

Senate Bill 313

By: Senators Beach of the 21st, Butler of the 55th, Mullis of the 53rd, Williams of the 19th and Hill of the 6th

A BILL TO BE ENTITLED
AN ACT

1 To amend an Act known as the "Metropolitan Atlanta Rapid Transit Authority Act of 1965,"
2 approved March 10, 1965 (Ga. L. 1965, p. 2243), as amended, so as to provide that property
3 of the Authority not used for transportation or rapid transit purposes shall be subject to local
4 planning and zoning requirements; to provide for procedures, conditions, and limitations for
5 the imposition of an additional 1/2 percent retail sales and use tax; to provide for the
6 selection and submission of rapid transit projects to be funded by the revenue of such tax; to
7 provide for a limitation on the collection of a tax for transportation purposes in certain
8 counties upon imposition of an additional 1/2 percent retail sales and use tax; to provide for
9 a referendum; to provide for an additional referendum under certain conditions; to provide
10 for a procedure for conclusion of such tax; to provide for related matters; to repeal
11 conflicting laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 style="text-align:center">**SECTION 1.**

14 An Act known as the "Metropolitan Atlanta Rapid Transit Authority Act of 1965," approved
15 March 10, 1965 (Ga. L. 1965, p. 2243), is amended by enacting a new Section to read as
16 follows:

17 style="text-align:center">"SECTION 18.

18 style="text-align:center">Zoning and Planning.

19 Authority property which is not part of the transportation system, transportation projects,
20 or rapid transit system or projects of the Authority shall be subject to the applicable zoning
21 and planning powers of the local jurisdiction in which such property is located."

22 style="text-align:center">**SECTION 2.**

23 Said Act is further amended by revising subsections (a), (b), and (k) of Section 25 as follows:

24 "(a) Authority to Tax. Each of the local governing bodies of those local governments
 25 referred to and defined in Section 2 of the Metropolitan Atlanta Rapid Transit Authority
 26 Act of 1965 (Ga. L. 1965, p. 2243), as amended, which shall hereafter pursuant to the
 27 provisions of said Act enter into a rapid transit contract with the Metropolitan Atlanta
 28 Rapid Transit Authority that has become final and binding upon its local government by
 29 compliance with the provisions of Section 24 of said Act and approval of the voters as
 30 therein required, shall be authorized to levy a retail sales and use tax upon the retail
 31 purchase, retail sale, rental, storage, use or consumption of tangible personal property, and
 32 the services described and set forth in Ga. L. 1951, p. 360, as amended, on sales, uses and
 33 services rendered, in the geographical area governed by such local government. Provided,
 34 in the event Clayton County acting for and on behalf of the Clayton County-Atlanta Airport
 35 Public Transportation District that may be created in accordance with Section 24(1) of this
 36 Act and the Authority enter into a rapid transit contract pursuant to Section 24 of this Act,
 37 said retail sales and use tax shall be levied only within the geographical area contained
 38 within said District. Provided, however, the tax herein authorized shall not be levied by
 39 any local government unless the same is also levied in the geographical areas of Fulton,
 40 ~~and DeKalb, and Clayton~~ Counties. The tax imposed shall correspond, so far as
 41 practicable, except as to rate, with the Georgia Retailers' and Consumers' Sales and Use
 42 Tax Act, approved February 20, 1951 (Ga. L. 1951, p. 360), as amended, and as it may be
 43 from time to time amended. Provided, however, that no tax shall be imposed upon the sale
 44 of tangible personal property which is ordered by and delivered to the purchaser at a point
 45 outside the geographical area in which the tax is imposed, regardless of the point at which
 46 title passes, if such delivery is made by the seller's vehicle, U.S. mail, common carrier or
 47 by private or contract carrier licensed by the Interstate Commerce Commission or the
 48 Georgia Public Service Commission. Provided further that the tax authorized to be levied
 49 herein shall apply, any law to the contrary notwithstanding, to the retail sale, rental,
 50 storage, use, or consumption of motor fuel as the term 'motor fuel' is defined by Code
 51 Section 92-1402 or, after January 1, 1980, by Code Section 91A-5002.

52 (b)(1) Rate of Tax. ~~The~~ Except as otherwise provided for in Section 25A, the tax when
 53 levied shall be at the rate of one (1%) percent until and including June 30, 2057, and shall
 54 thereafter be reduced to one-half (1/2%) of one percent. Said tax shall be added to the
 55 State Sales and Use Tax imposed by Article 1 of Chapter 8 of Title 48 of the O.C.G.A.,
 56 and the State Revenue Commissioner is hereby authorized and directed to establish a
 57 bracket system by appropriate rules and regulations to collect the tax herein imposed in
 58 the areas affected.

59 (2)(A) A local governing body which, on January 1, 1988, is not a party to the Rapid
 60 Transit Contract and Assistance Agreement specified in subsection (k) of this Section

61 may enter into a rapid transit contract to provide public transportation services and
 62 facilities other than any extension of or addition to the Authority's existing rail rapid
 63 transit system and may levy a retail sales and use tax authorized under subsection (a)
 64 of this Section at the rate of one (1%) percent, except as otherwise provided for in
 65 Section 25A. Such contract shall require that the costs of the transportation services
 66 and facilities contracted for, as determined by the Board of Directors on the basis of
 67 reasonable estimates, allocation of costs and capital, and projections shall be borne by
 68 one or more of the following:

- 69 (i) Fares;
- 70 (ii) The proceeds of the tax levied in accordance with this subparagraph;
- 71 (iii) Other revenues generated by such services and facilities; and
- 72 (iv) Any subsidy provided, directly or indirectly, by or on behalf of that local
 73 governing body which is the party to the contract.

74 Notwithstanding any limitation in subsection (i) of this Section or any other provision
 75 of this Act, the proceeds of the retail sales and use tax levied pursuant to this
 76 subparagraph may be used in their entirety to pay the operating costs of the system, as
 77 defined in that subsection (i).

78 (B) In the event a local governing body which has entered into a rapid transit contract
 79 as authorized by subparagraph (A) of this paragraph thereafter determines that any
 80 extension of or addition to the Authority's existing rail rapid transit system should be
 81 constructed and operated within the territory of such local government, a separate rapid
 82 transit contract shall be required to provide for the local government's proper share of
 83 financing any such contemplated rapid transit project, and no retail sales and use tax
 84 authorized under subsection (a) of this Section may be levied to fulfill the obligations
 85 under that separate contract except at the rate of one (1%) percent or as provided for in
 86 Section 25A. A separate rapid transit contract required by this subparagraph shall not
 87 be subject to the limitations of divisions (i) through (iv) of subparagraph (A) of this
 88 paragraph but shall be subject to the limitations regarding the use of the tax proceeds
 89 for the operating costs of the system under subsection (i) of this Section.

90 (C) A tax levied under this paragraph shall be added to the State Sales and Use Tax
 91 imposed by Article 1 of Chapter 8 of Title 48 of the O.C.G.A., and the State Revenue
 92 Commissioner is authorized and directed to establish a bracket system by appropriate
 93 rules and regulations to collect the tax imposed under this paragraph in the areas
 94 affected. Nothing in this paragraph shall be construed to require that any tax levied at
 95 a rate specified by this paragraph or Section 25A be reduced as provided for the ~~one~~
 96 ~~(1%) percent~~ tax levied pursuant to paragraph (1) of this subsection.

97 (D) No contract shall be entered into by a local government pursuant to this paragraph
 98 unless and until the same has been approved in a referendum held in the political
 99 subdivision, which referendum shall be held in conjunction with and at the same time
 100 as a state-wide general election and which was called not less than 120 days prior to
 101 such referendum election."

102 "(k) ~~The~~ Except as otherwise provided in Section 25A, the Authority shall use the proceeds
 103 of the tax levied pursuant to this Act and the proceeds from bonds or certificates issued by
 104 the Authority for the following purposes and in the following order of priorities: First, for
 105 the purposes and in the manner required by any trust indenture or other agreement with or
 106 for the benefit of bondholders, including payment of the principal of or premium or interest
 107 upon bonds or certificates issued by the Authority or to create a reserve for that purpose;
 108 second, to pay the operating costs of the system as defined in subsection 25(i) of this Act,
 109 to pay the general administrative expenses of the Authority, to purchase, construct, replace,
 110 and maintain buses and facilities necessary for the operation, repair, and maintenance of
 111 buses, to purchase on terms advantageous to the Authority real property necessary and
 112 appropriate to construct, complete, and operate the rapid transit system described in the
 113 Rapid Transit Contract and Assistance Agreement by and between the Authority, the
 114 counties of Fulton and DeKalb and the City of Atlanta dated September 1, 1971, as now
 115 and hereafter amended, and to complete and operate those portions of the Authority's rapid
 116 transit system defined as Phase 'A' in those contracts existing on the effective date of this
 117 Act between the Authority and the Urban Mass Transportation Administration of the
 118 United States Department of Transportation; and third, to construct, complete, and operate
 119 that portion of the rail system described as Phases A, B, and C in the Rapid Transit
 120 Contract and Assistance Agreement by and between the Authority, the counties of Fulton
 121 and DeKalb, and the City of Atlanta, dated September 1, 1971, as amended, in the
 122 following manner and order of priority: (1) Phase A; (2) Phase B; (3) That portion of
 123 Phase C extending from Lenox Road to Brookhaven on the Northeast Line and from
 124 Lakewood to East Point on the South Line, with completion of Brookhaven occurring
 125 before completion of East Point; (4) That portion of Phase C extending from Brookhaven
 126 to Chamblee on the Northeast Line; (5) That portion of Phase C extending from East Point
 127 to College Park to the mid-field terminal in Clayton County, Georgia, at the Hartsfield
 128 International Airport on the South Line and Southwest Branch; and (6) That portion of
 129 Phase C extending from Chamblee to Doraville on the Northeast Line. This subsection (k)
 130 shall not be construed to change either any limitations upon the use of the proceeds of the
 131 tax levied pursuant to this Act imposed by subsection (i) of this Section 25 or any
 132 limitations upon the use of the proceeds of bonds or certificates issued by the Authority
 133 imposed by this Act. The provisions of this subsection shall not be construed so as to

134 prohibit the Authority from utilizing its available revenues for technical studies nor from
 135 utilizing available revenues to construct, complete, and operate those portions of the
 136 Authority's rapid transit system contained in Phases D and E of the system as set forth in
 137 and defined by the Ninth Amendment to the Rapid Transit Contract and Assistance
 138 Agreement so long as the Authority has available sufficient funds, grants-in-aid, proceeds
 139 of unissued bonds, or other sources of revenue to construct, complete, and operate Phases
 140 A, B, and C of the rapid transit system and is proceeding with the design and construction
 141 thereof."

142 **SECTION 3.**

143 Said Act is further amended by adding a new Section to read as follows:

144 "SECTION 25A.

145 Additional Retail Sales and Use Tax.

146 (a)(1) For purposes of this Section, the term 'local jurisdiction' means the governing
 147 bodies of those local governments which have entered into a rapid transit contract with
 148 the Metropolitan Atlanta Rapid Transit Authority, in accordance with the provisions of
 149 Section 24 of this Act and approval of the voters as therein required, and have authorized
 150 the levy of a one (1%) percent tax.

151 (2) Local jurisdictions shall be authorized to levy an additional one-half (1/2%) percent
 152 retail sales and use tax under the provisions set forth in this Section. Any local
 153 jurisdiction may elect not to levy the additional one-half (1/2%) percent retail sales and
 154 use tax by the adoption of a resolution or ordinance by its governing authority no later
 155 than June 30, 2016. Except as provided for to the contrary in this Section, such additional
 156 one-half (1/2%) percent tax shall be collected in the same manner and under the same
 157 conditions as set forth in Section 25 of this Act.

158 (b)(1) No later than May 31, of the year a referendum is to be called for as provided in
 159 this Section, the Authority shall submit to each local jurisdiction a preliminary list of
 160 rapid transit projects within or serving the geographical area of such local jurisdiction
 161 which may be funded in whole or in part by the proceeds of the additional levy authorized
 162 by this Section.

163 (2) No later than July 31, of the year a referendum is to be called for as provided in this
 164 Section, the Authority shall submit to each local jurisdiction electing to hold a
 165 referendum provided for in this Section a final list of rapid transit projects within or
 166 serving such local jurisdiction to be funded in whole or in part by the proceeds of the
 167 additional levy authorized by this Section. Such final list of rapid transit projects shall

168 be incorporated into the rapid transit contract established under Section 24 of this Act
 169 between the Authority and the local jurisdiction upon approval of the referendum to levy
 170 an additional one-half (1/2%) percent by the qualified voters of the territory of a local
 171 jurisdiction.

172 (c) Before the additional levy authorized under this Section shall become valid, the levy
 173 shall be approved by a majority of qualified voters of the territory of the local government
 174 electing to hold a referendum. The procedure for holding the referendum called for in this
 175 Section shall be as follows: There shall be published in a newspaper having general
 176 circulation throughout the territory of the local government involved, once each week for
 177 four weeks immediately preceding the week during which the referendum is to be held, a
 178 notice to the electors thereof that on the day named therein an election will be held to
 179 determine the question of whether or not an additional sales and use tax of one-half (1/2%)
 180 percent should be collected in the territory for the purpose of expanding and enhancing the
 181 rapid transit system. Such election shall be held in all the election districts within the
 182 territorial limits of the local government involved except that an election called by the local
 183 governing body of any county within the metropolitan area shall not be held in any part of
 184 such county which is within the territorial limits of the City of Atlanta. The question to be
 185 presented to the electorate in any such referendum shall be stated on the ballots or ballot
 186 labels as follows:

187 Shall an additional sales and use tax of one-half (1/2%) percent be collected in (Insert
 188 name of City or County) for the purpose of significantly expanding and enhancing the
 189 Metropolitan Atlanta Rapid Transit Authority rail service to reduce traffic congestion and
 190 create jobs?

191 YES NO

192 The question shall be published as a part of the aforesaid notice of election. Each such
 193 election called by the governing body of a county within the metropolitan area under the
 194 provisions of this subsection shall be governed, held, and conducted in accordance with the
 195 provisions of law from time to time governing the holding of elections to elect members
 196 to the General Assembly of this state. After the returns of such an election have been
 197 received, and the same have been canvassed and computed, the result shall be certified to
 198 the local governing body which called the election, in addition to any other person
 199 designated by law to receive the same, and such governing body shall officially declare the
 200 result thereof. Each election called by the governing body of the City of Atlanta under the
 201 provisions of this subsection shall be governed by and conducted in accordance with the
 202 provisions of law at the time governing the holding of elections by said City. The expense
 203 of any such election called by the governing body of the City of Atlanta shall be paid by
 204 the City of Atlanta.

205 (d) If a majority of those voting in such an election vote in favor of the proposition
206 submitted, then the contract between the Authority and the local jurisdiction shall authorize
207 the levy and collection of an additional one-half (1/2%) percent sales and use tax, and the
208 final list provided for in paragraph (2) of subsection (b) of this Section shall be
209 incorporated therein. All of the proceeds derived from the additional one-half (1/2%)
210 percent shall be first allocated for payment of the cost of the rapid transit projects
211 incorporated in the contract, except as otherwise provided by the terms of such rapid transit
212 contract, including, without limitation, any escrow requirements applicable to Clayton
213 County, and thereafter, upon completion and payment of such rapid transit projects, as
214 provided for in the rapid transit contract and this Act. It shall be the policy of the Authority
215 to provide that the levy collected under this Section in an amount greater than the cost of
216 the rapid transit projects incorporated in the contract shall be expended solely within and
217 for the benefit of each local jurisdiction in which such levy is collected; provided, however,
218 that if the levy authorized under this Section is approved by all local jurisdictions, then any
219 such excess amount shall be expended for the completion and payment of costs of rapid
220 transit projects provided for in paragraph (2) of subsection (b) of this Section for all local
221 jurisdictions and as otherwise provided for in this Act. The levy provided for by Article
222 5A of Chapter 8 of Title 48 of the O.C.G.A. shall not be imposed at a rate exceeding
223 one-half (1/2%) percent in any part of any jurisdiction in which the levy provided for by
224 this Section has been approved.

225 (e) If a majority of those voting in a local jurisdiction in such an election in the 2016
226 general election vote against the proposition submitted, the local jurisdiction may elect to
227 resubmit the proposition on the date of the 2017 municipal general election, provided that
228 the governing authority of the local jurisdiction adopted a resolution or ordinance
229 authorizing such action on or prior to June 30, 2017, and as provided for in this Section.

230 (f) The Authority shall maintain a record of the incurred and projected cost of each rapid
231 transit project incorporated into a rapid transit contract under paragraph (2) subsection (b)
232 of this Section and shall, no less than annually, provide such record to the local jurisdiction
233 whose rapid transit contract includes such project. The Authority shall notify such local
234 jurisdiction upon the completion of payment of all costs of each rapid transit project
235 incorporated into a rapid transit contract under the provisions of this Section. Upon
236 completion of such projects and the full payment of all bonds and interest thereon and any
237 other obligations or indebtedness incurred for such projects, a local jurisdiction may adopt
238 a resolution or ordinance to abolish the additional one-half (1/2%) percent sales and use tax
239 or decrease such levy in increments of one-tenth (1/10%) percent, with such excess funds
240 collected over the levy authorized under Section 25 of this Act to pay the operation and
241 maintenance of such rapid transit projects."

242

SECTION 4.

243 All laws and parts of laws in conflict with this Act are repealed.