

House Resolution 773 (COMMITTEE SUBSTITUTE)

By: Representatives Jones of the 46th, Ehrhart of the 36th, Coleman of the 97th, Maxwell of the 17th, Bearden of the 68th, and others

A RESOLUTION

1 Proposing an amendment to the Constitution of Georgia so as to change the existing
 2 provisions regarding the sales tax for education; to allow for a county school district in which
 3 one or more independent school districts are located to authorize, impose, levy, collect, and
 4 distribute a sales and use tax for educational purposes without the participation of all the
 5 independent school districts located within the county, conditioned upon approval by a
 6 majority of the qualified voters residing within the limits of the local taxing jurisdiction
 7 voting in a referendum thereon; to provide for a method of distribution for taxes
 8 simultaneously collected by a county school district and an independent school district within
 9 the county; to provide for the submission of this amendment for ratification or rejection; and
 10 for other purposes.

11 BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 SECTION 1.

13 Article VIII, Section VI of the Constitution is amended by striking Paragraph IV in its
 14 entirety and inserting in lieu thereof a new Paragraph IV to read as follows:

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

1 be in the same manner as proceedings for the initial imposition of the tax, but the newly
2 authorized tax shall not be imposed until the expiration of the tax then in effect.

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

5 (1) Capital outlay projects for educational purposes;

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

19 (3) A combination of the foregoing.

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

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

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

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

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

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

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

1 (g) The net proceeds of the tax shall be distributed to the school district or districts in
 2 which the tax is collected; provided, however, that if such a tax is simultaneously collected
 3 by a county school district and one or more participating independent school districts
 4 within such county, then the net proceeds of the tax shall be distributed between the county
 5 school district and the participating independent school district or districts, or portion
 6 thereof, located in such county according to an agreement between the county school
 7 district and the participating independent school district or districts or, if no agreement can
 8 be reached, according to the ratio the student enrollment in each participating school
 9 district, or portion thereof, bears to the total student enrollment of all participating school
 10 districts in the county ~~or upon such other formula for distribution as may be authorized by~~
 11 ~~local law.~~ For purposes of this subparagraph, student enrollment shall be based on the
 12 latest FTE full-time enrollment count prior to the referendum on imposing the tax.

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

18 (i) The tax authorized by this Paragraph may be imposed, levied, and collected as provided
 19 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.

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

31 (2) The restriction on and limitation of ad valorem taxing powers described in
 32 subparagraph (j)(1) of this Paragraph shall remain applicable with respect to proceeds
 33 received from the levy of a local sales and use tax specifically authorized by a
 34 constitutional amendment in force and effect pursuant to Article XI, Section I, Paragraph
 35 IV(a), as opposed to a local sales and use tax authorized by this Paragraph or by general
 36 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 change the existing
6 provisions regarding the sales tax for education to allow for a county school

7 NO district in which one or more independent school districts are located to
8 authorize, impose, levy, collect, and distribute a sales and use tax for
9 educational purposes without the participation of all the independent school
10 districts located within the county, conditioned upon approval by a majority
11 of the qualified voters residing within the limits of the local taxing
12 jurisdiction voting in a referendum thereon, and to provide for a method of
13 distribution for taxes simultaneously collected by a county school district
14 and an independent school district within the county?"

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

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