

House Resolution 992

By: Representatives Tanner of the 9th, Welch of the 110th, Coleman of the 97th, Epps of the 144th, and Parrish of the 158th

A RESOLUTION

1 Proposing an amendment to the Constitution so as to authorize the use of local sales and use
 2 taxes for educational purposes for maintenance and operation expenses of a school system;
 3 to provide for related matters; to provide for the submission of this amendment for
 4 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, as defined by general law;
 40 or

41 ~~(3)(4)~~ A combination of the foregoing.

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

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

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

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

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

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

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

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

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

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

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

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

96 **SECTION 2.**

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

100 " YES Shall the Constitution of Georgia be amended to allow the current local
101 NO sales tax for educational purposes to be used for construction, building
102 maintenance, and instructional enhancements of a school system?"

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

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