

Senate Bill 330

By: Senators Beach of the 21st, Butler of the 55th, Mullis of the 53rd, Hill of the 6th, Sims of the 12th 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 a  
3 definition; to provide that transit oriented development and property of the Authority not  
4 used for transportation or rapid transit purposes shall be subject to local planning and zoning  
5 requirements of the Constitution of Georgia; to provide for procedures, conditions, and  
6 limitations for the imposition of an additional 1/2 percent retail sales and use tax; to provide  
7 for the selection and submission of rapid transit projects to be funded by the revenue of such  
8 tax; to provide for a limitation on the collection of a tax for transportation purposes in certain  
9 counties upon imposition of an additional 1/2 percent retail sales and use tax; to provide for  
10 a referendum; to provide for an additional referendum under certain conditions; to provide  
11 for a procedure for conclusion of such tax; to provide for related matters; to repeal  
12 conflicting laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

15 An Act known as the "Metropolitan Atlanta Rapid Transit Authority Act of 1965," approved  
16 March 10, 1965 (Ga. L. 1965, p. 2243), is amended by enacting a new Section to read as  
17 follows:

18 style="text-align:center">"SECTION 18.  
19 style="text-align:center">Zoning and Planning.

20 "(a) For purposes of this Section, the term 'transit oriented development' means any  
21 commercial, residential, retail, or office building or development located on Authority  
22 property or connected physically or functionally to a transit station, including, without  
23 limitation, joint development projects on Authority property which provide for lease of  
24 Authority property to private parties, convenient access to a transit station, and construction

25 of a development for any such use. Notwithstanding the foregoing, the location of retail  
 26 concessions within a transit station shall not alone constitute a transit oriented  
 27 development.

28 (b) Notwithstanding any other provision of law, the power of zoning and planning  
 29 provided for by Article IX, Section II, Paragraph IV of the Constitution of Georgia shall  
 30 extend to transit oriented development and to Authority property which is not part of the  
 31 transportation system, transportation projects, or rapid transit system or projects of the  
 32 Authority."

### 33 SECTION 2.

34 Said Act is further amended by revising subsections (a), (b), and (k) of Section 25 as follows:

35 "(a) Authority to Tax. Each of the local governing bodies of those local governments  
 36 referred to and defined in Section 2 of the Metropolitan Atlanta Rapid Transit Authority  
 37 Act of 1965 (Ga. L. 1965, p. 2243), as amended, which shall hereafter pursuant to the  
 38 provisions of said Act enter into a rapid transit contract with the Metropolitan Atlanta  
 39 Rapid Transit Authority that has become final and binding upon its local government by  
 40 compliance with the provisions of Section 24 of said Act and approval of the voters as  
 41 therein required, shall be authorized to levy a retail sales and use tax upon the retail  
 42 purchase, retail sale, rental, storage, use or consumption of tangible personal property, and  
 43 the services described and set forth in Ga. L. 1951, p. 360, as amended, on sales, uses and  
 44 services rendered, in the geographical area governed by such local government. Provided,  
 45 in the event Clayton County acting for and on behalf of the Clayton County-Atlanta Airport  
 46 Public Transportation District that may be created in accordance with Section 24(1) of this  
 47 Act and the Authority enter into a rapid transit contract pursuant to Section 24 of this Act,  
 48 said retail sales and use tax shall be levied only within the geographical area contained  
 49 within said District. Provided, however, the tax herein authorized shall not be levied by  
 50 any local government unless the same is also levied in the geographical areas of Fulton  
 51 ~~and~~, DeKalb, and Clayton Counties. The tax imposed shall correspond, so far as  
 52 practicable, except as to rate, with the Georgia Retailers' and Consumers' Sales and Use  
 53 Tax Act, approved February 20, 1951 (Ga. L. 1951, p. 360), as amended, and as it may be  
 54 from time to time amended. Provided, however, that no tax shall be imposed upon the sale  
 55 of tangible personal property which is ordered by and delivered to the purchaser at a point  
 56 outside the geographical area in which the tax is imposed, regardless of the point at which  
 57 title passes, if such delivery is made by the seller's vehicle, U.S. mail, common carrier or  
 58 by private or contract carrier licensed by the Interstate Commerce Commission or the  
 59 Georgia Public Service Commission. Provided further that the tax authorized to be levied  
 60 herein shall apply, any law to the contrary notwithstanding, to the retail sale, rental,

61 storage, use, or consumption of motor fuel as the term 'motor fuel' is defined by Code  
62 Section 92-1402 or, after January 1, 1980, by Code Section 91A-5002.

63 (b)(1) Rate of Tax. ~~The~~ Except as otherwise provided for in Section 25A, the tax when  
64 levied shall be at the rate of one (1%) percent until and including June 30, 2057, and shall  
65 thereafter be reduced to one-half (1/2%) of one percent. Said tax shall be added to the  
66 State Sales and Use Tax imposed by Article 1 of Chapter 8 of Title 48 of the O.C.G.A.,  
67 and the State Revenue Commissioner is hereby authorized and directed to establish a  
68 bracket system by appropriate rules and regulations to collect the tax herein imposed in  
69 the areas affected.

70 (2)(A) A local governing body which, on January 1, 1988, is not a party to the Rapid  
71 Transit Contract and Assistance Agreement specified in subsection (k) of this Section  
72 may enter into a rapid transit contract to provide public transportation services and  
73 facilities other than any extension of or addition to the Authority's existing rail rapid  
74 transit system and may levy a retail sales and use tax authorized under subsection (a)  
75 of this Section at the rate of one (1%) percent, except as otherwise provided for in  
76 Section 25A. Such contract shall require that the costs of the transportation services  
77 and facilities contracted for, as determined by the Board of Directors on the basis of  
78 reasonable estimates, allocation of costs and capital, and projections shall be borne by  
79 one or more of the following:

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

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

89 (B) In the event a local governing body which has entered into a rapid transit contract  
90 as authorized by subparagraph (A) of this paragraph thereafter determines that any  
91 extension of or addition to the Authority's existing rail rapid transit system should be  
92 constructed and operated within the territory of such local government, a separate rapid  
93 transit contract shall be required to provide for the local government's proper share of  
94 financing any such contemplated rapid transit project, and no retail sales and use tax  
95 authorized under subsection (a) of this Section may be levied to fulfill the obligations  
96 under that separate contract except at the rate of one (1%) percent or as provided for in  
97 Section 25A. A separate rapid transit contract required by this subparagraph shall not

98 be subject to the limitations of divisions (i) through (iv) of subparagraph (A) of this  
 99 paragraph but shall be subject to the limitations regarding the use of the tax proceeds  
 100 for the operating costs of the system under subsection (i) of this Section.

101 (C) A tax levied under this paragraph shall be added to the State Sales and Use Tax  
 102 imposed by Article 1 of Chapter 8 of Title 48 of the O.C.G.A., and the State Revenue  
 103 Commissioner is authorized and directed to establish a bracket system by appropriate  
 104 rules and regulations to collect the tax imposed under this paragraph in the areas  
 105 affected. Nothing in this paragraph shall be construed to require that any tax levied at  
 106 a rate specified by this paragraph or Section 25A be reduced as provided for the ~~one~~  
 107 ~~(1%)~~ percent tax levied pursuant to paragraph (1) of this subsection.

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

113 "(k) ~~The~~ Except as otherwise provided in Section 25A, the Authority shall use the proceeds  
 114 of the tax levied pursuant to this Act and the proceeds from bonds or certificates issued by  
 115 the Authority for the following purposes and in the following order of priorities: First, for  
 116 the purposes and in the manner required by any trust indenture or other agreement with or  
 117 for the benefit of bondholders, including payment of the principal of or premium or interest  
 118 upon bonds or certificates issued by the Authority or to create a reserve for that purpose;  
 119 second, to pay the operating costs of the system as defined in subsection 25(i) of this Act,  
 120 to pay the general administrative expenses of the Authority, to purchase, construct, replace,  
 121 and maintain buses and facilities necessary for the operation, repair, and maintenance of  
 122 buses, to purchase on terms advantageous to the Authority real property necessary and  
 123 appropriate to construct, complete, and operate the rapid transit system described in the  
 124 Rapid Transit Contract and Assistance Agreement by and between the Authority, the  
 125 counties of Fulton and DeKalb and the City of Atlanta dated September 1, 1971, as now  
 126 and hereafter amended, and to complete and operate those portions of the Authority's rapid  
 127 transit system defined as Phase 'A' in those contracts existing on the effective date of this  
 128 Act between the Authority and the Urban Mass Transportation Administration of the  
 129 United States Department of Transportation; and third, to construct, complete, and operate  
 130 that portion of the rail system described as Phases A, B, and C in the Rapid Transit  
 131 Contract and Assistance Agreement by and between the Authority, the counties of Fulton  
 132 and DeKalb, and the City of Atlanta, dated September 1, 1971, as amended, in the  
 133 following manner and order of priority: (1) Phase A; (2) Phase B; (3) That portion of Phase  
 134 C extending from Lenox Road to Brookhaven on the Northeast Line and from Lakewood

135 to East Point on the South Line, with completion of Brookhaven occurring before  
 136 completion of East Point; (4) That portion of Phase C extending from Brookhaven to  
 137 Chamblee on the Northeast Line; (5) That portion of Phase C extending from East Point  
 138 to College Park to the mid-field terminal in Clayton County, Georgia, at the Hartsfield  
 139 International Airport on the South Line and Southwest Branch; and (6) That portion of  
 140 Phase C extending from Chamblee to Doraville on the Northeast Line. This subsection (k)  
 141 shall not be construed to change either any limitations upon the use of the proceeds of the  
 142 tax levied pursuant to this Act imposed by subsection (i) of this Section 25 or any  
 143 limitations upon the use of the proceeds of bonds or certificates issued by the Authority  
 144 imposed by this Act. The provisions of this subsection shall not be construed so as to  
 145 prohibit the Authority from utilizing its available revenues for technical studies nor from  
 146 utilizing available revenues to construct, complete, and operate those portions of the  
 147 Authority's rapid transit system contained in Phases D and E of the system as set forth in  
 148 and defined by the Ninth Amendment to the Rapid Transit Contract and Assistance  
 149 Agreement so long as the Authority has available sufficient funds, grants-in-aid, proceeds  
 150 of unissued bonds, or other sources of revenue to construct, complete, and operate Phases  
 151 A, B, and C of the rapid transit system and is proceeding with the design and construction  
 152 thereof."

153 **SECTION 3.**

154 Said Act is further amended by adding a new Section to read as follows:

155 "SECTION 25A.

156 Additional Retail Sales and Use Tax.

157 (a)(1) For purposes of this Section, the term 'local jurisdiction' means the governing  
 158 bodies of those local governments which have entered into a rapid transit contract with  
 159 the Metropolitan Atlanta Rapid Transit Authority, in accordance with the provisions of  
 160 Section 24 of this Act and approval of the voters as therein required, and have authorized  
 161 the levy of a one (1%) percent tax.

162 (2) Local jurisdictions shall be authorized to levy an additional one-half (1/2%) percent  
 163 retail sales and use tax under the provisions set forth in this Section. A referendum shall  
 164 be held at the 2016 general election in each local jurisdiction as provided for by this  
 165 Section; provided, however, that any such local jurisdiction may elect to not hold such  
 166 referendum within such jurisdiction, or to hold such referendum on the date of the  
 167 November, 2017, municipal general election, by the adoption of a resolution or ordinance  
 168 by its governing body to that effect on or prior to June 30, 2016. Such additional one-half

169 (1/2%) percent tax shall not count toward any local sales tax cap provided for by law and  
170 may be imposed notwithstanding the provisions of Code Section 48-8-6 of the O.C.G.A.  
171 Except as provided for to the contrary in this Section, such additional one-half (1/2%)  
172 percent tax shall be collected in the same manner and under the same conditions as set  
173 forth in Section 25 of this Act.

174 (b)(1) No later than May 31, of the year a referendum is to be called for as provided in  
175 this Section, the Authority shall submit to each local jurisdiction a preliminary list of  
176 rapid transit projects within or serving the geographical area of such local jurisdiction  
177 which may be funded in whole or in part by the proceeds of the additional levy authorized  
178 by this Section.

179 (2) No later than July 31, of the year a referendum is to be called for as provided in this  
180 Section, the Authority shall submit to each local jurisdiction electing to hold a  
181 referendum provided for in this Section a final list of rapid transit projects within or  
182 serving such local jurisdiction to be funded in whole or in part by the proceeds of the  
183 additional levy authorized by this Section. Such final list of rapid transit projects shall  
184 be incorporated into the rapid transit contract established under Section 24 of this Act  
185 between the Authority and the local jurisdiction upon approval of the referendum to levy  
186 an additional one-half (1/2%) percent by the qualified voters of the territory of a local  
187 jurisdiction.

188 (c) Before the additional levy authorized under this Section shall become valid, the levy  
189 shall be approved by a majority of qualified voters of the territory of the local government  
190 electing to hold a referendum. The procedure for holding the referendum called for in this  
191 Section shall be as follows: There shall be published in a newspaper having general  
192 circulation throughout the territory of the local government involved, once each week for  
193 four weeks immediately preceding the week during which the referendum is to be held, a  
194 notice to the electors thereof that on the day named therein an election will be held to  
195 determine the question of whether or not an additional sales and use tax of one-half (1/2%)  
196 percent should be collected in the territory for the purpose of expanding and enhancing the  
197 rapid transit system. Such election shall be held in all the election districts within the  
198 territorial limits of the local government involved except that an election called by the local  
199 governing body of any county within the metropolitan area shall not be held in any part of  
200 such county which is within the territorial limits of the City of Atlanta. The question to be  
201 presented to the electorate in any such referendum shall be stated on the ballots or ballot  
202 labels as follows:

203 Shall an additional sales and use tax of one-half (1/2%) percent be collected in (Insert  
 204 name of City or County) for the purpose of significantly expanding and enhancing  
 205 MARTA rail service to reduce traffic congestion and create jobs?

206 YES \_\_\_\_\_ NO \_\_\_\_\_

207 The question shall be published as a part of the aforesaid notice of election. Each such  
 208 election called by the governing body of a county within the metropolitan area under the  
 209 provisions of this subsection shall be governed, held, and conducted in accordance with the  
 210 provisions of law from time to time governing the holding of elections to elect members  
 211 to the General Assembly of this state. After the returns of such an election have been  
 212 received, and the same have been canvassed and computed, the result shall be certified to  
 213 the local governing body which called the election, in addition to any other person  
 214 designated by law to receive the same, and such governing body shall officially declare the  
 215 result thereof. Each election called by the governing body of the City of Atlanta under the  
 216 provisions of this subsection shall be governed by and conducted in accordance with the  
 217 provisions of law at the time governing the holding of elections by said City. The expense  
 218 of any such election called by the governing body of the City of Atlanta shall be paid by  
 219 the City of Atlanta.

220 (d) If a majority of those voting in such an election vote in favor of the proposition  
 221 submitted, then the contract between the Authority and the local jurisdiction shall authorize  
 222 the levy and collection of an additional one-half (1/2%) percent sales and use tax, and the  
 223 final list provided for in paragraph (2) of subsection (b) of this Section shall be  
 224 incorporated therein. All of the proceeds derived from the additional one-half (1/2%)  
 225 percent shall be first allocated for payment of the cost of the rapid transit projects  
 226 incorporated in the contract, except as otherwise provided by the terms of such rapid transit  
 227 contract, including, without limitation, any escrow requirements applicable to Clayton  
 228 County, and thereafter, upon completion and payment of such rapid transit projects, as  
 229 provided for in the rapid transit contract and this Act. It shall be the policy of the Authority  
 230 to provide that the levy collected under this Section in an amount greater than the cost of  
 231 the rapid transit projects incorporated in the contract shall be expended solely within and  
 232 for the benefit of each local jurisdiction in which such levy is collected; provided, however,  
 233 that if the levy authorized under this Section is approved by all local jurisdictions, then any  
 234 such excess amount shall be expended for the completion and payment of costs of rapid  
 235 transit projects provided for in paragraph (2) of subsection (b) of this Section for all local  
 236 jurisdictions and as otherwise provided for in this Act. The levy provided for by Article  
 237 5A of Chapter 8 of Title 48 of the O.C.G.A. shall not be imposed at a rate exceeding  
 238 one-half (1/2%) percent in any part of any jurisdiction in which the levy provided for by  
 239 this Section has been approved.

240 (e) If a majority of those voting in a local jurisdiction in an election provided for by this  
241 Section on the date of the 2016 general election vote against the proposition submitted,  
242 such local jurisdiction may elect to resubmit such proposition on the date of the November,  
243 2017, municipal general election by the adoption of a resolution or ordinance by its  
244 governing authority to that effect on or prior to June 30, 2017, subject to the provisions of  
245 this Section.

246 (f) The Authority shall maintain a record of the incurred and projected cost of each rapid  
247 transit project incorporated into a rapid transit contract under paragraph (2) subsection (b)  
248 of this Section and shall, no less than annually, provide such record to the local jurisdiction  
249 whose rapid transit contract includes such project. The Authority shall notify such local  
250 jurisdiction upon the completion of payment of all costs of each rapid transit project  
251 incorporated into a rapid transit contract under the provisions of this Section. Upon  
252 completion of such projects and the full payment of all bonds and interest thereon and any  
253 other obligations or indebtedness incurred for such projects, a local jurisdiction may adopt  
254 a resolution or ordinance to abolish the additional one-half (1/2%) percent sales and use tax  
255 or decrease such levy in increments of one-tenth (1/10%) percent, with such excess funds  
256 collected over the levy authorized under Section 25 of this Act to pay the operation and  
257 maintenance of such rapid transit projects."

258

**SECTION 4.**

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