

## House Bill 1523

By: Representatives Murphy of the 18<sup>th</sup>, Coleman of the 142<sup>nd</sup>, Walker of the 141<sup>st</sup>, Buck of the 135<sup>th</sup>, Smyre of the 136<sup>th</sup> and others

**A BILL TO BE ENTITLED  
AN ACT**

1 To amend Article 2 of Chapter 5 of Title 32 of the Official Code of Georgia Annotated,  
2 relating to the State Public Transportation Fund, so as to change certain provisions relating  
3 to priority of expenditures from the fund; to amend Title 48 of the Official Code of Georgia  
4 Annotated, relating to revenue and taxation, so as to change certain provisions relating to  
5 exemptions from sales and use taxes as to motor fuels; to change certain provisions relating  
6 to a second motor fuel tax, rate of tax, exemptions, and applicability of certain provisions;  
7 to provide effective dates; to repeal conflicting laws; and for other purposes.

8                   **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

9                   **SECTION 1.**

10 Article 2 of Chapter 5 of Title 32 of the Official Code of Georgia Annotated, relating to the  
11 State Public Transportation Fund, is amended by striking Code Section 32-5-21, relating to  
12 priority of expenditures from the fund, and inserting in lieu thereof the following:

13         "32-5-21.

14         Subject to the restrictions on expenditures imposed by Code Section 32-5-23, the State  
15         Public Transportation Fund shall be expended by the department in the following order:

16         (1) To pay the rentals on lease contracts entered into pursuant to the authority of the  
17         Constitution of Georgia;

18         (2) To pay into the State of Georgia Guaranteed Revenue Debt Common Reserve Fund  
19         the amount of the highest annual debt service requirements for an issue of guaranteed  
20         revenue debt for public road projects initiated pursuant to Code Section 32-10-67, upon  
21         its issuance, when the guarantee of the specific issue has been authorized by an  
22         appropriation of moneys governed by Article III, Section IX, Paragraph VI(b) of the  
23         Constitution and the appropriation meets the requirements for such debt as provided by  
24         Article VII, Section IV, Paragraph III(b) of the Constitution;

25         (3) To pay the costs of operating the department and for any emergencies or unusual  
26         situations;

(4) To pay the costs necessary to comply with the conditions of federal-aid apportionments to the state for the planning, surveying, constructing, paving, and improving of the public roads in Georgia;

(5)(A) Next, a sum equal to at least 15 percent of the State Public Transportation Fund less the amount specified in subparagraph (B) of this paragraph, said sum to be used as follows:

**(A)(i)** One-third to pay all or part of the costs of the planning, surveying, constructing, improving, paving, and completing public roads not on the state highway system;

(B)(ii) One-third to pay all or part of the costs of planning, surveying, constructing, improving, and paving public roads on the state highway system; and

(E)(iii) The remaining one-third to pay all or part of the costs of planning, surveying, constructing, reconstructing, paving, and improving the public roads of Georgia determined by the department to be most in need of such work; and

(B) A sum equal to at least 25 percent of the net proceeds of the second motor fuel tax imposed by Code Section 48-9-14 and received by the state in the immediately preceding fiscal year, to be used to pay all or part of the costs of planning, surveying, constructing, reconstructing, improving, paving, and completing public roads not on the state highway system, as apportioned among such purposes in accordance with an appropriations Act of the General Assembly; and

(6) After the requirements set out in the foregoing provisions of this Code section have been met, the remainder of the State Public Transportation Fund to be expended to pay the costs of maintaining, improving, constructing, and reconstructing the public roads of the state highway system, for maintaining roads within and leading to state parks, and for constructing public roads by department forces."

## SECTION 2.

Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is amended by striking Code Section 48-8-3.1, relating to exemptions from sales and use taxes as to motor fuels, and inserting in lieu thereof the following:

"48-8-3.1.

(a) Except as provided in subsection (b) of this Code section, sales of motor fuels as defined in paragraph (9) of Code Section 48-9-2 shall be exempt from the first 3 percent of the sales and use taxes levied or imposed by this article and shall be subject to the remaining 1 percent of the sales and use taxes levied or imposed by this article.

(b) Sales of motor fuel other than gasoline which motor fuel other than gasoline is purchased for purposes other than propelling motor vehicles on public highways as defined

1       in Article 1 of Chapter 9 of this title shall be fully subject to the 4 percent sales and use  
2       taxes levied or imposed by this article unless otherwise specifically exempted by this  
3       article.

(c) It is specifically declared to be the intent of the General Assembly that taxation imposed on sales of motor fuel ~~wholly or partially~~ subject to taxation under subsection (b) of this Code section shall not constitute motor fuel taxes for purposes of any provision of the Constitution providing for the automatic or mandatory appropriation of any amount of funds equal to funds derived from motor fuel taxes."

### **SECTION 3.**

10 Said title is further amended by striking Code Section 48-9-14, relating to a second motor  
11 fuel tax, rate of tax, exemptions, and applicability of certain provisions, and inserting in lieu  
12 thereof the following:

13 "48-9-14.

14 (a) In addition to the motor fuel tax imposed by Code Section 48-9-3, there is imposed a  
15 second motor fuel tax.

16       (b) The motor fuel tax imposed by this Code section is levied at the rate of  $\frac{3}{4}$  percent of  
17       the retail sale price less the tax imposed by Code Section 48-9-3 upon the sale, use, or  
18       consumption, as defined in Code Section 48-8-2, of motor fuel in this state. This tax shall  
19       be subject only to the exemptions provided in Code Section 48-9-3.

20 (c)(1) Except as otherwise provided in paragraph (2) of this subsection, in all other  
21 respects, the tax imposed by this Code section shall be administered and collected and  
22 penalties and interest shall be imposed in the same manner as the sales and use tax  
23 collected pursuant to Article 1 of Chapter 8 of this title.

24 (2) Dealers shall be allowed a percentage of the amount of the tax due and accounted for  
25 and shall be reimbursed in the form of a deduction in submitting, reporting, and paying  
26 the amount due. The deduction shall be at the rate and subject to the requirements  
27 specified under subsections (b) through (f) of Code Section 48-8-50."

## SECTION 4.

29 (a) Section 1 of this Act shall become effective on July 1, 2004.

30 (b) All other sections of this Act shall become effective on July 1, 2003.

## SECTION 5.

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