

The House Committee on Ways and Means offers the following substitute to HB 240:

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; to provide for procedures, conditions, and limitations;  
5 to provide an effective date; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

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

10 "48-8-123.

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

16 (b)(1) Notwithstanding any other provision of this part to the contrary, if the tax  
17 authorized by this part has been imposed within a special district for a purpose or  
18 purposes authorized by subsection (a) of Code Section 48-8-111 and one or more projects  
19 authorized therein become or are determined to be infeasible, then the provisions of this  
20 Code section shall apply. However, this Code section shall not apply until and unless the  
21 governing authority or governing authorities specified under paragraph (2) of this  
22 subsection adopt a resolution or ordinance determining that such project or projects for  
23 which the levy has been approved have become infeasible in accordance with paragraph  
24 (2) of this subsection.

25 (2)(A) If a project that has become infeasible is a project for which the county is  
 26 responsible, an ordinance or resolution of the county shall be required determining that  
 27 the project has become infeasible.

28 (B) If a project that has become infeasible is a municipal project, an ordinance or  
 29 resolution of the municipality responsible for the project shall be required determining  
 30 that the project has become infeasible. Upon its approval by the municipality, such  
 31 ordinance or resolution shall be transmitted to the governing authority of the county.  
 32 The county governing authority shall rely on the determination by the municipality that  
 33 the municipal project has become infeasible.

34 (C) If a project that has become infeasible is a joint project of the county or a county  
 35 authority and one or more municipalities or a joint project of two or more  
 36 municipalities, an ordinance or resolution of all of the jurisdictions involved in the joint  
 37 project shall be required determining that the project has become infeasible.

38 (3) If the governing authority desiring to determine that a project is infeasible has  
 39 incurred or entered into financing for such project, whether through an intergovernmental  
 40 contract, a multiyear lease or purchase contract under Code Section 36-60-13, or other  
 41 form of indebtedness, no such ordinance or resolution shall be adopted until the  
 42 governing authority discharges in full the obligation incurred or provides for the  
 43 defeasance of such obligation.

44 (c) Upon the adoption of the resolution or ordinance required by subsection (b) of this  
 45 Code section, the tax shall continue to be imposed for the same period of time and for the  
 46 raising of the same amount of revenue as originally authorized. Subject to approval in a  
 47 referendum required by subsection (d) of this Code section, the county, or any municipality  
 48 if the infeasible project is a project owned or operated by the municipality, or those entities  
 49 that are part of a joint project, may expend the previously collected and future proceeds of  
 50 the tax, or such portion thereof as was intended for the purpose that has been determined  
 51 to be infeasible if the tax were imposed for more than one purpose, to reduce any general  
 52 obligation indebtedness of the affected jurisdiction within the special district other than  
 53 indebtedness incurred pursuant to this part, or by paying such proceeds into the general  
 54 fund of the county or municipality to be used for the purpose of reducing ad valorem taxes,  
 55 or both. In the event of a joint project in which there is an intergovernmental agreement  
 56 apportioning the project, the proceeds shall be divided among the entities to such joint  
 57 agreement according to such apportionment. In the event of a joint project in which there  
 58 is no agreement apportioning the project, the proceeds shall be divided equally among the  
 59 entities to the joint project.

60 (d)(1) Upon the adoption of the resolution or ordinance required by subsection (b) of this  
 61 Code section, the governing authority of the county shall notify the county election

62 superintendent by forwarding to the superintendent a copy of a resolution or ordinance  
 63 calling for the modification of the purpose for which proceeds of the tax authorized by  
 64 this part may be expended. Such ordinance or resolution shall specify the modified  
 65 purpose for which the balance of proceeds of the tax are to be used and an estimate of the  
 66 amount of the proceeds available to be used for the modified purpose.

67 (2) Upon receipt of the resolution or ordinance required by this subsection, the election  
 68 superintendent shall issue the call for an election for the purpose of submitting to the  
 69 voters of the county within the special district the question of modifying the project or  
 70 projects for which the proceeds of the levy may be expended. The election  
 71 superintendent shall issue the call and shall conduct the election, in conjunction with the  
 72 next election held, to submit to the electors of the special district the imposition of a tax  
 73 under this part and shall conduct the election in the manner specified in subsection (b) of  
 74 Code Section 48-8-111.

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

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

84 (4) If there are multiple projects to be submitted to the electors for approval of modified  
 85 purpose, there shall be one question for all projects of the county or its authorities, one  
 86 question for all projects of municipalities, and one question for joint projects.

87 (5) All persons desiring to vote in favor of modifying the project or projects shall vote  
 88 'Yes,' and all persons opposed to modifying the project or projects shall vote 'No.' If  
 89 more than one-half of the votes cast are in favor of modifying the project or projects, then  
 90 the proceeds of the tax imposed as provided in this part shall be used for such modified  
 91 purpose; otherwise, the proceeds of the tax shall not be used for such modified purpose.  
 92 The election superintendent shall hold and conduct the election under the same rules and  
 93 regulations as govern special elections. The superintendent shall canvass the returns,  
 94 declare the result of the election, and certify the result to the Secretary of State and to the  
 95 commissioner. The expense of the election shall be paid from county funds.

96 (e) This Code section shall not apply to a board of education which levies the sales tax for  
 97 educational purposes pursuant to Part 2 of this article and Article VIII, Section VI,  
 98 Paragraph IV of the Constitution."

99

**SECTION 2.**

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

102

**SECTION 3.**

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