

Senate Bill 386

By: Senators Beach of the 21st, Gooch of the 51st, Miller of the 49th, Cowsert of the 46th and Mullis of the 53rd

AS PASSED SENATE

**A BILL TO BE ENTITLED
AN ACT**

1 To amend Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to sales
2 and use taxes, so as to provide for an exception to the ceiling on local sales and use taxes; to
3 provide for the imposition of a transit special purpose local option sales and use tax within
4 special districts; to establish special districts; to provide for definitions, procedures,
5 conditions, and limitations for the imposition, collection, disbursement, and termination of
6 the tax; to provide for powers, duties, and authority of the state revenue commissioner; to
7 provide for other matters relative to the foregoing; to amend Chapter 32 of Title 50 of the
8 Official Code of Georgia Annotated, relating to the Georgia Regional Transportation
9 Authority, so as to create the Atlanta-region Transit Link "ATL" Commission to serve as a
10 division within such authority; to provide for purposes of such commission; to provide for
11 definitions; to provide for composition of the board of directors of such commission; to
12 provide for powers and duties of such commission; to provide for the establishment of a
13 special fund to carry out the purposes of the commission; to provide for immunity; to provide
14 for related matters; to repeal conflicting laws; and for other purposes.

15 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

16 **SECTION 1.**

17 Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to state sales and
18 use taxes, is amended in Code Section 48-8-6, relating to prohibition of political subdivisions
19 from imposing various taxes, ceiling on local sales and use taxes, and taxation of mobile
20 telecommunications, by revising subsection (a) as follows:

21 "(a) There shall not be imposed in any jurisdiction in this state or on any transaction in this
22 state local sales taxes, local use taxes, or local sales and use taxes in excess of 2 percent.
23 For purposes of this prohibition, the taxes affected are any sales tax, use tax, or sales and
24 use tax which is levied in an area consisting of less than the entire state, however
25 authorized, including such taxes authorized by or pursuant to constitutional amendment,

26 except that the following taxes shall not count toward or be subject to such 2 percent
27 limitation:

28 (1) A sales and use tax for educational purposes exempted from such limitation under
29 Article VIII, Section VI, Paragraph IV of the Constitution;

30 (2) Any tax levied for purposes of a metropolitan area system of public transportation,
31 as authorized by the amendment to the Constitution set out at Georgia Laws, 1964,
32 page 1008; the continuation of such amendment under Article XI, Section I,
33 Paragraph IV(d) of the Constitution; and the laws enacted pursuant to such constitutional
34 amendment; provided, however, that the exception provided for under this paragraph
35 shall only apply:

36 (A) In a county in which a tax is being imposed under subparagraph (a)(1)(D) of Code
37 Section 48-8-111 in whole or in part for the purpose or purposes of a water capital
38 outlay project or projects, a sewer capital outlay project or projects, a water and sewer
39 capital outlay project or projects, water and sewer projects and costs as defined under
40 paragraph (4) of Code Section 48-8-200, or any combination thereof and with respect
41 to which the county has entered into an intergovernmental contract with a municipality,
42 in which the average waste-water system flow of such municipality is not less than 85
43 million gallons per day, allocating proceeds to such municipality to be used solely for
44 water and sewer projects and costs as defined under paragraph (4) of Code
45 Section 48-8-200. The exception provided for under this subparagraph shall apply only
46 during the period the tax under such subparagraph (a)(1)(D) is in effect. The exception
47 provided for under this subparagraph shall not apply in any county in which a tax is
48 being imposed under Article 2A of this chapter;

49 (B) In a county in which the tax levied for purposes of a metropolitan area system of
50 public transportation is first levied after January 1, 2010, and before November 1, 2016.
51 Such tax shall not apply to the following:

52 (i) The sale or use of jet fuel to or by a qualifying airline at a qualifying airport. For
53 purposes of this division, a 'qualifying airline' means any person which is authorized
54 by the Federal Aviation Administration or another appropriate agency of the United
55 States to operate as an air carrier under an air carrier operating certificate and which
56 provides regularly scheduled flights for the transportation of passengers or cargo for
57 hire. For purposes of this division, a 'qualifying airport' means any airport in this state
58 that has had more than 750,000 takeoffs and landings during a calendar year; and

59 (ii) The sale of motor vehicles; or

60 (C) In a county in which a tax is levied and collected pursuant to Part 2 of Article 2A
61 of this chapter;

62 (3) In the event of a rate increase imposed pursuant to Code Section 48-8-96, only the
 63 amount in excess of the initial 1 percent sales and use tax and in the event of a newly
 64 imposed tax pursuant to Code Section 48-8-96, only the amount in excess of a 1 percent
 65 sales and use tax;

66 (4) A sales and use tax levied under Article 4 of this chapter;

67 (5) Either a sales and use tax levied under Article 5 of this chapter or a sales and use
 68 tax levied under Article 5B of this chapter, but not both; and

69 (6) A sales and use tax levied under Article 5A of this chapter.

70 If the imposition of any otherwise authorized local sales tax, local use tax, or local sales
 71 and use tax would result in a tax rate in excess of that authorized by this subsection, then
 72 such otherwise authorized tax may not be imposed."

73 **SECTION 2.**

74 Said chapter is further amended by adding a new article to read as follows:

75 "ARTICLE 5B

76 48-8-269.40.

77 As used in this article, the term:

78 (1) 'Commission' means the Atlanta-region Transit Link 'ATL' Commission created
 79 pursuant to Code Section 50-32-56.

80 (2) 'County' means any county created under the Constitution or laws of this state.

81 (3) 'Dealer' shall have the same meaning as provided for in paragraph (8) of Code
 82 Section 48-8-2.

83 (4) 'Intergovernmental agreement' means a contract entered into pursuant to Article IX,
 84 Section III, Paragraph I of the Constitution.

85 (5) 'Nonattainment area' means those counties currently having or previously deemed to
 86 have excess levels of ozone, carbon monoxide, or particulate matter in violation of the
 87 standards in the federal Clean Air Act, as amended in 1990 and codified at 42 U.S.C.
 88 Section 7401 through Section 7671q and which fall under the jurisdiction exercised by
 89 the Atlanta-region Transit Link 'ATL' Authority or any predecessor authority as described
 90 in Article 2 of Chapter 32 of Title 50.

91 (6) 'Qualified municipality' means a qualified municipality as defined in paragraph (4)
 92 of Code Section 48-8-110 and which is located wholly or partly within a special district.

93 (7) 'Rail based' means designed to be operated upon rail or rails.

94 (8) 'Regional transit plan' means the official multiyear plan for transit services and
 95 facilities adopted pursuant to Code Section 50-32-58.

96 (9) 'Transit' means modes of transportation serving the general public which are
97 appropriate to transport people by highways or rail and which are operated by or under
98 contract with the state, a public agency or authority, a county or municipality, a
99 community improvement district, or any other similar public entity of this state and all
100 accompanying infrastructure and services necessary to provide access to these modes of
101 transportation.

102 (10) 'Transit projects' means and includes purposes to establish, enhance, operate, and
103 maintain, or improve access to transit, including general obligation debt and other
104 multiyear obligations issued to finance such projects.

105 (11) 'Transportation services contract' means a contract to provide transit services,
106 facilities, or both in accordance with standards set forth in Section 24A of the
107 'Metropolitan Atlanta Rapid Transit Authority Act of 1965,' approved March 10, 1965
108 (Ga. L. 1965, p. 2243), as amended.

109 48-8-269.41.

110 (a) Pursuant to the authority granted by Article IX, Section II, Paragraph VI of the
111 Constitution of this state, 159 special districts are created within this state. The
112 geographical boundary of each county shall correspond with and shall be conterminous
113 with the geographical boundary of the 159 special districts created.

114 (b) Any county that is within a nonattainment area may, by following the procedures
115 required by this article, impose within the special district, a transit special purpose local
116 option sales and use tax for a period of 30 years, the proceeds of which shall be used only
117 for transit projects.

118 48-8-269.42.

119 (a) Prior to the issuance of any call for the referendum by any county that desires to levy
120 a tax for transit projects authorized under this article, the county shall determine whether
121 the region has proposed a referendum on a tax under Article 5 of this chapter. This
122 determination shall be based on whether, pursuant to paragraphs (2) and (3) of
123 subsection (c) of Code Section 48-8-245, a majority of the governing authorities of
124 counties within the region containing the county proposing the tax have passed resolutions
125 calling for the levy of a tax under Article 5 of this chapter. If a majority of the governing
126 authorities of the counties in the region have passed such a resolution, the county proposing
127 a tax under this article shall postpone the referendum under this article until the regional
128 referendum has been decided. No ballot shall propose a tax under this article and under
129 Article 5 of this chapter at the same election.

130 (b) Prior to the issuance of any call for the referendum by any county that desires to levy
131 a tax for transit projects authorized under this article, the county shall determine whether
132 the county has proposed a referendum on or is levying a tax under Article 5A of this
133 chapter. If a county has proposed a referendum on a tax under Article 5A of this chapter
134 or is levying a tax under Article 5A of this chapter, no referendum for tax under this article
135 shall be called. No ballot shall propose a tax under this article and under Article 5A of this
136 chapter at the same election.

137 48-8-269.43.

138 (a) Prior to calling a referendum as provided for in this article, any county qualified to levy
139 a tax under this article shall deliver or mail a written notice to the mayor or chief elected
140 official in each qualified municipality located within the special district, the chief executive
141 officer of the Metropolitan Atlanta Rapid Transit Authority, and a designee of the
142 commission prior to the issuance of the call for the referendum. Such notice shall contain
143 the date, time, place, and purpose of a meeting at which the governing authorities of the
144 county and of each qualified municipality and such chief executive officer are to meet to
145 discuss possible transit projects for inclusion in the referendum and the rate of tax. The
146 notice shall be delivered or mailed at least ten days prior to the date of the meeting. Any
147 project list developed at such meeting shall be finalized at least 60 days prior to the
148 issuance of the call for the referendum.

149 (b) Following the meeting required by subsection (a) of this Code section, the county shall
150 deliver or mail a written notice to the commission of the intent to call for such referendum.
151 Such notice shall include a list of transit projects located within such county which the
152 county intends to fund with proceeds from the tax authorized under this article.

153 (c) Upon receipt of such notice from a county, the commission shall have the authority to
154 approve or deny any or all projects within a submitted transit project list. In making a
155 determination upon whether to approve transit projects, the commission shall take into
156 consideration any other transit projects the commission has approved for any neighboring
157 counties, any transit projects in progress in any neighboring counties, and any additional
158 federal or state funding that may be available for any projects. The commission shall make
159 a determination and send notification to a county approving or denying the submitted
160 transit projects no later than 45 days from the receipt of such list.

161 (d) Following receipt of notification approving or denying transit projects and prior to any
162 tax being imposed under this article, the county and all qualified municipalities therein may
163 execute an intergovernmental agreement memorializing their agreement to the levy of a
164 tax. If an intergovernmental agreement is entered into, it shall, at a minimum, include the
165 following:

- 166 (1) A list of the transit projects proposed to be funded from the proceeds of the tax;
 167 (2) An agreement that the operator of any transit services which are not rail based to be
 168 funded by the proceeds of the tax authorized under this article shall be selected by the
 169 commission;
 170 (3) An agreement that all rail based transit services to be funded by the proceeds of the
 171 tax authorized under this article shall be operated by the Metropolitan Atlanta Rapid
 172 Transit Authority or any successor authority;
 173 (4) Copies of transportation services contracts entered into between the county and the
 174 Metropolitan Atlanta Rapid Transit Authority, if applicable;
 175 (5) Record-keeping and audit procedures necessary to carry out the purposes of this
 176 article; and
 177 (6) Such other provisions as the county and qualified municipalities choose to address.
 178 (e) The rate of the tax shall be 1 percent; provided, however, that if the county and all
 179 qualified municipalities fail to enter into the agreements described in paragraphs (2) and (3)
 180 of subsection (d) of this Code section, no tax shall be imposed pursuant to this article.
 181 (f)(1) As soon as practicable after the meeting required in subsection (a) of this Code
 182 section and the execution of an intergovernmental agreement, if applicable, the governing
 183 authority of the county calling for a referendum shall, by a majority vote on a resolution
 184 offered for such purpose, submit the list of transit projects and the question of whether
 185 the tax should be approved to electors of the special district in the next scheduled election
 186 and shall notify the county election superintendent within the special district by
 187 forwarding to the superintendent a copy of such resolution calling for the imposition of
 188 the tax. Such list, or a digest thereof, shall be available during regular business hours in
 189 the office of the county clerk.
 190 (2) The resolution authorized by paragraph (1) of this subsection shall describe or
 191 identify:
 192 (A) The specific transit projects to be funded which have been approved by the
 193 authority;
 194 (B) The approximate cost of such transit projects;
 195 (C) A statement that the Metropolitan Atlanta Rapid Transit Authority shall serve,
 196 through a transportation services contract, as the operator of all rail based transit
 197 services within the county; and
 198 (D) A statement that the commission shall select the operator of any transit services
 199 funded by the proceeds of the tax which are not rail based.

200 48-8-269.44.

201 (a)(1) The ballot submitting the question of the imposition of the tax to the voters within
 202 the special district shall have written or printed thereon the following:

203 ' () YES Shall a special _____ percent sales and use tax be imposed in the special
 204 district consisting of _____ County for transit projects for a period of
 205 () NO 30 years?'

206 (2) If debt is to be issued, the ballot shall also have written or printed thereon, following
 207 the language specified by paragraph (1) of this subsection, the following:

208 'If imposition of the tax is approved by the voters, such vote shall also constitute
 209 approval of the issuance of general obligation debt of _____ in the principal
 210 amount of \$ _____ for the above purpose.'

211 (b) The election superintendent shall issue the call and conduct the election in the manner
 212 authorized by general law. The superintendent shall canvass the returns, declare the result
 213 of the election, and certify the result to the Secretary of State and to the commissioner. The
 214 expense of the election shall be paid from county funds. All persons desiring to vote in
 215 favor of imposing the tax shall vote 'Yes,' and all persons opposed to imposing the tax shall
 216 vote 'No.' If more than one-half of the votes cast throughout the entire special district are
 217 in favor of imposing the tax, then the tax shall be imposed as provided in this article.

218 (c) Where such question is not approved by the voters, the county may resubmit such
 219 question from time to time upon compliance with the requirements of this article.

220 (d)(1) If the intergovernmental agreement, if applicable, and proposal include the
 221 authority to issue general obligation debt and if more than one-half of the votes cast are
 222 in favor of the proposal, then the authority to issue such debt in accordance with
 223 Article IX, Section V, Paragraph I of the Constitution is given to the proper officers of
 224 the county or qualified municipality; otherwise, such debt shall not be issued. If the
 225 authority to issue such debt is so approved by the voters, then such debt may be issued
 226 without further approval by the voters.

227 (2) If the issuance of general obligation debt is included and approved as provided in this
 228 Code section, then the governing authority of the county or qualified municipality may
 229 incur such debt either through the issuance and validation of general obligation bonds or
 230 through the execution of a promissory note or notes or other instrument or instruments.
 231 If such debt is incurred through the issuance of general obligation bonds, such bonds and
 232 their issuance and validation shall be subject to Articles 1 and 2 of Chapter 82 of Title 36
 233 except as specifically provided otherwise in this article. If such debt is incurred through
 234 the execution of a promissory note or notes or other instrument or instruments, no
 235 validation proceedings shall be necessary, and such debt shall be subject to Code Sections
 236 36-80-10 through 36-80-14 except as specifically provided otherwise in this article. In

237 either event, such general obligation debt shall be payable first from the separate account
 238 in which are placed the proceeds received by the county or qualified municipality from
 239 the tax. Such general obligation debt shall, however, constitute a pledge of the full faith,
 240 credit, and taxing power of the county or qualified municipality; and any liability on such
 241 debt which is not satisfied from the proceeds of the tax shall be satisfied from the general
 242 funds of the county or qualified municipality.

243 48-8-269.45.

244 (a)(1) If the imposition of the tax is approved at the election, the tax shall be imposed on
 245 the first day of the next succeeding calendar quarter which begins more than 80 days after
 246 the date of the election at which the tax was approved by the voters.

247 (2) With respect to services which are regularly billed on a monthly basis, however, the
 248 resolution shall become effective with respect to and the tax shall apply to services billed
 249 on or after the effective date specified in paragraph (1) of this subsection.

250 (b) The tax shall cease to be imposed on the earliest of the following dates:

251 (1) If the resolution calling for the imposition of the tax provided for the issuance of
 252 general obligation debt and such debt is the subject of validation proceedings, as of the
 253 end of the first calendar quarter ending more than 80 days after the date on which a court
 254 of competent jurisdiction enters a final order denying validation of such debt;

255 (2) As of the end of the calendar quarter during which the commissioner determines that
 256 the tax will have raised revenues sufficient to complete the transit projects included in the
 257 referendum; or

258 (3) On the final day of the 30 year period of time specified for the imposition of the tax.

259 (c) Following the expiration of a tax under this article, proceedings for the reimposition
 260 of a tax under this article may be initiated in the same manner as provided in this article for
 261 initial imposition of such tax.

262 48-8-269.46.

263 A tax levied pursuant to this article shall be exclusively administered and collected by the
 264 commissioner for the use and benefit of the county and qualified municipalities within the
 265 special district imposing the tax. Such administration and collection shall be accomplished
 266 in the same manner and subject to the same applicable provisions, procedures, and
 267 penalties provided in Article 1 of this chapter; provided, however, that all moneys collected
 268 from each taxpayer by the commissioner shall be applied first to such taxpayer's liability
 269 for taxes owed the state; and provided, further, that the commissioner may rely upon a
 270 representation by or on behalf of the special district or the Secretary of State that such a tax
 271 has been validly imposed, and the commissioner and the commissioner's agents shall not

272 be liable to any person for collecting any such tax which was not validly imposed. Dealers
 273 shall be allowed a percentage of the amount of the tax due and accounted for and shall be
 274 reimbursed in the form of a deduction in submitting, reporting, and paying the amount due
 275 if such amount is not delinquent at the time of payment. The deduction shall be at the rate
 276 and subject to the requirements specified under subsections (b) through (f) of Code
 277 Section 48-8-50.

278 48-8-269.47.

279 Each sales tax return remitting taxes collected under this article shall separately identify
 280 the location of each transaction at which any of the taxes remitted were collected and shall
 281 specify the amount of sales and the amount of taxes collected at each such location for the
 282 period covered by the return in order to facilitate the determination by the commissioner
 283 that all taxes imposed by this article are collected and distributed according to situs of sale.

284 48-8-269.48.

285 The proceeds of the tax collected by the commissioner in each special district under this
 286 article shall be disbursed as soon as practicable after collection as follows:

287 (1) One percent of the amount collected shall be paid into the general fund of the state
 288 treasury in order to defray the costs of administration; and

289 (2) Except for the percentage provided in paragraph (1) of this Code section, the
 290 remaining proceeds of the tax shall be distributed to be paid toward the cost of or debt
 291 incurred, if applicable, in relation to the transit projects listed in the resolution provided
 292 for in Code Section 48-8-269.42.

293 48-8-269.49.

294 (a) The proceeds of a tax under this article shall not be subject to any allocation or
 295 balancing of state and federal funds provided for by general law, and such proceeds shall
 296 not be considered or taken into account in any such allocation or balancing.

297 (b) The approval of the tax under this article shall not in any way diminish the percentage
 298 of state or federal funds allocated to any of the local governments under Code Section
 299 32-5-27 within the special district levying the tax.

300 48-8-269.50.

301 (a) Except as to rate, a tax imposed under this article shall correspond to the tax imposed
 302 by Article 1 of this chapter. No item or transaction which is not subject to taxation under
 303 Article 1 of this chapter shall be subject to a tax imposed under this article, except that a
 304 tax imposed under this article shall not apply to:

- 305 (1) The sale or use of any type of fuel used for off-road heavy-duty equipment, off-road
 306 farm or agricultural equipment, or locomotives;
- 307 (2) The sale or use of jet fuel to or by a qualifying airline at a qualifying airport, as such
 308 terms are defined in paragraph (33.1) of Code Section 48-8-3;
- 309 (3) The sale or use of fuel that is used for propulsion of motor vehicles on the public
 310 highways;
- 311 (4) The sale or use of energy used in the manufacturing or processing of tangible goods
 312 primarily for resale, as such sale or use is described in Code Section 48-8-3.2;
- 313 (5) The sale or use of motor fuel, as defined under paragraph (9) of Code Section 48-9-2,
 314 for public mass transit; or
- 315 (6) The purchase or lease of any motor vehicle pursuant to Code Section 48-5C-1.
- 316 (b) Except as otherwise specifically provided in this article, the tax imposed pursuant to
 317 this article shall be subject to any sales and use tax exemption which is otherwise imposed
 318 by law; provided, however, that the tax levied by this article shall be applicable to the sale
 319 of food and food ingredients as provided for in paragraph (57) of Code Section 48-8-3.

320 48-8-269.51.

321 Where a local sales or use tax has been paid with respect to tangible personal property by
 322 the purchaser either in another local tax jurisdiction within this state or in a tax jurisdiction
 323 outside this state, the tax may be credited against the tax authorized to be imposed by this
 324 article upon the same property. If the amount of sales or use tax so paid is less than the
 325 amount of the tax due under this article, the purchaser shall pay an amount equal to the
 326 difference between the amount paid in the other tax jurisdiction and the amount due under
 327 this article. The commissioner may require such proof of payment in another local tax
 328 jurisdiction as he or she deems necessary and proper. No credit shall be granted, however,
 329 against the tax under this article for tax paid in another jurisdiction if the tax paid in such
 330 other jurisdiction is used to obtain a credit against any other local sales and use tax levied
 331 in the county or in a special district which includes the county.

332 48-8-269.52.

333 No tax shall be imposed upon the sale of tangible personal property which is ordered by
 334 and delivered to the purchaser at a point outside the geographical area of the special district
 335 in which the tax is imposed regardless of the point at which title passes, if the delivery is
 336 made by the seller's vehicle, United States mail, or common carrier or by private or contract
 337 carrier.

338 48-8-269.53.

339 The commissioner shall have the power and authority to promulgate such rules and
340 regulations as shall be necessary for the effective and efficient administration and
341 enforcement of the collection of the tax.

342 48-8-269.54.

343 Except as provided in Code Section 48-8-6, the tax authorized under this article shall be
344 in addition to any other local sales and use tax. Except as otherwise provided in this article
345 and except as provided in Code Section 48-8-6, the imposition of any other local sales and
346 use tax within a county or qualified municipality within a special district shall not affect
347 the authority of a county to impose the tax authorized under this article, and the imposition
348 of the tax authorized under this article shall not affect the imposition of any otherwise
349 authorized local sales and use tax within the special district.

350 48-8-269.55.

351 (a)(1) The proceeds received from the tax shall be used by the county and qualified
352 municipalities within the special district exclusively for the transit projects specified in
353 the resolution calling for imposition of the tax and in the ranking order so specified. Such
354 proceeds shall be kept in a separate account from other funds of any county or qualified
355 municipality receiving proceeds of the tax and shall not in any manner be commingled
356 with other funds of any county or qualified municipality prior to the expenditure.

357 (2) The governing authority of each county and the governing authority of each qualified
358 municipality receiving any proceeds from the tax under this article shall maintain a record
359 of each and every purpose for which the proceeds of the tax are used. A schedule shall
360 be included in each annual audit which shows for each purpose in the resolution calling
361 for imposition of the tax the original estimated cost, the current estimated cost if it is not
362 the original estimated cost, amounts expended in prior years, and amounts expended in
363 the current year. The auditor shall verify and test expenditures sufficient to provide
364 assurances that the schedule is fairly presented in relation to the financial statements. The
365 auditor's report on the financial statements shall include an opinion, or disclaimer of
366 opinion, as to whether the schedule is presented fairly in all material respects in relation
367 to the financial statements taken as a whole.

368 (b) No general obligation debt shall be issued in conjunction with the imposition of the tax
369 unless the county or qualified municipality governing authority determines that, and if the
370 debt is to be validated it is demonstrated in the validation proceedings that, during each
371 year in which any payment of principal or interest on the debt comes due, the county or
372 qualified municipality will receive from the tax net proceeds sufficient to fully satisfy such

373 liability. General obligation debt issued under this article shall be payable first from the
 374 separate account in which are placed the proceeds received by the county or qualified
 375 municipality from the tax. Such debt, however, shall constitute a pledge of the full faith,
 376 credit, and taxing power of the county or qualified municipality; and any liability on such
 377 debt which is not satisfied from the proceeds of the tax shall be satisfied from the general
 378 funds of the county or qualified municipality.

379 (c) The intergovernmental agreement, if applicable, and resolution calling for the
 380 imposition of the tax may specify that all of the proceeds of the tax will be used for
 381 payment of general obligation debt issued in conjunction with the imposition of the tax,
 382 and, in that event, such proceeds shall be solely for such purpose except as otherwise
 383 provided in subsection (f) of this Code section.

384 (d) The intergovernmental agreement, if applicable, and resolution calling for the
 385 imposition of the tax may specify that a part of the proceeds of the tax will be used for
 386 payment of general obligation debt issued in conjunction with the imposition of the tax.
 387 The intergovernmental agreement, if applicable, and resolution shall specifically state the
 388 other purposes for which such proceeds will be used. In such a case, no part of the net
 389 proceeds from the tax received in any year shall be used for such other purposes until all
 390 debt service requirements of the general obligation debt for that year have first been
 391 satisfied from the account in which the proceeds of the tax are placed.

392 (e) The resolution calling for the imposition of the tax may specify that no general
 393 obligation debt is to be issued in conjunction with the imposition of the tax. The
 394 intergovernmental agreement, if applicable, and resolution shall specifically state the
 395 purpose or purposes for which the proceeds will be used.

396 (f)(1)(A) If the proceeds of the tax are specified to be used solely for the purpose of
 397 payment of general obligation debt issued in conjunction with the imposition of the tax,
 398 then any net proceeds of the tax in excess of the amount required for final payment of
 399 such debt shall be subject to and applied as provided in paragraph (2) of this subsection.

400 (B) If the special district receives from the tax net proceeds in excess of the maximum
 401 cost of the transit projects stated in the resolution calling for the imposition of the tax
 402 or in excess of the actual cost of such projects, then such excess proceeds shall be
 403 subject to and applied as provided in paragraph (2) of this subsection unless otherwise
 404 specified in the intergovernmental agreement, if applicable.

405 (C) If the tax is terminated under paragraph (1) of subsection (b) of Code
 406 Section 48-8-269.45 by reason of denial of validation of debt, then all net proceeds
 407 received by the special district from the tax shall be excess proceeds subject to
 408 paragraph (2) of this subsection.

409 (2) Excess proceeds subject to this subsection shall be used solely for the purpose of
 410 reducing any indebtedness of any county or qualified municipality within the special
 411 district other than indebtedness incurred pursuant to this article. If there is no such other
 412 indebtedness or if the excess proceeds exceed the amount of any such other indebtedness,
 413 then the excess proceeds shall next be paid into the general fund of such county or
 414 qualified municipality, it being the intent that any funds so paid into the general fund of
 415 such county or qualified municipality be used for the purpose of reducing ad valorem
 416 taxes."

417 **SECTION 3.**

418 Chapter 32 of Title 50 of the Official Code of Georgia Annotated, relating to the Georgia
 419 Regional Transportation Authority, is amended in Code Section 50-32-2, relating to
 420 definitions, by adding new paragraphs to read as follows:

421 "(3.1) 'Commission' means the Atlanta-region Transit Link 'ATL' Commission."

422 "(6.1) 'Land public transportation' means movement of people, animals, and goods from
 423 one location to another on land which is available for use by the general public; such term
 424 shall include transit."

425 "(14.1) 'Rail based' means designed to be operated upon rail or rails."

426 (14.2) 'Regional transit plan' means the official multiyear plan adopted by the
 427 commission for the provision of transit services and facilities throughout the jurisdiction
 428 of the authority pursuant to Code Section 50-32-58."

429 "(18.1) 'Transit' means movement of people from one location to another on land or by
 430 rail through a shared passenger-transport service which is available for use by the general
 431 public. Such transport is distinct from and shall exclude modes shared by the general
 432 public through private arrangement, including but not limited to transport provided by
 433 limousine carriers, taxi services, transportation referral services, and ride share network
 434 services as such terms are defined in Chapter 1 of Title 40."

435 **SECTION 4.**

436 Said chapter is further amended in Code Section 50-32-3, relating to creation of authority and
 437 board, quorum, and vacancies, by revising subsection (c) as follows:

438 "(c) Except as otherwise provided in this chapter, a majority of the members of the board
 439 then in office shall constitute a quorum for the transaction of business. The vote of a
 440 majority of the members of the board present at the time of the vote, if a quorum is present
 441 at such time, shall be the act of the board unless the vote of a greater number is required
 442 by law or by the bylaws of the board of directors. ~~The board of directors, by resolution~~
 443 ~~adopted by a majority of the full board of directors, shall designate from among its~~

444 ~~members an executive committee and one or more other committees, each consisting of~~
 445 ~~two or more members of the board, which shall have and exercise such authority as the~~
 446 ~~board may delegate to it under such procedures as the board may direct by resolution~~
 447 ~~establishing such committee or committees."~~

448 **SECTION 5.**

449 Said chapter is further amended by adding a new article to read as follows:

450 "ARTICLE 4A

451 50-32-56.

452 There is created the Atlanta-region Transit Link 'ATL' Commission which shall serve as
 453 a division within the authority for purposes of planning and coordinating the provision of
 454 transit services, establishment of transit facilities, and funding of such purposes throughout
 455 the jurisdiction of the authority.

456 50-32-57.

457 (a) The commission shall be governed by a board of directors that shall initially consist of
 458 the following 14 members:

459 (1) The Governor;

460 (2) The commissioner of transportation;

461 (3) The chief executive officer of the Metropolitan Atlanta Rapid Transit Authority;

462 (4) The executive director of the Atlanta Regional Commission;

463 (5) An appointee of the mayor of the City of Atlanta;

464 (6) An appointee of the president of the Atlanta City Council;

465 (7) An appointee of the chairperson of the Clayton County Board of Commissioners;

466 (8) An appointee selected by a majority vote of a caucus of the mayors from
 467 municipalities within Clayton County;

468 (9) An appointee of the chief executive officer of DeKalb County;

469 (10) An appointee selected by a majority vote of a caucus of the mayors from
 470 municipalities within DeKalb County;

471 (11) An appointee of the chairperson of the Fulton County Board of Commissioners;

472 (12) An appointee selected by a majority vote of a caucus of the mayors from
 473 municipalities within Fulton County, excluding the City of Atlanta;

474 (13) An appointee of the chairperson of the Cobb County Board of Commissioners; and

475 (14) An appointee of the chairperson of the Gwinnett County Board of Commissioners.

476 (b) The chairperson of any county without an appointment to the board and which
 477 approves a referendum to levy a sales and use tax pursuant to Article 5B of Chapter 8 of
 478 Title 48 or an initial sales and use tax pursuant to or in accordance with Section 25 of the
 479 'Metropolitan Atlanta Rapid Transit Authority Act of 1965,' approved March 10, 1965 (Ga.
 480 L. 1965, p. 2243), as amended, shall be provided an appointment to the initial board of
 481 directors. A mayor from such county selected by a majority vote of a caucus of the mayors
 482 from municipalities within such county shall also be given an appointment to the board of
 483 directors at the same time, provided that an intergovernmental agreement was entered into
 484 pursuant to Code Section 48-8-269.43 or the sales and use tax was an initial tax approved
 485 pursuant to or in accordance with the Metropolitan Atlanta Rapid Transit Authority Act.
 486 (c) The Governor shall serve as the chairperson of the board of directors. The power of
 487 the commission shall be vested in the members of the board of directors and a majority of
 488 members in office shall constitute a quorum for the transaction of any business and for the
 489 exercise of any power or function of the commission. Action may be taken and motions
 490 and resolutions adopted by the board at any meeting thereof by the affirmative vote of a
 491 majority of present and voting board members. No vacancy in the membership of the
 492 board shall impair the right of the members to exercise all the powers and perform all
 493 duties of the board.

494 50-32-58.

495 In consultation with the metropolitan planning organization, as such term is defined in
 496 Code Section 48-8-242, which jurisdiction is located wholly or partially within the
 497 jurisdiction of the authority, the commission shall develop, annually review, and amend,
 498 as necessary, a regional transit plan. Such plan shall include, but not be limited to, transit
 499 projects based upon a region-wide approach to the provision of transit services through
 500 buses and rail, the establishment of multimodal stations within the jurisdiction of the
 501 authority, enhancement of connectivity throughout the region, cost-effective expansion of
 502 existing transit systems, and the coordination of schedules and methods of payment for
 503 transit service providers. Such plan shall include the creation of a unified brand to
 504 encompass all transit service providers within the jurisdiction of the authority.

505 50-32-59.

506 (a) In addition to all the powers and duties conferred upon the authority by this chapter,
 507 the commission may serve as the entity to discharge all duties imposed on the state by any
 508 act of Congress allotting federal funds to be expended for transit purposes within the
 509 jurisdiction of the authority.

510 (b) Upon receipt of notice of intent to levy a tax pursuant to Article 5B of Chapter 8 of
 511 Title 48 by a county governing authority, the commission shall approve or deny any or all
 512 transit projects submitted with such notice to be included in the referendum to approve
 513 such tax. The commission shall serve notice to a county of the determination to deny or
 514 approve such projects no later than 45 days from receipt of such list.

515 (c) The commission shall select a single operator to provide transit services which are not
 516 rail based throughout the jurisdiction of the authority. Such procedures for making such
 517 selection may be adopted by rule or regulation of the commission and shall include, but not
 518 be limited to:

519 (1) Prequalification requirements;

520 (2) Public advertisement procedures;

521 (3) Request for qualification requirements; and

522 (4) Request for proposal requirements.

523 (d) The commission may employ and fix the compensation of consultants and professional
 524 personnel as it may deem necessary to assist in the exercise of its duties.

525 50-32-59.1.

526 (a) All moneys received by the commission shall be set aside as a special fund to be used
 527 by the commission to carry out the purposes of this article. The commission shall maintain
 528 and account for funds received by it for its purposes separately from the funds of the
 529 authority.

530 (b) To the extent otherwise provided by law, the authority may make its funds available
 531 to the commission for the purposes of the commission and shall be empowered to provide
 532 such other assistance to the commission as the commission and the authority deem
 533 appropriate.

534 (c) The commission, as a division and arm of the authority, shall hold the status of the
 535 authority as a public body corporate and politic and an instrumentality of the state, but
 536 neither the commission nor its members shall be amenable to any action of any kind or
 537 nature arising out of the discharge of its powers and responsibilities under this article. The
 538 commission shall otherwise have and enjoy the sovereign immunity of the state."

539 **SECTION 6.**

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