

The Senate Committee on Finance offered the following substitute to HB 588:

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 32 of the Official Code of Georgia Annotated, relating to highways, bridges,
2 and ferries, so as to provide for eligible expenditures for the Georgia Freight Railroad
3 Program of the Georgia Department of Transportation; to provide for procedures, conditions,
4 and limitations for financing and letting of projects; to provide for definitions; to provide for
5 procedures, conditions, approval, and limitations upon an alternative contracting method to
6 be used for certain projects; to amend Code Section 40-2-151.1 of the Official Code of
7 Georgia Annotated, relating to highway impact fees for heavy vehicles and use of funds, so
8 as to provide for intended appropriation of highway impact fees, certification, and automatic
9 repeal; to amend Code Section 40-6-181 of the Official Code of Georgia Annotated, relating
10 to maximum speed limits, so as to provide for posting of signage of maximum speed limits;
11 to provide for related matters; to amend Title 48 of the Official Code of Georgia Annotated,
12 relating to revenue and taxation, so as to provide for the intended appropriation of the
13 proceeds of the state sales and use tax on sales of fuel to a contract or common carrier
14 regulated by the United States Surface Transportation Board for use exclusively in the
15 operation of locomotives by such carrier as authorized; to provide for a definition; to provide
16 for certification and automatic repeal; to provide for an annual audit and report; to provide
17 for intended appropriation of taxes imposed by innkeepers, certification, and automatic

18 repeal; to provide for intended appropriation of excise tax on for-hire ground transport,
19 certification, and automatic repeal; to amend Code Section 52-2-5 of the Official Code of
20 Georgia Annotated, relating to composition of the Georgia Ports Authority; appointment,
21 terms, and qualifications of members generally; filling of vacancies; election of chairperson,
22 vice chairperson, and secretary-treasurer; and quorum, so as to add the commissioner of
23 transportation as an ex officio member of the Georgia Ports Authority; to provide for related
24 matters; to repeal conflicting laws; and for other purposes.

25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

26 **SECTION 1.**

27 Title 32 of the Official Code of Georgia Annotated, relating to highways, bridges, and ferries,
28 is amended in Code Section 32-2-41.3, relating to the Georgia Freight Railroad Program,
29 definition, eligible projects, reporting, and funding, by revising subsection (f) as follows:

30 "(f) Prior to the expenditure of state funds, the commissioner shall make a determination
31 whether such expenditure is ample consideration for a substantial public benefit in
32 compliance with Article III, Section VI, Paragraph ~~VI~~(a) VI(a) of the Georgia
33 Constitution. Such substantial public benefit must constitute a benefit accrued to the public
34 in the form of enhanced public safety, enhanced mobility of goods, congestion mitigation,
35 enhanced trade and economic development, improved air quality or land use, reduction of
36 public expenditures due to improved transportation efficiency or infrastructure
37 preservation, or other public benefits identified and approved by a majority of the board.
38 Such public benefit shall also align with goals in the state-wide strategic transportation plan
39 as defined in Code Section 32-2-41.1 or the state's freight plan as defined in
40 49 U.S.C. 70202."

41 **SECTION 2.**

42 Said title is further amended in Code Section 32-2-69, relating to bidding process and award
 43 of contract, by revising subsection (a) as follows:

44 "(a) Except as authorized by Code Sections 32-2-79, ~~and 32-2-80,~~ and 32-2-82, the
 45 department shall award contracts to the lowest reliable bidder, provided that the department
 46 shall have the right to reject any and all such bids whether such right is reserved in the
 47 public notice or not and, in such case, the department may readvertise, perform the work
 48 itself, or abandon the project."

49 **SECTION 3.**

50 Said title is further amended by designating Code Sections 32-2-60 through 32-2-77 as new
 51 Part 1, designating Code Sections 32-2-78 through 32-2-82 as Part 2, and revising newly
 52 designated Part 2 to read as follows:

53 "Part 2

54 32-2-78.

55 As used in this ~~Code section and Code Sections 32-2-79 and 32-2-80~~ part, the term:

56 (1) 'Alternative contracting method' means a method of contracting authorized by Code
 57 Section 32-2-82.

58 (2) 'Construction manager/general contractor' means a person the department has
 59 selected to perform project delivery pursuant to Code Section 32-2-82.

60 ~~(1)~~(3) 'Participating local governing authority' includes the governing authority of any
 61 county or municipality whose geographical jurisdiction includes the project.

62 ~~(2)~~(4) 'Project' means ~~a project~~ an undertaking, including intermodal rail-related and
 63 multimodal transportation solutions, which the department deems appropriate for ~~letting~~

64 pursuant to the procedures of Code Section ~~32-2-79~~ and Code Section ~~32-2-80~~ pursuing
65 or letting based upon the authority granted in this part."

66 32-2-79.

67 ~~(a) The~~ At a minimum, the staff of the department shall jointly identify and report to the
68 board by July 31 of each odd-numbered year those ~~projects on the state-wide transportation~~
69 ~~improvement program or otherwise identified that afford the greatest gains in congestion~~
70 ~~mitigation or promotion of economic development~~ potential undertakings best suited for
71 delivery under the procedures of Code Section 32-2-80 and that are expected to provide the
72 greatest public benefit through enhanced public safety, enhanced mobility of goods,
73 congestion mitigation, enhanced trade and economic development, improved air quality or
74 land use, or reduction of public expenditures due to improved transportation efficiency or
75 infrastructure preservation as aligned with the state-wide strategic transportation plan as
76 defined in Code Section 32-2-41.1.

77 ~~(b) Any project identified pursuant to subsection (a) of this Code section that will not be~~
78 ~~initiated within two years of the reporting date or that does not have specific available and~~
79 ~~complete funding may be let and constructed utilizing the procedures of this Code section~~
80 ~~and Code Section 32-2-80. All personnel of the department shall cooperate in all respects~~
81 ~~in the letting, construction, maintenance, and operation of such projects, including without~~
82 ~~limitation providing such access and control of portions of the state highway system as may~~
83 ~~be requested or required from time to time for such purposes:~~

84 ~~(c) Projects wholly or partly in a metropolitan planning area shall be included in a fiscally~~
85 ~~constrained transportation improvement program."~~

86 32-2-80.

87 (a)(1) The department shall evaluate a potential project to determine, in the judgment of
88 the department, appropriate or desirable levels of state, local, and private participation in

89 financing such project. In making such determination, the department shall be authorized
90 and encouraged to seek the advice and input of the affected local governing authorities,
91 applicable metropolitan planning organizations, and the private financial and construction
92 sectors.

93 ~~(1.1)~~(2) No constitutional officer or member of the State Transportation Board shall
94 serve as an agent, lobbyist, or board member for any entity directly or indirectly under
95 contract with or negotiating a contract with the department under this Code section for
96 one year after leaving his or her position as a constitutional officer or member of the State
97 Transportation Board.

98 ~~(b)(1)~~(2) For projects that are funded or financed in part or in whole by private sources,
99 the department shall be authorized to issue a written request for proposal indicating in
100 general terms the scope of the project, the proposed financial participations in the project,
101 and the factors that will be used in evaluating the proposal and containing or
102 incorporating by reference other applicable contractual terms and conditions, including
103 any unique capabilities or qualifications that will be required of the contractor. Public
104 notice of such request for proposal shall be made at least 90 days prior to the date set for
105 receipt of proposals by posting the legal notice on a single website that shall be procured
106 and maintained for such purposes by the Department of Administrative Services or in
107 substantially the same manner utilized by the department to solicit requests for proposals.

108 ~~(3)~~(2) For every project undertaken pursuant to this Code section ~~Upon receipt of a~~
109 ~~proposal or proposals responsive to the request for proposals,~~ the department shall accept
110 written public comment, solicited in the same manner as provided for ~~notice of proposals~~
111 in the request for proposal, for a period of 30 days beginning at least ten days after the
112 ~~date set for receipt of proposals~~ public notice of the request for proposal is made pursuant
113 to paragraph (1) of this subsection. In addition, the department shall hold at least one
114 public hearing on such proposals, which may be held by teleconference, not later than the
115 conclusion of the period for public comment.

116 ~~(4)~~(3) The department shall ~~engage in individual discussions with~~ select two or more
117 respondents deemed fully qualified, responsible, and suitable on the basis of initial
118 responses ~~and with emphasis to engage for interview and discussion based upon~~
119 responses on professional competence and ability to meet the level of private financial
120 participation called for by the department. ~~Repetitive informal~~ Multiple interviews shall
121 be permissible. In the event that any local governing authority has agreed to consider
122 financial participation in the project, a representative of such local governing authority,
123 appointed by such local governing authority, may participate in such discussions and
124 interviews. ~~At the discussion~~ During this stage, the department may discuss estimates of
125 total project costs, including, but not limited to, life cycle costing and nonbinding
126 estimates of price for services. Proprietary information from competing respondents shall
127 not be disclosed to the public or to competitors.

128 (4) Upon conclusion of discussions described in paragraph (3) of this subsection, the
129 department shall rank respondents on the basis of the evaluation criteria set forth in the
130 request for proposal. The department ~~At the conclusion of such discussions, on the basis~~
131 ~~of evaluation factors published in the request for proposal and all information developed~~
132 ~~in the selection process, the department, with the input of any participating local~~
133 ~~governing authority, shall select in the order of preference two or more respondents~~
134 ~~whose qualifications and proposed services are deemed most meritorious. Negotiations~~
135 ~~shall then be conducted with two or more respondents and with the participation of the~~
136 ~~designated representative of any participating local governing authority and shall conduct~~
137 negotiations with those respondents. Negotiations conducted under this paragraph can
138 include, but are not limited to, one-on-one meetings or requests for proposals.

139 (5) Upon approval by the department, the commissioner shall select the respondent for
140 project implementation based upon contract terms that are the most satisfactory and
141 advantageous to the state and to the department based upon a thorough assessment of
142 value and the ability of the final project's characteristics to meet state strategic goals and

143 investment policies as provided for by Code Section 32-2-41.1. Before making such
144 selection, the commissioner shall consult with any participating local governing authority
145 or authorities.

146 (6) Notwithstanding the foregoing, if the terms and conditions for multiple awards are
147 included in the request for proposal, the department may award contracts to more than
148 one respondent. Should the department determine in writing and in its sole discretion that
149 only one respondent is fully qualified, or that one respondent is clearly more highly
150 qualified and suitable than the others under consideration, a contract may be negotiated
151 and awarded to that respondent after the respondent is determined to be responsible.

152 ~~(5)(c)~~ Nothing in this Code section shall require the department to continue negotiations
153 or discussions arising out of any request for proposal.

154 ~~(6)(d)~~ The department shall be authorized to promulgate reasonable rules or regulations
155 to assist in ~~its evaluation of the proposal~~ evaluations and to implement the purposes of this
156 Code section. The department shall report the content of such rules or regulations to the
157 Transportation Committees of the Senate and House of Representatives for their approval
158 by majority vote prior to the promulgation thereof and shall make quarterly reports to the
159 same chairpersons of all of its activities undertaken pursuant to the provisions of this Code
160 section.

161 ~~(b)(e)~~ Any contracts entered into pursuant to this Code section may authorize funding to
162 include tolls, fares, or other user fees and tax increments for use of the project that is the
163 subject of the proposal. Such funding may be distributed by contract among the
164 participants in the project as may be provided for by contract. The department may take
165 any action to obtain federal, state, or local assistance for a qualifying project that serves the
166 public purpose of this Code section and may enter into any contracts required to receive
167 such assistance. The department may determine that it serves the public purpose of this
168 Code section for all or any portion of the costs of a qualifying project to be paid, directly
169 or indirectly, from the proceeds of a grant or loan made by the federal, state, or local

170 government or any instrumentality thereof. The department may agree to make grants or
171 loans to the operator from time to time from amounts received from the federal, state, or
172 local government or any agency or instrumentality thereof.

173 ~~(e)~~(f) The commissioner shall be authorized to delegate such duties and responsibilities
174 under this Code section as he or she deems appropriate from time to time; provided,
175 however, that the final approval of contracts provided for in this Code section shall be by
176 action of the ~~State Transportation Board~~ board.

177 ~~(d)~~(g) The power of eminent domain shall not be delegated to any private entity with
178 respect to any project commenced or proposed pursuant to this Code section.

179 ~~(e)~~(h) Any contract ~~for a public-private partnership~~ entered into pursuant to this Code
180 section shall require the private partner or each of its prime contractors to provide
181 performance and payment security. Notwithstanding any other provision of law, the penal
182 sum or amount of such security may be less than the price of the contract involved, such
183 as the value of the construction elements of the contract, based upon the department's
184 determination on a project-by-project basis of what sum may be required to adequately
185 protect the department, the state, and the contracting and subcontracting parties.

186 32-2-81.

187 (a) As used in this Code section, the term 'design-build procedure' means a method of
188 contracting under which the department contracts with another party for the party to both
189 design and build the structures, facilities, systems, and other items specified in the contract.

190 (b) The department may use the design-build procedure for projects that include buildings,
191 bridges and approaches, rail corridors, technology deployments, and limited or controlled
192 access projects or projects that may be constructed within existing rights of way where the
193 scope of work can be clearly defined or when a significant savings in project delivery time
194 can be attained.

195 (c) When the department determines that it is in the best interests of the public, the
196 department may combine any or all of the environmental services, utility relocation
197 services, right of way services, design services, and construction phases of a public road
198 or other transportation purpose project into a single contract using a design-build
199 procedure. Design-build contracts may be advertised and awarded notwithstanding the
200 requirements of paragraph (1) of subsection (d) of Code Section 32-2-61. ~~However,~~
201 provided, however, that construction activities shall not begin on any portion of such
202 projects until title to the necessary rights of way and easements for the construction of that
203 portion of the project has vested in the state or a local governmental entity and all railroad
204 crossing and utility agreements have been executed.

205 (d) The department shall adopt by rule procedures for administering design-build
206 contracts. Such procedures shall include, but not be limited to:

- 207 (1) Prequalification requirements;
- 208 (2) Public advertisement procedures;
- 209 (3) Request for qualification requirements;
- 210 (4) Request for proposal requirements;
- 211 (5) Criteria for evaluating technical information and project costs;
- 212 (6) Criteria for selection and award process, provided that the rules shall specify that the
213 criteria for selection shall consist of the following minimum two components for any
214 two-step procurement process:

215 (A) A statement of qualifications from which the department will determine a list of
216 qualified firms for the project, provided that, if the department determines it is in the
217 state's best interest, it may omit this requirement and move directly to a one-step
218 procurement process through the issuance of a request for proposal from which the
219 department may select the lowest qualified bidder; and

220 (B) From the list of qualified firms as provided in subparagraph (A) of this paragraph,
221 a technical proposal and a price proposal from each firm from which the department

222 shall select the lowest qualified bidder or, in the event the department uses the best
223 value procurement process, the request for proposal shall specify the requirements
224 necessary for the selection of the best value proposer which shall include, at a
225 minimum, a weighted cost component and a technical component. A proposal shall
226 only be considered nonresponsive if it does not contain all the information and level of
227 detail requested in the request for proposal. A proposal shall not be deemed to be
228 nonresponsive solely on the basis of minor irregularities in the proposal that do not
229 directly affect the ability to fairly evaluate the merits of the proposal. Notwithstanding
230 the requirements of Code Section 36-91-21, under no circumstances shall the
231 department use a 'best and final offer' standard in awarding a contract in order to induce
232 one proposer to bid against an offer of another proposer. The department may provide
233 for a stipulated fee to be awarded to the short list of qualified proposers who provide
234 a responsive, successful proposal. In consideration for paying the stipulated fee, the
235 department may use any ideas or information contained in the proposals in connection
236 with the contract awarded for the project, or in connection with a subsequent
237 procurement, without obligation to pay any additional compensation to the unsuccessful
238 proposers;

239 (7) Identification of those projects that the department believes are candidates for
240 design-build contracting; and

241 (8) Criteria for resolution of contract issues. The department may adopt a method for
242 resolving issues and disputes through negotiations at the project level by the program
243 manager up to and including a dispute review board procedure with final review by the
244 commissioner or his or her designee. Regardless of the status or disposition of the issue
245 or dispute, the design-builder and the department shall continue to perform their
246 contractual responsibilities. The department shall have the authority to suspend or
247 provide for the suspension of Section 108 of the department's standard specifications

248 pending final resolution of such contract issues and disputes. This paragraph shall not
249 prevent an aggrieved party from seeking judicial review.

250 (e) In contracting for design-build projects, the department shall be limited to contracting
251 for no more than 50 percent of the total amount of construction projects awarded in the
252 previous fiscal year.

253 (f) Not later than 90 days after the end of the fiscal year, the department shall provide to
254 the Governor, Lieutenant Governor, Speaker of the House of Representatives, and
255 chairpersons of the House and Senate Transportation Committees a summary containing
256 all the projects awarded during the fiscal year using the design-build contracting method.
257 Included in the report shall be an explanation for projects awarded to other than the low bid
258 proposal. This report shall be made available for public information.

259 32-2-82.

260 (a) The department shall be authorized to utilize an alternative contracting method for
261 project delivery that includes one of the following:

262 (1) An agreement in which a construction manager/general contractor performs two
263 phases of work as follows:

264 (A) The first phase, in which the construction manager/general contractor performs in
265 the capacity of a construction manager, consisting of preconstruction services for a
266 project which may be paid in lump sum, cost-plus fixed fee, cost per unit of work,
267 specific rates of compensation, or other comparable payment method permitted by law;
268 and

269 (B) The second phase, in which the construction manager/general contractor performs
270 in the capacity of a general contractor, consisting of construction services for a project
271 that may be performed under the same contract as the first phase, subject to agreement
272 by the department as to the terms for payment for such services and using any method
273 of payment permitted by law; provided that the construction manager/general contractor

274 self-performs at least 30 percent of the total original price for construction work on the
275 project;

276 (2) A predevelopment agreement, pursuant to which one or more contractors collaborate
277 with the department on one or more projects:

278 (A) For the conceptual, preliminary, and final planning for such projects, which may
279 include predevelopment services, financial planning, environmental studies,
280 engineering, and assistance with public outreach; and

281 (B) To perform, at the department's election, the construction work for any such
282 project, subject to agreement as to the basis of payment for construction services; or

283 (3) A comprehensive development agreement that allows for expedited project delivery
284 through the concurrent design and construction of a project under a single multiphase
285 contract, pursuant to which a contractor shall:

286 (A) Collaborate with the department to advance development of the project concept;

287 (B) Perform the design and construction services; and

288 (C) Perform any operations or maintenance work required for the project.

289 (b) The department shall consider at least the following factors in assessing a project's
290 suitability and feasibility for delivery through an alternative contracting method: public
291 interest, innovation, risk, design complexity, cost control, and construction schedule
292 optimization.

293 (c) When the department determines, in accordance with subsection (b) of this Code
294 section, that the interests of the public are best served by delivering the project utilizing an
295 alternative contracting method, the department shall submit to the board a written request
296 to proceed in delivering a project using an alternative contracting method. The department
297 shall not proceed with the project using an alternative contracting method without prior
298 approval by the board.

299 (d) Upon approval of a request pursuant to subsection (c) of this Code section, the
300 department shall be authorized to issue a written solicitation identifying the scope of the

301 project, the factors to be used to evaluate responses to the solicitation, and the basis for
302 award of the contract to perform work on the project utilizing an alternative contracting
303 method.

304 (e) For any project for which an alternative contracting method is elected, the department
305 shall utilize either the procurement procedures under Code Section 32-2-80 or the
306 procurement procedures under Code Section 32-2-81 to competitively solicit proposals.

307 (f) The department shall be authorized to execute a contract to deliver no more than two
308 projects during any single fiscal year utilizing an alternative contracting method and shall
309 be authorized to execute a contract to deliver no more than seven projects utilizing an
310 alternative contracting method over a single ten-year period. Solely as it relates to a project
311 delivered using an alternative contracting method under this Code section, the department
312 shall not encumber in any one fiscal year an amount equivalent to more than 5 percent of
313 the department's capital budget in the previous fiscal year.

314 (g) Not later than 90 days after the end of a fiscal year in which the department has
315 executed a contract to deliver a project using an alternative contracting method, the
316 department shall provide to the Governor, Lieutenant Governor, Speaker of the House of
317 Representatives, and chairpersons of the House and Senate Transportation Committees a
318 summary containing all contracts executed to deliver projects during the fiscal year using
319 an alternative contracting method. This report shall be made available for public
320 information.

321 (h) The department shall adopt rules and regulations to implement the provisions of this
322 Code section.

323 (i) Not later than five years after the effective date of this Code section and then once
324 every five years thereafter, the department shall submit a report to the Governor, Lieutenant
325 Governor, Speaker of the House of Representatives, and the members of the House and
326 Senate Transportation Committees detailing all contracts executed to deliver a project using
327 an alternative contracting method and the benefits of using an alternative contracting

328 method compared to other contracting methods for review and consideration as to the
329 effectiveness of this Code section and any necessary amendments."

330

SECTION 4.

331 Said title is further amended in Code Section 32-10-60, relating to definitions relative to the
332 State Road and Tollway Authority, by revising paragraph (5) as follows:

333 "(5) 'Project' means ~~land public transportation systems~~ transportation related
334 undertakings which provide a public benefit, including: (A) one or more roads or bridges
335 or a system of roads, bridges, and tunnels or improvements thereto included on an
336 approved state-wide transportation improvement program on the Developmental
337 Highway System as set forth in Code Section 32-4-22, as now or hereafter amended, or
338 a comprehensive transportation plan pursuant to Code Section 32-2-3 or which are toll
339 access roads, bridges, or tunnels, with access limited or unlimited as determined by the
340 authority, and such buildings, structures, parking areas, appurtenances, and facilities
341 related thereto, including but not limited to approaches, cross streets, roads, bridges,
342 tunnels, and avenues of access for such system; (B) any program for mass transportation
343 or mass transportation facilities as approved by the authority and the department and such
344 buildings, structures, parking areas, appurtenances, and facilities related thereto,
345 including, but not limited to, approaches, cross streets, roads, bridges, tunnels, and
346 avenues of access for such facilities; and (C) any project undertaken pursuant to a
347 ~~public-private initiative as authorized pursuant to Code Section 32-2-78~~ Part 2 of
348 Article 4 of Chapter 2 of this title."

349

SECTION 5.

350 Said title is further amended in Code Section 32-10-63, relating to powers of authority
351 generally, by revising paragraph (5) as follows:

352 "(5) To make such contracts, leases, or conveyances as the legitimate and necessary
353 purposes of this article shall require, including but not limited to contracts for
354 construction or maintenance of projects, provided that the authority shall consider the
355 possible economic, social, and environmental effects of each project, and the authority
356 shall assure that possible adverse economic, social, and environmental effects relating to
357 any proposed project have been fully considered in developing such project and that the
358 final decision on the project is made in the best overall public interest, taking into
359 consideration the need for fast, safe, and efficient transportation, public services, and the
360 cost of eliminating or minimizing adverse economic, social, and environmental effects.
361 Furthermore, in order to assure that adequate consideration is given to economic, social,
362 and environmental effects of any tollway project under consideration, the authority shall:

363 (A) Follow the processes required for federal-aid highway projects, as determined by
364 the National Environmental Policy Act of 1969, as amended, except that final approval
365 of the adequacy of such consideration shall rest with the Governor, as provided in
366 subparagraph (C) of this paragraph, acting as the chief executive of the state, upon
367 recommendation of the commissioner, acting as chief administrative officer of the
368 Department of Transportation;

369 (B) In the location and design of any project, avoid the taking of or disruption of
370 existing public parkland or public recreation areas unless there are no prudent or
371 feasible project location alternates. The determination of prudence and feasibility shall
372 be the responsibility of the authority as part of the consideration of the overall public
373 interest;

374 (C) Not approve and proceed with acquisition of rights of way and construction of a
375 project until: (i) there has been held, or there has been offered an opportunity to hold,
376 a public hearing or public hearings on such project in compliance with requirements of
377 the Federal-aid Highway Act of 1970, as amended, except that neither acquisition of
378 right of way nor construction shall be required to cease on any federal-aid project which

379 has received federal approval pursuant to the National Environmental Policy Act of
 380 1969, as amended, and is subsequently determined to be eligible for construction as an
 381 authority project utilizing, in whole or in part, a mix of federal funds and authority
 382 funds; and (ii) the adequacy of environmental considerations has been approved by the
 383 Governor, for which said approval of the environmental considerations may come in
 384 the form of the Governor's acceptance of a federally approved environmental document;
 385 and

386 (D) Let by public competitive bid upon plans and specifications approved by the chief
 387 engineer or his or her successors all contracts for the construction of projects, except
 388 as otherwise provided for projects authorized under any provisions of ~~Code Sections~~
 389 ~~32-2-78 through 32-2-81~~ Part 2 of Article 4 of Chapter 2 of this title;"

390

SECTION 6.

391 Code Section 40-2-151.1 of the Official Code of Georgia Annotated, relating to highway
 392 impact fees for heavy vehicles and use of funds, is amended by adding a new subsection to
 393 read as follows:

394 "(e) Notwithstanding subsection (d) of this Code section or any other law to the contrary,
 395 if at any time the amount collected under this Code section is ever not appropriated for two
 396 consecutive or nonconsecutive fiscal years to transportation purposes with up to 10 percent
 397 of such fees collected appropriated for transit projects, as determined by the House Budget
 398 and Research Office and the Senate Budget and Evaluation Office, then the amount
 399 collected shall be reduced by 50 percent. Upon the conclusion of a third fiscal year in
 400 which an amount is not so appropriated, this Code section shall stand repealed and reserved
 401 and such fees shall cease to be collected, on the date the appropriations Act for such fiscal
 402 year becomes effective. Such budget offices shall certify any such lack of appropriation
 403 to the Code Revision Commission for purposes of updating the Code in accordance with
 404 this subsection."

405

SECTION 7.

406 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
407 amended by adding a new Code section to read as follows:

408 "48-8-78.

409 (a) For purposes of this Code section, the term 'freight and logistics projects' means any
410 project as such term is defined in Code Section 32-2-78 for capital construction and routine
411 maintenance on freight rail assets owned or leased by a common carrier regulated by the
412 United States Surface Transportation Board and found to be an expenditure of ample
413 consideration for a substantial public benefit pursuant to subsection (f) of Code
414 Section 32-2-41.3.

415 (b) It is the intention of the General Assembly, subject to appropriations, that the funds
416 The sales and use tax described in subsection (b) and appropriated to the Department of
417 Transportation shall be utilized for capital construction or routine maintenance on freight
418 rail assets owned or leased by a common carrier regulated by the United States Surface
419 Transportation Board located on or connected to publicly owned roads and allocated on a
420 formula determined by total miles of track operated in the state of Georgia. collected under
421 this article upon the retail purchase, retail sale, rental, storage, use, or consumption of fuel
422 to a contract or common carrier regulated by the United States Surface Transportation
423 Board for use exclusively in the operation of locomotives by such carrier shall be
424 appropriated to the Department of Transportation for use exclusively on freight and
425 logistics projects.

426 (c) If at any time the funds collected as described in subsection (b) of this Code section are
427 ever not appropriated for two consecutive or nonconsecutive fiscal years to freight and
428 logistics projects, as determined by the House Budget and Research Office and the Senate
429 Budget and Evaluation Office, then the tax levied and imposed upon the retail purchase,
430 retail sale, storage, use, or consumption of fuel to a contract or common carrier regulated
431 by the United States Surface Transportation Board for the exclusive use in the operation

432 of locomotives shall be reduced by 50 percent. Upon the conclusion of a third fiscal year
433 in which an amount is not so appropriated, this Code section shall stand repealed and
434 reserved and such sales and use tax shall cease to be collected, on the date the
435 appropriations Act for such fiscal year becomes effective. Such budget offices shall certify
436 any such lack of appropriation to the Code Revision Commission for purposes of updating
437 the Code in accordance with this subsection.

438 (d) The Department of Transportation shall prepare, by February 1 of each year, an
439 accounting of the funds received pursuant to this Code section and expended. The report
440 shall be made available to the Senate Transportation Committee, the House Committee on
441 Transportation, and to members of the public upon request."

442

SECTION 8.

443 Said title is further amended in Code Section 48-13-50.3, relating to additional tax imposed
444 by innkeepers, forms for reporting, use of funds from additional taxes, and provisions for
445 termination, by adding a new subsection to read as follows:

446 "(f) Notwithstanding subsection (e) of this Code section or any other law to the contrary,
447 if at any time the amount collected under this Code section is ever not appropriated for two
448 consecutive or nonconsecutive fiscal years to transportation purposes with up to 10 percent
449 of such fees collected appropriated for transit projects, as determined by the House Budget
450 and Research Office and the Senate Budget and Evaluation Office, then the amount
451 collected shall be reduced by 50 percent. Upon the conclusion of a third fiscal year in
452 which an amount is not so appropriated, this Code section shall stand repealed and reserved
453 and such fees shall cease to be collected, on the date the appropriations Act for such fiscal
454 year becomes effective. Such budget offices shall certify any such lack of appropriation
455 to the Code Revision Commission for purposes of updating the Code in accordance with
456 this subsection."

457

SECTION 9.

458 Code Section 52-2-5 of the Official Code of Georgia Annotated, relating to composition of
459 the Georgia Ports Authority; appointment, terms, and qualifications of members generally;
460 filling of vacancies; election of chairperson, vice chairperson, and secretary-treasurer; and
461 quorum, is amended by revising subsection (b) as follows:

462 "(b) The nine members of the authority in office immediately prior to May 1, 2000, shall
463 serve out the remainder of the terms for which they were appointed, all of such terms
464 expiring on June 30 of the year of expiration. In addition to said nine members, the
465 Governor shall appoint three members for terms to expire June 30, 2004. The director of
466 the Office of Planning and Budget or his or her designee as approved by the Governor, the
467 commissioner of transportation or his or her designee shall serve as an ex officio member
468 of the authority."

469

SECTION 10.

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