

The Senate Committee on Transportation offered the following substitute to HB 264:

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 revise such Act; to
3 revise the procedure for the issuance of bonds; to revise requirements for annual reporting;
4 to provide for a suspension of restrictions on the use of sales and use tax proceeds; to provide
5 for related matters; to provide for an effective date; to repeal conflicting laws; and for other
6 purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

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

12 "(h) Bonds of the Authority ~~shall~~ may be sold by public competitive bidding, ~~unless such~~
13 ~~requirement is waived by the local governments participating in the Authority at the time~~
14 ~~of such sale, in which event the bonds may be sold~~ or through negotiation with a
15 prospective purchaser or purchasers. If, with respect to the sale of any particular issue of
16 bonds, public competitive bidding is contemplated, the advertising of the notice of sale and
17 invitation to bid with respect thereto shall be advertised as is customarily done in the
18 handling of governmental bond issues and Section 14(b) as to these matters shall not apply.
19 The Authority may negotiate the sale of its bonds to the Federal Government."

20 **SECTION 2.**

21 Said Act is further amended by revising subsections (b) through (d) of Section 14 as follows:

22 "(b) All such acquisitions, dispositions and contracts involving ~~\$100,000.00~~ \$200,000.00
23 or more shall be awarded only after advertising in the local newspaper of the largest
24 circulation in the metropolitan area at least once a week in the two weeks prior to the bid
25 opening. Bids shall be publicly opened and read aloud at a date, time and place designated

26 in the invitation to bid. Invitations to bid shall be sent at least one week prior to the bid
 27 opening to at least three potential bidders who are qualified technically and financially to
 28 submit bids, or, in lieu thereof, a memorandum shall be kept on file showing that less than
 29 three potential bidders so qualified exist in the market area within which it is practicable
 30 to obtain bids. Prior to the award of a contract which will call for an anticipated aggregate
 31 payment of ~~\$150,000.00~~ \$200,000.00 or more to the successful bidder, the Authority shall
 32 make an accurate and brief summary thereof available to the public in its principal office
 33 and shall ~~publish~~ post notice of its intention to award such contract to the successful bidder
 34 at least five days prior to such award ~~in the local newspaper of the largest circulation in the~~
 35 ~~metropolitan area~~ in a prominent location on the Authority's website. Such ~~advertisement~~
 36 ~~posting~~ shall state the name of the successful bidder, the amount of the contract and its
 37 subject matter. This provision shall apply to contracts entered into thirty days or more after
 38 the effective date of this Act.

39 (c) Except as otherwise provided in this Section, written price quotations from at least
 40 three qualified and responsible vendors, or vendees as the case may be, shall be obtained
 41 for all acquisitions, dispositions and contracts involving ~~less than \$100,000.00 and over~~
 42 ~~\$10,000.00~~ \$200,000.00 or more, or, in lieu thereof, a memorandum approved by the Board
 43 shall be kept on file showing that less than three vendors or vendees, as the case may be,
 44 so qualified exist in the market area within which it is practicable to obtain quotations.
 45 Acquisitions shall be made from, and contracts awarded to, the lowest responsible
 46 quotation, and dispositions of property shall be made to the highest responsible quotation.
 47 (d) Acquisitions, dispositions and contracts involving ~~\$10,000.00 or less~~ less than
 48 \$200,000.00 may be negotiated with or without competitive bidding under sound
 49 procurement procedures as promulgated and established by the Board."

50

SECTION 3.

51 Said Act is further amended by revising Section 14A as follows:

52 "The Authority shall have available at its principal office for public inspection at all times
 53 during regular business hours of the Authority an accurate and brief summary disclosing
 54 all material terms of each contract which the Authority has entered into and the terms of
 55 which call for expenditures by the Authority of more than \$150,000. The Authority shall
 56 prepare an annual report for the period ending June 30 of each year. Each annual report
 57 shall include a statement of the tax revenue and operating revenue received during the
 58 period, a statement of the total expenditures made during the period and a list of all written
 59 contracts entered into by the Authority during the period which call for the Authority to
 60 expend at any time in the aggregate more than \$50,000. Such list shall also include any
 61 employment or consultant contracts (whether or not written) under which the employee or

62 consultant is to be compensated at an annual rate of more than \$20,000, including direct
 63 and indirect or deferred benefits. When a person or firm, whose salary or fee is reportable
 64 hereunder, shall have his compensation increased at any time, the amount of such increase
 65 and the total new rate shall be reported for the period in which the increase takes effect.
 66 The list of contracts shall state the anticipated amount of funds to be paid thereunder, or
 67 the formula for determining such amount. The Authority shall also prepare a list of the
 68 names of each person, firm or corporation which has received from the Authority during
 69 such period in excess of \$20,000, as well as the amount paid to such person, firm or
 70 corporation during such period. The annual report and lists required by this Section shall
 71 be filed as a statement, verified by the Chairman of the Board of the Authority and its
 72 General Manager, with members of the Metropolitan Atlanta Rapid Transit Authority
 73 Overview Committee, the State Auditor and with governing authorities of each county and
 74 the largest municipality in the area of the Authority's operation. The annual report and lists
 75 required by this Section shall be prepared and filed within forty-five days of the end of the
 76 reporting period, shall be made available at the Authority's principal office for public
 77 inspection at all times during regular business hours of the Authority following such filing,
 78 ~~and notice of such availability shall be published in a daily newspaper of general~~
 79 ~~circulation within the entire geographic area of the Authority's operation within fifteen days~~
 80 ~~after filing. Such notice shall occupy at least one quarter of a full page in such newspaper~~
 81 shall be posted in a prominent location on the Authority's website within two weeks of
 82 submittal of the report to the parties enumerated in this Section. Such report shall display
 83 employee identification numbers and job titles, and no names or social security numbers
 84 of employees shall be displayed."

85 **SECTION 4.**

86 Said Act is further amended by revising subsection (a) of Section 24A as follows:

87 "(a) Notwithstanding the provisions of Section 24 of this Act or any other provision of this
 88 Act, the Authority may execute a transportation services contract with any county,
 89 municipality, special tax or community improvement district, political subdivision of this
 90 state, or any combination thereof being or lying within the counties of Clayton, Cobb,
 91 DeKalb, Fulton, or Gwinnett, to provide public transportation services, facilities, or both,
 92 for, to, or within such county, municipality, district, subdivision, or combination thereof.

93 A transportation services contract executed pursuant to this Section:

- 94 (1) Shall not be a rapid transit contract subject to the conditions established therefor in
 95 Section 24 of this Act;
- 96 (2) May not utilize a method of financing those public transportation services or facilities
 97 provided under the contract which involves:

- 98 (A) The issuance of bonds under subsection (c) of Section 24 of this Act;
- 99 (B) The levy of the special retail sales and use tax described and authorized in Section
100 25 of this Act; or
- 101 (C) Both methods described in subparagraphs (A) and (B) of this paragraph; and
- 102 ~~(3) May not authorize the construction of any extension of or addition to the Authority's~~
103 ~~existing rapid rail system; and~~
- 104 ~~(4)~~ Shall require that the costs of any transportation services and facilities contracted for,
105 as determined by the Board of Directors on the basis of reasonable estimates, allocations
106 of costs and capital, and projections shall be borne by one or more of the following:
- 107 (A) Fares;
- 108 (B) Other revenues generated by such services or facilities; and
- 109 (C) Any subsidy provided, directly or indirectly, by or on behalf of the public entity
110 with which the Authority contracted for the services and facilities."

111 **SECTION 5.**

112 Said Act is further amended by revising subsection (i) of Section 25 as follows:

113 "(i) Use of Proceeds. The proceeds of the tax levied pursuant to this Act shall be used
114 solely by each local government to fulfill the obligations incurred in the contracts entered
115 into with the Metropolitan Atlanta Rapid Transit Authority as contemplated in the
116 Metropolitan Atlanta Rapid Transit Authority Act of 1965, as amended; provided,
117 however, that no more than fifty percent (50%) of the annual proceeds of the tax shall be
118 used to subsidize the operating costs of the system, exclusive of depreciation, amortization,
119 and other costs and charges as provided in this subsection, until January 1, 2002. For the
120 period beginning January 1, 2002, and ending June 30, 2002; and for each fiscal year
121 commencing thereafter until December 31, 2008, no more than fifty-five percent (55%) of
122 the proceeds of the tax shall be used to subsidize the operating costs of the system,
123 exclusive of depreciation, amortization, and other costs and charges as provided in this
124 subsection; and for the period beginning January 1, 2009, and ending June 30, 2009, and
125 each fiscal year commencing thereafter until July 1, 2032, no more than fifty percent (50%)
126 of the proceeds of the tax shall be used to subsidize the operating costs of the system,
127 exclusive of depreciation, amortization, and other costs and charges as provided in this
128 subsection; Such restrictions on the use of annual proceeds from local sales and use taxes
129 shall be suspended through June 30, 2019. ~~except that if~~ If the Board of the Metropolitan
130 Atlanta Rapid Transit Authority shall fail to file with the Metropolitan Atlanta Rapid
131 Transit Overview Committee annually; the original and 14 copies of a report of the findings
132 of a completed management performance audit of the Authority's current operations; ~~which~~
133 audit that was performed under contract with and at the expense of the Authority, along

134 with any auditor's recommendations based thereon and the auditor's signed written
135 verification that the Metropolitan Atlanta Rapid Transit Authority fully cooperated with
136 such audit and allowed access to all its books, records, and documents to the extent the
137 auditor deemed necessary, then for the period beginning January 1, 2003, and ending June
138 30, 2003, and each fiscal year commencing thereafter until July 1, 2032, no more than fifty
139 percent (50%) of the proceeds of the tax shall be used to subsidize the operating costs of
140 the system, exclusive of depreciation, amortization, and other costs and charges as provided
141 in this subsection. For each fiscal year commencing on or after July 1, 2032, no more than
142 sixty percent (60%) of the annual proceeds of the tax shall be used to subsidize the
143 operating costs of the system, exclusive of depreciation, amortization, and other costs and
144 charges as provided in this subsection; and commencing with July 1, 2032, and for every
145 year thereafter, the proceeds of the tax shall not be used to subsidize operations of the
146 transportation system to an extent greater than fifty percent (50%) of the operating costs
147 of the system, exclusive of depreciation, amortization, and other costs and charges as
148 provided in this subsection. In adopting its annual budget, the Board of the Metropolitan
149 Atlanta Rapid Transit Authority shall be authorized to rely upon estimates of all revenues,
150 operating costs, patronage, and other factors which may affect the amount of the fare
151 required to limit the operating subsidy herein provided for. If the results of any year's
152 operations reflect that the proceeds of the tax were used to subsidize operations to an extent
153 greater than herein provided, the Board shall adjust fares in order to make up the deficit in
154 operations during a period of not to exceed three (3) succeeding years. If the results of
155 operations in the Authority's fiscal year commencing July 1, 1980, or in any subsequent
156 fiscal year reflect that the proceeds of the tax were not used to subsidize operations to the
157 maximum extent herein provided, the Board shall reserve any amounts that could have
158 been used to subsidize operations in that fiscal year and later use said reserved amounts and
159 any interest earned on said reserved amounts to provide an additional subsidy for
160 operations in any future fiscal year or years. The words 'operating costs of the system' for
161 purposes of this subsection 25(I) are defined to include all of the costs of that division of
162 the Authority directly involved and that portion of the nonoperating administrative costs
163 of those divisions of the Authority indirectly involved, through the provision of support
164 services, in providing mass transportation services for the metropolitan area, but exclusive
165 of the costs of the division or divisions directly involved and that portion of the
166 nonoperating administrative costs of those divisions indirectly involved, in the planning,
167 design, acquisition, construction, and improvement of the rapid transit system, according
168 to accepted principles of accounting, and also exclusive of the following costs:

169 (1) Nonrecurring costs and charges incurred in order to comply with any statute or
170 regulation concerning either the protection or cleaning up of the environment, or

171 accessibility by handicapped or disabled persons, or occupational health or safety, or
172 compliance with any national or state emergencies, or with any judgment, decree, or
173 order of any court or regulatory agency in implementation of any such statute or
174 regulation; and

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

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

191 **SECTION 6.**

192 This Act shall become effective on June 1, 2014.

193 **SECTION 7.**

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