

House Bill 265 (AS PASSED HOUSE AND SENATE)

By: Representatives Jacobs of the 80th, Lindsey of the 54th, Riley of the 50th, Geisinger of the 48th, Taylor of the 79th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 9 of Title 32 of the Official Code of Georgia Annotated, relating to mass
2 transportation, so as to repeal provisions relating to the suspension of restrictions on the use
3 of annual proceeds from sales and use taxes by public transit authorities; to repeal provisions
4 relating to the board of directors of the Metropolitan Atlanta Rapid Transit Authority; to
5 amend Part 1 of Article 1 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated,
6 relating to state sales and use taxes in general, so as to extend the date for the applicability
7 of an exemption to the local sales and use tax cap for a county that levied a tax for the
8 purposes of a metropolitan area system of public transportation; to provide for related
9 matters; to provide for an effective date; to provide for contingent repeal; to repeal
10 conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

13 Chapter 9 of Title 32 of the Official Code of Georgia Annotated, relating to mass
14 transportation, is amended by repealing in their entirety Code Sections 32-9-13 and 32-9-14,
15 relating to the suspension of restrictions on the use of annual proceeds from sales and use
16 taxes by public transit authorities and the board of directors of the Metropolitan Atlanta
17 Rapid Transit Authority, respectively.

18 style="text-align:center">**SECTION 2.**

19 Part 1 of Article 1 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated,
20 relating to state sales and use taxes in general, is amended by revising subsection (a) of Code
21 Section 48-8-6, relating to limitations upon the authority of local governments to levy sales
22 and use taxes and other similar taxes, as follows:
23 "(a) There shall not be imposed in any jurisdiction in this state or on any transaction in this
24 state local sales taxes, local use taxes, or local sales and use taxes in excess of 2 percent.
25 For purposes of this prohibition, the taxes affected are any sales tax, use tax, or sales and

26 use tax which is levied in an area consisting of less than the entire state, however
 27 authorized, including such taxes authorized by or pursuant to constitutional amendment,
 28 except that the following taxes shall not count toward or be subject to such 2 percent
 29 limitation:

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

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

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

50 (B) In a county in which the tax levied for purposes of a metropolitan area system of
 51 public transportation is first levied after January 1, 2010, and before November 1, ~~2012~~
 52 2016. Such tax shall not apply to the following:

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

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

63 imposed tax pursuant to Code Section 48-8-96, only the amount in excess of a 1 percent
64 sales and use tax;
65 (4) A sales and use tax levied under Article 4 of this chapter; and
66 (5) A sales and use tax levied under Article 5 of this chapter.
67 If the imposition of any otherwise authorized local sales tax, local use tax, or local sales
68 and use tax would result in a tax rate in excess of that authorized by this subsection, then
69 such otherwise authorized tax may not be imposed."

70 **SECTION 3.**

71 This Act shall become effective on June 1, 2014, only if an Act providing for the suspension
72 of restrictions on the use of annual proceeds from sales and use taxes by the Metropolitan
73 Atlanta Rapid Transit Authority and reconstituting the board of directors of the Metropolitan
74 Atlanta Rapid Transit Authority is enacted at the 2014 regular session of the General
75 Assembly. Otherwise, all provisions of this Act shall not become effective and shall stand
76 repealed on June 1, 2014.

77 **SECTION 4.**

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