

Senate Bill 261

By: Senators Butler of the 55th and Henson of the 41st

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
3 procedures, conditions, and limitations for the imposition of an additional retail sales and use
4 tax in DeKalb County; to provide for the selection and submission of rapid transit projects
5 to be funded by the revenue of such tax; to provide for a limitation on the collection of a tax
6 for transportation purposes in certain instances and the imposition of an additional retail sales
7 and use tax in certain instances; to provide for a referendum; to provide for related matters;
8 to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 SECTION 1.

11 An Act known as the "Metropolitan Atlanta Rapid Transit Authority Act of 1965," approved
12 March 10, 1965 (Ga. L. 1965, p. 2243), as amended, is amended by revising subsections (a),
13 (b), and (k) of Section 25 as follows:

14 "(a) Authority to Tax. Each of the local governing bodies of those local governments
15 referred to and defined in Section 2 of the Metropolitan Atlanta Rapid Transit Authority
16 Act of 1965 (Ga. L. 1965, p. 2243), as amended, which shall hereafter pursuant to the
17 provisions of said Act enter into a rapid transit contract with the Metropolitan Atlanta
18 Rapid Transit Authority that has become final and binding upon its local government by
19 compliance with the provisions of Section 24 of said Act and approval of the voters as
20 therein required, shall be authorized to levy a retail sales and use tax upon the retail
21 purchase, retail sale, rental, storage, use or consumption of tangible personal property, and
22 the services described and set forth in Ga. L. 1951, p. 360, as amended, on sales, uses and
23 services rendered, in the geographical area governed by such local government. Provided,
24 in the event Clayton County acting for and on behalf of the Clayton County-Atlanta Airport
25 Public Transportation District that may be created in accordance with Section 24(1) of this
26 Act and the Authority enter into a rapid transit contract pursuant to Section 24 of this Act,

27 said retail sales and use tax shall be levied only within the geographical area contained
 28 within said District. Provided, however, the tax herein authorized shall not be levied by
 29 any local government unless the same is also levied in the geographical areas of Fulton
 30 ~~and~~, DeKalb, and Clayton Counties. The tax imposed shall correspond, so far as
 31 practicable, except as to rate, with the Georgia Retailers' and Consumers' Sales and Use
 32 Tax Act, approved February 20, 1951 (Ga. L. 1951, p. 360), as amended, and as it may be
 33 from time to time amended. Provided, however, that no tax shall be imposed upon the sale
 34 of tangible personal property which is ordered by and delivered to the purchaser at a point
 35 outside the geographical area in which the tax is imposed, regardless of the point at which
 36 title passes, if such delivery is made by the seller's vehicle, U.S. mail, common carrier or
 37 by private or contract carrier licensed by the Interstate Commerce Commission or the
 38 Georgia Public Service Commission. Provided further that the tax authorized to be levied
 39 herein shall apply, any law to the contrary notwithstanding, to the retail sale, rental,
 40 storage, use, or consumption of motor fuel as the term 'motor fuel' is defined by Code
 41 Section 92-1402 or, after January 1, 1980, by Code Section 91A-5002.

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

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

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

64 Notwithstanding any limitation in subsection (I) of this Section or any other provision
 65 of this Act, the proceeds of the retail sales and use tax levied pursuant to this
 66 subparagraph may be used in their entirety to pay the operating costs of the system, as
 67 defined in that subsection (I).

68 (B) In the event a local governing body which has entered into a rapid transit contract
 69 as authorized by subparagraph (A) of this paragraph thereafter determines that any
 70 extension of or addition to the Authority's existing rail rapid transit system should be
 71 constructed and operated within the territory of such local government, a separate rapid
 72 transit contract shall be required to provide for the local government's proper share of
 73 financing any such contemplated rapid transit project, and no retail sales and use tax
 74 authorized under subsection (a) of this Section may be levied to fulfill the obligations
 75 under that separate contract except at the rate of one (1%) percent or as provided for in
 76 Section 25A. A separate rapid transit contract required by this subparagraph shall not
 77 be subject to the limitations of divisions (I) through (iv) of subparagraph (A) of this
 78 paragraph but shall be subject to the limitations regarding the use of the tax proceeds
 79 for the operating costs of the system under subsection (I) of this Section.

80 (C) A tax levied under this paragraph shall be added to the State Sales and Use Tax
 81 imposed by Article 1 of Chapter 8 of Title 48 of the O.C.G.A., and the State Revenue
 82 Commissioner is authorized and directed to establish a bracket system by appropriate
 83 rules and regulations to collect the tax imposed under this paragraph in the areas
 84 affected. Nothing in this paragraph shall be construed to require that any tax levied at
 85 a rate specified by this paragraph or Section 25A be reduced as provided for the ~~one~~
 86 ~~(1%) percent~~ tax levied pursuant to paragraph (1) of this subsection.

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

92 "(k) ~~The~~ Except as otherwise provided in Section 25A, the Authority shall use the proceeds
 93 of the tax levied pursuant to this Act and the proceeds from bonds or certificates issued by
 94 the Authority for the following purposes and in the following order of priorities: First, for
 95 the purposes and in the manner required by any trust indenture or other agreement with or
 96 for the benefit of bondholders, including payment of the principal of or premium or interest
 97 upon bonds or certificates issued by the Authority or to create a reserve for that purpose;
 98 second, to pay the operating costs of the system as defined in subsection 25(I) of this Act,
 99 to pay the general administrative expenses of the Authority, to purchase, construct, replace,
 100 and maintain buses and facilities necessary for the operation, repair, and maintenance of

101 buses, to purchase on terms advantageous to the Authority real property necessary and
102 appropriate to construct, complete, and operate the rapid transit system described in the
103 Rapid Transit Contract and Assistance Agreement by and between the Authority, the
104 counties of Fulton and DeKalb and the City of Atlanta dated September 1, 1971, as now
105 and hereafter amended, and to complete and operate those portions of the Authority's rapid
106 transit system defined as Phase 'A' in those contracts existing on the effective date of this
107 Act between the Authority and the Urban Mass Transportation Administration of the
108 United States Department of Transportation; and third, to construct, complete, and operate
109 that portion of the rail system described as Phases A, B, and C in the Rapid Transit
110 Contract and Assistance Agreement by and between the Authority, the counties of Fulton
111 and DeKalb, and the City of Atlanta, dated September 1, 1971, as amended, in the
112 following manner and order of priority: (1) Phase A; (2) Phase B; (3) That portion of Phase
113 C extending from Lenox Road to Brookhaven on the Northeast Line and from Lakewood
114 to East Point on the South Line, with completion of Brookhaven occurring before
115 completion of East Point; (4) That portion of Phase C extending from Brookhaven to
116 Chamblee on the Northeast Line; (5) That portion of Phase C extending from East Point
117 to College Park to the mid-field terminal in Clayton County, Georgia, at the Hartsfield
118 International Airport on the South Line and Southwest Branch; and (6) That portion of
119 Phase C extending from Chamblee to Doraville on the Northeast Line. This subsection (k)
120 shall not be construed to change either any limitations upon the use of the proceeds of the
121 tax levied pursuant to this Act imposed by subsection (I) of this Section 25 or any
122 limitations upon the use of the proceeds of bonds or certificates issued by the Authority
123 imposed by this Act. The provisions of this subsection shall not be construed so as to
124 prohibit the Authority from utilizing its available revenues for technical studies nor from
125 utilizing available revenues to construct, complete, and operate those portions of the
126 Authority's rapid transit system contained in Phases D and E of the system as set forth in
127 and defined by the Ninth Amendment to the Rapid Transit Contract and Assistance
128 Agreement so long as the Authority has available sufficient funds, grants-in-aid, proceeds
129 of unissued bonds, or other sources of revenue to construct, complete, and operate Phases
130 A, B, and C of the rapid transit system and is proceeding with the design and construction
131 thereof."

132

SECTION 2.

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

134 "SECTION 25A.

135 Additional Retail Sales and Use Tax for DeKalb County.

136 (a) DeKalb County shall be authorized to levy an additional retail sales and use tax up to
 137 one-half (1/2%) percent under the provisions set forth in this Section. A referendum shall
 138 be held as provided for by this Section. Except as provided for to the contrary in this
 139 Section, such additional tax shall be collected in the same manner and under the same
 140 conditions as set forth in Section 25 of this Act.

141 (b)(1) No later than 60 days after the passage of an ordinance or resolution calling for
 142 a referendum as provided in this Section, the Authority shall submit to the governing
 143 authority of DeKalb County a list of rapid transit projects within or serving the
 144 geographical area of the county which may be funded in whole or in part by the proceeds
 145 of the additional tax authorized by this Section.

146 (2) No later than 30 days after the passage of an ordinance or resolution calling for a
 147 referendum as provided in this Section, the Authority shall submit to the governing
 148 authority of DeKalb County a final list of rapid transit projects within or serving the
 149 county to be funded in whole or in part by the proceeds of the additional tax authorized
 150 by this Section. Such final list of rapid transit projects shall be incorporated into the rapid
 151 transit contract established under Section 24 of this Act between the Authority and
 152 DeKalb County upon approval of the referendum to levy the additional tax authorized by
 153 this Section by the qualified voters of the county.

154 (c) Before the additional tax authorized under this Section shall become valid, the tax shall
 155 be approved by a majority of qualified voters of the county. The procedure for holding the
 156 referendum called for in this Section shall be as follows: There shall be published in a
 157 newspaper having general circulation throughout the county, once each week for four
 158 weeks immediately preceding the week during which the referendum is to be held, a notice
 159 to the electors thereof that on the day named therein an election will be held to determine
 160 the question of whether or not the additional tax authorized by this Section should be
 161 collected in the county for the purpose of expanding and enhancing the rapid transit system.
 162 Such election shall be held in all the election districts within the territorial limits of the
 163 county except that an election shall not be held in any part of the county which is within
 164 the territorial limits of the City of Atlanta. The ballot submitting the question of the
 165 imposition of the tax to the voters shall have written or printed thereon the following:

166 'Shall an additional sales and use tax of .50 percent be collected in DeKalb County for the
 167 purpose of significantly expanding and enhancing MARTA transit service in DeKalb
 168 County?

169 YES _____ NO _____'

170 The question shall be published as a part of the aforesaid notice of election. Such election
 171 shall be governed, held, and conducted in accordance with the provisions of law from time
 172 to time governing the holding of elections to elect members to the General Assembly of
 173 this state. After the returns of such an election have been received, and the same have been
 174 canvassed and computed, the result shall be certified to the governing body of the county,
 175 in addition to any other person designated by law to receive the same, and such governing
 176 body shall officially declare the result thereof. The expense of any such election called by
 177 the county shall be paid by the county.

178 (d) If a majority of those voting in such an election vote in favor of the proposition
 179 submitted, then the contract between the Authority and the county shall authorize the tax
 180 and collection of an additional sales and use tax provided for by this Section, and the final
 181 list provided for in paragraph (2) of subsection (b) of this Section shall be incorporated
 182 therein. All of the proceeds derived from the additional tax provided for by this Section
 183 shall be first allocated for payment of the cost of the rapid transit projects incorporated in
 184 the contract, except as otherwise provided by the terms of such rapid transit contract, and
 185 thereafter, upon completion and payment of such rapid transit projects, as provided for in
 186 the rapid transit contract and this Act. It shall be the policy of the Authority to provide that
 187 the tax collected under this Section in an amount greater than the cost of the rapid transit
 188 projects incorporated in the contract shall be expended solely within and for the benefit of
 189 the county. When a tax is imposed under this Section, the effective rate of any tax
 190 approved as provided for by Article 5A of Chapter 8 of Title 48 of the O.C.G.A. shall be
 191 reduced within the boundaries of the county by crediting against such tax in each
 192 transaction an amount of payments of the tax provided for by this Section such that the
 193 effective rate of such tax, when combined with the rate of the additional tax provided for
 194 by this Section, shall not exceed a rate of one (1%) percent at any time on any transaction
 195 within the county. If the tax provided for by this Section is imposed, and the county also
 196 imposes the tax provided for by Article 5A of Chapter 8 of Title 48 of the O.C.G.A., then
 197 the Authority and the governing authority of the county shall enter into an
 198 intergovernmental agreement to adjust the project lists provided for by paragraph (2) of
 199 subsection (b) of this Section and paragraph (2) of subsection (b) of Code Section 48-8-262
 200 pertaining to the county to take into account the differential rates of taxation."

201 **SECTION 3.**

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