

House Bill 213 (AS PASSED HOUSE AND SENATE)

By: Representatives Jacobs of the 80th, Roberts of the 155th, Smyre of the 135th, Geisinger of the 48th, Mitchell of the 88th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend an Act known as the "Metropolitan Atlanta Rapid Transit Authority Act of 1965,"
2 approved March 10, 1965 (Ga. L. 1965, p. 2243), as amended, so as to provide for the
3 restoration of voting privileges to the Executive Director of the Georgia Regional
4 Transportation Authority until 2017; to provide for the staggering of new board members
5 when a county joins the Authority; to provide for suspensions from the system and property
6 for violations of rules and regulations; to provide for the inclusion of certain items in an
7 independent management audit; to provide for the issuance of citations; to provide for an
8 appeals process; to provide for the appointment of hearing officers; to provide for a hearing;
9 to provide for the appeal of decisions to superior court; to provide for the authority to pursue
10 legal action for the collection of fines; to provide for the rate of a sales and use tax; to
11 provide for the retail sales and use tax when a county joins the Authority; to provide for a
12 permanent suspension of restrictions on the use of sales and use tax proceeds upon the
13 submission of an independent management audit to certain officials; to provide for related
14 matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

17 An Act known as the "Metropolitan Atlanta Rapid Transit Authority Act of 1965," approved
18 March 10, 1965 (Ga. L. 1965, p. 2243), is amended by revising subsections (a) and (b) of
19 Section 6 as follows:

20 "(a) On and after January 1, 2017, the Board of Directors of the Authority shall be
21 reconstituted and composed of 11 voting members and two nonvoting members. Three
22 members shall be residents of the City of Atlanta to be nominated by the Mayor and elected
23 by the City Council; four members shall be residents of DeKalb County with three of the
24 four appointees to be appointed by the ~~Board of Commissioners~~ governing authority of
25 DeKalb County and at least one of such appointees shall be a resident of that portion of
26 DeKalb County lying south of the southernmost corporate boundaries of the City of

27 Decatur and at least one of such appointees shall be a resident of that portion of DeKalb
 28 County lying north of the ~~southernmost~~ northernmost corporate boundaries of the City of
 29 Decatur and the fourth appointee to be appointed by a majority vote of a caucus of mayors
 30 of the municipalities located wholly in DeKalb County; three members shall be residents
 31 of Fulton County and one of such members shall be a resident of that portion of Fulton
 32 County lying south of the corporate limits of the City of Atlanta to be appointed by a
 33 majority vote of the Fulton County Board of Commissioners, and two of such members
 34 shall be residents of that portion of Fulton County lying north of the corporate limits of the
 35 City of Atlanta to be appointed by a majority vote of a caucus of mayors of the
 36 municipalities of Fulton County lying north of the corporate limits of the City of Atlanta;
 37 one member shall be a resident of ~~Fulton or DeKalb County~~ a participating jurisdiction to
 38 be appointed by the Governor; one nonvoting member shall be the Commissioner of the
 39 Department of Transportation; and one nonvoting member shall be the Executive Director
 40 of the Georgia Regional Transportation Authority. Those board members appointed by a
 41 local governing authority, caucus, or the Governor as described in this section in office as
 42 of January 1, 2017, shall serve initial terms of office as follows: two of the three appointees
 43 of the governing authority of DeKalb County ~~Board of Commissioners~~, two of the three
 44 appointees of the Mayor and City Council of Atlanta, and one of the two appointees of the
 45 caucus of mayors from municipalities lying north of the corporate limits of the City of
 46 Atlanta shall serve a term of two years, and the remaining appointees shall serve for terms
 47 of four years. No later than December 1, 2016, all board members shall be appointed and
 48 each local governing authority or caucus shall designate which board members shall serve
 49 an initial term of two years. After the initial two-year terms of those five board members
 50 described in this subsection, that governing ~~body~~ authority or caucus which appointed the
 51 member for that initial term to that office shall appoint successors thereto for terms of
 52 office of four years in the same manner that such governing ~~body~~ authority or caucus
 53 makes its other appointments to the Board.

54 Those board members in office on May 31, 2014, shall serve until December 31, 2016.
 55 The Executive Director of the Georgia Regional Transportation Authority and the
 56 Commissioner of the Department of Transportation shall ~~become~~ be nonvoting members
 57 of the Board ~~on the effective date of this sentence~~ and shall serve while holding their State
 58 offices; ~~provided, however, that notwithstanding any provisions of this Act to the contrary,~~
 59 the Executive Director of the Georgia Regional Transportation Authority shall be a voting
 60 member of the Board until December 31, 2016.

61 Except as provided above, all appointments shall be for terms of four years except that a
 62 vacancy caused otherwise than by expiration shall be filled for the unexpired portion
 63 thereof by the appointing entity which made the original appointment to the vacant

64 position, or its successor in office. A member of the Board may be appointed to succeed
 65 himself or herself for one four-year term; provided, however, that board membership prior
 66 to January 1, 2017, shall not be considered in calculating limits on length of service.
 67 Appointments to fill expiring terms shall be made by the appointing entity prior to the
 68 expiration of the term, but such appointments shall not be made more than thirty days prior
 69 to the expiration of the term. Members appointed to the Board shall serve for the terms of
 70 office specified in this section and until their respective successors are appointed and
 71 qualified.

72 (b) The local governing bodies of Clayton, Cobb, and Gwinnett counties may, any other
 73 provision of this Act to the contrary notwithstanding, negotiate, enter into, and submit to
 74 the qualified voters of their respective counties the question of approval of a rapid transit
 75 contract between the county submitting the question and the Authority, all in accordance
 76 with the provisions of Section 24 of this Act. The local governing bodies of these counties
 77 shall be authorized to execute such rapid transit contract prior to the holding of the
 78 referendum provided for in said Section 24; provided, however, that such rapid transit
 79 contract shall not become valid and binding unless the same is approved by a majority of
 80 those voting in said referendum, which approval shall also be deemed approval of further
 81 participation in the Authority. Upon approval of such rapid transit contract, the county
 82 entering into such contract shall be a participant in the Authority, and its rights and
 83 responsibilities shall, insofar as possible, be the same as if it had participated in the
 84 Authority from its beginning, and the local governing body of the county may then appoint
 85 two residents of the county to the Board of Directors of the Authority;. The local
 86 governing body shall designate one such resident to serve an initial term ending on the 31st
 87 day of December in the second full year after the year in which the referendum approving
 88 said rapid transit contract was held and one such resident to serve a an initial term ending
 89 on the 31st day of December in the fourth full year after the year in which the referendum
 90 approving said rapid transit contract was held, in which event the Board of Directors of the
 91 Authority shall, subsection (a) of this Section 6 to the contrary notwithstanding, be
 92 composed of such additional members. Upon the conclusion of the initial terms provided
 93 for in this subsection, the local governing body which appointed the member for that initial
 94 term shall appoint a successor thereto for a term of office of four years."

95 **SECTION 2.**

96 Said Act is further amended by revising subsection (e) of Section 17 as follows:

97 "(e) Not later than December 31, 2016, and every four years thereafter, the Authority shall
 98 cause to be performed an independent management audit on the condition of management
 99 of the Authority, to be supervised and approved by the Metropolitan Atlanta Rapid Transit

100 Overview Committee. Such management audit shall include the auditor's
 101 recommendations based thereon and the auditor's signed written verification that the
 102 Metropolitan Atlanta Rapid Transit Authority fully cooperated with such audit and allowed
 103 access to all its books, records, and documents to the extent the auditor deemed necessary.
 104 The management audit shall be submitted to the Board of the Authority, the Governor, the
 105 State Auditor, and the Metropolitan Atlanta Rapid Transit Overview Committee before
 106 December 31 of each year in which it is required. The management audit shall be
 107 performed at the expense of the Authority."

108 **SECTION 3.**

109 Said Act is further amended by revising subsection (a) of Section 20 as follows:

110 "(a)(1) The Board may promulgate reasonable rules and regulations, not inconsistent with
 111 law, for the control and management of its operations, properties, employees, and
 112 patrons.

113 (2) Violations of such rules and regulations governing the conduct of the public in or
 114 upon the Authority's transportation system ~~shall be punishable by a civil fine or penalty~~
 115 ~~in an amount set by the Board.~~ may be punished by a suspension from the use of
 116 Authority services and presence on Authority property for a period of time to be set by
 117 the Board or a civil fine or both, provided that such fine shall be no more than \$300.00.

118 (3) A citation shall be issued for violations of such rules and regulations which shall
 119 include notice of suspension from the use of Authority services and presence on
 120 Authority property or the civil fine amount or both, as applicable. Such citation shall also
 121 state at the top of the citation and in a print size no smaller than the largest print size used
 122 on the citation:

123 (A) That the suspension or civil fine or both may be appealed as provided for in
 124 paragraph (4) of this subsection;

125 (B) The procedures by which such appeal shall be requested, including the mailing,
 126 overnight delivery, and hand delivery address to be used for such requests, specifying
 127 the required methods of delivery;

128 (C) That such suspension or civil fine or both shall be deemed final if no appeal is
 129 made within 30 days; and

130 (D) That if no appeal is made, use of Authority services or entry upon Authority
 131 property is forbidden and subsequent use of services or entry upon property during a
 132 period of suspension shall constitute criminal trespass under Code Section 16-7-21 of
 133 the O.C.G.A.

134 (4) A citation may be appealed to the Authority by written request by registered or
 135 certified mail, statutory overnight delivery, or hand delivery within 30 days of the

136 issuance of such citation. Within ten days of receipt of a request for a hearing, the
 137 Authority shall respond to the person requesting a hearing to schedule a hearing date,
 138 which shall be no later than 30 days from the receipt of the request. If no hearing is
 139 requested within 30 days of the issuance of a citation, the suspension or fine issued shall
 140 be deemed final and become effective immediately.

141 (5) The Board shall hire a neutral licensed attorney to be known as the hearing officer
 142 to hear the appeal. Such attorney shall be a member in good standing with the State Bar
 143 of Georgia, have been in the practice of law for at least five years, and be appointed for
 144 one or more terms of two years subject to removal by majority vote of the Board only for
 145 good cause. The Board may appoint more than one neutral licensed attorney to serve as
 146 hearing officers subject to the requirements of this paragraph should the case load so
 147 require.

148 (6) The hearing shall, with respect to rules of evidence and procedure, be conducted in
 149 accordance with Chapter 13 of Title 50 of the O.C.G.A, the 'Georgia Administrative
 150 Procedure Act.'

151 (7) Within 30 days after the final decision from the hearing officer, a petition may be
 152 filed in superior court of the county where the alleged conduct occurred that resulted in
 153 a citation. A copy of the petition shall be served upon the Authority. The petition shall
 154 state that the petitioner is aggrieved by the decision and the grounds upon which the
 155 petitioner contends the decision should be reversed. The filing of a petition for judicial
 156 review in superior court does not itself stay enforcement of the citation. The court may
 157 reverse or modify the decision if substantial rights of the petitioner have been prejudiced
 158 because the decision was clearly erroneous in view of the reliable, probative, and
 159 substantial evidence on the whole record.

160 (8) The Authority may pursue any and all legal remedies for the collection of outstanding
 161 finer.

162 (9) All rules and regulations governing the conduct of the public in or upon the
 163 Authority's transportation system and the length of suspension or civil fine or penalty for
 164 infraction of such rules and regulations shall be posted in a prominent location on the
 165 Authority's website."

166 **SECTION 4.**

167 Said Act is further amended by revising paragraph (1) of subsection (b), subparagraph
 168 (b)(2)(A), and subsection (i) of Section 25 as follows:

169 "(b)(1) Rate of Tax. The tax when levied shall be at the rate of one (1%) percent until
 170 and including June 30, ~~2047~~ 2057, and shall thereafter be reduced to one-half (1/2%) of
 171 one percent. Said tax shall be added to the State Sales and Use Tax imposed by Article

172 1 of Chapter 8 of Title 48 of the O.C.G.A., and the State Revenue Commissioner is
 173 hereby authorized and directed to establish a bracket system by appropriate rules and
 174 regulations to collect the tax herein imposed in the areas affected.

175 (2)(A) A local governing body which, on January 1, 1988, is not a party to the Rapid
 176 Transit Contract and Assistance Agreement specified in subsection (k) of this Section
 177 may enter into a rapid transit contract to provide public transportation services and
 178 facilities other than any extension of or addition to the Authority's existing rail rapid
 179 transit system and may levy a retail sales and use tax authorized under subsection (a)
 180 of this Section at the rate of ~~either one-half (1/2%) percent or one (1%) percent, as~~
 181 ~~determined by that contract between such local governing body and the Authority.~~
 182 Such contract shall require that the costs of the transportation services and facilities
 183 contracted for, as determined by the Board of Directors on the basis of reasonable
 184 estimates, allocation of costs and capital, and projections shall be borne by one or more
 185 of the following:

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

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

195 "(i) Use of Proceeds. The proceeds of the tax levied pursuant to this Act shall be used
 196 solely by each local government to fulfill the obligations incurred in the contracts entered
 197 into with the Metropolitan Atlanta Rapid Transit Authority as contemplated in the
 198 Metropolitan Atlanta Rapid Transit Authority Act of 1965, as amended; ~~provided,~~
 199 ~~however, that no more than fifty percent (50%) of the annual proceeds of the tax shall be~~
 200 ~~used to subsidize the operating costs of the system, exclusive of depreciation, amortization,~~
 201 ~~and other costs and charges as provided in this subsection, until January 1, 2002. For the~~
 202 ~~period beginning January 1, 2002, and ending June 30, 2002, and for each fiscal year~~
 203 ~~commencing thereafter until December 31, 2008, no more than fifty-five percent (55%) of~~
 204 ~~the proceeds of the tax shall be used to subsidize the operating costs of the system,~~
 205 ~~exclusive of depreciation, amortization, and other costs and charges as provided in this~~
 206 ~~subsection; and for the period beginning January 1, 2009, and ending June 30, 2009, and~~
 207 ~~each fiscal year commencing thereafter until July 1, 2032, no more than fifty percent (50%)~~
 208 ~~of the proceeds of the tax shall be used to subsidize the operating costs of the system,~~

209 ~~exclusive of depreciation, amortization, and other costs and charges as provided in this~~
210 ~~subsection. Such restrictions on the use of annual proceeds from local sales and use taxes~~
211 ~~shall be suspended through June 30, 2017. If the Board of the Metropolitan Atlanta Rapid~~
212 ~~Transit Authority shall fail to file with the Governor, the State Auditor, and the chairperson~~
213 ~~of the Metropolitan Atlanta Rapid Transit Overview Committee annually the original and~~
214 ~~14 copies of every four years as provided in subsection (e) of Section 17 of this Act a~~
215 ~~report of the findings of a completed independent management ~~performance~~ audit of the~~
216 ~~Authority's current operations that was performed under contract with and at the expense~~
217 ~~of the Authority, along with any auditor's recommendations based thereon and the auditor's~~
218 ~~signed written verification that the Metropolitan Atlanta Rapid Transit Authority fully~~
219 ~~cooperated with such audit and allowed access to all its books, records, and documents to~~
220 ~~the extent the auditor deemed necessary, then for the period four years beginning January~~
221 ~~1, 2003, and ending June 30, 2003, and each fiscal year commencing thereafter until July~~
222 ~~1, 2032, of the year immediately following the year in which the completed independent~~
223 ~~management audit was due but not submitted, no more than fifty percent (50%) of the~~
224 ~~proceeds of the tax shall be used to subsidize the operating costs of the system, exclusive~~
225 ~~of depreciation, amortization, and other costs and charges as provided in this subsection.~~
226 ~~For each fiscal year commencing on or after July 1, 2032, no more than sixty percent~~
227 ~~(60%) of the annual proceeds of the tax shall be used to subsidize the operating costs of the~~
228 ~~system, exclusive of depreciation, amortization, and other costs and charges as provided~~
229 ~~in this subsection, and commencing with July 1, 2032, and for every year thereafter, the~~
230 ~~proceeds of the tax shall not be used to subsidize operations of the transportation system~~
231 ~~to an extent greater than fifty percent (50%) of the operating costs of the system, exclusive~~
232 ~~of depreciation, amortization, and other costs and charges as provided in this subsection.~~
233 ~~In adopting its annual budget, the Board of the Metropolitan Atlanta Rapid Transit~~
234 ~~Authority shall be authorized to rely upon estimates of all revenues, operating costs,~~
235 ~~patronage, and other factors which may affect the amount of the fare required to limit the~~
236 ~~operating subsidy herein provided for. If the results of any year's operations reflect that the~~
237 ~~proceeds of the tax were used to subsidize operations to an extent greater than herein~~
238 ~~provided, the Board shall adjust fares in order to make up the deficit in operations during~~
239 ~~a period of not to exceed three (3) succeeding years. If the results of operations in the~~
240 ~~Authority's fiscal year commencing July 1, 1980, or in any subsequent fiscal year reflect~~
241 ~~that the proceeds of the tax were not used to subsidize operations to the maximum extent~~
242 ~~herein provided, the Board shall reserve any amounts that could have been used to~~
243 ~~subsidize operations in that fiscal year and later use said reserved amounts and any interest~~
244 ~~earned on said reserved amounts to provide an additional subsidy for operations in any~~
245 ~~future fiscal year or years. The words 'operating costs of the system' for purposes of this~~

246 subsection 25(i) are defined to include all of the costs of that division of the Authority
 247 directly involved and that portion of the nonoperating administrative costs of those
 248 divisions of the Authority indirectly involved, through the provision of support services,
 249 in providing mass transportation services for the metropolitan area, but exclusive of the
 250 costs of the division or divisions directly involved and that portion of the nonoperating
 251 administrative costs of those divisions indirectly involved, in the planning, design,
 252 acquisition, construction, and improvement of the rapid transit system, according to
 253 accepted principles of accounting, and also exclusive of the following costs:

254 (1) Nonrecurring costs and charges incurred in order to comply with any statute or
 255 regulation concerning either the protection or cleaning up of the environment, or
 256 accessibility by handicapped or disabled persons, or occupational health or safety, or
 257 compliance with any national or state emergencies, or with any judgment, decree, or
 258 order of any court or regulatory agency in implementation of any such statute or
 259 regulation; and

260 (2) In the case of leases of equipment or facilities that, according to generally accepted
 261 principles of accounting, would not be classified as capital leases, payments of rent, and
 262 other payments for the property subject to such leases or for the use thereof; provided that
 263 any costs for regular maintenance or repair of such equipment or facilities shall not be
 264 excluded.

265 If any proceeds of the tax levied pursuant to this Act are held for the purpose of planning,
 266 designing, acquiring, or constructing additional facilities or equipment for or improvements
 267 to the rapid transit system and are invested, then all interest earned from such investments
 268 shall be used only for such purposes or for paying the principal of or interest on bonds or
 269 certificates issued for such purposes. ~~Commencing July 1, 1988, and until June 30, 2008,~~
 270 ~~and only if expressly authorized by the board, interest earned on reserve funds set aside for~~
 271 ~~rebuilding, repairing, or renovating facilities of the rapid transit system; for replacing,~~
 272 ~~repairing, or renovating equipment or other capital assets thereof; or from the sale or other~~
 273 ~~disposition of real property, may, without regard to the original source of the funds so~~
 274 ~~reserved, be used to pay the operating costs of the system as such costs are defined in this~~
 275 ~~subsection."~~

276 **SECTION 5.**

277 This Act shall become effective upon its approval by the Governor or upon its becoming law
 278 without such approval.

279 **SECTION 6.**

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