

House Bill 240

By: Representatives Knight of the 126th and Powell of the 171st

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 3 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated,
2 relating to county sales and use taxes, so as to establish a procedure for modifying projects
3 approved in a referendum that have become infeasible in connection with the county special
4 purpose local option sales and use tax and the sales tax for educational purposes; to provide
5 for procedures, conditions, and limitations; to provide an effective date; to repeal conflicting
6 laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 3 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to
10 county sales and use taxes, is amended by adding a new Code section to read as follows:

11 "48-8-123.

12 (a) For purposes of this Code section, the term 'infeasible' means that the project has, in
13 the judgment of the governing authority as expressed in the resolution or ordinance
14 required by subsection (b) of this Code section, become impracticable, unserviceable,
15 unrealistic, or otherwise not in the best interests of the citizens of the special district.

16 (b) Notwithstanding any other provision of this part to the contrary, if the tax authorized
17 by this part has been imposed within a special district for a purpose or purposes authorized
18 by subsection (a) of Code Section 48-8-111 and one or more projects authorized therein
19 become or are determined to be infeasible, then the provisions of this Code section shall
20 apply. However, this Code section shall not apply until and unless the governing authority
21 of the county adopts an appropriate resolution or ordinance determining that such project
22 or projects for which the levy has been approved has become infeasible.

23 (c) If a project that has become infeasible is a municipal project, the ordinance or
24 resolution of the county required by subsection (b) of this Code section is conditioned upon
25 the adoption of an ordinance or resolution of the municipality responsible for the project
26 determining that the project has become infeasible. Upon its approval by the municipality,

27 such ordinance or resolution shall be transmitted to the governing authority of the county.
 28 The county governing authority shall rely on the determination by the municipality that the
 29 municipal project has become infeasible.

30 (d) Upon the adoption of the resolution or ordinance required by subsection (b) of this
 31 Code section, the tax shall continue to be imposed for the same period of time and for the
 32 raising of the same amount of revenue as originally authorized. Subject to approval in a
 33 referendum required by subsection (e) of this Code section, the county, or any municipality
 34 if the infeasible project is a project owned or operated by the municipality, may expend the
 35 previously collected and future proceeds of the tax, or such portion thereof as was intended
 36 for the purpose that has been determined to be infeasible if the tax was imposed for more
 37 than one purpose, to reduce any indebtedness of the county or municipality within the
 38 special district other than indebtedness incurred pursuant to this part, or by paying such
 39 proceeds into the general fund of the county or municipality to be used for the purpose of
 40 reducing ad valorem taxes, or both.

41 (e)(1) Upon the adoption of the resolution or ordinance required by subsection (b) of this
 42 Code section, the governing authority of the county shall notify the county election
 43 superintendent by forwarding to the superintendent a copy of a resolution or ordinance
 44 of the governing authority calling for the modification of the purpose for which proceeds
 45 of the tax authorized by this part may be expended. Such ordinance or resolution shall
 46 specify the modified purpose for which the balance of proceeds of the tax are to be used
 47 and an estimate of the amount of the proceeds available to be used for the modified
 48 purpose.

49 (2) Upon receipt of the resolution or ordinance required by this subsection, the election
 50 superintendent shall issue the call for an election for the purpose of submitting the
 51 question of modifying the project or projects for which the proceeds of the levy may be
 52 expended to the voters of the county within the special district. The election
 53 superintendent shall issue the call and shall conduct the election on a date and in the
 54 manner specified in subsection (b) of Code Section 48-8-111.

55 (3) The ballot submitting a question of the approval of the modified purpose for a levy
 56 previously approved by the voters of the county within the special district as authorized
 57 by this Code section shall have written or printed thereon the following:

58 () YES Shall the capital outlay project consisting of _____
 59 approved for use of proceeds of the special 1 percent sales and use tax
 60 () NO imposed in the special district of _____ County in a referendum
 61 on _____ be modified so as to authorize use of such proceeds for
 62 the purpose of (reducing debt, reducing ad valorem taxes, or reducing debt
 63 and ad valorem taxes) of the (county) (municipality)?'

64 (4) All persons desiring to vote in favor of modifying the project or projects shall vote
 65 'Yes,' and all persons opposed to modifying the project or projects shall vote 'No.' If
 66 more than one-half of the votes cast are in favor of modifying the project or projects, then
 67 the proceeds of the tax imposed as provided in this part shall be used for such modified
 68 purpose; otherwise, the proceeds of the tax shall not be used for such modified purpose.
 69 The election superintendent shall hold and conduct the election under the same rules and
 70 regulations as govern special elections. The superintendent shall canvass the returns,
 71 declare the result of the election, and certify the result to the Secretary of State and to the
 72 commissioner. The expense of the election shall be paid from county funds.

73 (5) The referendum authorized by this Code section may be held in conjunction with a
 74 subsequent referendum calling for the imposition of a levy after the levy in which the
 75 infeasible project or projects were approved. If the resolution of the county governing
 76 authority calling for the imposition of a subsequent levy of a tax authorized by this part
 77 includes a question calling for modification of infeasible projects, the ballot shall also
 78 have written or printed thereon, following the language specified by paragraph (1) of
 79 subsection (c) of Code Section 48-8-111, the following:

80 () YES Shall the capital outlay project consisting of _____
 81 approved for use of proceeds of the special 1 percent sales and use tax
 82 () NO imposed in the special district of _____ County in a referendum
 83 on _____ be modified so as to authorize use of such proceeds for
 84 the purpose of (reducing debt, reducing ad valorem taxes, or reducing debt
 85 and ad valorem taxes) of the (county) (municipality)?"

86 **SECTION 2.**

87 Said article is further amended by adding a new Code section to read as follows:

88 "48-8-145.

89 Projects approved in conjunction with the levy of a sales and use tax for educational
 90 purposes authorized by Article VIII, Section VI, Paragraph IV of the Constitution of
 91 Georgia determined to be infeasible by the board of education of a county or independent
 92 school district may be modified in a manner that substantially corresponds with the
 93 provisions of Code Section 48-8-123."

94 **SECTION 3.**

95 This Act shall become effective upon its approval by the Governor or upon its becoming law
 96 without such approval.

97

SECTION 4.

98 All laws and parts of laws in conflict with this Act are repealed.