

offers the following

substitute to HB 1218:

A BILL TO BE ENTITLED
AN ACT

1 To enact the "Transportation Investment Act of 2010"; to provide for a short title; to amend
2 Title 32 of the Official Code of Georgia Annotated, relating to highways, bridges, and ferries,
3 so as to provide for certain powers and duties of the Department of Transportation; to
4 provide for certain responsibilities of the commissioner of transportation and the director of
5 planning; to provide for allocation formula development and implementation of the State
6 Public Transportation Fund; to change certain provisions regarding the balancing and
7 allocation of state and federal funds; to suspend restrictions on the use by public transit
8 authorities of local sales and use tax proceeds; to amend Title 48 of the Official Code of
9 Georgia Annotated, relating to revenue and taxation, so as to provide for legislative findings
10 and intent; to provide for the creation of special districts; to provide for a regional
11 transportation sales and use tax in such special districts; to provide for definitions; to provide
12 for an exemption from the cap on the imposition of local sales and use taxes; to provide for
13 the development of an investment list of projects; to provide for town hall meetings to
14 discuss the investment list; to provide for a referendum; to provide for the rate and manner
15 of imposition of such tax; to provide for collection and administration of such tax; to provide
16 for use of the proceeds of such tax; to provide for returns; to provide for distribution and
17 expenditure of proceeds; to provide for annual reporting; to provide for tax credits; to provide
18 for certain exemptions; to provide for the effect on any local sales and use taxes; to provide
19 for legislative oversight; to amend Title 50 of the Official Code of Georgia Annotated,
20 relating to state government, so as to revise certain provisions relative to the Department of
21 Transportation's allocation of funds; to provide for related matters; to provide for an effective
22 date; to repeal conflicting laws; and for other purposes.

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

24 SECTION 1.

25 This Act shall be known and may be cited as the "Transportation Investment Act of 2010."

26

SECTION 2.

27 Title 32 of the Official Code of Georgia Annotated, relating to highways, bridges, and ferries,
28 is amended by revising subsection (a) of Code Section 32-2-41, relating to the powers and
29 duties of the commissioner of transportation, as follows:

30 "(a) As the chief executive officer of the department, the commissioner shall have direct
31 and full control of the department. He or she shall possess, exercise, and perform all the
32 duties, powers, and authority which may be vested in the department by law, except those
33 duties, powers, and authority which are expressly reserved by law to the board or the
34 director of planning. The commissioner's principal responsibility shall be the faithful
35 implementation of transportation plans produced by the director of planning and approved
36 by the Governor and the State Transportation Board, subject to the terms of such
37 appropriations Acts as may be adopted from time to time. The commissioner shall also be
38 responsible for the duties and activities assigned to the commissioner in Article 5 of
39 Chapter 8 of Title 48. When the board is not in regular or called session, the commissioner
40 shall perform, exercise, and possess all duties, powers, and authority of the board except:
41 (1) Approval of the advertising of nonnegotiated construction contracts; and
42 (2) Approval of authority lease agreements.

43 The commissioner shall also have the authority to exercise the power of eminent domain
44 and to execute all contracts, authority lease agreements, and all other functions except those
45 that cannot legally be delegated to him or her by the board."

46

SECTION 3.

47 Said title is further amended by revising subsection (b) of Code Section 32-2-43, relating to
48 the responsibilities of the director of planning, as follows:

49 "(b) The director of planning's principal responsibility shall be the development of
50 transportation plans, including the development of the state-wide strategic transportation
51 plan and state-wide transportation improvement program and other comprehensive plans
52 pursuant to the provisions of Code Section 32-2-3 and Code Section 32-2-22, strategic
53 transportation plans pursuant to the provisions of Code Section 32-2-41.1, and benchmarks
54 and value engineering studies pursuant to the provisions of Code Section 32-2-41.2, in
55 consultation with the board, the Governor, and the commissioner. The director shall also
56 be responsible for the duties and activities assigned to the director in Article 5 of Chapter
57 8 of Title 48. The director shall be the director of the Planning Division of the department
58 and shall possess, exercise, and perform all the duties, powers, and authority which may
59 be vested in such division by law and are necessary or appropriate for such purpose, except
60 those duties, powers, and authority which are expressly reserved by law to the board or the
61 commissioner."

SECTION 4.

Said title is further amended in Code Section 32-5-27, relating to allocation formula development and implementation, by revising subsection (f) as follows:

"(f) Information pertaining to all funds received and expended by, through, or from the department, including but not limited to project numbers, let dates, estimated costs, actual costs, estimated completion date, status, priority ranking, congressional, House, and Senate districts, regions pursuant to Code Section 32-5-30, vendor names, contract amounts, and other pertinent contract information, shall be published on the website of the department as data in structured format. As used in this subsection, 'structured format' means data that is presented in machine readable format."

SECTION 5.

Said title is further amended by revising Code Section 32-5-30, relating to allocation of state and federal funds, as follows:

"32-5-30.

(a)(1) The total of expenditures from the State Public Transportation Fund under paragraphs (4), (5), and (6) of Code Section 32-5-21 plus expenditures of federal funds appropriated to the department less budgeted expenditures of proceeds from the sale of general obligation bonds, not including any federal funds specifically designated for projects that have been earmarked by a member of Congress in excess of appropriated funds, shall be budgeted by the department over two successive budgeting periods every decade.

~~(2) The first Such budgeting period shall commence immediately following redistricting of congressional districts July 1, 2011, and shall be for a duration of five ten years. The second budgeting period shall continue until the beginning of the budgeting period following the next redistricting of congressional districts after each decennial census; provided, however, if the congressional districts have been redrawn prior to a new decennial census, but after the approval of an existing map based on the last decennial census, the budgeting period shall include two successive budgeting periods. The first budgeting period shall end upon approval of the new redistricting and the second budgeting period shall commence from the date such redrawn congressional districts have been approved and shall continue until the next budgeting period following the next redistricting of congressional districts: Thereafter all budgeting periods shall be for ten years.~~

(2) The department shall budget such expenditures for the state-wide asset improvement program using the allocation formula provided in Code Section 32-5-27 such that at the end of such budgeting period funding obligations equivalent to at least ~~80~~ 27 percent of

98 such total program for such budgeting period shall have been divided equally among the
99 congressional districts regions in this state as defined in subsection (f) of Code Section
100 50-8-4, as those districts regions existed at the commencement of such budgeting period, The
101 for public road and other public transportation purposes in such districts regions. The
102 other 53 percent of expenditures budgeted to such program shall be divided according to
103 the percentage that region's total population bears compared to the population of the state
104 as a whole. Population shall be determined using the most recently completed United
105 States decennial census. If the results from the most recently completed United States
106 decennial census are not final upon commencement of the budgeting period, budgeting
107 shall be based upon the most recent year of official population estimates from the United
108 States Bureau of the Census. Upon finalization of the United States decennial census
109 results, the department shall revise expenditures budgeted to each region if necessary to
110 comply with this paragraph.
111 (3) The department shall budget such expenditures for the state-wide transportation asset
112 management program using the allocation formula provided in Code Section 32-5-27
113 such that at the end of such budgeting period funding obligations equivalent to at least
114 80 percent of such program for such budgeting period shall have been divided among
115 such regions in the state as defined in subsection (f) of Code Section 50-8-4, as those
116 regions existed at the commencement of such budgeting period, for administration,
117 maintenance, operations, and rehabilitation of infrastructure. The expenditures budgeted
118 to each region shall be equivalent to the percentage of the total lane miles of state routes
119 that is contained within such region per the most recent annual count by the department
120 as submitted to the Federal Highway Administration compared to the total lane miles in
121 the state as a whole.
122 (b)(1) The board may upon approval by two-thirds of its membership authorize a
123 reduction in the share of funds allocated pursuant to this Code section to any such
124 congressional-district region if such supermajority of the board determines that such
125 district region does not have sufficient projects available for expenditure of funds within
126 that district region to avoid lapsing of appropriated funds.
127 (2) In the event that funding becomes available to the department which could not
128 otherwise be allocated among congressional-districts regions due to the allocation
129 requirements of this Code section, the board may upon approval by a majority of its
130 membership authorize a waiver of such allocation requirements to the extent necessary
131 to allow the expenditure of such funding, and any project, projects, or portion thereof
132 undertaken with such additional funding shall be in addition to those projects funded in
133 accordance with the allocation requirements of this Code section in the fiscal year in
134 which the additional funds became available or any subsequent year; provided, however,

135 that any such waiver shall be valid only for the fiscal year in which it is granted, and any
 136 funds budgeted pursuant to a waiver granted by this paragraph which were not obligated
 137 by the end of such fiscal year shall not be obligated in violation of the allocation
 138 requirements of this Code section in a subsequent fiscal year unless a majority of the
 139 board again authorizes a waiver of the allocation requirements in such subsequent fiscal
 140 year.
 141 (c) Provisions of this Code section may be waived pursuant to subsection (b) of Code
 142 Section 32-5-1 only upon approval by two-thirds of the membership of the board."

143 SECTION 6.

144 Said title is further amended by revising Code Section 32-5-31, relating to submission of
 145 yearly reports, as follows:
 146 "32-5-31.
 147 In each calendar year, the board shall provide to the Governor, Lieutenant Governor, and
 148 Speaker of the House of Representatives a written report detailing the allocation of funding
 149 obligations among congressional districts pursuant to Code Section 32-5-30 for the
 150 fiscal year ending June 30 of that same calendar year. Such report shall include without
 151 limitation the annual funding obligations and the projected expenditures of funds for the
 152 five-year ten-year period and any and all documents or information indicating how the
 153 department intends to allocate the applicable state and federal funds among congressional
 154 districts regions as required by Code Section 32-5-30 or a detailed explanation of why the
 155 department is unable to allocate such funds as required."

156 SECTION 7.

157 Said title is further amended by adding a new Code section immediately following Code
 158 Section 32-9-12, to be designated Code Section 32-9-13, to read as follows:
 159 "32-9-13.
 160 Provisions in all laws, whether general or local, including but not limited to the
 161 Metropolitan Atlanta Rapid Transit Authority Act of 1965 approved March 10, 1965 (Ga.
 162 L. 1965, p. 2243), as amended, that set forth restrictions on the use by public transit
 163 authorities of annual proceeds from local sales and use taxes shall be suspended for the
 164 period beginning on the effective date of this Code section and continuing for three years.
 165 The greater discretion over such funds shall not abrogate the obligation of the public transit
 166 authority to comply with federal and state safety regulations and guidelines. Newly
 167 available funds shall be utilized, subject to total funding, to maintain the level of service
 168 for the transit system as it existed on January 1, 2010. Furthermore, except as had been
 169 previously contracted to by the public transit authority prior to January 1, 2010, no funds

170 newly available during this suspended period shall be used by a public transit authority to
 171 benefit any person or other entity for any of the following: annual cost-of-living or merit
 172 based salary raises or increases in hourly wages; increased overtime due to such wage
 173 increases; payment of bonuses; or to increase the level of benefits of any kind."

174 **SECTION 8.**

175 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
 176 amended by revising subsection (b) of Code Section 48-8-6, relating to limitations on local
 177 imposition of certain taxes, as follows:

178 "(b) There shall not be imposed in any jurisdiction in this state or on any transaction in this
 179 state local sales taxes, local use taxes, or local sales and use taxes in excess of 2 percent.
 180 For purposes of this prohibition, the taxes affected are any sales tax, use tax, or sales and
 181 use tax which is levied in an area consisting of less than the entire state, however
 182 authorized, including such taxes authorized by or pursuant to constitutional amendment,
 183 except that the following taxes shall not count toward or be subject to such 2 percent
 184 limitation:

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

187 (2) Any tax levied for purposes of a metropolitan area system of public transportation,
 188 as authorized by the amendment to the Constitution set out at Georgia Laws, 1964, page
 189 1008; the continuation of such amendment under Article XI, Section I, Paragraph IV(d)
 190 of the Constitution; and the laws enacted pursuant to such constitutional amendment;
 191 provided, however, that the exception provided for under this paragraph shall only apply
 192 in a county in which a tax is being imposed under subparagraph (a)(1)(D) of Code
 193 Section 48-8-111 in whole or in part for the purpose or purposes of a water capital outlay
 194 project or projects, a sewer capital outlay project or projects, a water and sewer capital
 195 outlay project or projects, water and sewer projects and costs as defined under paragraph
 196 ~~(3)~~(4) of Code Section 48-8-200, or any combination thereof and with respect to which
 197 the county has entered into an intergovernmental contract with a municipality, in which
 198 the average waste-water system flow of such municipality is not less than 85 million
 199 gallons per day, allocating proceeds to such municipality to be used solely for water and
 200 sewer projects and costs as defined under paragraph ~~(3)~~(4) of Code Section 48-8-200. The
 201 exception provided for under this paragraph shall apply only during the period the tax
 202 under said subparagraph (a)(1)(D) is in effect. The exception provided for under this
 203 paragraph shall not apply in any county in which a tax is being imposed under Article 2A
 204 of this chapter;

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

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

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

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

SECTION 9.

Said title is further amended by adding a new article in Chapter 8 to read as follows:

"ARTICLE 5

48-8-240.

The local governments of the State of Georgia are of vital importance to the state and its citizens. The state has an essential public interest in promoting, developing, sustaining, and assisting local governments. The General Assembly finds that the design and construction of transportation projects is a critical local government service for which adequate funding is not presently available. Many transportation projects cross multiple jurisdictional boundaries and must be coordinated in their design and construction. The General Assembly finds that the most efficient means to coordinate and fund such projects is through the creation of special districts that correspond with the boundaries of existing regional commissions. The purpose of this article is to provide for special districts that will enable the coordinated design and construction of transportation projects that will develop and promote the essential public interests of the state and its citizens at the state, regional, and local levels. The General Assembly intends through the creation of such special districts to enable the citizens within each district to decide in a referendum whether to authorize the imposition of a regional transportation sales and use tax to fund the projects on an investment list collaboratively developed by the affected local governments and the state. This article shall be construed liberally to achieve its purpose.

48-8-241.

(a) There are created within this state 12 special districts. The geographical boundary of each special district shall correspond with and shall be coterminous with the geographical boundary of the applicable region of the 12 regional commissions provided for in

238 subsection (f) of Code Section 50-8-4 as those geographical boundaries existed upon the
 239 effective date of this article.
 240 (b) When the imposition of a special district sales and use tax is authorized according to
 241 the procedures provided in this article within a special district, subject to the requirement
 242 of referendum approval and the other requirements of this article, a special district sales
 243 and use tax shall be imposed within the special district for a period of ten years which tax
 244 shall be known as the regional transportation sales and use tax.
 245 (c) Any tax imposed under this article shall be at the rate of 1 percent. Except as to rate,
 246 a tax imposed under this article shall correspond to the tax imposed by Article 1 of this
 247 chapter. No item or transaction which is not subject to taxation under Article 1 of this
 248 chapter shall be subject to a tax imposed under this article, except that a tax imposed under
 249 this article shall apply to sales of motor fuels as that term is defined by paragraph (9) of
 250 Code Section 48-9-2 and shall be applicable to the sale of food and beverages as provided
 251 for in division (57)(D)(f) of Code Section 48-8-3.
 252 48-8-242.
 253 As used in this article, the term:
 254 (1) 'Commissioner' means the commissioner of transportation.
 255 (2) 'Cost of project' means:
 256 (A) All costs of acquisition, by purchase or otherwise, construction, assembly,
 257 installation, modification, renovation, extension, rehabilitation, operation, or
 258 maintenance incurred in connection with any project of the special district or any part
 259 thereof;
 260 (B) All costs of real property or rights in property, fixtures, or personal property used
 261 in or in connection with or necessary for any project of the special district or for any
 262 facilities related thereto, including but not limited to the cost of all land, interests in
 263 land, estates for years, easements, rights, improvements, water rights, and connections
 264 for utility services; the cost of fees, franchises, permits, approvals, licenses, and
 265 certificates; the cost of securing any such franchises, permits, approvals, licenses, or
 266 certificates; the cost of preparation of any application therefor, and the cost of all
 267 fixtures, machinery, equipment, furniture, and other property used in or in connection
 268 with or necessary for any project of the special district;
 269 (C) All costs of engineering, surveying, planning, environmental assessments, financial
 270 analyses, and architectural, legal, and accounting services and all expenses incurred by
 271 engineers, surveyors, planners, environmental scientists, fiscal analysts, architects,
 272 attorneys, accountants, and any other necessary technical personnel in connection with
 273 any project of the special district;

- 274 (D) All expenses for inspection of any project of the special district;
- 275 (E) All fees of any type charged to the special district in connection with any project
- 276 of the special district;
- 277 (F) All expenses of or incidental to determining the feasibility or practicability of any
- 278 project of the special district;
- 279 (G) All costs of plans and specifications for any project of the special district;
- 280 (H) All costs of title insurance and examinations of title with respect to any project of
- 281 the special district;
- 282 (I) Repayment of any loans for the advance payment of any part of any of the
- 283 foregoing costs, including interest thereon and any other expenses of such loans;
- 284 (J) Administrative expenses of the special district and such other expenses as may be
- 285 necessary or incidental to any project of the special district or the financing thereof; and
- 286 (K) A fund or funds or such other reserves as the commissioner may authorize the
- 287 treasurer to establish with respect to the financing and operation of any project of the
- 288 special district.
- 289 (3) 'County' means any county created under the Constitution or laws of this state.
- 290 (4) 'Dealer' means a dealer as defined in paragraph (3) of Code Section 48-8-2.
- 291 (5) 'Director' means the director of planning provided for in Code Section 32-2-43.
- 292 (6) 'LARP factor' means the sum of one-fifth of the ratio between the population of a
- 293 local government's jurisdiction and the total population of the special district in which
- 294 such local government is located plus four-fifths of the ratio between the paved and
- 295 unpaved centerline road miles in the local government's jurisdiction and the total paved
- 296 and unpaved centerline road miles in the special district in which such local government
- 297 is located.
- 298 (7) 'Local government' means any municipal corporation, county, or consolidated
- 299 government created by the General Assembly or pursuant to the Constitution and laws
- 300 of this state.
- 301 (8) 'Metropolitan planning organization' or 'MPO' means the policy board of an
- 302 organization created and designated to carry out the metropolitan transportation planning
- 303 process as defined in 23 C.F.R. Section 450.
- 304 (9) 'Municipal corporation' means any incorporated city or town in this state.
- 305 (10) 'Project' means, without limitation, any new or existing roads, bridges, bus and rail
- 306 mass transit systems, freight and passenger rail, pedestrian facilities, bike lanes, airports,
- 307 ports, and all activities and structures useful and incident to providing, operating, and
- 308 maintaining the same.
- 309 (11) 'Regional transportation roundtable' means a conference of the local governments
- 310 of a special district created pursuant to this article held at a centralized location within the

311 district as chosen by the director for the purpose of establishing the investment criteria
312 and determining projects eligible for the investment list for the special district. The
313 regional transportation roundtable shall consist of two representatives from each county,
314 including the chairperson, sole commissioner, mayor, or chief executive officer of the
315 county governing authority and one mayor elected by the mayors of the county; provided,
316 however, that, in the event such an election ends in a tie, the mayor of the municipal
317 corporation with the highest population determined using the most recently completed
318 United States decennial census shall be deemed to have been elected as a representative
319 unless that mayor is already part of the roundtable. In such case, the mayor of the
320 municipal corporation with the second highest population shall be deemed to have been
321 elected as a representative. If a county has more than 50 percent of its population
322 residing in municipal corporations, such county shall have the mayor of the municipal
323 corporation with the highest population determined using the most recently completed
324 United States decennial census as an additional representative. The regional
325 transportation roundtable shall elect five representatives from among its members to
326 serve as an executive committee. The executive committee shall also include two
327 members of the House of Representatives selected by the chairperson of the House
328 Transportation Committee and one member of the Senate selected by the chairperson of
329 the Senate Transportation Committee. The executive committee shall not have more than
330 one representative from any one county, not including any representation by any member
331 of the General Assembly.
332 (12) 'Special Regional Transportation Funding Election Act' means an Act specifically
333 and exclusively enacted for the purpose of ordering that a referendum be held for the
334 reimposition of the regional transportation sales and use tax within the region that
335 includes the districts, in their entirety or any portion thereof, of the members from a local
336 legislative delegation in the General Assembly. A majority of the signatures of the
337 legislative delegation for a majority of the counties within the region shall be required for
338 the bill to be placed upon the local calendar of each chamber. This method shall be
339 exclusively used for this purpose and no other bill shall be placed or voted upon on the
340 local calendar utilizing this method of qualification for placement thereon. This Act shall
341 be treated procedurally by the General Assembly as a local Act and all counties within
342 the region shall receive the legal notice requirements of a local Act.
343 (13) 'State-wide strategic transportation plan' means the official state-wide transportation
344 plan as defined in paragraph (6) of subsection (a) of Code Section 32-2-22.
345 (14) 'State-wide transportation improvement program' means a state-wide prioritized
346 listing of transportation projects as defined in paragraph (7) of subsection (a) of Code
347 Section 32-2-22.

348 (15) 'Transportation improvement program' means a prioritized listing of transportation
 349 projects as defined in paragraph (8) of subsection (a) of Code Section 32-2-22.
 350 (16) 'Treasurer' means the supervisor of the finance division of the Department of
 351 Transportation as provided for in paragraph (5) of subsection (b) of Code Section
 352 32-2-41.
 353 48-8-243.
 354 (a) On or before August 15, 2010, the director shall provide in written form to the local
 355 governments and any MPO's within each special district across the state recommended
 356 criteria for the development of an investment list of projects and programs. The
 357 establishment of such criteria shall comport with the investment policies provided in
 358 subsection (a) of Code Section 32-2-41.1 and the state-wide strategic transportation plan.
 359 The recommended criteria shall include performance goals, allocation of investments in
 360 alignment with performance, and execution of projects. The state fiscal economist shall
 361 develop an estimate of the proceeds of the regional transportation sales and use tax for each
 362 special district using financial data supplied by the department. Such estimate shall include
 363 a reasonable range of anticipated growth, if any. The director shall include such estimates
 364 and ranges in the recommended criteria for developing the draft investment list. Any local
 365 government or MPO desiring to submit comments on the recommended criteria shall make
 366 such submission to the director no later than September 30, 2010. On or before November
 367 10, 2010, the mayors in each county shall elect the mayoral representative to the regional
 368 transportation roundtable and notify the county commission chairperson and the director
 369 of that mayor's name. The director shall accept comments from any MPO located wholly
 370 or partially within each special district in finalizing the recommended district criteria in a
 371 written report on or before November 15, 2010. Such report shall also include notice of
 372 the date, time, and location of the first regional transportation roundtable for each special
 373 district for the purpose of considering the recommended district criteria and for electing
 374 members of the executive committee for each special district. Any amendment to the
 375 recommended criteria, approval of such criteria, and election of the executive committee
 376 shall be enacted by a majority vote of the representatives present at the roundtable meeting.
 377 Upon approval of the criteria, if any are approved, the director shall promptly deliver a
 378 report to the commissioner, local governments, any MPO located wholly or partially within
 379 each special district and to the members of the General Assembly whose districts lie wholly
 380 or partially within each special district detailing the criteria approved by the roundtable.
 381 (b) With regard to any area of a special district that is not part of an MPO, following
 382 receipt of the report provided for in subsection (a) of this Code section, and after receiving
 383 comments, if any, from members of the General Assembly whose districts lie wholly or

384 partially within such area, the local governments in such area may submit projects that
385 comport with the special district's investment criteria to the director to assemble a draft
386 investment list for such special district. With regard to any area of a special district that
387 is part of an MPO, following receipt of the report provided for in subsection (a) of this
388 Code section, and after receiving comments, if any, from members of the General
389 Assembly whose districts lie wholly or partially within such area, the local governments
390 may submit projects that comport with the special district's investment criteria to the
391 director and to the MPO for the director to use to assemble a draft investment list for such
392 special district. The draft investment list for each special district shall comport with the
393 investment criteria as approved by such district and shall be submitted to the commissioner
394 and the executive committee for each regional transportation roundtable for consideration,
395 where the executive committee in consultation with the director shall negotiate and vote
396 on amendments, if any, to the draft list and approve by majority vote the list to be
397 considered by the regional roundtable. The director shall deliver a draft of the investment
398 list to such local governments, MPO's, and members of the General Assembly whose
399 districts lie wholly or partially within each special district for each special district not later
400 than August 15, 2011. The director shall include in the draft of the investment list a
401 statement of the specific public benefits to be expected upon the completion of each project
402 on the investment list and how the special district's investment criteria are furthered by
403 each project. Examples of specific public benefits include, but are not limited to,
404 congestion mitigation, increased lane capacity, public safety, and economic development.
405 The director shall include in such delivery notice of the date, time, and location of each
406 district's executive committee meeting and final regional transportation roundtable. Prior
407 to holding the final regional transportation roundtable, the executive committee shall hold,
408 after proper notice to the public, at least two town hall meetings in the region for the
409 purpose of receiving public comment on the draft regional investment list. The executive
410 committee shall prepare and deliver to all members of the regional roundtable and the
411 director a summary of the public comment on the regional investment list. The local
412 governments, MPO's, commissioner, and members of the General Assembly may submit
413 comments on the draft investment list addressed to both the director and the executive
414 committee no later than two weeks prior to the dates of the final regional transportation
415 roundtable and the executive committee meeting, respectively, for the special district. At
416 the final regional transportation roundtable, the draft investment list approved by the
417 executive committee shall be considered for approval by a majority vote of the
418 representatives present at the roundtable. Should the roundtable reject the investment list
419 approved by the executive committee, the roundtable then may negotiate amendments that
420 meet the criteria to the draft investment list, each voted on separately and requiring a

421 majority vote of the representatives present at the roundtable for approval. Upon
 422 consideration of all offered amendments, upon motion, the roundtable shall vote as to the
 423 approval of the amended draft list, requiring a majority vote of the representatives present
 424 at the roundtable. The approved investment list, if any, shall be provided to the director.
 425 On or before October 15, 2011, the director shall deliver such list to the commissioner,
 426 local governments, MPO's, and members of the General Assembly whose districts lie
 427 wholly or partially within each special district for each special district. If a roundtable does
 428 not approve the original draft investment list or an amended draft investment list on or
 429 before October 15, 2011, then no election shall be held in such special district.

430 48-8-244.

431 (a) Simultaneously with the director's delivery of the investment list in accordance with
 432 subsection (b) of Code Section 48-8-243, the Governor shall deliver a notice to the election
 433 superintendents of each county within the respective special districts. Upon receipt of the
 434 notice, each election superintendent shall issue the call for an election for the purpose of
 435 submitting the question of the levy of the regional transportation tax to the voters within
 436 his or her county within the special district. Each election superintendent shall issue the
 437 call and shall conduct the election in the manner authorized under Code Section 21-2-540.
 438 The first election shall be held on the date of the first presidential preference primary
 439 following the effective date of this article. Each election superintendent shall cause the
 440 date and purpose of the election to be published once a week for four weeks immediately
 441 preceding the date of the election in the official organ of his or her county.

442 (b) The ballot submitting the question of the levy of the regional transportation tax
 443 authorized by this article to the voters within each special district shall have written or
 444 printed thereon the following:

445 () YES Shall a special 1 percent sales and use tax be imposed in the special
 446 district consisting of _____ Counties for a period of ten years and for the
 447 () NO raising of not more than an estimated amount of \$ _____ for the purpose
 448 of transportation?

449 (c) All persons desiring to vote in favor of levying the tax shall vote 'Yes' and all persons
 450 opposed to levying the tax shall vote 'No.' If more than one-half of the votes cast
 451 throughout the entire special district are in favor of levying the tax, then the tax shall be
 452 levied as provided in this article; otherwise the tax shall not be levied and the question of
 453 levying the tax shall not again be submitted to the voters of the special district until after
 454 24 months immediately following the month in which the election was held. Each election
 455 superintendent shall hold and conduct the election under the same rules and regulations as
 456 govern special elections. Each election superintendent shall canvass the returns from his

457 or her county, declare the result of the election in that county, and certify the result to the
458 Secretary of State. The Secretary of State shall compile the results from each county in the
459 special district, declare the result of the election in the special district, and certify the result
460 to the governing authority of each local government and MPO within the special district
461 and the state revenue commissioner. The expense of the election in each county within
462 each special district shall be paid from funds of each county.

463 48-8-245.

464 (a) If the imposition of the regional transportation sales and use tax is approved at the
465 special election, the collection of such tax shall begin on the first day of the next
466 succeeding calendar quarter beginning more than 80 days after the date of the election.
467 With respect to services which are regularly billed on a monthly basis, however, the tax
468 shall become effective with respect to and the tax shall apply to services billed on or after
469 the effective date specified in the previous sentence.

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

471 (1) On the final day of the ten-year period of time specified for the imposition of the tax;
472 or

473 (2) As of the end of the calendar quarter during which the state revenue commissioner
474 determines that the tax has raised revenues sufficient to provide to the special district net
475 proceeds equal to or greater than the amount specified as the estimated amount of net
476 proceeds to be raised by the regional transportation tax.

477 (c)(1) No more than a single 1 percent tax under this article may be collected at any time
478 within a special district.

479 (2) Upon the enactment by the General Assembly of a Special Regional Transportation
480 Funding Election Act and the adoption of resolutions by the governing bodies of a
481 majority of the counties within a special district in which a tax authorized by this article
482 is in effect, a special election may be held for the reimposition of the tax while the tax is
483 in effect. Proceedings for the development of an investment list and for the reimposition
484 of a tax shall be in the same manner as provided for in Code Section 48-8-243.

485 (3) Following the expiration of the regional transportation sales and use tax under this
486 article, or following a special election in which voters in a special district rejected the
487 imposition of the tax, upon the passage by the General Assembly of a Special Regional
488 Transportation Funding Election Act and the adoption of resolutions by the governing
489 bodies of all counties within a special district, a special election may be held for the
490 imposition of a tax under this article in the same manner as provided in this article for the
491 initial imposition of such tax. In the event such subsequent election is to be held on the
492 date of a presidential preference primary, the development of the investment list for such

493 special district shall follow the dates established in Code Section 48-8-243 with the years
494 adjusted appropriately, and such schedule shall be posted on a website developed by the
495 commissioner to be used exclusively for matters related to the regional transportation
496 sales and use tax within 30 days of the later of the commissioner's receipt of notice from
497 the final county governing body to adopt a resolution or of the passage of the Special
498 Regional Transportation Funding Election Act by the General Assembly. In the event
499 such subsequent election is not to be held on the date of a presidential preference primary,
500 it shall be held on the date of a November election as defined in paragraph (15) of Code
501 Section 21-2-2, and the director shall adopt a schedule for the development of the
502 investment criteria and the investment list allowing time periods similar to those
503 established in Code Section 48-8-243, and such schedule shall be posted on the
504 commissioner's dedicated website as provided above.

505 48-8-246.

506 A tax levied pursuant to this article shall be exclusively administered and collected by the
507 state revenue commissioner for the use and benefit of the special district imposing the tax.
508 Such administration and collection shall be accomplished in the same manner and subject
509 to the same applicable provisions, procedures, and penalties provided in Article 1 of this
510 chapter; provided, however, that all moneys collected from each taxpayer by the state
511 revenue commissioner shall be applied first to such taxpayer's liability for taxes owed the
512 state; and provided, further, that the state revenue commissioner may rely upon a
513 representation by or in behalf of the special district or the Secretary of State that such a tax
514 has been validly imposed, and the state revenue commissioner and the state revenue
515 commissioner's agents shall not be liable to any person for collecting any such tax which
516 was not validly imposed. Dealers shall be allowed a percentage of the amount of the tax
517 due and accounted for and shall be reimbursed in the form of a deduction in submitting,
518 reporting, and paying the amount due if such amount is not delinquent at the time of
519 payment. The deduction shall be at the rate and subject to the requirements specified under
520 subsections (b) through (f) of Code Section 48-8-50.

521 48-8-247.

522 Each sales tax return remitting taxes collected under this article shall separately identify
523 the location of each retail establishment at which any of the taxes remitted were collected
524 and shall specify the amount of sales and the amount of taxes collected at each
525 establishment for the period covered by the return in order to facilitate the determination
526 by the state revenue commissioner that all taxes imposed by this article are collected and
527 distributed according to situs of sale.

528 48-8-248.

529 The proceeds of the tax collected by the state revenue commissioner in each special district
 530 under this article shall be disbursed as soon as practicable after collection to the treasurer
 531 to be maintained in a trust fund and administered by the treasurer on behalf of the special
 532 district imposing the tax. Such proceeds for each special district shall be kept separate
 533 from other funds of the Department of Transportation and shall not in any manner be
 534 commingled with other funds of the Department of Transportation.

535 48-8-249.

536 (a) The proceeds received from the tax authorized by this article shall be used within the
 537 special district receiving proceeds of the tax exclusively for the projects on the final
 538 investment list for such district as provided in subsection (b) of Code Section 48-8-243.
 539 Authorized uses of tax proceeds in connection with such projects shall include the cost of
 540 project defined in subparagraph (2) of Code Section 48-8-242.
 541 (b) The commissioner shall be responsible for managing the execution, schedule, and
 542 delivery of projects on the investment list for each special district. The commissioner may
 543 delegate such execution, schedule, and delivery of projects. The commissioner shall
 544 consult with the director on at least a quarterly basis regarding the progress and
 545 performance in the execution, schedule, and delivery of projects on the investment list.
 546 (c) In managing the execution, schedule, and delivery of the projects on the investment list
 547 for a special district, the commissioner, in consultation with the chief engineer, shall
 548 determine whether a project should be designed and constructed by the Department of
 549 Transportation, by a local government, or by another public or private entity. In making
 550 such determination the commissioner shall consider:

551 (1) Whether such project is on the state-wide transportation improvement program, the
 552 state-wide strategic transportation plan, or a transportation improvement program;

553 (2) The type and estimated cost of the project;

554 (3) The location of the project and whether it encompasses multiple jurisdictions;

555 (4) The experience of a local government or governments or a public or private entity in
 556 designing and constructing such project as set forth in an application in a form to be
 557 provided by the commissioner; and

558 (5) The recommendation of the MPO, if any, for such special district.

559 Following the commissioner's decision, the Department of Transportation, the local
 560 government or governments, or another public or private entity as determined under this
 561 subsection shall contract for implementing the projects in accordance with applicable state
 562 and federal requirements.

563 (d) The commissioner shall maintain an adequate record-keeping system for each project
564 funded by a regional transportation sales and use tax. An annual audit shall be paid for by
565 each special district and conducted by the Department of Audits and Accounts. Such audit
566 shall include a schedule which shows for each such project the original estimated cost, the
567 current estimated cost if it is not the original estimated cost, amounts expended in prior
568 years, and amounts expended in the current year. Such audit shall verify and test
569 expenditures sufficient to provide assurances that the schedule is fairly presented in relation
570 to the financial statements. The audit report on the financial statements shall include an
571 opinion, or disclaimer of opinion, as to whether the schedule is presented fairly in all
572 material respects in relation to the financial statements taken as a whole.
573 (e) Ten percent of the proceeds received from the tax authorized by this article shall be
574 distributed to the local governments within the special district in which the tax is imposed.
575 Such 10 percent shall be allocated to each local government by multiplying the LARP
576 factor of each local government by the total amount of funds to be distributed to all the
577 local governments in the special district. Proceeds described in this subsection shall be
578 distributed to the local governments on an ongoing basis as they are received by the
579 commissioner. Such proceeds shall be used by the local governments only for
580 transportation projects as defined in paragraph (10) of Code Section 48-4-242. If a special
581 district receives from the tax net proceeds in excess of the investment list approved by the
582 director for the imposition of the tax or in excess of the actual cost of the project or projects
583 on such investment list, then such excess proceeds shall be distributed among the local
584 governments within the special district in accordance with this subsection.
585 48-8-250.
586 Not later than December 15 of each year, the commissioner shall publish, on the website
587 created pursuant to paragraph (3) of subsection (c) of Code Section 48-8-245, a simple,
588 nontechnical report which shows for each project in the investment list approved by the
589 director the original estimated cost, the current estimated cost if it is not the original
590 estimated cost, amounts expended in prior years, and amounts expended in the current year
591 with respect to each such project. The report shall also include a statement of what
592 corrective action the commissioner intends to implement with respect to each project which
593 is underfunded or behind schedule and a statement of any surplus funds which have not
594 been expended for a project.

595 48-8-251.

596 (a) There is created the Georgia Regional Transportation Legislative Oversight Committee
597 to be composed of three members of the House of Representatives appointed by the
598 Speaker and two members of the Georgia Senate appointed by the Lieutenant Governor.
599 At least one member of the General Assembly appointed by each of the foregoing
600 appointing officials shall at the time of such appointment and thereafter be a member of a
601 political party other than that of the appointing official. Members shall serve during their
602 terms of office and until their successors are appointed and qualified.

603 (b) In the event that any vacancy for any cause shall occur in the appointed membership
604 of the committee, such vacancy shall be filled by an appointment made by the official
605 authorized by law to make such appointment within 45 days of the occurrence of such
606 vacancy.

607 (c) The committee shall, by majority vote of those members present and voting, elect from
608 their number a chairperson and vice chairperson who shall serve at the pleasure of the
609 committee.

610 (d) The committee shall meet in regular session at least three days each year either at the
611 state capitol in Atlanta or at such other meeting place and may have such other additional
612 meetings as may be called by the chairperson or by a majority of the members of the
613 committee upon reasonable written notice to all members of the committee. Further, the
614 chairperson of the committee is authorized from time to time to call meetings of
615 subcommittees of the committee which are established by committee policy and to require
616 the attendance of a member or members of the committee at places inside or outside the
617 state when, in the opinion of the chairperson, the member or members of the committee are
618 needed to attend properly to the committee's business. A majority of the committee shall
619 constitute a quorum for the transaction of all business. Any power of the committee may
620 be exercised by a majority vote of those members present at any meeting at which there is
621 a quorum.

622 (e) Members shall receive for each day of actual attendance at meetings of the committee
623 and the subcommittee meetings the per diem and transportation costs prescribed in Code
624 Section 45-7-21, and a like sum shall be paid for each day actually spent in studying the
625 transportation needs of the state or attending other functions as a representative of the
626 committee, not to exceed ten days in any calendar year, but no member shall receive such
627 per diem for any day for which such member receives any other per diem pursuant to such
628 Code section. In addition, members shall receive actual transportation costs while traveling
629 by public carrier or the legal mileage rate for the use of a personal automobile in
630 connection with such attendance and study. Such per diem and expense shall be paid from

631 the funds of the General Assembly upon presentation, by members of the committee, of
632 vouchers approved by the chairperson.
633 (f) The committee shall be charged with oversight of the governance and administration
634 of the projects and programs included on the investment list. The committee may make
635 such recommendations to and require such reports from the commissioner, the treasurer,
636 any other agency or instrumentality of the state, any political subdivision of the state, and
637 any agency or instrumentality of such political subdivisions as it may deem appropriate and
638 necessary from time to time in the interest of the region.
639 (g) Upon the completion of a project on the investment list, the committee shall annually
640 review the specific public benefits identified in the investment list to ascertain the degree
641 to which such benefits have been attained. This benefit review report shall be delivered to
642 the director and commissioner and shall be published on the website created pursuant to
643 paragraph (3) of subsection (c) of Code Section 48-8-245.
644 (h) Beginning January 1, 2012, and annually thereafter, the committee shall provide a
645 report to the General Assembly of its actions during the previous year. The report shall be
646 available for public inspection on the website created pursuant to paragraph (3) of
647 subsection (c) of Code Section 48-8-245. The report shall include, but not be limited to,
648 an update on the progress on each project on the investment list for the region, including
649 the amount of funds spent on each project.
650 48-8-252.
651 Where a regional transportation sales and use tax under this article has been paid with
652 respect to tangible personal property by the purchaser either in another special district
653 within the state or in a tax jurisdiction outside the state, the tax may be credited against the
654 tax authorized to be imposed by this article upon the same property. If the amount of sales
655 or use tax so paid is less than the amount of the use tax due under this article, the purchaser
656 shall pay an amount equal to the difference between the amount paid in the other tax
657 jurisdiction and the amount due under this article. The state revenue commissioner may
658 require such proof of payment in another local tax jurisdiction as he or she deems necessary
659 and proper. No credit shall be granted, however, against the tax imposed under this article
660 for tax paid in another jurisdiction if the tax paid in such other jurisdiction is used to obtain
661 a credit against any other sales and use tax levied in the special district.
662 48-8-253.
663 No tax provided for in this article shall be imposed upon the sale of tangible personal
664 property which is ordered by and delivered to the purchaser at a point outside the
665 geographical area of the special district in which the tax is imposed regardless of the point

666 at which title passes, if the delivery is made by the seller's vehicle, United States mail, or
667 common carrier or by private or contract carrier licensed by the Surface Transportation
668 Board or the Georgia Public Service Commission.

669 48-8-254.

670 (a) As used in this Code section, the term 'building and construction materials' means all
671 building and construction materials, supplies, fixtures, or equipment, any combination of
672 such items, and any other leased or purchased articles when the materials, supplies,
673 fixtures, equipment, or articles are to be utilized or consumed during construction or are
674 to be incorporated into construction work pursuant to a bona fide written construction
675 contract.

676 (b) No tax provided for in this article shall be imposed upon the sale or use of building and
677 construction materials when the contract pursuant to which the materials are purchased or
678 used was advertised for bid prior to the voters' approval of the levy of the tax and the
679 contract was entered into as a result of a bid actually submitted in response to the
680 advertisement prior to approval of the levy of the tax.

681 48-8-255.

682 Subject to the approval of the House and Senate Transportation Committees, the state
683 revenue commissioner shall have the power and authority to promulgate such rules and
684 regulations as shall be necessary for the effective and efficient administration and
685 enforcement of the collection of the tax authorized to be imposed by this article.

686 48-8-256.

687 The tax authorized by this article shall not be subject to any allocation or balancing of state
688 and federal funds provided for by general law, nor may such proceeds be considered or
689 taken into account in any such allocation or balancing. If state transportation projects and
690 grants require a local match, any portion of the revenues for a special district generated by
691 the regional transportation sales and use tax may serve as such match."

692 **SECTION 10.**

693 Title 50 of the Official Code of Georgia Annotated, relating to state government, is amended
694 by revising Code Section 50-32-60, relating to the Department of Transportation's allocation
695 of funds, as follows:
696 "50-32-60.

697 The prohibition of expenditures or withholding of funds for public road or other public
698 transportation purposes by the authority pursuant to any provision of this chapter shall not

699 alter the Department of Transportation's budgeted or programmed allocation of state or
700 federal funds among ~~congressional districts~~ regions pursuant to Code Section 32-5-30."

701 **SECTION 11.**

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

704 **SECTION 12.**

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

