

House Bill 361

By: Representatives Smith of the 13th, Coleman of the 144th, Royal of the 171st, Jamieson of the 28th, Floyd of the 147th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 32 of the Official Code of Georgia Annotated, relating to highways, bridges,
2 and ferries, and Title 48 of the Official Code of Georgia Annotated, relating to revenue and
3 taxation, so as to change certain provisions regarding collections, expenditures, and
4 exemptions with respect to certain revenue regarding roads; to change certain provisions
5 regarding priority of expenditures from the State Public Transportation Fund; to change
6 certain provisions regarding allocation of state and federal road funds; to change certain
7 provisions regarding applicability of sales and use tax to motor fuel sales; to change certain
8 provisions regarding the second motor fuel tax; to provide for related matters; to provide an
9 effective date; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

12 Title 32 of the Official Code of Georgia Annotated, relating to highways, bridges, and ferries,
13 is amended by striking Code Section 32-5-21, relating to the priority of expenditures from
14 the State Public Transportation Fund, and inserting in its place a new Code Section 32-5-21
15 to read as follows:

16 "32-5-21.

17 Subject to the restrictions on expenditures imposed by Code Section 32-5-23, the State
18 Public Transportation Fund shall be expended by the department in the following order;
19 provided, however, that 25 percent of the total amount of taxes collected at the rate of 4
20 percent under paragraph (1) of subsection (b) of Code Section 48-9-14 shall be expended
21 in accordance with paragraph (6) of this Code section:

- 22 (1) To pay the rentals on lease contracts entered into pursuant to the authority of the
23 Constitution of Georgia;
- 24 (2) To pay into the State of Georgia Guaranteed Revenue Debt Common Reserve Fund
25 the amount of the highest annual debt service requirements for an issue of guaranteed
26 revenue debt for public road projects initiated pursuant to Code Section 32-10-67, upon

1 its issuance, when the guarantee of the specific issue has been authorized by an
 2 appropriation of moneys governed by Article III, Section IX, Paragraph VI(b) of the
 3 Constitution and the appropriation meets the requirements for such debt as provided by
 4 Article VII, Section IV, Paragraph III(b) of the Constitution;

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

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

10 (5) Next, a sum equal to at least 15 percent of the State Public Transportation Fund, said
 11 sum to be used as follows:

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

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

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

19 (6) A sum equal to 25 percent of the total amount of taxes collected at the rate of 4
 20 percent under paragraph (1) of subsection (b) of Code Section 48-9-14 shall be expended
 21 on the costs of planning, surveying, constructing, reconstructing, paving, and improving
 22 the public roads of Georgia as determined by the department to be eligible under the
 23 department's Local Assistance Road Program; and

24 ~~(6)(7)~~ After the requirements set out in the foregoing provisions of this Code section
 25 have been met, the remainder of the State Public Transportation Fund to be expended to
 26 pay the costs of maintaining, improving, constructing, and reconstructing the public roads
 27 of the state highway system, for maintaining roads within and leading to state parks, and
 28 for constructing public roads by department forces."

29 SECTION 2.

30 Said title is further amended by striking subsection (a) of Code Section 32-5-30, relating to
 31 the allocation of state and federal road funds, and inserting in its place the following:

32 "(a) The total of expenditures from the State Public Transportation Fund under paragraphs
 33 (4), (5), ~~and (6), and (7)~~ of Code Section 32-5-21 plus expenditures of federal funds
 34 appropriated to the department, not including any state or federal funds specifically
 35 designated for maintenance and operations, any project undertaken for the purposes of
 36 providing for the planning, surveying, constructing, paving, and improving of The Dwight

1 D. Eisenhower System of Interstate and Defense Highways within the state, any project
 2 undertaken for purposes of the Developmental Highway System provided by Code Section
 3 32-4-22, or any project of the Georgia Regional Transportation Authority, Georgia Ports
 4 Authority, or Metropolitan Atlanta Rapid Transit Authority, shall be budgeted by the
 5 department over each five-year period commencing July 1, ~~1999~~ 2003, and quinquennially
 6 thereafter such that at the end of such period funding obligations equivalent to at least 85
 7 percent of such total for such period shall have been divided equally among the
 8 congressional districts in this state, as those districts existed at the commencement of such
 9 period, for public road and other public transportation purposes in such districts; with the
 10 remainder of such total divided among such congressional districts such that 5 percent of
 11 such total for such period shall have been obligated for public road projects incidental to
 12 economic development purposes anywhere in this state, and no such congressional district
 13 shall have received funding obligations pursuant to this subsection for such period which
 14 are more than 20 percent greater than that received by any other such congressional district
 15 pursuant to this subsection for such period."

16 SECTION 3.

17 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
 18 amended by striking Code Section 48-8-3.1, relating to the applicability of sales and use tax
 19 to motor fuel sales, and inserting in its place a new Code Section 48-8-3.1. to read as follows:

20 "48-8-3.1.

21 (a) Except as provided in subsection (b) of this Code section, sales of motor fuels as
 22 defined in paragraph (9) of Code Section 48-9-2 shall be exempt from the ~~first 3~~ 4 percent
 23 ~~of the sales and use taxes~~ tax levied or imposed by this article ~~and shall be subject to the~~
 24 ~~remaining 1 percent of the sales and use taxes levied or imposed by this article.~~

25 (b) Sales of motor fuel other than gasoline which motor fuel other than gasoline is
 26 purchased for purposes other than propelling motor vehicles on public highways as defined
 27 in Article 1 of Chapter 9 of this title shall be fully subject to the 4 percent sales and use
 28 taxes levied or imposed by this article unless otherwise specifically exempted by this
 29 article.

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

SECTION 4.

Said title is further amended by striking Code Section 48-9-14, relating to the second motor fuel tax, and inserting in its place a new Code Section 48-9-14 to read as follows:

"48-9-14.

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

(b)(1) The motor fuel tax imposed by this Code section is levied at the rate of ~~3~~4 percent of the retail sale price less the tax imposed by Code Section 48-9-3 upon the sale, use, or consumption, as defined in Code Section 48-8-2, of motor fuel in this state. This tax shall be subject only to the exemptions provided in Code Section 48-9-3.

(2)(A) As used in this paragraph, the term 'prepaid state tax' shall have the same meaning as provided in paragraph (5.1) of Code Section 48-8-2.

(B) At the time the tax imposed by Code Section 48-9-3 attaches to a sale or transfer of motor fuels, a prepaid state tax shall be collected. The same person remitting the tax imposed under Code Section 48-9-3, but on a separate schedule, shall remit the prepaid state tax to the state. The tax shall be separately invoiced throughout the chain of distribution until it reaches the dealer who makes the retail sale. The commissioner shall issue the rate of prepaid state tax on a semiannual basis, rounded to the nearest \$.001 per gallon for use in the following semiannual period. The rate shall be calculated at 4 percent of the state-wide average retail price by motor fuel type as compiled by the Energy Information Agency of the United States Department of Energy, the Oil Pricing Information Service, or a similar reliable published index less taxes imposed under Code Section 48-9-3, this subsection, and all local sales and use taxes. In the event that the retail price changes by 25 percent or more within a semiannual period, the commissioner shall issue a revised prepaid state tax rate for the remainder of that period.

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

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

SECTION 5.

This Act shall become effective on July 1, 2006.

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SECTION 6.

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