

House Bill 240 (AS PASSED HOUSE AND SENATE)

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; 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.