

House Bill 386

By: Representatives Mitchell of the 88<sup>th</sup> and Mosby of the 83<sup>rd</sup>

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 provide for the levy of a retail sales and use tax by DeKalb County  
3 for the purpose of providing public transportation of passengers for hire through the  
4 Metropolitan Atlanta Rapid Transit Authority; to provide for definitions; to provide for  
5 procedures, conditions, and limitations for the imposition of such tax; to provide for selection  
6 of projects for such purposes; to provide for a referendum; to provide for a limitation on the  
7 collection of a tax for transportation purposes in certain instances; to amend Code Section  
8 48-8-6 of the Official Code of Georgia Annotated, relating to prohibition of political  
9 subdivisions from imposing various taxes and ceiling on local sales and use taxes, so as to  
10 provide for an exception to the 2 percent limitation on local sales and use taxes; to provide  
11 for related matters; to provide for an effective date; to repeal conflicting laws; and for other  
12 purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

15 Chapter 9 of Title 32 of the Official Code of Georgia Annotated, relating to mass  
16 transportation, is amended by adding a new Code section to read as follows:

17 "32-9-13.1.

18 (a) As used in this Code section, the term:

19 (1) 'Authority' means the authority created by the MARTA Act.

20 (2) 'County' means DeKalb County.

21 (3) 'MARTA Act' means an Act known as the 'Metropolitan Atlanta Rapid Transit  
22 Authority Act of 1965,' approved March 10, 1965 (Ga. L. 1965, p. 2243), as amended.

23 (b) Any provisions to the contrary in the MARTA Act notwithstanding and pursuant to the  
24 authority granted under a provision of the Constitution ratified and approved pursuant to  
25 Ga. L. 1964, p. 1008, the county shall be authorized to levy a retail sales and use tax of .50  
26 percent under the provisions set forth in this Code section. Such tax shall be in addition

27 to any tax which is authorized and collected under the MARTA Act. The county may elect  
 28 to hold a referendum in 2017 as provided for by this Code section by the adoption of a  
 29 resolution or ordinance by its governing body on or prior to June 30, 2017. Such additional  
 30 tax shall not count toward any local sales tax limitation provided for by Code Section  
 31 48-8-6. Any tax imposed under this Code section shall run concurrently as to duration of  
 32 the levy with the 1 percent tax currently levied pursuant to the MARTA Act.

33 (c)(1) No later than May 31 of the year a referendum is to be called for as provided in  
 34 this Code section, the authority shall submit to the county a preliminary list of rapid  
 35 transit projects within or serving the geographical area of the county which may be  
 36 funded in whole or in part by the proceeds of the additional tax authorized by this Code  
 37 section.

38 (2) No later than July 31 of the year a referendum is to be called for as provided in this  
 39 Code section, the authority shall submit to the county a final list of rapid transit projects  
 40 within or serving the county to be funded in whole or in part by the proceeds of the tax  
 41 authorized by this Code section. Such final list of rapid transit projects shall be  
 42 incorporated into the rapid transit contract established under Section 24 of the MARTA  
 43 Act between the authority and the county upon approval by the qualified voters of the  
 44 county of the referendum to levy the additional tax authorized by this Code section.

45 (d) Before the additional tax authorized under this Code section shall become valid, the  
 46 tax shall be approved by a majority of qualified voters of the county in a referendum  
 47 thereon. The procedure for holding the referendum called for in this Code section shall be  
 48 as follows: There shall be published in a newspaper having general circulation throughout  
 49 the county, once each week for four weeks immediately preceding the week during which  
 50 the referendum is to be held, a notice to the electors thereof that on the day named therein  
 51 an election will be held to determine the question of whether or not the tax authorized by  
 52 this Code section should be collected in the county for the purpose of expanding and  
 53 enhancing the rapid transit system. Such election shall be held in all the election districts  
 54 within the territorial limits of the county. The question to be presented to the electorate in  
 55 any such referendum shall be stated on the ballots or ballot labels as follows:

56 ' ( ) YES Shall an additional sales and use tax of .50 percent be collected in DeKalb  
 57 County for the purpose of significantly expanding and enhancing  
 58 ( ) NO MARTA transit service in DeKalb County?'

59 The question shall be published as a part of the aforesaid notice of election. Each such  
 60 election shall be governed, held, and conducted in accordance with the provisions of law  
 61 from time to time governing the holding of special elections. After the returns of such an  
 62 election have been received, and the same have been canvassed and computed, the result  
 63 shall be certified to the governing body of the county, in addition to any other person

64 designated by law to receive the same, and such governing body shall officially declare the  
65 result thereof. Each election called by the governing body of the county under the  
66 provisions of this Code section shall be governed by and conducted in accordance with the  
67 provisions of law governing the holding of elections by the county. The expense of any  
68 such election shall be paid by the county.

69 (e) If a majority of those voting in such an election vote in favor of the proposition  
70 submitted, then the rapid transit contract between the authority and the county shall  
71 authorize the levy and collection of the tax provided for by this Code section, and the final  
72 list provided for in paragraph (2) of subsection (c) of this Code section shall be  
73 incorporated therein. All of the proceeds derived from the additional tax provided for by  
74 this Code section shall be first allocated for payment of the cost of the rapid transit projects  
75 incorporated in such contract, except as otherwise provided by the terms of such rapid  
76 transit contract, and thereafter, upon completion and payment of such rapid transit projects,  
77 as provided for in such contract and this Code section. It shall be the policy of the  
78 authority to provide that the tax collected under this Code section in an amount exceeding  
79 the cost of the rapid transit projects incorporated in the contract shall be expended solely  
80 within and for the benefit of the county. When a tax is imposed under this Code section,  
81 the effective rate of any tax approved as provided for by Article 5A of Chapter 8 of Title  
82 48 shall be reduced within the boundaries of the county by crediting against such tax in  
83 each transaction an amount of payments of the tax provided for by this Code section such  
84 that the effective rate of such tax, when combined with the rate of the tax provided for by  
85 this Code section, shall not exceed a rate of 1 percent at any time on any transaction within  
86 the county. If the tax provided for by this Code section is imposed and such county also  
87 imposes the tax provided for by Article 5A of Chapter 8 of Title 48, then the governing  
88 authority shall adjust the project lists provided for by paragraph (2) of subsection (c) of this  
89 Code section and paragraph (2) of subsection (b) of Code Section 48-8-262 to take into  
90 account the differential rates of taxation.

91 (f)(1) Except as provided for to the contrary in this Code section, the additional tax  
92 provided for by this Code section shall be collected in the same manner and under the  
93 same conditions as set forth in Section 25 of the MARTA Act.

94 (2) The tax provided for by this Code section shall not be subject to any restrictions as  
95 to rate provided for by the MARTA Act and shall not be subject to the provisions of  
96 paragraph (2) of subsection (b) or subsection (k) of Section 25 of the MARTA Act.

97 (3) A tax levied under this paragraph shall be added to the state sales and use tax  
98 imposed by Article 1 of Chapter 8 of Title 48, and the state revenue commissioner is  
99 authorized and directed to establish a bracket system by appropriate rules and regulations  
100 to collect the tax imposed under this paragraph in the county."

101 **SECTION 2.**

102 Code Section 48-8-6 of the Official Code of Georgia Annotated, relating to prohibition of  
103 political subdivisions from imposing various taxes and ceiling on local sales and use taxes,  
104 is amended by revising subparagraph (a)(2)(C) as follows:

105 "(C) In a county in which a tax is levied and collected pursuant to ~~Part 2~~ of Article 2A  
106 of this chapter;"

107 **SECTION 3.**

108 This Act shall become effective upon approval by the Governor or upon becoming law  
109 without such approval.

110 **SECTION 4.**

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