

The House Committee on Ways and Means offers the following substitute to HR 1203:

A RESOLUTION

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

5 BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 SECTION 1.

7 Article VIII, Section VI of the Constitution is amended by revising Paragraph IV as follows:

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

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

25 (1) Capital outlay projects for educational purposes;

26 (2) The retirement of previously incurred general obligation debt with respect only to
 27 capital outlay projects of the school system; provided, however, that the tax authorized

28 under this Paragraph shall only be expended for the purpose authorized under this
 29 subparagraph (b)(2) if all ad valorem property taxes levied or scheduled to be levied prior
 30 to the maturity of any such then outstanding general obligation debt to be retired by the
 31 proceeds of the tax imposed under this Paragraph shall be reduced by a total amount
 32 equal to the total amount of proceeds of the tax imposed under this Paragraph to be
 33 applied to retire such bonded indebtedness. In the event of failure to comply with the
 34 requirements of this subparagraph (b)(2), as certified by the Department of Revenue, no
 35 further funds shall be expended under this subparagraph (b)(2) by such county or
 36 independent board of education and all such funds shall be maintained in a separate,
 37 restricted account and held solely for the expenditure for future capital outlay projects for
 38 educational purposes; ~~or~~

39 (3) Educational maintenance and operation purposes which may include a reduction
 40 of the applicable millage rate against tangible property within the school district; or

41 ~~(3)(4)~~ A combination of the foregoing.

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

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

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

49 (3) The maximum period of time, to be stated in calendar years or calendar quarters
 50 and not to exceed five years; and

51 (4) The maximum amount of net proceeds to be expended on educational maintenance
 52 and operations and whether a reduction of the applicable millage rate against tangible
 53 property in the school district will be applied.

54 (d) If a concurrent resolution is required under subparagraph (a) of this Paragraph, the
 55 items enumerated under subparagraphs (c)(1), (c)(2), and (c)(4) of this Paragraph shall be
 56 specified separately for the board of education of the county school district and the board
 57 of education of an independent school district. The same maximum period of time under
 58 subparagraph (c)(3) of this Paragraph shall be specified by the board of education of the
 59 county school district and the board of education of an independent school district.

60 ~~(d)~~(e) Nothing in this Paragraph shall prohibit a county and those municipalities located
 61 in such county from imposing as additional taxes local sales and use taxes authorized by
 62 general law.

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

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

69 ~~(g)~~(h) The net proceeds of the tax shall be distributed between the county school district
 70 and the independent school districts, or portion thereof, located in such county according
 71 to the ratio the student enrollment in each school district, or portion thereof, bears to the
 72 total student enrollment of all school districts in the county or upon such other formula for
 73 distribution as may be authorized by local law. For purposes of this subparagraph, student
 74 enrollment shall be based on the latest FTE count prior to the referendum on imposing the
 75 tax.

76 ~~(h)~~(i) Excess proceeds of the tax which remain following expenditure of proceeds for
 77 authorized projects or purposes for education shall be used solely for the purpose of
 78 reducing any indebtedness of the school system. In the event there is no indebtedness, such
 79 excess proceeds shall be used by such school system for the purpose of reducing its millage
 80 rate in an amount equivalent to the amount of such excess proceeds. For purposes of this
 81 subparagraph, excess proceeds shall also be deemed to include any interest earned with
 82 respect to the proceeds of the tax.

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

88 ~~(j)~~(k)(1) Notwithstanding any provision of any constitutional amendment continued in
 89 force and effect pursuant to Article XI, Section I, Paragraph IV(a) and except as
 90 otherwise provided in subparagraph ~~(j)~~(k)(2) of this Paragraph, any political subdivision
 91 whose ad valorem taxing powers are restricted pursuant to such a constitutional
 92 amendment may receive the proceeds of the tax authorized under this Paragraph or of any
 93 local sales and use tax authorized by general law, or any combination of such taxes,
 94 without any corresponding limitation of its ad valorem taxing powers which would
 95 otherwise be required under such constitutional amendment.

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

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

102 **SECTION 2.**

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

106 "() YES Shall the Constitution of Georgia be amended so as to provide that the sales
107 and use tax for educational purposes may be imposed in part for
108 () NO maintenance and operation of public schools and may include a millage rate
109 reduction?"

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

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