

The Senate Committee on Transportation offered the following substitute to SB 330:

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 for a
3 definition; to provide that transit oriented development and property of the Authority not
4 used for transportation or rapid transit purposes shall be subject to local planning and zoning
5 requirements of the Constitution of Georgia; to provide for procedures, conditions, and
6 limitations for the imposition of an additional retail sales and use tax; to provide for the
7 selection and submission of rapid transit projects to be funded by the revenue of such tax; to
8 provide for a limitation on the collection of a tax for transportation purposes in certain
9 counties and the imposition of an additional retail sales and use tax in certain instances; to
10 provide for a referendum; to provide for an additional referendum under certain conditions;
11 to provide for additional ballot language in certain instances; to provide for a procedure for
12 conclusion of such tax; to provide for related matters; to repeal conflicting laws; and for
13 other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

15 An Act known as the "Metropolitan Atlanta Rapid Transit Authority Act of 1965," approved
16 March 10, 1965 (Ga. L. 1965, p. 2243), is amended by enacting a new Section to read as
17 follows:
18

"SECTION 18.

Zoning and Planning.

19 "(a) For purposes of this Section, the term 'transit oriented development' means any
20 commercial, residential, retail, or office building or development located on Authority
21 property or connected physically or functionally to a transit station, including, without
22 limitation, joint development projects on Authority property which provide for lease of
23 Authority property for the development of transit oriented development projects.
24

25 Authority property to private parties, convenient access to a transit station, and construction
 26 of a development for any such use. Notwithstanding the foregoing, the location of retail
 27 concessions within a transit station shall not alone constitute a transit oriented
 28 development.

29 (b) Notwithstanding any other provision of law, the power of zoning and planning
 30 provided for by Article IX, Section II, Paragraph IV of the Constitution of Georgia shall
 31 extend to transit oriented development and to Authority property which is not part of the
 32 transportation system, transportation projects, or rapid transit system or projects of the
 33 Authority."

34 **SECTION 2.**

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

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

61 herein shall apply, any law to the contrary notwithstanding, to the retail sale, rental,
 62 storage, use, or consumption of motor fuel as the term 'motor fuel' is defined by Code
 63 Section 92-1402 or, after January 1, 1980, by Code Section 91A-5002.

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

71 (2)(A) A local governing body which, on January 1, 1988, is not a party to the Rapid
 72 Transit Contract and Assistance Agreement specified in subsection (k) of this Section
 73 may enter into a rapid transit contract to provide public transportation services and
 74 facilities other than any extension of or addition to the Authority's existing rail rapid
 75 transit system and may levy a retail sales and use tax authorized under subsection (a)
 76 of this Section at the rate of one (1%) percent, except as otherwise provided for in
 77 Section 25A. Such contract shall require that the costs of the transportation services
 78 and facilities contracted for, as determined by the Board of Directors on the basis of
 79 reasonable estimates, allocation of costs and capital, and projections shall be borne by
 80 one or more of the following:

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

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

90 (B) In the event a local governing body which has entered into a rapid transit contract
 91 as authorized by subparagraph (A) of this paragraph thereafter determines that any
 92 extension of or addition to the Authority's existing rail rapid transit system should be
 93 constructed and operated within the territory of such local government, a separate rapid
 94 transit contract shall be required to provide for the local government's proper share of
 95 financing any such contemplated rapid transit project, and no retail sales and use tax
 96 authorized under subsection (a) of this Section may be levied to fulfill the obligations
 97 under that separate contract except at the rate of one (1%) percent or as provided for in

98 Section 25A. A separate rapid transit contract required by this subparagraph shall not
 99 be subject to the limitations of divisions (i) through (iv) of subparagraph (A) of this
 100 paragraph but shall be subject to the limitations regarding the use of the tax proceeds
 101 for the operating costs of the system under subsection (i) of this Section.

102 (C) A tax levied under this paragraph shall be added to the State Sales and Use Tax
 103 imposed by Article 1 of Chapter 8 of Title 48 of the O.C.G.A., and the State Revenue
 104 Commissioner is authorized and directed to establish a bracket system by appropriate
 105 rules and regulations to collect the tax imposed under this paragraph in the areas
 106 affected. Nothing in this paragraph shall be construed to require that any tax levied at
 107 a rate specified by this paragraph or Section 25A be reduced as provided for the ~~one~~
 108 ~~(1%)~~ percent tax levied pursuant to paragraph (1) of this subsection.

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

114 "(k) ~~The~~ Except as otherwise provided in Section 25A, the Authority shall use the proceeds
 115 of the tax levied pursuant to this Act and the proceeds from bonds or certificates issued by
 116 the Authority for the following purposes and in the following order of priorities: First, for
 117 the purposes and in the manner required by any trust indenture or other agreement with or
 118 for the benefit of bondholders, including payment of the principal of or premium or interest
 119 upon bonds or certificates issued by the Authority or to create a reserve for that purpose;
 120 second, to pay the operating costs of the system as defined in subsection 25(i) of this Act,
 121 to pay the general administrative expenses of the Authority, to purchase, construct, replace,
 122 and maintain buses and facilities necessary for the operation, repair, and maintenance of
 123 buses, to purchase on terms advantageous to the Authority real property necessary and
 124 appropriate to construct, complete, and operate the rapid transit system described in the
 125 Rapid Transit Contract and Assistance Agreement by and between the Authority, the
 126 counties of Fulton and DeKalb and the City of Atlanta dated September 1, 1971, as now
 127 and hereafter amended, and to complete and operate those portions of the Authority's rapid
 128 transit system defined as Phase 'A' in those contracts existing on the effective date of this
 129 Act between the Authority and the Urban Mass Transportation Administration of the
 130 United States Department of Transportation; and third, to construct, complete, and operate
 131 that portion of the rail system described as Phases A, B, and C in the Rapid Transit
 132 Contract and Assistance Agreement by and between the Authority, the counties of Fulton
 133 and DeKalb, and the City of Atlanta, dated September 1, 1971, as amended, in the
 134 following manner and order of priority: (1) Phase A; (2) Phase B; (3) That portion of Phase

135 C extending from Lenox Road to Brookhaven on the Northeast Line and from Lakewood
 136 to East Point on the South Line, with completion of Brookhaven occurring before
 137 completion of East Point; (4) That portion of Phase C extending from Brookhaven to
 138 Chamblee on the Northeast Line; (5) That portion of Phase C extending from East Point
 139 to College Park to the mid-field terminal in Clayton County, Georgia, at the Hartsfield
 140 International Airport on the South Line and Southwest Branch; and (6) That portion of
 141 Phase C extending from Chamblee to Doraville on the Northeast Line. This subsection (k)
 142 shall not be construed to change either any limitations upon the use of the proceeds of the
 143 tax levied pursuant to this Act imposed by subsection (i) of this Section 25 or any
 144 limitations upon the use of the proceeds of bonds or certificates issued by the Authority
 145 imposed by this Act. The provisions of this subsection shall not be construed so as to
 146 prohibit the Authority from utilizing its available revenues for technical studies nor from
 147 utilizing available revenues to construct, complete, and operate those portions of the
 148 Authority's rapid transit system contained in Phases D and E of the system as set forth in
 149 and defined by the Ninth Amendment to the Rapid Transit Contract and Assistance
 150 Agreement so long as the Authority has available sufficient funds, grants-in-aid, proceeds
 151 of unissued bonds, or other sources of revenue to construct, complete, and operate Phases
 152 A, B, and C of the rapid transit system and is proceeding with the design and construction
 153 thereof."

154 **SECTION 3.**

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

156 "SECTION 25A.

157 Additional Retail Sales and Use Tax.

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

163 (2) Local jurisdictions shall be authorized to levy an additional retail sales and use tax
 164 up to one-half (1/2%) percent under the provisions set forth in this Section. Each local
 165 jurisdiction may elect to hold a referendum at the 2016 general election as provided for
 166 by this Section by the adoption of a resolution or ordinance by its governing body on or
 167 prior to June 30, 2016; provided, however, that any such local jurisdiction that does not
 168 adopt a resolution or ordinance on or prior to June 30, 2016, may elect to hold a

169 referendum at the November, 2017, municipal general election, by the adoption of a
170 resolution or ordinance by its governing body to that effect on or prior to June 30, 2017.
171 Such additional tax shall not count toward any local sales tax limitation provided for by
172 Code Section 48-8-6 of the O.C.G.A. Except as provided for to the contrary in this
173 Section, such additional tax shall be collected in the same manner and under the same
174 conditions as set forth in Section 25 of this Act.

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

180 (2) No later than July 31, of the year a referendum is to be called for as provided in this
181 Section, the Authority shall submit to each local jurisdiction electing to hold a
182 referendum provided for in this Section a final list of rapid transit projects within or
183 serving such local jurisdiction to be funded in whole or in part by the proceeds of the
184 additional tax authorized by this Section. Such final list of rapid transit projects shall be
185 incorporated into the rapid transit contract established under Section 24 of this Act
186 between the Authority and the local jurisdiction upon approval of the referendum to levy
187 the additional tax authorized by this Section by the qualified voters of the territory of a
188 local jurisdiction.

189 (3) In each county that is a party to a rapid transit contract and whose boundaries include
190 any part of the City of Atlanta, a committee shall be named consisting of professional
191 municipal staff chosen by each qualified municipality, as such term is defined in Code
192 Section 48-8-80 of the O.C.G.A., located wholly or partly within such county and outside
193 the limits of the City of Atlanta. The committee shall review and collaborate with
194 Authority staff and make recommendations regarding the preliminary list of rapid transit
195 projects provided for by paragraph (1) of this subsection to the board of the Authority,
196 the governing authority of such county, and the mayor or chief elected official of each
197 such municipality. The committee shall review the preliminary list to ensure it is
198 consistent with local economic development considerations, local transportation plans,
199 local zoning considerations, workforce accessibility, and such other matters as may be
200 relevant to the development of such preliminary list.

201 (4) Prior to submission of a list of rapid transit projects provided for by paragraphs (1)
202 and (2) of this subsection, the Authority shall hold a meeting with the county governing
203 body and governing authority of each municipality in such county to discuss the rate of
204 tax and possible rapid transit projects to be funded in whole or in part by the proceeds of
205 such tax. At least one such meeting shall be held not less than 30 days prior to the

206 submission of the preliminary list of rapid transit projects provided for by paragraph (1)
 207 of this subsection, and at least one such meeting shall be held not less than 20 days prior
 208 to the submission of the final list provided for by paragraph (2) of this subsection. The
 209 Authority shall provide written notice to the mayor and chief elected official of each
 210 municipality which shall include the date, time, location, and purpose of such meeting.
 211 Such notice shall be delivered or mailed at least ten days prior to the date of the meeting.

212 (c) Before the additional tax authorized under this Section shall become valid, the tax shall
 213 be approved by a majority of qualified voters of the territory of the local jurisdiction
 214 electing to hold a referendum. The procedure for holding the referendum called for in this
 215 Section shall be as follows: There shall be published in a newspaper having general
 216 circulation throughout such territory, once each week for four weeks immediately
 217 preceding the week during which the referendum is to be held, a notice to the electors
 218 thereof that on the day named therein an election will be held to determine the question of
 219 whether or not the additional tax authorized by this Section should be collected in the
 220 territory for the purpose of expanding and enhancing the rapid transit system. Such
 221 election shall be held in all the election districts within the territorial limits of the local
 222 jurisdiction involved except that an election called by the local governing body of any
 223 county within the metropolitan area shall not be held in any part of such county which is
 224 within the territorial limits of the City of Atlanta. The question to be presented to the
 225 electorate in any such referendum shall be stated on the ballots or ballot labels as follows:
 226 'Shall an additional sales and use tax of (insert percentage) percent be collected in (Insert
 227 name of City or County) for the purpose of significantly expanding and enhancing
 228 MARTA transit service to reduce traffic congestion and create jobs?

229 YES _____ NO _____'

230 The question shall be published as a part of the aforesaid notice of election. Each such
 231 election called by the governing body of a county within the metropolitan area under the
 232 provisions of this subsection shall be governed, held, and conducted in accordance with the
 233 provisions of law from time to time governing the holding of elections to elect members
 234 to the General Assembly of this state. After the returns of such an election have been
 235 received, and the same have been canvassed and computed, the result shall be certified to
 236 the local governing body which called the election, in addition to any other person
 237 designated by law to receive the same, and such governing body shall officially declare the
 238 result thereof. Each election called by the governing body of the City of Atlanta under the
 239 provisions of this subsection shall be governed by and conducted in accordance with the
 240 provisions of law governing the holding of elections by said City. The expense of any such
 241 election called by the governing body of the City of Atlanta shall be paid by the City of
 242 Atlanta.

243 (d) If a majority of those voting in such an election vote in favor of the proposition
244 submitted, then the contract between the Authority and the local jurisdiction shall authorize
245 the tax and collection of an additional sales and use tax provided for by this Section, and
246 the final list provided for in paragraph (2) of subsection (b) of this Section shall be
247 incorporated therein. All of the proceeds derived from the additional tax provided for by
248 this Section shall be first allocated for payment of the cost of the rapid transit projects
249 incorporated in the contract, except as otherwise provided by the terms of such rapid transit
250 contract, including, without limitation, any escrow requirements applicable to Clayton
251 County, and thereafter, upon completion and payment of such rapid transit projects, as
252 provided for in the rapid transit contract and this Act. It shall be the policy of the Authority
253 to provide that the tax collected under this Section in an amount greater than the cost of the
254 rapid transit projects incorporated in the contract shall be expended solely within and for
255 the benefit of each local jurisdiction in which such tax is collected; provided, however, that
256 if the tax authorized under this Section is approved by all local jurisdictions, then any such
257 excess amount shall be expended for the completion and payment of costs of rapid transit
258 projects provided for in paragraph (2) of subsection (b) of this Section for all local
259 jurisdictions and as otherwise provided for in this Act. When a tax is imposed under this
260 Section in a local jurisdiction, the effective rate of any tax approved as provided for by
261 Article 5A of Chapter 8 of Title 48 of the O.C.G.A. shall be reduced within the boundaries
262 of such local jurisdiction by crediting against such tax in each transaction an amount of
263 payments of the tax provided for by this Section such that the effective rate of such tax,
264 when combined with the rate of the additional tax provided for by this Section, shall not
265 exceed a rate of one (1%) percent at any time on any transaction within such local
266 jurisdiction. If the tax provided for by this Section is imposed in a municipality at a rate
267 differing from the rate imposed in the county in which such municipality is located, and
268 such county also imposes the tax provided for by Article 5A of Chapter 8 of Title 48 of the
269 O.C.G.A., then the Authority and the governing authorities of such county and such
270 municipality shall enter into an intergovernmental agreement to adjust the project lists
271 provided for by paragraph (2) of subsection (b) of this Section and paragraph (2) of
272 subsection (b) of Code Section 48-8-261 pertaining to such county to take into account the
273 differential rates of taxation.

274 (e) If a majority of those voting in a territory in an election provided for by this Section
275 on the date of the 2016 general election vote against the proposition submitted, the local
276 jurisdiction of such territory may elect to resubmit such proposition on the date of the
277 November, 2017, municipal general election by the adoption of a resolution or ordinance
278 to that effect on or prior to June 30, 2017, subject to the provisions of this Section.

279 (f) A local jurisdiction electing to hold a referendum for the imposition of the additional
 280 tax provided for by this Section may hold such referendum concurrently with a referendum
 281 to impose the tax provided for by Article 5A of Chapter 8 of Title 48 of the O.C.G.A. by
 282 adoption of an ordinance or resolution to that effect. In such event, the ballot question
 283 provided for by subsection (c) of this Section shall precede and appear upon the same page
 284 as the ballot question provided for by Code Section 48-8-263, and such page shall have
 285 written or printed thereon preceding such questions the following:

286 '[Insert name of CITY OR COUNTY], WHERE YOU LIVE, HAS WORKED WITH
 287 CITIZENS ON A COMPREHENSIVE STRATEGIC PLAN TO RELIEVE TRAFFIC
 288 CONGESTION AND CREATE JOBS. THIS PLAN ENHANCES AND EXPANDS
 289 BOTH ROADS AND TRANSIT. VOTING YES ON BOTH QUESTIONS BELOW
 290 WILL ENABLE THE COUNTY TO PROCEED WITH A COMPREHENSIVE
 291 TRAFFIC RELIEF PLAN TO IMPROVE OUR ROADS AND THE MARTA SYSTEM.'

292 All other procedures with respect to such questions shall be as provided for in this Section
 293 and Article 5A of Chapter 8 of Title 48 of the O.C.G.A.

294 (g) The Authority shall maintain a record of the incurred and projected cost of each rapid
 295 transit project incorporated into a rapid transit contract under paragraph (2) subsection (b)
 296 of this Section and shall, no less than annually, provide such record to the local jurisdiction
 297 whose rapid transit contract includes such project. The Authority shall notify such local
 298 jurisdiction upon the completion of payment of all costs of each rapid transit project
 299 incorporated into a rapid transit contract under the provisions of this Section. Upon
 300 completion of such projects and the full payment of all bonds and interest thereon and any
 301 other obligations or indebtedness incurred for such projects, a local jurisdiction may adopt
 302 a resolution or ordinance to abolish the additional sales and use tax provided for by this
 303 Section or decrease such tax in increments of one-tenth (1/10%) percent, with such excess
 304 funds collected over the tax authorized under Section 25 of this Act to pay the operation
 305 and maintenance of such rapid transit projects."

306

SECTION 4.

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