

House Resolution 882

By: Representative Hatchett of the 155th

A RESOLUTION

1 Proposing an amendment to the Constitution so as to provide that local school systems can
2 levy and collect a sales and use tax for maintenance and operation expenses; to provide that
3 local school systems must offset their millage rates in an amount equal to the amount of tax
4 proceeds collected by such sales and use tax; to provide for related matters; to provide for
5 the submission of this amendment for ratification or rejection; 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. In addition, when a county school district has one or more independent school
17 districts located within such county, the school district or combination of school districts

18 that has a majority of the students enrolled within the county, based on the latest full-time
19 equivalent count, shall be authorized to call for a referendum to impose, levy, and collect
20 a sales and use tax for educational purposes of such school districts conditioned upon
21 approval by a majority of the qualified voters residing within the limits of the county voting
22 in a referendum thereon. This tax shall be at the rate of 1 percent and shall be imposed for
23 a period of time not to exceed five years, but in all other respects, except as otherwise
24 provided in this Paragraph, shall correspond to and be levied in the same manner as the tax
25 provided for by Article 3 of Chapter 8 of Title 48 of the Official Code of Georgia
26 Annotated, relating to the special county 1 percent sales and use tax, as now or hereafter
27 amended. Proceedings for the reimposition of such tax shall be in the same manner as
28 proceedings for the initial imposition of the tax, but the newly authorized tax shall not be
29 imposed until the expiration of the tax then in effect.

30 (b) The purpose or purposes for which the proceeds of the tax provided for by
31 subparagraph (a) of this Paragraph are to be used and may be expended include:

32 (1) Capital outlay projects for educational purposes;

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

44 restricted account and held solely for the expenditure for future capital outlay projects for
45 educational purposes; or

46 (3) A combination of the foregoing.

47 (c) The resolution calling for the imposition of the tax provided for by subparagraph (a)
48 of this Paragraph and the ballot question shall each describe:

49 (1) The specific capital outlay projects to be funded, or the specific debt to be retired,
50 or both, if applicable;

51 (2) The maximum cost of such project or projects and, if applicable, the maximum
52 amount of debt to be retired, which cost and amount of debt shall also be the maximum
53 amount of net proceeds to be 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 (c.1) The board of education of each school district in a county in which no independent
57 school district is located may by resolution and the board of education of each county
58 school district and the board of education of each independent school district located within
59 such county may by concurrent resolutions impose, levy, and collect a sales and use tax for
60 educational purposes of such school districts conditioned upon approval by a majority of
61 the qualified voters residing within the limits of the local taxing jurisdiction voting in a
62 referendum thereon. In addition, when a county school district has one or more
63 independent school districts located within such county, the school district or combination
64 of school districts that has a majority of the students enrolled within the county, based on
65 the latest full-time equivalent count, shall be authorized to call for a referendum to impose,
66 levy, and collect a sales and use tax for educational purposes of such school districts
67 conditioned upon approval by a majority of the qualified voters residing within the limits
68 of the county voting in a referendum thereon. Such tax shall be at the rate of up to 1
69 percent and shall be imposed for a period of time not to exceed five years, but in all other
70 respects, except as otherwise provided in this Paragraph, shall correspond to and be levied

71 in the same manner as the tax provided for by Article 3 of Chapter 8 of Title 48 of the
72 Official Code of Georgia Annotated, relating to the special county 1 percent sales and use
73 tax, as now or hereafter amended. Proceedings for the reimposition of such tax shall be in
74 the same manner as proceedings for the initial imposition of the tax, but the newly
75 authorized tax shall not be imposed until the expiration of the tax then in effect.

76 (c.2)(1) The purpose for the tax provided for by subparagraph (c.1) of this Paragraph
77 shall be to provide for maintenance and operation costs of the school system. The board
78 of education of each school system shall compute the millage rate necessary to produce
79 revenue from taxation of tangible property in its respective school district which, when
80 combined with other revenues reasonably expected to be received by the school system
81 during the year other than revenues derived from the tax imposed pursuant to
82 subparagraph (c.1) of this Paragraph, would provide revenues sufficient to defray the
83 maintenance and operations expenses of the school system for the year. The millage rate
84 so ascertained shall then be reduced by a millage rate which, if levied against the tangible
85 property within the school district, would produce an amount equal to the distribution of
86 the proceeds of the tax imposed by subparagraph (c.1) of this Paragraph which were
87 received by the school system during the preceding year.

88 (2) A school system may levy and collect both the taxes provided for by subparagraphs
89 (a) and (c.1) of this Paragraph.

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

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

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

99 (g) The net proceeds of ~~the~~ each tax shall be distributed between the county school
100 district and the independent school districts, or portion thereof, located in such county
101 according to an agreement between the county school system and the independent school
102 district or districts or, if no agreement can be reached, according to the ratio the student
103 enrollment in each school district, or portion thereof, bears to the total student enrollment
104 of all school districts in the county or upon such other formula for distribution as may be
105 authorized by local law. For purposes of this subparagraph, student enrollment shall be
106 based on the latest full-time equivalent count prior to the referendum on imposing the tax.

107 (h) Excess proceeds of the tax provided for by subparagraph (a) of this Paragraph which
108 remain following expenditure of proceeds for authorized projects or purposes for education
109 shall be used solely for the purpose of reducing any indebtedness of the school system. In
110 the event there is no indebtedness, such excess proceeds shall be used by such school
111 system for the purpose of reducing its millage rate in an amount equivalent to the amount
112 of such excess proceeds.

113 (i) The ~~tax~~ taxes authorized by this Paragraph may be imposed, levied, and collected as
114 provided in this Paragraph without further action by the General Assembly, but the General
115 Assembly shall be authorized by general law to further define and implement its provisions
116 including, but not limited to, the authority to specify the percentage of net proceeds to be
117 allocated among the projects and purposes for which the tax provided for by subparagraph
118 (a) of this Paragraph was levied.

119 (j)(1) Notwithstanding any provision of any constitutional amendment continued in
120 force and effect pursuant to Article XI, Section I, Paragraph IV(a) and except as
121 otherwise provided in subparagraph (j)(2) of this Paragraph, any political subdivision
122 whose ad valorem taxing powers are restricted pursuant to such a constitutional

123 amendment may receive the proceeds of the ~~tax~~ taxes authorized under this Paragraph or
 124 of any local sales and use tax authorized by general law, or any combination of such
 125 taxes, without any corresponding limitation of its ad valorem taxing powers which would
 126 otherwise be required under such constitutional amendment.

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

133 SECTION 2.

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

137 "() YES Shall the Constitution of Georgia be amended so as to authorize local school
 138 () NO systems, subject to approval in a local referendum, to levy and collect a sales
 139 and use tax of up to 1 percent to support the maintenance and operating costs
 140 of such school system, provided that the millage rate levied by such school
 141 system shall be rolled back to reduce property taxes in an amount equal to the
 142 amount collected by such sales and use tax?"

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

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