

House Resolution 160

By: Representatives Casas of the 107th, Coleman of the 97th, Nix of the 69th, and Dickson of the 6th

A RESOLUTION

1 Proposing an amendment to the Constitution so as to provide that up to 75 percent of sales
 2 taxes for educational purposes may be used for maintenance and operation expenses of a
 3 school system; to provide for related matters; 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. Proceedings for
 20 the reimposition of such tax shall be in the same manner as proceedings for the initial
 21 imposition of the tax, but the newly authorized tax shall not be imposed until the expiration
 22 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) Maintenance and operation expenses of a school system; or

40 ~~(3)(4)~~ A combination of the foregoing.

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

43 (1) The specific capital outlay projects to be funded, ~~or~~ the specific debt to be retired,
 44 or ~~both~~ the specific maintenance and operation costs to be covered, or a combination of
 45 such items, if applicable;

46 (2) The maximum cost of such project or projects ~~and, if applicable,~~ the maximum
 47 amount of debt to be retired, the maximum amount of maintenance and operation costs
 48 to be expended, or a combination of such items, if applicable, which cost, ~~and~~ amount of
 49 debt, and amount of expenses shall also be the maximum amount of net proceeds to be
 50 raised by the tax; provided, however, that the maximum amount of maintenance and
 51 operation costs to be expended shall not exceed 75 percent of the maximum amount of
 52 net proceeds to be raised by the tax; and

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

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

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

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

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

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

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

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

89 (2) The restriction on and limitation of ad valorem taxing powers described in
 90 subparagraph (j)(1) of this Paragraph shall remain applicable with respect to proceeds
 91 received from the levy of a local sales and use tax specifically authorized by a
 92 constitutional amendment in force and effect pursuant to Article XI, Section I, Paragraph
 93 IV(a), as opposed to a local sales and use tax authorized by this Paragraph or by general
 94 law."

95 **SECTION 2.**

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

99 " YES Shall the Constitution of Georgia be amended so as to provide that up to 75
100 NO percent of local sales and use taxes for educational purposes may be used
101 for maintenance and operation expenses of the school system?"

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