

The Senate Committee on Transportation offers the following substitute to HB 213:

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 Executive Director of the Georgia Regional
4 Transportation Authority until 2017; to provide for the staggering of new board members
5 when a county joins the Authority; to provide for the acquisition and disposition of certain
6 property; to provide for the process by which contracts for concessions shall be awarded; to
7 provide for suspensions from the system and property for violations of rules and regulations;
8 to provide for the inclusion of certain items in an independent management audit; to provide
9 for the issuance of citations; to provide for an appeals process; to provide for the appointment
10 of hearing officers; to provide for a hearing; to provide for the appeal of decisions to superior
11 court; to provide for the authority to pursue legal action for the collection of fines; to provide
12 for the rate of a sales and use tax; to provide for the retail sales and use tax when a county
13 joins the Authority; to provide for a permanent suspension of restrictions on the use of sales
14 and use tax proceeds upon the submission of an independent management audit to certain
15 officials; to provide for related matters; to provide for an effective date; to repeal conflicting
16 laws; and for other purposes.

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

18 An Act known as the "Metropolitan Atlanta Rapid Transit Authority Act of 1965," approved
19 March 10, 1965 (Ga. L. 1965, p. 2243), is amended by revising subsections (a) and (b) of
20 Section 6 as follows:
21

22 "(a) On and after January 1, 2017, the Board of Directors of the Authority shall be
23 reconstituted and composed of 11 voting members and two nonvoting members. Three
24 members shall be residents of the City of Atlanta to be nominated by the Mayor and elected
25 by the City Council; four members shall be residents of DeKalb County with three of the
26 four appointees to be appointed by the ~~Board of Commissioners~~ governing authority of

27 DeKalb County and at least one of such appointees shall be a resident of that portion of
 28 DeKalb County lying south of the ~~southernmost~~ northernmost corporate boundaries of the
 29 City of Decatur and at least one of such appointees shall be a resident of that portion of
 30 DeKalb County lying north of the ~~southernmost~~ northernmost corporate boundaries of the
 31 City of Decatur and the fourth appointee to be appointed by a majority vote of a caucus of
 32 mayors of the municipalities located wholly in DeKalb County; three members shall be
 33 residents of Fulton County and one of such members shall be a resident of that portion of
 34 Fulton County lying south of the corporate limits of the City of Atlanta to be appointed by
 35 a majority vote of the Fulton County Board of Commissioners, and two of such members
 36 shall be residents of that portion of Fulton County lying north of the corporate limits of the
 37 City of Atlanta to be appointed by a majority vote of a caucus of mayors of the
 38 municipalities of Fulton County lying north of the corporate limits of the City of Atlanta;
 39 one member shall be a resident of ~~Fulton or DeKalb County~~ a participating jurisdiction to
 40 be appointed by the Governor; one nonvoting member shall be the Commissioner of the
 41 Department of Transportation; and one nonvoting member shall be the Executive Director
 42 of the Georgia Regional Transportation Authority. Those board members appointed by a
 43 local governing authority, caucus, or the Governor as described in this section in office as
 44 of January 1, 2017, shall serve initial terms of office as follows: two of the three appointees
 45 of the governing authority of DeKalb County ~~Board of Commissioners~~, two of the three
 46 appointees of the Mayor and City Council of Atlanta, and one of the two appointees of the
 47 caucus of mayors from municipalities lying north of the corporate limits of the City of
 48 Atlanta shall serve a term of two years, and the remaining appointees shall serve for terms
 49 of four years. No later than December 1, 2016, all board members shall be appointed and
 50 each local governing authority or caucus shall designate which board members shall serve
 51 an initial term of two years. After the initial two-year terms of those five board members
 52 described in this subsection, that governing ~~body~~ authority or caucus which appointed the
 53 member for that initial term to that office shall appoint successors thereto for terms of
 54 office of four years in the same manner that such governing ~~body~~ authority or caucus
 55 makes its other appointments to the Board.
 56 Those board members in office on May 31, 2014, shall serve until December 31, 2016.
 57 The Executive Director of the Georgia Regional Transportation Authority and the
 58 Commissioner of the Department of Transportation shall ~~become~~ be nonvoting members
 59 of the Board ~~on the effective date of this sentence~~ and shall serve while holding their State
 60 offices; provided, however, that notwithstanding any provisions of this Act to the contrary,
 61 the Executive Director of the Georgia Regional Transportation Authority shall be a voting
 62 member of the Board until December 31, 2016.

63 Except as provided above, all appointments shall be for terms of four years except that a
 64 vacancy caused otherwise than by expiration shall be filled for the unexpired portion
 65 thereof by the appointing entity which made the original appointment to the vacant
 66 position, or its successor in office. A member of the Board may be appointed to succeed
 67 himself or herself for one four-year term; provided, however, that board membership prior
 68 to January 1, 2017, shall not be considered in calculating limits on length of service.
 69 Appointments to fill expiring terms shall be made by the appointing entity prior to the
 70 expiration of the term, but such appointments shall not be made more than thirty days prior
 71 to the expiration of the term. Members appointed to the Board shall serve for the terms of
 72 office specified in this section and until their respective successors are appointed and
 73 qualified.

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

97

SECTION 2.

98

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

99 "(a) Except in the acquisition or disposition of unique property which for any reason is
 100 unobtainable in the open market, and except as hereinafter otherwise provided, competitive
 101 bids shall be secured before any acquisition or disposition of properties by contract or
 102 otherwise is made by the Authority, or before any contract is awarded for construction,
 103 alterations, supplies, equipment, repairs or maintenance, or for rendering any services to
 104 the Authority, acquisitions shall be made from, and contracts awarded to, the lowest
 105 responsible bidder, and dispositions of property shall be made to the highest responsible
 106 bidder. No acquisition or disposition of any unique property unobtainable in the open
 107 market shall be made without the express approval of the Board where the amount involved
 108 is ~~\$25,000.00~~ \$200,000.00 or more. Nothing in this Section shall apply to contracts for
 109 professional services or the personal services of employees, or to contracts for services of
 110 individuals or organizations not employed full time by the Authority but who are engaged
 111 primarily in the rendition of personal services and not the sale of goods and merchandise,
 112 such as but not limited to the services of attorneys, accountants, engineers, architects,
 113 consultants and advisors."

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

118 (g) Contracts for the sale, lease, or other disposition of real property owned by the
 119 Authority shall be awarded only after competitive bidding procurement and to the highest
 120 responsible bidder respondent in a manner similar to that required in subsection (b),
 121 provided that such competitive bidding procurement procedures may be waived, but only
 122 if the Board determines that the negotiation of a sale, lease, exchange, or other disposition
 123 of real property owned or to be acquired by the Authority is necessary to facilitate either
 124 of the following: (i) the location of an Authority transportation project within real
 125 property owned by another; or (ii) the passage of the public between an Authority
 126 transportation project and the property of another."

127 SECTION 3.

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

129 "(e) Not later than December 31, 2016, and every four years thereafter, the Authority shall
 130 cause to be performed an independent management audit on the condition of management
 131 of the Authority, to be supervised and approved by the Metropolitan Atlanta Rapid Transit
 132 Overview Committee. Such management audit shall include the auditor's
 133 recommendations based thereon and the auditor's signed written verification that the
 134 Metropolitan Atlanta Rapid Transit Authority fully cooperated with such audit and allowed

135 access to all its books, records, and documents to the extent the auditor deemed necessary.
 136 The management audit shall be submitted to the Board of the Authority, the Governor, the
 137 State Auditor, and the Metropolitan Atlanta Rapid Transit Overview Committee before
 138 December 31 of each year in which it is required. The management audit shall be
 139 performed at the expense of the Authority."

140 SECTION 4.

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

142 "(a)(1) The Board may promulgate reasonable rules and regulations, not inconsistent with
 143 law, for the control and management of its operations, properties, employees, and
 144 patrons.

145 (2) Violations of such rules and regulations governing the conduct of the public in or
 146 upon the Authority's transportation system ~~shall be punishable by a civil fine or penalty~~
 147 ~~in an amount set by the Board.~~ may be punished by a suspension from the use of
 148 Authority services and presence on Authority property for a period of time to be set by
 149 the Board or a civil fine or both, provided that such fine shall be no more than \$300.00.

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

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

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

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

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

166 (4) A citation may be appealed to the Authority by written request by registered or
 167 certified mail, statutory overnight delivery, or hand delivery within 30 days of the
 168 issuance of such citation. Within ten days of receipt of a request for a hearing, the
 169 Authority shall respond to the person requesting a hearing to schedule a hearing date,
 170 which shall be no later than 30 days from the receipt of the request. If no hearing is

171 requested within 30 days of the issuance of a citation, the suspension or fine issued shall
 172 be deemed final and become effective immediately.

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

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

183 (7) Within 30 days after the final decision from the hearing officer, a petition may be
 184 filed in superior court of the county where the alleged conduct occurred that resulted in
 185 a citation. A copy of the petition shall be served upon the Authority. The petition shall
 186 state that the petitioner is aggrieved by the decision and the grounds upon which the
 187 petitioner contends the decision should be reversed. The filing of a petition for judicial
 188 review in superior court does not itself stay enforcement of the citation. The court may
 189 reverse or modify the decision if substantial rights of the petitioner have been prejudiced
 190 because the decision was clearly erroneous in view of the reliable, probative, and
 191 substantial evidence on the whole record.

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

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

198 **SECTION 5.**

199 Said Act is further amended by revising paragraph (1) and subparagraph (2)(A) of subsection
 200 (b) and subsection (i) of Section 25 as follows:

201 "(b)(1) Rate of Tax. The tax when levied shall be at the rate of one (1%) percent until
 202 and including June 30, ~~2047~~ 2057, and shall thereafter be reduced to one-half (1/2%) of
 203 one percent. Said tax shall be added to the State Sales and Use Tax imposed by Article
 204 1 of Chapter 8 of Title 48 of the O.C.G.A., and the State Revenue Commissioner is
 205 hereby authorized and directed to establish a bracket system by appropriate rules and
 206 regulations to collect the tax herein imposed in the areas affected.

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

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

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

227 "(i) Use of Proceeds. The proceeds of the tax levied pursuant to this Act shall be used
 228 solely by each local government to fulfill the obligations incurred in the contracts entered
 229 into with the Metropolitan Atlanta Rapid Transit Authority as contemplated in the
 230 Metropolitan Atlanta Rapid Transit Authority Act of 1965, as amended; ~~provided,~~
 231 ~~however, that no more than fifty percent (50%) of the annual proceeds of the tax shall be~~
 232 ~~used to subsidize the operating costs of the system, exclusive of depreciation, amortization,~~
 233 ~~and other costs and charges as provided in this subsection, until January 1, 2002. For the~~
 234 ~~period beginning January 1, 2002, and ending June 30, 2002, and for each fiscal year~~
 235 ~~commencing thereafter until December 31, 2008, no more than fifty-five percent (55%) of~~
 236 ~~the proceeds of the tax shall be used to subsidize the operating costs of the system,~~
 237 ~~exclusive of depreciation, amortization, and other costs and charges as provided in this~~
 238 ~~subsection; and for the period beginning January 1, 2009, and ending June 30, 2009, and~~
 239 ~~each fiscal year commencing thereafter until July 1, 2032, no more than fifty percent (50%)~~
 240 ~~of the proceeds of the tax shall be used to subsidize the operating costs of the system,~~
 241 ~~exclusive of depreciation, amortization, and other costs and charges as provided in this~~
 242 ~~subsection. Such restrictions on the use of annual proceeds from local sales and use taxes~~
 243 ~~shall be suspended through June 30, 2017. If the Board of the Metropolitan Atlanta Rapid~~

244 Transit Authority shall fail to file with the Governor, the State Auditor, and the chairperson
245 of the Metropolitan Atlanta Rapid Transit Overview Committee annually the original and
246 14 copies of every four years as provided in subsection (e) of Section 17 of this Act a
247 report of the findings of a completed independent management ~~performance~~ audit of the
248 Authority's current operations that was performed under contract with and at the expense
249 of the Authority, along with any auditor's recommendations based thereon and the auditor's
250 signed written verification that the Metropolitan Atlanta Rapid Transit Authority fully
251 cooperated with such audit and allowed access to all its books, records, and documents to
252 the extent the auditor deemed necessary, then for the period four years beginning January
253 ~~1, 2003, and ending June 30, 2003, and each fiscal year commencing thereafter until July~~
254 ~~1, 2032, of the year immediately following the year in which the completed independent~~
255 management audit was due but not submitted, no more than fifty percent (50%) of the
256 proceeds of the tax shall be used to subsidize the operating costs of the system, exclusive
257 of depreciation, amortization, and other costs and charges as provided in this subsection.
258 ~~For each fiscal year commencing on or after July 1, 2032, no more than sixty percent~~
259 ~~(60%) of the annual proceeds of the tax shall be used to subsidize the operating costs of the~~
260 ~~system, exclusive of depreciation, amortization, and other costs and charges as provided~~
261 ~~in this subsection, and commencing with July 1, 2032, and for every year thereafter, the~~
262 ~~proceeds of the tax shall not be used to subsidize operations of the transportation system~~
263 ~~to an extent greater than fifty percent (50%) of the operating costs of the system, exclusive~~
264 ~~of depreciation, amortization, and other costs and charges as provided in this subsection.~~
265 In adopting its annual budget, the Board of the Metropolitan Atlanta Rapid Transit
266 Authority shall be authorized to rely upon estimates of all revenues, operating costs,
267 patronage, and other factors which may affect the amount of the fare required to limit the
268 operating subsidy herein provided for. ~~If the results of any year's operations reflect that the~~
269 ~~proceeds of the tax were used to subsidize operations to an extent greater than herein~~
270 ~~provided, the Board shall adjust fares in order to make up the deficit in operations during~~
271 ~~a period of not to exceed three (3) succeeding years. If the results of operations in the~~
272 ~~Authority's fiscal year commencing July 1, 1980, or in any subsequent fiscal year reflect~~
273 ~~that the proceeds of the tax were not used to subsidize operations to the maximum extent~~
274 ~~herein provided, the Board shall reserve any amounts that could have been used to~~
275 ~~subsidize operations in that fiscal year and later use said reserved amounts and any interest~~
276 ~~earned on said reserved amounts to provide an additional subsidy for operations in any~~
277 ~~future fiscal year or years.~~ The words 'operating costs of the system' for purposes of this
278 subsection 25(i) are defined to include all of the costs of that division of the Authority
279 directly involved and that portion of the nonoperating administrative costs of those
280 divisions of the Authority indirectly involved, through the provision of support services,

281 in providing mass transportation services for the metropolitan area, but exclusive of the
 282 costs of the division or divisions directly involved and that portion of the nonoperating
 283 administrative costs of those divisions indirectly involved, in the planning, design,
 284 acquisition, construction, and improvement of the rapid transit system, according to
 285 accepted principles of accounting, and also exclusive of the following costs:

286 (1) Nonrecurring costs and charges incurred in order to comply with any statute or
 287 regulation concerning either the protection or cleaning up of the environment, or
 288 accessibility by handicapped or disabled persons, or occupational health or safety, or
 289 compliance with any national or state emergencies, or with any judgment, decree, or
 290 order of any court or regulatory agency in implementation of any such statute or
 291 regulation; and

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

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

308 **SECTION 6.**

309 This Act shall become effective upon its approval by the Governor or upon its becoming law
 310 without such approval.

311 **SECTION 7.**

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