

The House Special Committee on MARTOC offers the following substitute to SB 115:

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 establish an operating
3 budget reserve; to implement an independent management audit; to implement an annual
4 report on the status of pensions; to implement an annual report of expenses; to revise the
5 provisions regarding collective bargaining agreements; to provide for binding arbitration of
6 disputes; to extend the sunset of certain provisions relating to use of proceeds of a sales and
7 use tax for the Authority; to provide for an effective date; to repeal conflicting laws; and for
8 other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

10 An Act known as the "Metropolitan Atlanta Rapid Transit Authority Act of 1965," approved
11 March 10, 1965 (Ga. L. 1965, p. 2243), as amended, is amended by adding new subsections
12 (d) through (g) at the end of Section 17 to read as follows:

13 "(d) The Authority shall fund and maintain an operating budget reserve of ten percent
14 (10%) of the Authority's prior year operating budget revenues. For purposes of this
15 section, the term 'operating budget revenues' shall mean all funds received from federal,
16 state, or local sources, including but not limited to grants, distributions from federal and
17 state formula funds, or direct federal and state appropriations for projects or programs of
18 the Authority, as well as farebox revenues and revenues received from rentals on property
19 owned or operated by the Authority. Said operating budget reserve shall be utilized for
20 ongoing operating expenses only in those circumstances requiring its use due to worsened
21 economic conditions in the Atlanta region, or catastrophic loss such as an act of God or
22 terrorism, which conditions cause a temporary shortfall in the Authority's anticipated
23 revenues. The temporary operating revenue shortfall so noted shall be for a period of not
24 less than six consecutive months during which total anticipated revenues are not less than
25 two and one-half percent (2.5%) below the revenues received during the preceding fiscal
26

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1 year for the same six-month period. The first three percent (3%) of the reserve shall not
2 be used in any six-month period. The purpose of said reserve shall be exclusively to pay
3 the ongoing operating expenses during times of economic downturn and shall not be
4 considered to be an available recurring revenue for operating budget purposes and under
5 no circumstances shall the operating budget reserve be used to permanently replace the
6 revenues which are reduced due to the economic conditions set forth above. Upon
7 cessation of such economic downturn, as evidenced by cessation of the revenue shortfall
8 required for the use of the reserve for Authority operating expenses, the operating budget
9 reserve shall be replenished.

10 (e) The Authority shall cause to be performed an independent annual management audit
11 on the condition of management of the Authority at the expense of the Authority, to be
12 supervised and approved by the Metropolitan Atlanta Rapid Transit Overview Committee,
13 and which management audit shall be submitted to the Board of the Authority, the
14 Governor, the State Auditor, and the Metropolitan Atlanta Rapid Transit Overview
15 Committee before December 31 of each year.

16 (f) The Authority shall report to the recipients of the Metropolitan Atlanta Rapid Transit
17 Authority represented and nonrepresented pension plans on an annual basis the status of
18 the Metropolitan Atlanta Rapid Transit Authority pension systems. Said report shall
19 include, at a minimum, the investments made on behalf of recipients of pension benefits
20 under the systems, by investment, the unfunded liabilities of said systems, and present and
21 future budgetary obligations necessitated by benefit commitments made by the Authority.
22 Said report shall be given to each recipient of Metropolitan Atlanta Rapid Transit Authority
23 pensions under the pension systems of the Authority, the Metropolitan Atlanta Rapid
24 Transit Overview Committee, and the Governor.

25 (g) The Authority shall submit to the Metropolitan Atlanta Rapid Transit Overview
26 Committee, the presiding officers of the House and Senate, and the Governor an annual
27 report which report shall indicate consultant expenses, other professional services, salaries
28 and expenses of full-time and part-time employees and Board members, and payments
29 rendered by outside companies or agencies to the Authority for any and all services. Said
30 report shall be submitted by August 31 of each year. In addition to a printed copy to be
31 provided to the parties enumerated in this subsection, said report shall be posted in a
32 prominent location on the Authority's website within two weeks of submittal of the report
33 to the parties enumerated in this subsection. The report posted on the Authority's website
34 shall show employee identification numbers and job titles instead of the names of the
35 employees. The employee's social security number shall not be used as the employee's
36 identification number."

1 replacement labor agreement. If, after expiration of an existing labor agreement, the
2 Authority and the authorized representative are then unable to agree upon the terms and
3 conditions of a new labor agreement, including but not limited to the issue of wages, they
4 shall jointly select or, failing their agreement, upon the written petition of either or both
5 parties, the Governor shall appoint within 30 days after the receipt of said petition a
6 neutral fact finder to investigate and explore all unresolved collective bargaining issues
7 and to render a report to the Authority, the authorized representative, and the public. The
8 neutral fact finder shall conduct such hearings as may be necessary to provide for the full
9 and fair presentation of all unresolved collective bargaining issues by both parties. That
10 fact finder shall be authorized to sign and issue subpoenas for witnesses or documents,
11 to administer oaths, to take oral or written testimony and to take such other actions as
12 may be needed to make comprehensive findings of fact and recommendations. When a
13 subpoena is disobeyed, any party may apply to the Superior Court of Fulton County for
14 an order requiring obedience. Failure to comply with that order shall be cause for
15 punishment as for contempt of court. The costs of securing the attendance of witnesses,
16 including fees and mileage, shall be computed in the same manner as prescribed by law
17 in civil cases in the superior court.

18 (5) The fact finder's report shall recommend as to all unresolved collective bargaining
19 issues ~~submitted for fact finding~~, including appropriate wages, hours and other terms and
20 conditions of employment for represented employees, and shall set forth supporting
21 factual findings, determined after due consideration of the factors set forth in
22 subparagraphs (A) through (E) of paragraph (8) of this subsection, and shall contain a
23 summary of the findings. The report of the fact finder shall be issued within 30 days after
24 the fact finder is selected or appointed. Upon issuance, the report shall be distributed by
25 the Authority to the Governor, the Metropolitan Atlanta Rapid Transit Overview
26 Committee of the Georgia General Assembly, and each local governing body in the
27 metropolitan area. The fact finder shall cause the summary of findings to be published
28 once in the newspaper having the largest circulation in the metropolitan area. The fact
29 finder shall be compensated in the same manner as a special master pursuant to Code
30 Section 22-2-106 of the O.C.G.A., and the costs thereof and any other costs of the
31 proceeding shall be borne equally by the parties. After selection or appointment of a fact
32 finder pursuant to this paragraph, the parties may continue to collectively bargain on any
33 issues, ~~including but not limited to those submitted for fact-finding~~.

34 (6) Upon issuance of the fact finder's report, the Authority and the authorized
35 representative shall continue to collectively bargain in light of the recommendations set
36 forth in such report. If either party rejects any or all of the fact finder's recommendations
37 and the parties are otherwise unable, through collective bargaining, to reach agreement

1 on such issue or issues, then each party rejecting any of the fact finder's
 2 recommendations shall prepare a written statement setting forth the specific
 3 recommendations which such party has rejected, the party's counterproposal on the issue
 4 or issues, and the reasons for rejecting the fact finder's recommendations. Prior to ~~the~~
 5 commencement of any proceeding for a ~~judicial determination~~ interest arbitration, as
 6 provided in paragraph (7) of this subsection, each party required under this paragraph to
 7 prepare that statement shall cause it to be published in the local newspaper having the
 8 largest circulation in the metropolitan area and shall concurrently distribute that statement
 9 to the Governor, the Metropolitan Atlanta Rapid Transit Overview Committee of the
 10 Georgia General Assembly, and each local governing body in the metropolitan area.

11 (7) If, within the 30 days following issuance of the fact finder's report, the Authority and
 12 the authorized representative are unable to conclude a new labor agreement, either party
 13 may then seek a ~~judicial determination of any~~ binding interest arbitration of all
 14 unresolved issues between the parties. Such an action may be instituted by the filing of
 15 a petition for a ~~judicial determination directed to the senior judge in time of service of the~~
 16 ~~Superior Court of Fulton County in even-numbered years or the senior judge in time of~~
 17 ~~service of the Superior Court of DeKalb County in odd-numbered years to resolve any~~
 18 ~~issue. That judge, without a jury,~~ with the Governor for binding interest arbitration and
 19 for the appointment of an arbitrator. The Governor shall appoint an arbitrator who is a
 20 member of the National Academy of Arbitrators or is approved by the American
 21 Arbitration Association within 30 days of the petition. That arbitrator shall decide the
 22 issues within 90 days after said petition shall be filed with the ~~clerk of the superior court~~
 23 ~~of such judge's judicial circuit~~ Governor. That ~~judge's~~ arbitrator's decision on those
 24 issues shall bind both the Authority and the authorized representative ~~and there shall be~~
 25 ~~no appeal from that decision.~~ That ~~judge~~ arbitrator may require the Authority and the
 26 authorized representative to provide that ~~judge~~ arbitrator with such information as the
 27 ~~judge~~ arbitrator determines to be necessary in ~~the resolving of the issues submitted~~
 28 ~~thereto. In the event that any unresolved collective bargaining issue, including but not~~
 29 ~~limited to wage rates for represented employees, is not submitted for judicial~~
 30 ~~determination, the parties shall continue to collectively bargain with respect to such~~
 31 ~~issues in a good faith effort to reach agreement on such issues or to agree upon the terms~~
 32 ~~and conditions of a stipulation or submission agreement to be submitted for judicial~~
 33 ~~determination, as provided in this paragraph.~~

34 (8) In any ~~judicial determination~~ interest arbitration under this subsection, the ~~judge~~
 35 arbitrator shall be bound by any written stipulation or submission agreement between the
 36 Authority and the authorized representative concerning such determination. In

1 determining any issue, the ~~judge~~ arbitrator shall also give weight both to the report of the
 2 neutral fact finder and to the following factors:

3 (A) The financial ability of the Authority to pay wages and provide benefits, whether
 4 or not increased, while adhering to all legal requirements governing the Authority's
 5 expenditure of public funds and revenues and maintaining levels of transit service
 6 sufficient to serve the metropolitan area;

7 (B) The amount, if any, of any fare increase which would be necessary to afford a
 8 wage or salary increase or improvement in fringe benefits or extension of vacation,
 9 holiday, or excused time and the ability of the public to bear a fare increase, with
 10 consideration of the per capita income of those persons in the service area;

11 (C) A comparison between the overall wage and salary levels and fringe benefit levels
 12 and vacation, holiday and excused time allowances of the Authority's represented
 13 employees and other workers in the public and private sectors of the metropolitan area
 14 who perform work requiring similar skills in other major ground transportation
 15 services;

16 (D) A comparison of the hours and working conditions of the Authority's represented
 17 employees and other workers in the public and private sectors of the metropolitan area
 18 who perform work requiring similar skills in other major ground transportation
 19 services; and

20 (E) The cost of consumer goods and services within the metropolitan area.

21 (9) In the event that either party wishes to enforce the decision of the arbitrator, a petition
 22 for such enforcement must be filed within ninety (90) days of such decision. In odd
 23 numbered years, the petition must be filed in the Superior Court of Fulton County and
 24 directed to the senior judge in time of service in that court. In even numbered years, the
 25 petition must be filed in the Superior Court of DeKalb County and directed to the senior
 26 judge in time of service in that court. The court shall confirm the decision unless the
 27 decision is vacated by the court because the court finds that the rights of a party were
 28 prejudiced by:

29 (A) Corruption, fraud, or misconduct in procuring the decision;

30 (B) Partiality of an arbitrator appointed as a neutral;

31 (C) An overstepping by the arbitrators of their authority or such imperfect execution
 32 of it that a final and definite decision upon the subject of such matter submitted was not
 33 made; or

34 (D) The arbitrator's manifest disregard for the law.

35 The judge's ruling in this enforcement proceeding shall bind the Authority and the
 36 authorized representative and there shall be no appeal from this decision.

1 (10) ~~Subject to any requirement imposed pursuant to Section 13 (c) of the Urban Mass~~
 2 ~~Transportation Act of 1964, as amended, the Authority at all times shall have the right~~
 3 ~~to determine the method, means, and personnel by which its operations are to be carried~~
 4 ~~on, including the right to hire part-time employees. Upon vacating a decision, the court~~
 5 ~~may order a rehearing and determination of all or any of the issues either before the same~~
 6 ~~arbitrator or before a new arbitrator appointed as provided by this part. In any provision~~
 7 ~~of an agreement limiting the time for a hearing or decision, time shall be measured from~~
 8 ~~the date of such order or rehearing, whichever is appropriate, or a time may be specified~~
 9 ~~by the court.~~

10 (11) ~~In enacting this subsection, the General Assembly recognizes that arbitration ousts~~
 11 ~~the jurisdiction of the courts and declares that it is appropriate for the state to regulate any~~
 12 ~~method of disputes resolution that takes place outside the judicial system. The Superior~~
 13 ~~Court of Fulton County shall have equitable and legal jurisdiction to enforce this~~
 14 ~~subsection. No employee of the Authority shall engage in any strike, sit-down,~~
 15 ~~slow-down, walkout, or other concerted cessation or curtailment of work, and no~~
 16 ~~authorized representative of employees of the Authority shall cause, instigate, encourage,~~
 17 ~~promote or condone any strike, sit-down, slow-down, walkout, or other concerted~~
 18 ~~cessation or curtailment of work by any employee of the Authority. The Authority shall~~
 19 ~~not unilaterally increase, decrease, or otherwise change the wages, ~~including accrued~~~~
 20 ~~~~cost-of-living allowances,~~ or fringe benefits of represented employees as of the last day~~
 21 ~~of an expired contract pending the establishment of new wages and fringe benefits by~~
 22 ~~negotiation or ~~judicial determination~~ interest arbitration.~~

23 (12) Subject to any requirement imposed pursuant to Section 13 (c) of the Urban Mass
 24 Transportation Act of 1964, as amended, the Authority at all times shall have the right
 25 to determine the method, means, and personnel by which its operations are to be carried
 26 on, including the right to hire part-time employees.

27 (c) All provisions of general law applicable to the records and documents of counties and
 28 municipalities and public access thereto shall be fully applicable to the records and
 29 documents of the Authority. The Board shall make reasonable rules and regulations
 30 concerning access to its records and documents and may charge reasonable fees for copies
 31 ~~on~~ or certifications thereof.

32 (d) As to copies of financial reports and documents under Section 16, budget reports and
 33 documents under Section 17, engineering reports and documents under Section 18, and
 34 proposed rapid transit contracts under Section 24, the Board may provide for the printing
 35 and distribution of a reasonable supply thereof to the public and may, in its discretion,
 36 require payment of a reasonable charge therefor."

1 thereafter, the proceeds of the tax shall not be used to subsidize operations of the
2 transportation system to an extent greater than fifty percent (50%) of the operating costs
3 of the system, exclusive of depreciation, amortization, and other costs and charges as
4 provided in this subsection. In adopting its annual budget, the Board of the Metropolitan
5 Atlanta Rapid Transit Authority shall be authorized to rely upon estimates of all revenues,
6 operating costs, patronage, and other factors which may affect the amount of the fare
7 required to limit the operating subsidy herein provided for. If the results of any year's
8 operations reflect that the proceeds of the tax were used to subsidize operations to an extent
9 greater than herein provided, the Board shall adjust fares in order to make up the deficit in
10 operations during a period of not to exceed three (3) succeeding years. If the results of
11 operations in the Authority's fiscal year commencing July 1, 1980, or in any subsequent
12 fiscal year reflect that the proceeds of the tax were not used to subsidize operations to the
13 maximum extent herein provided, the Board ~~may, in its sole discretion,~~ shall reserve any
14 amounts that could have been used to subsidize operations in that fiscal year and later use
15 said reserved amounts and any interest earned on said reserved amounts to provide an
16 additional subsidy for operations in any future fiscal year or years. The words 'operating
17 costs of the system' for purposes of this subsection 25(i) are defined to include all of the
18 costs of that division of the Authority directly involved and that portion of the nonoperating
19 administrative costs of those divisions of the Authority indirectly involved, through the
20 provision of support services, in providing mass transportation services for the
21 metropolitan area, but exclusive of the costs of the division or divisions directly involved
22 and that portion of the nonoperating administrative costs of those divisions indirectly
23 involved, in the planning, design, acquisition, construction, and improvement of the rapid
24 transit system, according to accepted principles of accounting, and also exclusive of the
25 following costs:

26 (1) Nonrecurring costs and charges incurred in order to comply with any statute or
27 regulation concerning either the protection or cleaning up of the environment, or
28 accessibility by handicapped or disabled persons, or occupational health or safety, or
29 compliance with any national or state emergencies, or with any judgment, decree, or
30 order of any court or regulatory agency in implementation of any such statute or
31 regulation; and

32 (2) In the case of leases of equipment or facilities that, according to generally accepted
33 principles of accounting, would not be classified as capital leases, payments of rent, and
34 other payments for the property subject to such leases or for the use thereof; provided that
35 any costs for regular maintenance or repair of such equipment or facilities shall not be
36 excluded.

1 If any proceeds of the tax levied pursuant to this Act are held for the purpose of planning,
2 designing, acquiring, or constructing additional facilities or equipment for or improvements
3 to the rapid transit system and are invested, then all interest earned from such investments
4 shall be used only for such purposes or for paying the principal of or interest on bonds or
5 certificates issued for such purposes. Commencing July 1, 1988, and until June 30, ~~2006~~
6 2008, and only if expressly authorized by the board, interest earned on reserve funds set
7 aside for rebuilding, repairing, or renovating facilities of the rapid transit system; for
8 replacing, repairing, or renovating equipment or other capital assets thereof; or from the
9 sale or other disposition of real property, may, without regard to the original source of the
10 funds so reserved, be used to pay the operating costs of the system as such costs are defined
11 in this subsection."

12 **SECTION 4.**

13 This Act shall become effective upon its approval by the Governor or upon its becoming law
14 without such approval.

15 **SECTION 5.**

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