

## [Ga. Const. Art. IX, § IV, Para. II](#)

Current through the 2022 Regular Session of the General Assembly.

**Official Code of Georgia Annotated > CONSTITUTION OF THE STATE OF GEORGIA > Article IX  
Counties and Municipal Corporations > Section IV Taxation Power of County and Municipal  
Governments**

### **Paragraph II. Power of expenditure.**

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The governing authority of any county, municipality, or combination thereof may expend public funds to perform any public service or public function as authorized by this Constitution or by law or to perform any other service or function as authorized by this Constitution or by general law.

Annotations

### **Notes**

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**1976 Constitution.** —Art. IX, Sec. V, Paras. I, II.

## **JUDICIAL DECISIONS**

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### **General Consideration**

#### **Public Purposes Counties Empowered to Tax For**

#### **Invalid Uses of County Taxes**

### **General Consideration**

**Initially, county officials could not bind the county by the creation of a debt for payment of which it had no power to levy a tax.** Thus, county officials were not authorized to purchase vaccine matter for inoculation of persons against smallpox. *Daniel v. Putnam County*, 113 Ga. 570, 38 S.E. 980, 1901 Ga. LEXIS 304 (1901).

**Equity will grant an injunction if county exceeds taxing ability.** *Mitchell v. Lasseter*, 114 Ga. 275, 40 S.E. 287, 1901 Ga. LEXIS 663 (1901); [DeVaughn v. Booten](#), 146 Ga. 836, 92 S.E. 629, 1917 Ga. LEXIS 522 (1917).

**Right of county citizens and taxpayers to enjoin unlawful distribution of public funds.** —Citizens and taxpayers of counties have such an interest as will authorize them to maintain actions to enjoin the unlawful distribution of public funds of counties or to recover county funds which were allegedly illegally disbursed. *Nelson v. Wainwright*, 224 Ga. 693, 164 S.E.2d 147, 1968 Ga. LEXIS 908 (1968).

**Mandamus.** —Before the writ of mandamus will issue to compel county commissioners to issue their warrant upon county treasurer to pay a debt, it must appear that the debt comes within the classes provided in this paragraph. [Brunson v. Caskie](#), 127 Ga. 501, 56 S.E. 621, 1907 Ga. LEXIS 414 (1907); [Barksdale v. Hayes](#), 134 Ga. 348, 67 S.E. 852, 1910 Ga. LEXIS 195 (1910); [Clark v. Reynolds](#), 136 Ga. 817, 72 S.E. 254, 1911 Ga. LEXIS 240 (1911);

## Ga. Const. Art. IX, § IV, Para. II

**Contract with hospital for indigent sick.** —Contract by county with a hospital in the county, to provide a ward for hospitalization and medical treatment of indigent sick, is neither gratuity nor otherwise prohibited unless in violation of statutory limitations on the levy of taxes to support such a contract. [\*Brock v. Chappell\*, 196 Ga. 567, 27 S.E.2d 38, 1943 Ga. LEXIS 387 \(1943\)](#).

**Invalid Uses of County Taxes**

**It can never be a valid county purpose to provide revenue to a municipality** because municipalities are not citizens of nor creatures of counties — they are an entirely different form of government. [\*City Council v. Mangelly\*, 243 Ga. 358, 254 S.E.2d 315, 1979 Ga. LEXIS 908 \(1979\)](#).

**General Assembly must have express constitutional authorization for allowing a county to impose a tax for a particular purpose.** [\*City Council v. Mangelly\*, 243 Ga. 358, 254 S.E.2d 315, 1979 Ga. LEXIS 908 \(1979\)](#).

**List of purposes for which the state may tax** in Ga. Const. 1976, Art. VII, Sec. II, Para. I and Ga. Const. 1976, Art. VII, Sec. II, Para. IV (see [\*Ga. Const. 1983, Art. VII, Sec. III, Para. I\*](#) and [\*Para. II\*](#)) is the only purposes of taxation the state may validly delegate to its creatures power to tax. [\*City Council v. Mangelly\*, 243 Ga. 358, 254 S.E.2d 315, 1979 Ga. LEXIS 908 \(1979\)](#).

Though the purposes listed in Ga. Const. 1976, Art. VII, Sec. II, Para. I (see [\*Ga. Const. 1983, Art. VII, Sec. III, Para. I\*](#)) are capable of delegation, the right of the state to tax to grant funds to municipalities is not capable of delegation to counties or to any other subdivision of the state. [\*City Council v. Mangelly\*, 243 Ga. 358, 254 S.E.2d 315, 1979 Ga. LEXIS 908 \(1979\)](#).

**State may not grant to counties the right to tax and to give part of the proceeds to municipalities**, and consequently this may not be “such other public purpose[s] as may be authorized by the General Assembly” within the meaning of this paragraph or the similar language of Ga. Const. 1976, Art. IX, Sec. V, Para. I (see Ga. Const. 1983, Art. IX, Sec. IV). [\*City Council v. Mangelly\*, 243 Ga. 358, 254 S.E.2d 315, 1979 Ga. LEXIS 908 \(1979\)](#) (see [\*Ga. Const. 1983, Art. IX, Sec. IV, Para. II\*](#)).

**Purposes for which a county may tax are listed in this paragraph, and Ga. Const. 1976, Art. IX, Sec. V, Para. I (see Ga. Const. 1983, Art. IX, Sec. IV)** and taxation by counties for the purpose of sharing the resulting revenue with cities does not appear in that list. [\*City Council v. Mangelly\*, 243 Ga. 358, 254 S.E.2d 315, 1979 Ga. LEXIS 908 \(1979\)](#) (see [\*Ga. Const. 1983, Art. IX, Sec. IV, Para. II\*](#)).

**Use of county funds to procure passage, defeat, or influence vote approval of constitutional amendment not authorized.** —The authority of county governments to expend public funds is enumerated in this paragraph. Expenditure of county funds to procure passage or defeat of constitutional amendments is not specifically permitted. Further, the Supreme Court has decided that an advertising campaign to influence vote approval of a constitutional amendment is not authorized as a facet of administration of county government. [\*McKinney v. Brown\*, 242 Ga. 456, 249 S.E.2d 247, 1978 Ga. LEXIS 1250 \(1978\)](#) (see [\*Ga. Const. 1983, Art. IX, Sec. IV, Para. II\*](#)).

## Opinion Notes

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### OPINIONS OF THE ATTORNEY GENERAL

#### General Consideration

**No conflict in taxing powers.** —There is no conflict between the taxing powers of a county as set forth in Ga. Const. 1976, Art. IX, Sec. V, Para. I (see Ga. Const. 1983, Art. IX, Sec. IV) with the authority contained in this paragraph. 1958-59 Ga. Op. Att’y Gen. 39.