

House Bill 214

By: Representatives Jacobs of the 80th, Geisinger of the 48th, Mitchell of the 88th, Taylor of the 79th, Gardner of the 57th, and others

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 restoration of voting privileges to the Commissioner of the Department of Transportation
4 until 2017; to provide for the staggering of new board members when a county joins the
5 Authority; to provide for the process by which contracts for concessions shall be awarded;
6 to provide for suspensions from the system and property for violations of rules and
7 regulations; to provide for the inclusion of certain items in an independent management
8 audit; to provide for the issuance of citations; to provide for an appeals process; to provide
9 for the appointment of hearing officers; to provide for a hearing; to provide for the appeal of
10 decisions to superior court; to provide for the authority to pursue legal action for the
11 collection of fines; to provide for the retail sales and use tax rate at which a governing body
12 joining the Authority shall levy; to provide for related matters; to repeal conflicting laws; and
13 for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

16 An Act known as the "Metropolitan Atlanta Rapid Transit Authority Act of 1965," approved
17 March 10, 1965 (Ga. L. 1965, p. 2243), is amended by revising subsections (a) and (b) of
18 Section 6 as follows:

19 "(a) On and after January 1, 2017, the Board of Directors of the Authority shall be
20 reconstituted and composed of 11 voting members and two nonvoting members. Three
21 members shall be residents of the City of Atlanta to be nominated by the Mayor and elected
22 by the City Council; four members shall be residents of DeKalb County with three of the
23 four appointees to be appointed by the Board of Commissioners of DeKalb County and at
24 least one of such appointees shall be a resident of that portion of DeKalb County lying
25 south of the southernmost corporate boundaries of the City of Decatur and at least one of
26 such appointees shall be a resident of that portion of DeKalb County lying north of the

27 southernmost corporate boundaries of the City of Decatur and the fourth appointee to be
 28 appointed by a majority vote of a caucus of mayors of the municipalities located wholly
 29 in DeKalb County; three members shall be residents of Fulton County and one of such
 30 members shall be a resident of that portion of Fulton County lying south of the corporate
 31 limits of the City of Atlanta to be appointed by a majority vote of the Fulton County Board
 32 of Commissioners, and two of such members shall be residents of that portion of Fulton
 33 County lying north of the corporate limits of the City of Atlanta to be appointed by a
 34 majority vote of a caucus of mayors of the municipalities of Fulton County lying north of
 35 the corporate limits of the City of Atlanta; one member shall be a resident of Fulton or
 36 DeKalb County to be appointed by the Governor; one nonvoting member shall be the
 37 Commissioner of the Department of Transportation; and one nonvoting member shall be
 38 the Executive Director of the Georgia Regional Transportation Authority. Those board
 39 members appointed by a local governing authority, caucus, or the Governor as described
 40 in this section in office as of January 1, 2017, shall serve initial terms of office as follows:
 41 two of the three appointees of the DeKalb County Board of Commissioners, two of the
 42 three appointees of the Mayor and City Council of Atlanta, and one of the two appointees
 43 of the caucus of mayors from municipalities lying north of the corporate limits of the City
 44 of Atlanta shall serve a term of two years, and the remaining appointees shall serve for
 45 terms of four years. No later than December 1, 2016, all board members shall be appointed
 46 and each local governing authority or caucus shall designate which board members shall
 47 serve an initial term of two years. After the initial two-year terms of those five board
 48 members described in this subsection, that governing body or caucus which appointed the
 49 member for that initial term to that office shall appoint successors thereto for terms of
 50 office of four years in the same manner that such governing body or caucus makes its other
 51 appointments to the Board.

52 Those board members in office on May 31, 2014, shall serve until December 31, 2016.
 53 The Executive Director of the Georgia Regional Transportation Authority and the
 54 Commissioner of the Department of Transportation shall ~~become~~ be nonvoting members
 55 of the Board ~~on the effective date of this sentence~~ and shall serve while holding their State
 56 offices; provided, however, that notwithstanding any provisions of this Act to the contrary,
 57 the Commissioner of the Department of Transportation shall be a voting member of the
 58 Board until December 31, 2016.

59 Except as provided above, all appointments shall be for terms of four years except that a
 60 vacancy caused otherwise than by expiration shall be filled for the unexpired portion
 61 thereof by the appointing entity which made the original appointment to the vacant
 62 position, or its successor in office. A member of the Board may be appointed to succeed
 63 himself or herself for one four-year term; provided, however, that board membership prior

64 to January 1, 2017, shall not be considered in calculating limits on length of service.
 65 Appointments to fill expiring terms shall be made by the appointing entity prior to the
 66 expiration of the term, but such appointments shall not be made more than thirty days prior
 67 to the expiration of the term. Members appointed to the Board shall serve for the terms of
 68 office specified in this section and until their respective successors are appointed and
 69 qualified.

70 (b) The local governing bodies of Clayton, Cobb, and Gwinnett counties may, any other
 71 provision of this Act to the contrary notwithstanding, negotiate, enter into, and submit to
 72 the qualified voters of their respective counties the question of approval of a rapid transit
 73 contract between the county submitting the question and the Authority, all in accordance
 74 with the provisions of Section 24 of this Act. The local governing bodies of these counties
 75 shall be authorized to execute such rapid transit contract prior to the holding of the
 76 referendum provided for in said Section 24; provided, however, that such rapid transit
 77 contract shall not become valid and binding unless the same is approved by a majority of
 78 those voting in said referendum, which approval shall also be deemed approval of further
 79 participation in the Authority. Upon approval of such rapid transit contract, the county
 80 entering into such contract shall be a participant in the Authority, and its rights and
 81 responsibilities shall, insofar as possible, be the same as if it had participated in the
 82 Authority from its beginning, and the local governing body of the county may then appoint
 83 two residents of the county to the Board of Directors of the Authority; The local
 84 governing body shall designate one such resident to serve an initial term ending on the 31st
 85 day of December in the second full year after the year in which the referendum approving
 86 said rapid transit contract was held and one such resident to serve a an initial term ending
 87 on the 31st day of December in the fourth full year after the year in which the referendum
 88 approving said rapid transit contract was held, in which event the Board of Directors of the
 89 Authority shall, subsection (a) of this Section 6 to the contrary notwithstanding, be
 90 composed of such additional members. Upon the conclusion of the initial terms provided
 91 for in this subsection, the local governing body which appointed the member for that initial
 92 term shall appoint a successor thereto for a term of office of four years."

93 **SECTION 2.**

94 Said Act is further amended by revising subsections (f) and (g) of Section 14 as follows:

95 "(f) All concessions granted by the Authority for the sale of products or the rendition of
 96 services for a consideration on Authority property shall be awarded only pursuant to
 97 written specifications after competitive bidding procurement and to the highest responsible
 98 bidder respondent in a manner similar to that required in subsection (b)."

99 "(g) Contracts for the sale, lease, or other disposition of real property owned by the
 100 Authority shall be awarded only after competitive bidding procurement and to the highest
 101 responsible ~~bidder~~ respondent in a manner similar to that required in subsection (b),
 102 provided that such competitive bidding procurement procedures may be waived, but only
 103 if the Board determines that the negotiation of a sale, lease, exchange, or other disposition
 104 of real property owned or to be acquired by the Authority is necessary to facilitate either
 105 of the following: (i) the location of an Authority transportation project within real
 106 property owned by another; or (ii) the passage of the public between an Authority
 107 transportation project and the property of another."

108

SECTION 3.

109 Said Act is further amended by revising subsection (e) of Section 17 as follows:

110 "(e) Not later than December 31, 2016, and every four years thereafter, the Authority shall
 111 cause to be performed an independent management audit on the condition of management
 112 of the Authority, to be supervised and approved by the Metropolitan Atlanta Rapid Transit
 113 Overview Committee. Such management audit shall include the auditor's
 114 recommendations based thereon and the auditor's signed written verification that the
 115 Metropolitan Atlanta Rapid Transit Authority fully cooperated with such audit and allowed
 116 access to all its books, records, and documents to the extent the auditor deemed necessary.
 117 The management audit shall be submitted to the Board of the Authority, the Governor, the
 118 State Auditor, and the Metropolitan Atlanta Rapid Transit Overview Committee before
 119 December 31 of each year in which it is required. The management audit shall be
 120 performed at the expense of the Authority."

121

SECTION 4.

122 Said Act is further amended by revising subsection (a) of Section 20 as follows:

123 "(a)(1) The Board may promulgate reasonable rules and regulations, not inconsistent with
 124 law, for the control and management of its operations, properties, employees, and
 125 patrons.
 126 (2) Violations of such rules and regulations governing the conduct of the public in or
 127 upon the Authority's transportation system shall be punishable by a suspension or civil
 128 fine or penalty in for a period of time or in an amount set by the Board. First violations
 129 of such rules and regulations shall be punishable by a suspension from the use of
 130 Authority services and presence on Authority property for a period of time to be set by
 131 the Board. Any subsequent violation of such rules and regulations, regardless of whether
 132 such violation is of the same rule or regulation as the first violation, shall be punishable

133 by a suspension or a civil fine or both for a period of time or in an amount to be set by the
134 Board, provided that such fine shall be no more than \$300.00.

135 (3) A citation shall be issued for violations of such rules and regulations which shall
136 include notice of suspension from the use of Authority services and presence on
137 Authority property or the civil fine amount or both, as applicable. Such citation shall also
138 state at the top of the citation and in a print size no smaller than the largest print size used
139 on the citation:

140 (A) That the suspension or civil fine or both may be appealed as provided for in
141 paragraph (4) of this subsection;

142 (B) The procedures by which such appeal shall be requested, including the mailing,
143 overnight delivery, and hand delivery address to be used for such requests, specifying
144 the required methods of delivery;

145 (C) That such suspension or civil fine or both shall be deemed final if no appeal is
146 made within 30 days; and

147 (D) That if no appeal is made, use of Authority services or entry upon Authority
148 property is forbidden and subsequent use of services or entry upon property during a
149 period of suspension shall constitute criminal trespass under Code Section 16-7-21 of
150 the O.C.G.A.

151 (4) A citation may be appealed to the Authority by written request by registered or
152 certified mail, statutory overnight delivery, or hand delivery within 30 days of the
153 issuance of such citation. Within ten days of receipt of a request for a hearing, the
154 Authority shall respond to the person requesting a hearing to schedule a hearing date,
155 which shall be no later than 30 days from the receipt of the request. If no hearing is
156 requested within 30 days of the issuance of a citation, the suspension or fine issued shall
157 be deemed final and become effective immediately.

158 (5) The Board shall hire a neutral licensed attorney to be known as the hearing officer
159 to hear the appeal. Such attorney shall be a member in good standing with the State Bar
160 of Georgia, have been in the practice of law for at least five years, and be appointed for
161 one or more terms of two years subject to removal by majority vote of the Board only for
162 good cause. The Board may appoint more than one neutral licensed attorney to serve as
163 hearing officers subject to the requirements of this paragraph should the case load so
164 require.

165 (6) The hearing shall, with respect to rules of evidence and procedure, be conducted in
166 accordance with Chapter 13 of Title 50 of the O.C.G.A, the 'Georgia Administrative
167 Procedure Act.'

168 (7) Within 30 days after the final decision from the hearing officer, a petition may be
169 filed in superior court of the county where the alleged conduct occurred that resulted in

170 a citation. A copy of the petition shall be served upon the Authority. The petition shall
 171 state that the petitioner is aggrieved by the decision and the grounds upon which the
 172 petitioner contends the decision should be reversed. The filing of a petition for judicial
 173 review in superior court does not itself stay enforcement of the citation. The court may
 174 reverse or modify the decision if substantial rights of the petitioner have been prejudiced
 175 because the decision was clearly erroneous in view of the reliable, probative, and
 176 substantial evidence on the whole record.

177 (8) The Authority may pursue any and all legal remedies for the collection of outstanding
 178 fin.

179 (9) All rules and regulations governing the conduct of the public in or upon the
 180 Authority's transportation system and the length of suspension or civil fine or penalty for
 181 infraction of such rules and regulations shall be posted in a prominent location on the
 182 Authority's website."

183 SECTION 5.

184 Said Act is further amended by revising subparagraph (b)(2)(A) of Section 25 as follows:

185 "(2)(A) A local governing body which, on January 1, 1988, is not a party to the Rapid
 186 Transit Contract and Assistance Agreement specified in subsection (k) of this Section
 187 may enter into a rapid transit contract to provide public transportation services and
 188 facilities other than any extension of or addition to the Authority's existing rail rapid
 189 transit system and may levy a retail sales and use tax authorized under subsection (a)
 190 of this Section at the rate of ~~either one-half (1/2%) percent or one (1%) percent, as~~
 191 ~~determined by that contract between such local governing body and the Authority.~~
 192 Such contract shall require that the costs of the transportation services and facilities
 193 contracted for, as determined by the Board of Directors on the basis of reasonable
 194 estimates, allocation of costs and capital, and projections shall be borne by one or more
 195 of the following:

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

201 Notwithstanding any limitation in subsection (i) of this Section or any other provision
 202 of this Act, the proceeds of the retail sales and use tax levied pursuant to this
 203 subparagraph may be used in their entirety to pay the operating costs of the system, as
 204 defined in that subsection (i)."

205

SECTION 6.

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