

The Senate Committee on Transportation offered the following substitute to HB 265:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 9 of Title 32 of the Official Code of Georgia Annotated, relating to mass  
2 transportation, so as to repeal provisions relating to the suspension of restrictions on the use  
3 of annual proceeds from sales and use taxes by public transit authorities; to provide for  
4 staggered terms for the board of directors of the Metropolitan Atlanta Rapid Transit  
5 Authority; to provide for a limit or re-appointment of board members; to revise the amount  
6 of certain payments and contract amounts requiring board approval; to provide for related  
7 matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

10 Chapter 9 of Title 32 of the Official Code of Georgia Annotated, relating to mass  
11 transportation, is amended by repealing in its entirety Code Section 32-9-13, relating to the  
12 suspension of restrictions on the use of annual proceeds from sales and use taxes by public  
13 transit authorities.

14 style="text-align:center">**SECTION 2.**

15 Said chapter is further amended by revising Code Section 32-9-14, relating to the board of  
16 directors of the Metropolitan Atlanta Rapid Transit Authority, as follows:

17 "32-9-14.

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

23 (b) Effective January 1, 2011, the board of directors of the authority shall be composed of  
24 11 voting members and one nonvoting member. Of the voting members: three members  
25 shall be residents of the City of Atlanta to be nominated by the mayor and elected by the

26 city council; four members shall be residents of DeKalb County to be appointed by the  
27 DeKalb County Board of Commissioners and at least one of such appointees shall be a  
28 resident of that portion of DeKalb County lying south of the southernmost corporate  
29 boundaries of the City of Decatur and at least one of such appointees shall be a resident of  
30 that portion of DeKalb County lying north of the southernmost corporate boundaries of the  
31 City of Decatur; three members shall be residents of Fulton County to be appointed by the  
32 local governing body thereof, and one of such appointees shall be a resident of that portion  
33 of Fulton County lying south of the corporate limits of the City of Atlanta and two of such  
34 appointees shall be residents of that portion of Fulton County lying north of the corporate  
35 limits of the City of Atlanta. The commissioner of transportation shall be a voting member  
36 of the board and the executive director of the Georgia Regional Transportation Authority  
37 shall be a nonvoting member of the board. Those board members in office on May 31,  
38 2014, shall serve until December 31, 2014. Those board members in office as of January  
39 1, 2015, shall serve initial terms of office as follows: one of the four appointees of the  
40 DeKalb County Board of Commissioners, one of the three appointees of the Mayor and  
41 City Council of Atlanta, and one of the three appointees of the local governing body of  
42 Fulton County shall serve a term of one year; one of the four appointees of the DeKalb  
43 County Board of Commissioners, one of the three appointees of the Mayor and City  
44 Council of Atlanta, and one of the three appointees of the local governing body of Fulton  
45 County shall serve a term of two years; one of the four appointees of the DeKalb County  
46 Board of Commissioners and one of the three appointees of the Mayor and City Council  
47 of Atlanta shall serve a term of three years; one of the four appointees of the DeKalb  
48 County Board of Commissioners and one of the three appointees of the local governing  
49 body of Fulton County shall serve a term of four years. No later than November 1, 2014,  
50 each local governing authority shall designate which board members shall serve which  
51 initial terms. After the initial terms of board members described in this subsection, the  
52 The  
53 governing body that appoints a member shall appoint successors thereto for terms of office  
54 of four years in the same manner that such governing body makes its other appointments  
55 to the board.

55 (c) All appointments shall be for terms of four years except that a vacancy caused  
56 otherwise than by expiration of term shall be filled for the unexpired portion thereof by the  
57 local governing body that made the original appointment to the vacant position, or its  
58 successor in office. A member of the board may be appointed to succeed himself or herself  
59 for one four-year term; provided, however, that board membership prior to January 1, 2015,  
60 shall not be considered in calculating limits on length of service. Appointments to fill  
61 expiring terms shall be made by the local governing body prior to the expiration of the  
62 term, but such appointments shall not be made more than 30 days prior to the expiration

63 of the term. Members appointed to the board shall serve for the terms of office specified  
 64 in this Code section and until their respective successors are appointed and qualified.

65 (d) The local governing bodies of Clayton, Cobb, and Gwinnett Counties may, any other  
 66 provision of this Code section to the contrary notwithstanding, negotiate, enter into, and  
 67 submit to the qualified voters of their respective counties the question of approval of a  
 68 rapid transit contract between the county submitting the question and the authority. The  
 69 local governing bodies of these counties shall be authorized to execute such rapid transit  
 70 contracts prior to the holding of a referendum provided for in Section 24 of the  
 71 Metropolitan Atlanta Rapid Transit Authority Act of 1965, approved March 10, 1965 (Ga.  
 72 L. 1965, p. 2243), as amended; provided, however, that any such rapid transit contract shall  
 73 not become valid and binding unless the same is approved by a majority of those voting in  
 74 said referendum, which approval shall also be deemed approval of further participation in  
 75 the authority. Upon approval of such rapid transit contract, the county entering into such  
 76 contract shall be a participant in the authority, and its rights and responsibilities shall,  
 77 insofar as possible, be the same as those belonging to Fulton and DeKalb Counties, and the  
 78 local governing body of the county may then appoint two residents of the county to the  
 79 board of directors of the authority, to serve a term ending on the thirty-first day of  
 80 December in the fourth full year after the year in which the referendum approving said  
 81 rapid transit contract was held, in which event the board of directors of the authority shall,  
 82 be composed also of such additional members.

83 (e) Except for the Executive Director of the Georgia Regional Transportation Authority  
 84 and the commissioner of transportation, no No person shall be appointed as a member of  
 85 the board who holds any other public office or public employment except an office in the  
 86 reserves of the armed forces of the United States or the National Guard; any member who  
 87 accepts or enters upon any other public office or public employment shall be disqualified  
 88 thereby to serve as a member.

89 (f) A local governing body may remove any member of the board appointed by it for  
 90 cause. No member shall be thus removed unless the member has been given a copy of the  
 91 allegations against him or her and an opportunity to be publicly heard in his or her own  
 92 defense in person with or by counsel with at least ten days' written notice to the member.  
 93 A member thus removed from office shall have the right to a judicial review of the  
 94 member's removal by an appeal to the superior court of the county of the local governing  
 95 body which appointed the member, but only on the ground of error of law or abuse of  
 96 discretion. In case of abandonment of the member's office, conviction of a crime involving  
 97 moral turpitude or a plea of nolo contendere thereto, removal from office, or  
 98 disqualification under subsection (e) of this Code section, the office of a member shall be  
 99 vacant upon the declaration of the board. A member shall be deemed to have abandoned

100 the member's office upon failure to attend any regular or special meeting of the board for  
101 a period of four months without excuse approved by a resolution of the board, or upon  
102 removal of the member's residence from the territory of the local governing body that  
103 appointed the member.

104 (g) Each appointed member of the board, except the chairperson, shall be paid by the  
105 authority a per diem allowance, in an amount equal to that provided by Code Section  
106 45-7-21 for each day on which that member attends an official meeting of the board, of any  
107 committee of the board, or of the authority's Pension Committee, Board of Ethics, or Arts  
108 Council; provided, however, that said per diem allowance shall not be paid to any such  
109 member for more than 130 days in any one calendar year. If the chairperson of the board  
110 is an appointed member of the board, the chairperson shall be paid by the authority a per  
111 diem allowance in the same amount for each day in which the chairperson engages in  
112 official business of the authority, including but not limited to attendance of any of the  
113 aforesaid meetings. A member of the board shall also be reimbursed for actual expenses  
114 incurred by that member in the performance of that member's duties as authorized by the  
115 board. A board member shall not be allowed employee benefits.

116 (h) The board shall elect one of its members as chairperson and another as vice  
117 chairperson for terms to expire on December 31 of each year to preside at meetings and  
118 perform such other duties as the board may prescribe. The presiding officer of the board  
119 may continue to vote as any other member, notwithstanding the member's duties as  
120 presiding officer, if the member so desires. The chairperson may select a designee from  
121 current members to act on behalf of the chairperson for official business of the authority.  
122 Such designee shall be paid by the authority a per diem allowance in the same amount for  
123 each day in which the designee engages in official business of the authority, including but  
124 not limited to attendance of any official meeting of the board, of any committee of the  
125 board, or of the authority's Pension Committee, Board of Ethics, or Arts Council, provided  
126 that said per diem allowance shall not be paid to such member for more than 130 days in  
127 a calendar year. The board shall also elect from its membership a secretary and a treasurer  
128 who shall serve terms expiring on December 31 of each year. A member of the board may  
129 hold only one office on the board at any one time.

130 (i) The board shall hold at least one meeting each month. The secretary of the board shall  
131 give written notice to each member of the board at least two days prior to any called  
132 meeting that may be scheduled, and said secretary shall be informed of the call of such  
133 meeting sufficiently in advance so as to provide for the giving of notice as above. A  
134 majority of the total membership of the board, as it may exist at the time, shall constitute  
135 a quorum. On any question presented, the number of members present shall be recorded.  
136 By affirmative vote of a majority of the members present, the board may exercise all the

137 powers and perform all the duties of the board, except as otherwise hereinafter provided  
138 or as limited by its bylaws, and no vacancy on the original membership of the board, or  
139 thereafter, shall impair the power of the board to act. All meetings of the board, its  
140 executive committee, or any committee appointed by the board shall be subject to Chapter  
141 14 of Title 50.

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

145 (1) The issuance and sale of revenue bonds or equipment trust certificates;

146 (2) The purchase or lease of any privately owned system of transportation of passengers  
147 for hire in its entirety, or any substantial part thereof. Prior to the purchase or lease of  
148 any such privately owned system a public hearing pertaining thereto shall have been held  
149 and notice of such public hearing shall have been advertised; provided, however, that no  
150 sum shall be paid for such privately owned system of transportation in excess of the fair  
151 market value thereof determined by a minimum of two appraisers qualified to appraise  
152 privately owned systems of transportation and approved by a majority of the local  
153 governments participating in the financing of such purchase;

154 (3) The award of any contract involving ~~\$100,000.00~~ \$200,000.00 or more for  
155 construction, alterations, supplies, equipment, repairs, maintenance, or services other than  
156 professional services or for the purchase, sale, or lease of any property. The board by  
157 appropriate resolution may delegate to the general manager the general or specific  
158 authority to enter into contracts involving less than ~~\$100,000.00~~ \$200,000.00;

159 (4) The grant of any concession; and

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

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

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

174 ~~(m)(1) In addition to the requirements of subsection (i) of this Code section, each~~  
175 ~~member of the board shall hold a meeting once each 12 months with the local governing~~  
176 ~~body that appointed such member. The secretary of the board shall give written notice~~  
177 ~~to each member of the board, to each local governing body, and to the governing~~  
178 ~~authority of each municipality in the county in which there is an existing or proposed rail~~  
179 ~~line at least two days prior to any meeting that may be scheduled, and said secretary shall~~  
180 ~~be informed of the call of such meeting sufficiently in advance so as to provide for giving~~  
181 ~~such notice. These meetings shall be for the purpose of reporting to the local governing~~  
182 ~~bodies on the operations of the authority and on the activities of the board and making~~  
183 ~~such information available to the general public. No activity that requires action by the~~  
184 ~~board shall be initiated or undertaken at any meeting conducted under this subsection.~~  
185 ~~(2) The board shall submit once each three months a written report on the operations of~~  
186 ~~the authority and on the activities of the board to each local governing body that appoints~~  
187 ~~a member of the board."~~

188 **SECTION 3.**

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

190 **SECTION 4.**

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