

Senate Resolution 34

By: Senators Cagle of the 49th, Balfour of the 9th, Moody of the 56th, Carter of the 13th, Pearson of the 51st and Schaefer of the 50th

A RESOLUTION

1 Proposing an amendment to the Constitution so as to provide that the sales and use tax for
 2 educational purposes may also be imposed in whole or in part for maintenance and operation
 3 of public schools with an equivalent millage rate reduction; to change certain imposition
 4 requirements; to provide for the submission of this amendment for ratification or rejection;
 5 and for other purposes.

6 BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 SECTION 1.

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

10 "Paragraph IV. *Sales tax for educational purposes.* (a)(1) The board of education of
 11 each school district in a county in which no independent school district is located may by
 12 resolution ~~and the board of education of each county school district and the board of~~
 13 ~~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.

18 (2) The board of education of each county school district and the board of education
 19 of each independent school district located within such county may by concurrent
 20 resolutions impose, levy, and collect a sales and use tax for educational purposes of such
 21 school districts conditioned upon approval by a majority of the qualified voters residing
 22 within the limits of the local taxing jurisdiction voting in a referendum thereon. Such
 23 concurrent resolution shall only be required with respect to an independent school
 24 district, located wholly or partially in the county, when at least 25 percent of the total
 25 student enrollment of such independent school district is within such county. If less than
 26 25 percent of the total student enrollment of such independent school is in a county, no

1 concurrent resolution shall be required of that independent school district and the board
 2 of education of that county may levy the tax under the requirements of subparagraph
 3 (a)(1) of this Paragraph; provided, however, that such independent school district shall
 4 receive a share of the proceeds pursuant to subparagraph (i) of this Paragraph.

5 (3) This tax shall be at the rate of 1 percent and shall be imposed for a period of time
 6 not to exceed five years, but in all other respects, except as otherwise provided in this
 7 Paragraph, shall ~~correspond to and~~ be levied in the same manner as the tax provided for
 8 by ~~Article 3 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating~~
 9 ~~to the special county 1 percent sales and use tax, as now or hereafter amended~~ general
 10 law. Proceedings for the reimposition of such tax shall be in the same manner as
 11 proceedings for the initial imposition of the tax, but the newly authorized tax shall not be
 12 imposed until the expiration of the tax then in effect. The purpose or purposes for which
 13 the proceeds of the tax are to be used and may be expended shall depend upon which
 14 option of such tax is selected by the board or boards of education. Such option shall be
 15 specified in the resolution or concurrent resolution calling for the imposition of the tax.

16 (b) The option 1 purpose or purposes for which the proceeds of the tax are to be used and
 17 may be expended include:

18 (1) Capital outlay projects for educational purposes;

19 (2) The retirement of previously incurred general obligation debt with respect only to
 20 capital outlay projects of the school system; provided, however, that the tax authorized
 21 under this Paragraph shall only be expended for the purpose authorized under this
 22 subparagraph (b)(2) if all ad valorem property taxes levied or scheduled to be levied prior
 23 to the maturity of any such then outstanding general obligation debt to be retired by the
 24 proceeds of the tax imposed under this Paragraph shall be reduced by a total amount
 25 equal to the total amount of proceeds of the tax imposed under this Paragraph to be
 26 applied to retire such bonded indebtedness. In the event of failure to comply with the
 27 requirements of this subparagraph (b)(2), as certified by the Department of Revenue, no
 28 further funds shall be expended under this subparagraph (b)(2) by such county or
 29 independent board of education and all such funds shall be maintained in a separate,
 30 restricted account and held solely for the expenditure for future capital outlay projects for
 31 educational purposes; or

32 (3) A combination of the foregoing.

33 (c) The option 2 purpose or purposes for which the proceeds of the tax are to be used and
 34 may be expended include the use of an amount equal to 25 percent of the amount of
 35 proceeds collected in each year in which the tax is levied for the reduction of the millage
 36 rate against tangible property within the school district for educational maintenance and

1 operation purposes in an equivalent amount and the remaining 75 percent of such proceeds
 2 for:

3 (1) Capital outlay projects for educational purposes;

4 (2) The retirement of previously incurred general obligation debt with respect only to
 5 capital outlay projects of the school system; provided, however, that the tax authorized
 6 under this Paragraph shall only be expended for the purpose authorized under this
 7 subparagraph (c)(2) if all ad valorem property taxes levied or scheduled to be levied prior
 8 to the maturity of any such then outstanding general obligation debt to be retired by the
 9 proceeds of the tax imposed under this Paragraph shall be reduced by a total amount
 10 equal to the total amount of proceeds of the tax imposed under this Paragraph to be
 11 applied to retire such bonded indebtedness. In the event of failure to comply with the
 12 requirements of this subparagraph (c)(2), as certified by the Department of Revenue, no
 13 further funds shall be expended under this subparagraph (c)(2) by such county or
 14 independent board of education and all such funds shall be maintained in a separate,
 15 restricted account and held solely for the expenditure for future capital outlay projects for
 16 educational purposes; or

17 (3) A combination of the foregoing.

18 (d) The option 3 purpose for which the proceeds of the tax are to be used and may be
 19 expended shall be solely for the purpose of reducing the millage rate against tangible
 20 property within the school district for educational maintenance and operation purposes.

21 ~~(e)~~(e) The resolution calling for the imposition of the tax and the ballot question shall
 22 each describe the option purposes, and if applicable:

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

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

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

30 ~~(d)~~(f) Nothing in this Paragraph shall prohibit a county and those municipalities located
 31 in such county from imposing as additional taxes local sales and use taxes authorized by
 32 general law.

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

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

4 ~~(g)~~(i) The net proceeds of the tax shall be distributed between the county school district
 5 and the independent school districts, or portion thereof, located in such county according
 6 to the ratio the student enrollment in each school district, or portion thereof, bears to the
 7 total student enrollment of all school districts in the county ~~or upon such other formula for~~
 8 ~~distribution as may be authorized by local law.~~

9 (i) For purposes of this ~~subparagraph~~ Paragraph, student enrollment shall be based on the
 10 latest FTE count prior to the referendum on imposing the tax.

11 ~~(h)~~(k) Excess proceeds of the tax which remain following expenditure of proceeds for
 12 authorized projects or purposes for education under option 1 or option 2 shall be used
 13 solely for the purpose of reducing any indebtedness of the school system. In the event there
 14 is no indebtedness, such excess proceeds shall be used by such school system for the
 15 purpose of reducing its millage rate in an amount equivalent to the amount of such excess
 16 proceeds. For purposes of this subparagraph, excess proceeds shall also be deemed to
 17 include any interest earned with respect to the proceeds of the tax.

18 ~~(i)~~(l) The tax authorized by this Paragraph may be imposed, levied, and collected as
 19 provided in this Paragraph without further action by the General Assembly, but the General
 20 Assembly shall be authorized by general law to further define and implement its provisions
 21 including, but not limited to, the authority to specify the percentage of net proceeds to be
 22 allocated among the projects and purposes for which the tax was levied and the manner and
 23 method of providing for the millage rollback under option 2 or option 3.

24 ~~(j)~~(m)(1) Notwithstanding any provision of any constitutional amendment continued
 25 in force and effect pursuant to Article XI, Section I, Paragraph IV(a) and except as
 26 otherwise provided in subparagraph ~~(j)~~(m)(2) of this Paragraph, any political subdivision
 27 whose ad valorem taxing powers are restricted pursuant to such a constitutional
 28 amendment may receive the proceeds of the tax authorized under this Paragraph or of any
 29 local sales and use tax authorized by general law, or any combination of such taxes,
 30 without any corresponding limitation of its ad valorem taxing powers which would
 31 otherwise be required under such constitutional amendment.

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

SECTION 2.

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

5 " YES Shall the Constitution of Georgia be amended so as to provide that the sales
6 and use tax for educational purposes may also be imposed in whole or in
7 NO part for maintenance and operation of public schools with an equivalent
8 millage rate reduction and to change the imposition requirements?"

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

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