been approved by a majority of the
 4 qualified voters voting thereon in the particular school system to be affected in the manner
 5 provided by law.

6 Paragraph III. ~~*School tax collection reimbursement.*~~ The General Assembly may by
 7 general law require local boards of education to reimburse the appropriate governing
 8 authority for the collection of school taxes, provided that any rate established may be
 9 reduced by local act.

10 Paragraph IV Paragraph II. *Sales tax for educational purposes.* (a) The board of
 11 education of each school district in a county in which no independent school district is
 12 located may by resolution and the board of education of each county school district and the
 13 board of education of each independent school district located within such county may by
 14 concurrent resolutions impose, levy, and collect a sales and use tax for educational
 15 purposes of such school districts conditioned upon approval by a majority of the qualified
 16 voters residing within the limits of the local taxing jurisdiction voting in a referendum
 17 thereon. This tax shall be at the rate of 1 percent and shall be imposed for a period of time
 18 not to exceed five years, but in all other respects, except as otherwise provided in this
 19 Paragraph, shall correspond to and be levied in the same manner as the tax provided for by
 20 Article 3 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to the
 21 special county 1 percent sales and use tax, as now or hereafter amended. Proceedings for
 22 the reimposition of such tax shall be in the same manner as proceedings for the initial
 23 imposition of the tax, but the newly authorized tax shall not be imposed until the expiration
 24 of the tax then in effect.

25 (b) The purpose or purposes for which the proceeds of the tax are to be used and may be
 26 expended include:

27 (1) Capital outlay projects for educational purposes;

28 (2) The retirement of previously incurred general obligation debt with respect only to
 29 capital outlay projects of the school system; provided, however, that the tax authorized
 30 under this Paragraph shall only be expended for the purpose authorized under this
 31 subparagraph (b)(2) if all ad valorem property taxes levied or scheduled to be levied prior
 32 to the maturity of any such then outstanding general obligation debt to be retired by the
 33 proceeds of the tax imposed under this Paragraph shall be reduced by a total amount
 34 equal to the total amount of proceeds of the tax imposed under this Paragraph to be
 35 applied to retire such bonded indebtedness. In the event of failure to comply with the
 36 requirements of this subparagraph (b)(2), as certified by the Department of Revenue, no
 37 further funds shall be expended under this subparagraph (b)(2) by such county or

1 independent board of education and all such funds shall be maintained in a separate,
2 restricted account and held solely for the expenditure for future capital outlay projects for
3 educational purposes; or

4 (3) A combination of the foregoing.

5 (c) The resolution calling for the imposition of the tax and the ballot question shall each
6 describe:

7 (1) The specific capital outlay projects to be funded, or the specific debt to be retired,
8 or both, if applicable;

9 (2) The maximum cost of such project or projects and, if applicable, the maximum
10 amount of debt to be retired, which cost and amount of debt shall also be the maximum
11 amount of net proceeds to be raised by the tax; and

12 (3) The maximum period of time, to be stated in calendar years or calendar quarters
13 and not to exceed five years.

14 (d) Nothing in this Paragraph shall prohibit a county and those municipalities located in
15 such county from imposing as additional taxes local sales and use taxes authorized by
16 general law.

17 (e) The tax imposed pursuant to this Paragraph shall not be subject to and shall not count
18 with respect to any general law limitation regarding the maximum amount of local sales
19 and use taxes which may be levied in any jurisdiction in this state.

20 (f) The tax imposed pursuant to this Paragraph shall not be subject to any sales and use
21 tax exemption with respect to the sale or use of food and beverages which is imposed by
22 law.

23 (g) The net proceeds of the tax shall be distributed between the county school district and
24 the independent school districts, or portion thereof, located in such county according to the
25 ratio the student enrollment in each school district, or portion thereof, bears to the total
26 student enrollment of all school districts in the county or upon such other formula for
27 distribution as may be authorized by local law. For purposes of this subparagraph, student
28 enrollment shall be based on the latest FTE count prior to the referendum on imposing the
29 tax.

30 (h) Excess proceeds of the tax which remain following expenditure of proceeds for
31 authorized projects or purposes for education shall be used solely for the purpose of
32 reducing any indebtedness of the school system. In the event there is no indebtedness, such
33 excess proceeds shall be used by such school system for the purpose of reducing its millage
34 rate in an amount equivalent to the amount of such excess proceeds.

35 (i) The tax authorized by this Paragraph may be imposed, levied, and collected as
36 provided in this Paragraph without further action by the General Assembly, but the General
37 Assembly shall be authorized by general law to further define and implement its provisions

1 including, but not limited to, the authority to specify the percentage of net proceeds to be
2 allocated among the projects and purposes for which the tax was levied.

3 (j)(1) Notwithstanding any provision of any constitutional amendment continued in force
4 and effect pursuant to Article XI, Section I, Paragraph IV(a) and except as otherwise
5 provided in subparagraph (j)(2) of this Paragraph, any political subdivision whose ad
6 valorem taxing powers are restricted pursuant to such a constitutional amendment may
7 receive the proceeds of the tax authorized under this Paragraph or of any local sales and
8 use tax authorized by general law, or any combination of such taxes, without any
9 corresponding limitation of its ad valorem taxing powers which would otherwise be
10 required under such constitutional amendment.

11 (2) The restriction on and limitation of ad valorem taxing powers described in
12 subparagraph (j)(1) of this Paragraph shall remain applicable with respect to proceeds
13 received from the levy of a local sales and use tax specifically authorized by a
14 constitutional amendment in force and effect pursuant to Article XI, Section I, Paragraph
15 IV(a), as opposed to a local sales and use tax authorized by this Paragraph or by general
16 law."

17 SECTION 2.

18 The above proposed amendment to the Constitution shall be published and submitted as
19 provided in Article X, Section I, Paragraph II of the Constitution. The ballot submitting the
20 above proposed amendment shall have written or printed thereon the following:

21 "() YES Shall the Constitution be amended so as to abolish the funding of education
22 by ad valorem taxation and provide for the imposition of a state sales and
23 () NO use tax of 3 percent, the proceeds of which shall be used exclusively for
24 educational purposes prior to the college or postsecondary level?"

25 All persons desiring to vote in favor of ratifying the proposed amendment shall vote "Yes."

26 All persons desiring to vote against ratifying the proposed amendment shall vote "No." If
27 such amendment shall be ratified as provided in said Paragraph of the Constitution, it shall
28 become a part of the Constitution of this state.