

The House Committee on Education offers the following substitute to HR 1109:

A RESOLUTION

1 Proposing an amendment to the Constitution so as to provide that the sales and use tax for
 2 educational purposes that may be imposed by any school system can be used in part for
 3 educational programs and materials in public schools upon approval of voters; to provide for
 4 related matters; to provide for the submission of this amendment for ratification or rejection;
 5 and for other purposes.

6 BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

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

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

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

26 (1) Capital outlay projects for educational purposes;

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

40 (3) Educational programs and materials; provided, however, that this shall not include
 41 maintenance and operations unless specifically authorized by the General Assembly by
 42 law; or

43 ~~(3)(4)~~ A combination of the foregoing.

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

46 (1) The specific capital outlay projects to be funded, ~~or~~ the specific debt to be retired,
 47 the specific educational program and materials to be funded, or both a combination of the
 48 foregoing, if applicable;

49 (2) The maximum cost of such project or projects ~~and, if applicable,~~ the maximum
 50 amount of debt to be retired, ~~which~~ or the maximum cost of such educational program or
 51 programs and materials, if applicable; provided, however, that the maximum amount of
 52 net proceeds to be expended on educational programs and materials shall in no event
 53 exceed 50 percent of the maximum amount of net proceeds to be raised by the tax. Such
 54 cost and amount of debt shall also be the maximum amount of net proceeds to be raised
 55 by the tax; and

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

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

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

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

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

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

79 (i) The tax authorized by this Paragraph may be imposed, levied, and collected as
 80 provided in this Paragraph without further action by the General Assembly, but the General
 81 Assembly shall be authorized by general law to further define and implement its
 82 provisions, including, but not limited to, ~~the:~~

83 (1) The authority to specify the percentage of net proceeds to be allocated among the
 84 projects and purposes for which the tax was levied; provided, however, that such
 85 allocation is not inconsistent with this Paragraph; and

86 (2) The authority to allow school systems levying taxes for educational purposes on the
 87 effective date of this Paragraph and for two years thereafter to amend the existing
 88 authorized purposes of the existing tax to include educational programs and materials.
 89 Any such amendment shall be contingent upon approval by a majority of the qualified
 90 voters residing within the limits of the school system voting in a referendum thereon.

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

99 (2) The restriction on and limitation of ad valorem taxing powers described in
 100 subparagraph (j)(1) of this Paragraph shall remain applicable ~~with respect~~ to proceeds

101 received from the levy of a local sales and use tax specifically authorized by a
102 constitutional amendment in force and effect pursuant to Article XI, Section I, Paragraph
103 IV(a), as opposed to a local sales and use tax authorized by this Paragraph or by general
104 law."

105 **SECTION 2.**

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

109 "() YES Shall the Constitution of Georgia be amended so as to allow that the sales
110 and use tax that is already authorized by state law by any school system be
111 () NO used in part for educational programs and materials in public schools?"

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

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