

The Senate Finance Committee offered the following substitute to HR 773:

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 impose that tax on a county-wide
 4 basis even if some or all independent school districts decline to participate, conditioned upon
 5 approval in a referendum; to provide for a method of distribution for taxes simultaneously
 6 collected by a county school district and an independent school district within the county; to
 7 provide for the submission of this amendment for ratification or rejection; and for other
 8 purposes.

9 BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

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

12 "Paragraph IV. *Sales tax for educational purposes.* (a)(1) The board of education of each
 13 school district in a county in which no independent school district is located may by
 14 resolution ~~and the board of education of each county school district and the board of~~
 15 ~~education of each independent school district located within such county may by~~
 16 ~~concurrent resolutions~~ impose, levy, and collect within such school district a sales and
 17 use tax for educational purposes of such school ~~districts~~ district conditioned upon
 18 approval by a majority of the qualified voters residing within the limits of the ~~local taxing~~
 19 ~~jurisdiction~~ county voting in a referendum thereon.

20
 21 (2) In any county in which one or more independent school districts are wholly or
 22 partially located, the board of education of the county school district may by resolution
 23 impose, levy, and collect a sales and use tax for educational purposes of such school
 24 districts conditioned upon approval by a majority of the qualified voters residing within
 25 the limits of the county voting in a referendum thereon.

26 (3) This tax shall be at the rate of 1 percent and shall be imposed for a period of time
 27 not to exceed five years, but in all other respects, except as otherwise provided in this

1 Paragraph, shall correspond to and be levied in the same manner as the tax provided for
2 by Article 3 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating
3 to the special county 1 percent sales and use tax, as now or hereafter amended.
4 Proceedings for the reimposition of such tax shall be in the same manner as proceedings
5 for the initial imposition of the tax, but the newly authorized tax shall not be imposed
6 until the expiration of the tax then in effect.

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

9 (1) Capital outlay projects for educational purposes;

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

23 (3) A combination of the foregoing.

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

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

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

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

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

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

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

6 (g)(1) The net proceeds of the tax shall be distributed to the county school district in
7 which the tax is collected if no independent school district is located therein.

8 (2) The net proceeds of the tax shall be distributed between the county school district
9 and the independent school district or districts, or portion thereof, located in such county
10 according to the ratio the student enrollment in each school district, or portion thereof,
11 bears to the total student enrollment of all school districts in the county ~~or upon such~~
12 ~~other formula for distribution as may be authorized by local law.~~ For purposes of this
13 subparagraph, student enrollment shall be based on the latest FTE full-time enrollment
14 count prior to the referendum on imposing the tax.

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

20 (i) The tax authorized by this Paragraph may be imposed, levied, and collected as provided
21 in this Paragraph without further action by the General Assembly, but the General
22 Assembly shall be authorized by general law to further define and implement its provisions
23 including, but not limited to, the authority to specify the percentage of net proceeds to be
24 allocated among the projects and purposes for which the tax was levied.

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

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

1 IV(a), as opposed to a local sales and use tax authorized by this Paragraph or by general
2 law."

3 **SECTION 2.**

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

7 "() YES Shall the Constitution of Georgia be amended to provide that county school
8 systems may continue to authorize and collect the one-cent sales tax for
9 () NO public school capital projects on a county-wide basis, even when a city
10 school system located within a county chooses not to participate; and to
11 provide for voter referendum approval and collection and distribution of
12 taxes?"

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