

House Bill 727

By: Representative Fludd of the 66th

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 the
3 administration or collection of the retail sales and use tax for MARTA purposes by the
4 governing authority of each local government levying such tax; to provide an effective date;
5 to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 An Act known as the "Metropolitan Atlanta Rapid Transit Authority Act of 1965," approved
9 March 10, 1965 (Ga. L. 1965, p. 2243), as amended, is amended by revising subsections (a)
10 through (h) of Section 25 as follows:

11 "(a) Authority to Tax.

12 (1) Each of the local governing bodies of those local governments referred to and defined
13 in Section 2 of ~~the Metropolitan Atlanta Rapid Transit Authority Act of 1965 (Ga. L.~~
14 ~~1965, p. 2243), as amended, this Act~~ which shall hereafter pursuant to the provisions of
15 ~~said Act~~ enter into a rapid transit contract with the Metropolitan Atlanta Rapid Transit
16 Authority that has become final and binding upon its local government by compliance
17 with the provisions of Section 24 of ~~said this~~ this Act and approval of the voters as therein
18 required; shall be authorized to levy a retail sales and use tax upon the retail purchase,
19 retail sale, rental, storage, use, or consumption of tangible personal property; and the
20 services described and set forth in ~~Ga. L. 1951, p. 360, as amended, Article 1 of Chapter~~
21 8 of Title 48 of the O.C.G.A. on sales, uses, and services rendered; in the geographical
22 area governed by such local government.

23 (2) ~~In Provided, in~~ the event Clayton County acting for and on behalf of the Clayton
24 County-Atlanta Airport Public Transportation District that may be created in accordance
25 with Section 24(1) of this Act and the Authority enter into a rapid transit contract

26 pursuant to Section 24 of this Act, said retail sales and use tax shall be levied only within
 27 the geographical area contained within said District.

28 ~~(3) The Provided, however, the tax herein authorized under this section shall not be~~
 29 ~~levied by any local government unless the same is also levied in the geographical areas~~
 30 ~~of Fulton and DeKalb Counties.~~

31 ~~(4) The tax imposed shall correspond, so far as practicable, except as to rate, with the~~
 32 ~~Georgia Retailers' and Consumers' Sales and Use Tax Act, approved February 20, 1951~~
 33 ~~(Ga. L. 1951, p. 360), as amended, and as it may be from time to time amended state sales~~
 34 ~~and use tax under Article 1 of Chapter 8 of Title 48 of the O.C.G.A. Provided, however,~~
 35 ~~that no tax shall be imposed upon the sale of tangible personal property which is ordered~~
 36 ~~by and delivered to the purchaser at a point outside the geographical area in which the tax~~
 37 ~~is imposed, regardless of the point at which title passes, if such delivery is made by the~~
 38 ~~seller's vehicle, U.S. United States mail, common carrier, or by private or contract carrier~~
 39 ~~licensed by the Interstate Commerce Commission or the Georgia Public Service~~
 40 ~~Commission. Provided, further, that the tax authorized to be levied herein under this~~
 41 ~~section shall apply, any law to the contrary notwithstanding, to the retail sale, rental,~~
 42 ~~storage, use, or consumption of motor fuel as the term "motor fuel" is defined by Code~~
 43 ~~Section 92-1402 or, after January 1, 1980, by Code Section 91A-5002. (Amended, Ga.~~
 44 ~~L. 1974, pp. 2617, 2618; Ga. L. 1979, pp. 4634, 4641; Ga. L. 1980, pp. 3831, 3834)~~
 45 ~~48-9-2 of the O.C.G.A.~~

46 (b)(1) Rate of Tax. The tax when levied shall be at the rate of ~~one (1%)~~ 1 percent until
 47 and including June 30, 2047, and shall thereafter be reduced to ~~one-half (1/2%)~~ of one 1/2
 48 percent. Said tax shall be added to the ~~State Sales and Use Tax~~ state sales and use tax
 49 imposed by Article 1 of Chapter 8 of Title 48 of the O.C.G.A., and the ~~State Revenue~~
 50 ~~Commissioner is hereby~~ state revenue commissioner shall be authorized and directed to
 51 establish a bracket system by appropriate rules and regulations to ~~collect~~ for use in
 52 collecting the tax ~~herein imposed under this section~~ in the areas affected. ~~(Amended, Ga.~~
 53 ~~L. 1979, pp. 4634, 4640; Ga. L. 1983, p. 1079; Ga. L. 1990, p. 3860; Ga. L. 2000, p.~~
 54 ~~4492).~~

55 ~~(2)(Added, Ga. L. 1988, p. 5013; See Note 8):~~(A) A local governing body which, on
 56 January 1, 1988, is not a party to the Rapid Transit Contract and Assistance Agreement
 57 specified in subsection (k) of this ~~Section~~ section may enter into a rapid transit contract
 58 to provide public transportation services and facilities other than any extension of or
 59 addition to the Authority's existing rail rapid transit system and may levy a retail sales
 60 and use tax authorized under subsection (a) of this ~~Section~~ section at the rate of either
 61 ~~one-half (1/2%)~~ 1/2 percent or ~~one (1%)~~ 1 percent, as determined by that contract
 62 between such local governing body and the Authority. Such contract shall require that

63 the costs of the transportation services and facilities contracted for, as determined by
 64 the Board of Directors on the basis of reasonable estimates, allocation of costs and
 65 capital, and projections, shall be borne by one or more of the following:

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

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

75 (B) In the event a local governing body which has entered into a rapid transit contract
 76 as authorized by subparagraph (A) of this paragraph thereafter determines that any
 77 extension of or addition to the Authority's existing rail rapid transit system should be
 78 constructed and operated within the territory of such local government, a separate rapid
 79 transit contract shall be required to provide for the local government's proper share of
 80 financing any such contemplated rapid transit project, and no retail sales and use tax
 81 authorized under subsection (a) of this ~~Section~~ section may be levied to fulfill the
 82 obligations under that separate contract except at the rate of ~~one (1%)~~ 1 percent. A
 83 separate rapid transit contract required by this subparagraph shall not be subject to the
 84 limitations of divisions (i) through (iv) of subparagraph (A) of this paragraph but shall
 85 be subject to the limitations regarding the use of the tax proceeds for the operating costs
 86 of the system under subsection (i) of this ~~Section~~ section.

87 (C) A tax levied under this paragraph shall be added to the ~~State Sales and Use Tax~~
 88 state sales and use tax imposed by Article 1 of Chapter 8 of Title 48 of the O.C.G.A.,
 89 and the ~~State Revenue Commissioner~~ is state revenue commissioner shall be authorized
 90 and directed to establish a bracket system by appropriate rules and regulations ~~to collect~~
 91 for use in collecting the tax imposed under this paragraph in the areas affected.
 92 Nothing in this paragraph shall be construed to require that any tax levied at a rate
 93 specified by this paragraph be reduced as provided for the ~~one (1%)~~ 1 percent tax levied
 94 pursuant to paragraph (1) of this subsection.

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

100 (c)(1) Administration. ~~Any sales and use tax levied pursuant to this Act shall be~~
 101 ~~administered and collected solely by the State Revenue Commissioner in the same~~
 102 ~~manner and subject to the same penalties provided for in the Georgia Retailers' and~~
 103 ~~Consumers' Sales and Use Tax Act, approved February 20, 1951 (Ga. L. 1951, p. 360),~~
 104 ~~as now or hereafter amended. No variance shall be permitted between the State and the~~
 105 ~~local tax, except as to rate and as is provided for in subsection (a) of this Section~~ When
 106 such tax is administered and collected by the state revenue commissioner, such
 107 administration and collection shall be accomplished in the same manner and subject to
 108 the applicable provisions, procedures, and penalties in Article 1 of Chapter 8 of Title 48
 109 of the O.C.G.A., except as otherwise provided. The vendor's responsibility shall be to
 110 ~~the State Revenue Commissioner and not to the~~ local governments participating in this
 111 tax levy. The local governments shall be prohibited from making sales tax audits.
 112 Dealers shall be allowed a percentage of the amount of the tax due and accounted for and
 113 shall be reimbursed in the form of a deduction in submitting, reporting, and paying the
 114 amount due, if said amount is not delinquent at the time of payment. The rate of the
 115 deduction shall be at the same rate authorized for deductions from ~~State~~ the state sales
 116 and use tax under the Georgia Retailers' and Consumers' Sales and Use Tax Act,
 117 ~~approved February 20, 1951 (Ga. L. 1951, p. 360), as now or hereafter amended.~~
 118 ~~(Amended, Ga. L. 1974, pp. 2617, 2619).~~

119 (2) Credit. A credit shall be allowed against the tax authorized to be levied pursuant to
 120 this Act for the amount of local sales or use tax imposed pursuant to ~~Code Chapter~~
 121 ~~91A-46 or Article 2 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated~~
 122 O.C.G.A., as now or hereafter amended, which has been paid with respect to the same
 123 property by the purchaser thereof in a local taxing jurisdiction within ~~the State~~ this state;
 124 provided, however, that no credit shall be allowed for taxes paid in another local taxing
 125 jurisdiction unless a like credit is granted against the tax authorized to be imposed
 126 pursuant to ~~said Code Chapter 91A-46 or Article 2 of Chapter 8 of Title 48 of the Official~~
 127 ~~Code of Georgia Annotated O.C.G.A.~~ for any amount which has been paid as a tax levied
 128 pursuant to this Act. If the amount of sales or use tax so paid pursuant to ~~said Code~~
 129 ~~Chapter 91A-46 or Article 2 of Chapter 8 of Title 48 of the Official Code of Georgia~~
 130 ~~Annotated O.C.G.A.~~ is less than the amount of tax payable pursuant to this Act, the
 131 purchaser shall pay an amount equal to the difference between the amount so paid and
 132 the amount due as authorized to be levied pursuant to this Act. Provided, further, that no
 133 credit ~~hereunder will~~ under this paragraph shall be allowed within the territory of any
 134 local government which levies both the tax authorized pursuant to this Act and a local
 135 sales or use tax pursuant to ~~said Code Chapter 92A-46 or Article 2 of Chapter 8 of Title~~
 136 ~~48 of the Official Code of Georgia Annotated O.C.G.A.~~ The ~~State Revenue~~

137 ~~Commissioner jurisdiction administering and collecting the tax,~~ may require such proof
 138 of payment of taxes levied pursuant to ~~said Code Chapter 91A-46 or Article 2 of Chapter~~
 139 8 of Title 48 of the ~~Official Code of Georgia Annotated O.C.G.A.~~ as he or she deems
 140 necessary and proper. (~~Added, Ga. L. 1982, p. 5101~~).

141 (d) Special Fund. All sales tax ~~monies~~ moneys collected by the ~~State Revenue~~
 142 ~~Commissioner~~ state revenue commissioner under this Act ~~shall be paid to the State~~
 143 ~~Treasurer to the credit of a special fund which is hereby created on the books of the State~~
 144 ~~Treasurer under the name~~ prior to July 1, 2009, on deposit in the "Collection of
 145 Metropolitan Atlanta Rapid Transit Authority Taxes" special fund, and such local sales tax
 146 money shall be credited paid over to the account of each local government in which the
 147 local sales and use taxes ~~are~~ were collected under this Act. The basis of such credit
 148 payment shall be the point of sale or use as shown by the records of the ~~State Revenue~~
 149 ~~Commissioner~~ state revenue commissioner, except that any credit within the territorial
 150 limits of a city which is a party to a rapid transit contract as defined in Section 24 of ~~said~~
 151 ~~Metropolitan Atlanta Rapid Transit Authority Act of 1965, as amended, this Act shall be~~
 152 credited paid to said city government; and not to the county or counties in which said city
 153 may lie.

154 (e) Penalties and Interest. All penalties and interest collected under the provisions of this
 155 Act on sales and use tax assessments prior to July 1, 2009, shall be prorated between the
 156 ~~State~~ state and the local governments on such basis as may be prescribed by the ~~State~~
 157 ~~Revenue Commissioner~~ state revenue commissioner.

158 (f) Distribution of Funds. Where such tax is administered and collected by the state
 159 revenue commissioner as ~~As~~ soon as practicable after the local sales and use tax ~~monies~~
 160 moneys have been paid into the State Treasury in any month for the preceding month, the
 161 ~~State Treasurer~~ state treasurer shall draw his or her warrant on the State Treasury in the
 162 proper amount in favor of each local government entitled to the monthly return of its local
 163 sales and use tax ~~monies~~ moneys, and such payment shall be charged to the account of each
 164 local government under the special fund created by this Act. Any errors made in any such
 165 payments or any adjustments otherwise necessary, whether attributable to refunds to
 166 taxpayers or by some other fact, shall be corrected, and adjustments shall be made in such
 167 payments for the next month or subsequent months. The amount due each local
 168 government shall be reduced, for costs incurred in the administration and collection of the
 169 local tax, by ~~1.00~~ 1 percent of the amount of such tax collected less corrections and
 170 adjustments ~~herein~~ provided for in this section. Such amounts due the Department shall
 171 be certified by the ~~State Revenue Commissioner~~ state revenue commissioner to the ~~State~~
 172 ~~Treasurer~~ state treasurer who shall deduct such amount from the amount due the local
 173 governments. (~~Amended, Ga. L. 1974, pp. 2608, 2609~~).

174 (g) Rules and Regulations. The ~~State Revenue Commissioner~~ state revenue commissioner
175 shall have the power to make and publish reasonable rules and regulations not inconsistent
176 with this Act or other laws, or the Constitution of this State or the United States for the
177 administration and enforcement of the provisions of this Act and the collection of revenues
178 hereunder.

179 (h) Forms. The ~~State Revenue Commissioner~~ state revenue commissioner shall utilize the
180 forms used for sales and use tax returns and for the payment of State Sales and Use Taxes,
181 and shall add appropriate forms for the use of those persons with the responsibility of
182 collecting the tax levied pursuant to this Act."

183 **SECTION 2.**

184 This Act shall become effective on July 1, 2009.

185 **SECTION 3.**

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