

The House Committee on Transportation offers the following substitute to SB 520:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Code Section 32-2-41 of the Official Code of Georgia Annotated, relating to the  
2 powers of the commissioner of transportation and the divisions within the Department of  
3 Transportation, so as to provide for an Intermodal Division within the department; to amend  
4 Chapter 9 of Title 32 of the Official Code of Georgia Annotated, relating to mass  
5 transportation, so as change the membership of the board of directors of the Metropolitan  
6 Atlanta Rapid Transit Authority; to remove the restrictions on the use of the sales tax  
7 proceeds and interest earned on reserve funds from the Metropolitan Atlanta Rapid Transit  
8 Authority; to provide for related matters; to provide for an effective date; to repeal  
9 conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

12 Code Section 32-2-41 of the Official Code of Georgia Annotated, relating to the powers of  
13 the commissioner of transportation and the divisions within the Department of  
14 Transportation, is amended by revising paragraph (5) of subsection (b) as follows:

15 "(5) There shall be an Engineering Division of the department to be supervised by the  
16 chief engineer, a Finance Division of the department to be supervised by the treasurer,  
17 an Administration Division of the department to be supervised by the deputy  
18 commissioner, an Intermodal Division to be supervised by an appointee serving at the  
19 pleasure of the commissioner, and a Local Grants Division to be supervised by an  
20 appointee serving at the pleasure of the commissioner. The duties, responsibilities, and  
21 personnel of each such division shall be as established by the commissioner."

22 style="text-align:center">**SECTION 1.1.**

23 Chapter 9 of Title 32 of the Official Code of Georgia Annotated, relating to mass  
24 transportation, is amended by adding a new Code section as follows:

S. B. 520 (SUB)

25 "32-9-13.

26 (a) Any provisions to the contrary in the Metropolitan Atlanta Rapid Transit Authority Act  
27 of 1965, approved March 10, 1965 (Ga. L. 1965, p. 2243), as amended, notwithstanding,  
28 the terms of all members of the board of directors of the Metropolitan Atlanta Rapid  
29 Transit Authority shall terminate on December 31, 2010, and the board shall be  
30 reconstituted according to the provisions of this Code section.

31 (b) Effective January 1, 2011, the board of directors of the authority shall be composed of  
32 seven members. Two members shall be residents of the City of Atlanta to be nominated  
33 by the mayor and elected by the city council; three members shall be residents of DeKalb  
34 County to be appointed by the local governing body thereof and at least one of such  
35 appointees shall be a resident of that portion of DeKalb County lying south of the  
36 southernmost corporate boundaries of the City of Decatur and at least one of such  
37 appointees shall be a resident of that portion of DeKalb County lying north of the  
38 southernmost corporate boundaries of the City of Decatur; two members shall be residents  
39 of Fulton County to be appointed by the local governing body thereof, and one of such  
40 appointees shall be a resident of that portion of Fulton County lying south of the corporate  
41 limits of the City of Atlanta and one of such appointees shall be a resident of that portion  
42 of Fulton County lying north of the corporate limits of the City of Atlanta. The governing  
43 body that appoints a member shall appoint successors thereto for terms of office of four  
44 years in the same manner that such governing body makes its other appointments to the  
45 board.

46 (c) All appointments shall be for terms of four years except that a vacancy caused  
47 otherwise than by expiration of term shall be filled for the unexpired portion thereof by the  
48 local governing body that made the original appointment to the vacant position, or its  
49 successor in office. A member of the board may be appointed to succeed himself or herself  
50 for one four-year term. Appointments to fill expiring terms shall be made by the local  
51 governing body prior to the expiration of the term, but such appointments shall not be made  
52 more than 30 days prior to the expiration of the term. Members appointed to the board  
53 shall serve for the terms of office specified in this Code section and until their respective  
54 successors are appointed and qualified.

55 (d) The local governing bodies of Clayton, Cobb, and Gwinnett Counties may, any other  
56 provision of this Code section to the contrary notwithstanding, negotiate, enter into, and  
57 submit to the qualified voters of their respective counties the question of approval of a  
58 rapid transit contract between the county submitting the question and the authority. The  
59 local governing bodies of these counties shall be authorized to execute such rapid transit  
60 contracts prior to the holding of a referendum provided for in Section 24 of the  
61 Metropolitan Atlanta Rapid Transit Authority Act of 1965, approved March 10, 1965 (Ga.

62 L. 1965, p. 2243), as amended; provided, however, that any such rapid transit contract shall  
63 not become valid and binding unless the same is approved by a majority of those voting in  
64 said referendum, which approval shall also be deemed approval of further participation in  
65 the authority. Upon approval of such rapid transit contract, the county entering into such  
66 contract shall be a participant in the authority, and its rights and responsibilities shall,  
67 insofar as possible, be the same as those belonging to Fulton and DeKalb Counties, and the  
68 local governing body of the county may then appoint two residents of the county to the  
69 board of directors of the authority, to serve a term ending on the thirty-first day of  
70 December in the fourth full year after the year in which the referendum approving said  
71 rapid transit contract was held, in which event the board of directors of the authority shall,  
72 be composed also of such additional members.

73 (e) No person shall be appointed as a member of the board who holds any other public  
74 office or public employment except an office in the reserves of the armed forces of the  
75 United States or the National Guard; any member who accepts or enters upon any other  
76 public office or public employment shall be disqualified thereby to serve as a member.

77 (f) A local governing body may remove any member of the board appointed by it for  
78 cause. No member shall be thus removed unless the member has been given a copy of the  
79 allegations against him or her and an opportunity to be publicly heard in his or her own  
80 defense in person with or by counsel with at least ten days' written notice to the member.

81 A member thus removed from office shall have the right to a judicial review of the  
82 member's removal by an appeal to the superior court of the county of the local governing  
83 body which appointed the member, but only on the ground of error of law or abuse of  
84 discretion. In case of abandonment of the member's office, conviction of a crime involving  
85 moral turpitude or a plea of nolo contendere thereto, removal from office, or  
86 disqualification under subsection (e) of this Code section, the office of a member shall be  
87 vacant upon the declaration of the board. A member shall be deemed to have abandoned  
88 the member's office upon failure to attend any regular or special meeting of the board for  
89 a period of four months without excuse approved by a resolution of the board, or upon  
90 removal of the member's residence from the territory of the local governing body that  
91 appointed the member.

92 (g) Each appointed member of the board, except the chairperson, shall be paid by the  
93 authority a per diem allowance, in an amount equal to that provided by Code Section  
94 45-7-21 for each day on which that member attends an official meeting of the board, of any  
95 committee of the board, or of the authority's Pension Committee, Board of Ethics, or Arts  
96 Council; provided, however, that said per diem allowance shall not be paid to any such  
97 member for more than 130 days in any one calendar year. If the chairperson of the board  
98 is an appointed member of the board, the chairperson shall be paid by the authority a per

99 diem allowance in the same amount for each day in which the chairperson engages in  
100 official business of the authority, including but not limited to, attendance of any of the  
101 aforesaid meetings. A member of the board shall also be reimbursed for actual expenses  
102 incurred by that member in the performance of that member's duties as authorized by the  
103 board. A board member shall not be allowed employee benefits.

104 (h) The board shall elect one of its members as chairperson and another as vice  
105 chairperson for terms to expire on December 31 of each year to preside at meetings and  
106 perform such other duties as the board may prescribe. The presiding officer of the board  
107 may continue to vote as any other member, notwithstanding the member's duties as  
108 presiding officer, if the member so desires. The board shall also elect from its membership  
109 a secretary and a treasurer who shall serve terms expiring on December 31 of each year.  
110 A member of the board may hold only one office on the board at any one time.

111 (i) The board shall hold at least one meeting each month. The secretary of the board shall  
112 give written notice to each member of the board at least two days prior to any called  
113 meeting that may be scheduled, and said secretary shall be informed of the call of such  
114 meeting sufficiently in advance so as to provide for the giving of notice as above. A  
115 majority of the total membership of the board, as it may exist at the time, shall constitute  
116 a quorum. On any question presented, the number of members present shall be recorded.  
117 By affirmative vote of a majority of the members present, the board may exercise all the  
118 powers and perform all the duties of the board, except as otherwise hereinafter provided  
119 or as limited by its bylaws, and no vacancy on the original membership of the board, or  
120 thereafter, shall impair the power of the board to act. All meetings of the board, its  
121 executive committee, or any committee appointed by the board shall be subject to Chapter  
122 14 of Title 50.

123 (j) Notwithstanding any other provisions of this Code section, the following actions by the  
124 board shall require the affirmative vote of one more than a majority of the total  
125 membership of the board as it may exist at the time:

- 126 (1) The issuance and sale of revenue bonds or equipment trust certificates;  
127 (2) The purchase or lease of any privately owned system of transportation of passengers  
128 for hire in its entirety, or any substantial part thereof. Prior to the purchase or lease of  
129 any such privately owned system a public hearing pertaining thereto shall have been held  
130 and notice of such public hearing shall have been advertised; provided, however, that no  
131 sum shall be paid for such privately owned system of transportation in excess of the fair  
132 market value thereof determined by a minimum of two appraisers qualified to appraise  
133 privately owned systems of transportation and approved by a majority of the local  
134 governments participating in the financing of such purchase;

135 (3) The award of any contract involving \$100,000.00 or more for construction,  
 136 alterations, supplies, equipment, repairs, maintenance, or services other than professional  
 137 services or for the purchase, sale, or lease of any property. The board by appropriate  
 138 resolution may delegate to the general manager the general or specific authority to enter  
 139 into contracts involving less than \$100,000.00;

140 (4) The grant of any concession; and

141 (5) The award of any contract for the management of any authority owned property or  
 142 facility.

143 (k) The board shall appoint and employ, as needed, a general manager and a general  
 144 counsel, none of whom may be members of the board or a relative of a member of the  
 145 board, and delegate to them such authority as it may deem appropriate. It may make such  
 146 bylaws or rules and regulations as it may deem appropriate for its own government, not  
 147 inconsistent with this Code section, including the establishment of an executive committee  
 148 to exercise such authority as its bylaws may prescribe.

149 (l) The treasurer of the authority and such other members of the board and such other  
 150 officers and employees of the authority as the board may determine shall execute corporate  
 151 surety bonds, conditioned upon the faithful performance of their respective duties. A  
 152 blanket form of surety bond may be used for this purpose. Neither the obligation of the  
 153 principal or the surety shall extend to any loss sustained by the insolvency, failure, or  
 154 closing of any depository which has been approved as a depository for public funds.

155 (m)(1) In addition to the requirements of subsection (i) of this Code section, each  
 156 member of the board shall hold a meeting once each 12 months with the local governing  
 157 body that appointed such member. The secretary of the board shall give written notice  
 158 to each member of the board, to each local governing body, and to the governing  
 159 authority of each municipality in the county in which there is an existing or proposed rail  
 160 line at least two days prior to any meeting that may be scheduled, and said secretary shall  
 161 be informed of the call of such meeting sufficiently in advance so as to provide for giving  
 162 such notice. These meetings shall be for the purpose of reporting to the local governing  
 163 bodies on the operations of the authority and on the activities of the board and making  
 164 such information available to the general public. No activity that requires action by the  
 165 board shall be initiated or undertaken at any meeting conducted under this subsection.

166 (2) The board shall submit once each three months a written report on the operations of  
 167 the authority and on the activities of the board to each local governing body that appoints  
 168 a member of the board."

169 **SECTION 1.2.**

170 Said chapter is further amended by adding a new Code section as follows:

S. B. 520 (SUB)

171 "32-9-14.  
172 Provisions in all laws, whether general or local, including but not limited to the  
173 Metropolitan Atlanta Rapid Transit Authority Act of 1965 approved March 10, 1965 (Ga.  
174 L. 1965, p. 2243), as amended, that set forth restrictions on the use by public transit  
175 authorities of annual proceeds from local sales and use taxes and interest earned on reserve  
176 funds shall be suspended unless reinstated by further action of the General Assembly."

177 **SECTION 2.**

178 This Act shall become effective on July 1, 2010.

179 **SECTION 3.**

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