



SENATE RESEARCH OFFICE
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TRANSPORTATION FUNDING ACT OF 2015

SUMMARY

- Requires DOT to annually submit a 10-year strategic plan outlining the use of department resources for the upcoming fiscal years.
- Requires an additional, annual license registration fee for certain alternative fueled vehicles and heavy vehicles; innkeepers must charge a \$5 per night fee to customers, excluding extended stay rentals.
- Eliminates the prepaid state tax on the sales of motor fuel; exempts sales of motor fuel entirely from state sales and use taxes; increases the rate, and changes the method of computation, of the excise tax on motor fuel; requires local option sales and use taxes on motor fuel to be at the rate of 1 percent of the retail sales price of motor fuel, which is not more than \$3.00 per gallon.
- Revises the procedures in current law for imposition of the special district transportation sales and use tax; authorizes counties to impose a transportation special purpose local option sales and use tax, of up to 1 percent, subject to voter approval, the proceeds of which must be used for transportation purposes.
- Reduces the income tax credit for the purchase or lease of new, low and zero-emission vehicles; sunsets the current tax exemption for jet fuel from the 1 percent of the 4 percent state sales and use tax on June 30, 2015, and imposes certain requirements on the use of any revenue for jet fuel taxes.
- Limits the Governor's authority to suspend or modify the collection of any rate of state taxes on the sales of motor fuel and aviation gasoline; requires the General Assembly to ratify any suspension or modification.
- Provides new criteria for any preference given by the Board of the State Road and Tollway Authority to projects eligible to receive financial assistance from the Georgia Transportation Infrastructure Bank.
- Creates the Special Joint Committee on Georgia Revenue Structure to receive and report out tax reform legislation during the 2016 legislative session that will be considered in a separate legislative process.

ANALYSIS

Department of Transportation: 10-Year Strategic Plan

This bill requires the Department of Transportation (DOT) to submit to the General Assembly, for approval by the Senate and House Transportation Committees, a 10-year strategic plan that outlines the use of department resources for the upcoming fiscal year, categorizing the percentage of resources in specified areas along with the revenue source, with priority given to the expansion, improvement, and maintenance of highway infrastructure in areas with traffic congestion, to aid economic development, and to bring forward all efficiencies found within the bureaucracy of DOT and how those funds have been redirected to road construction.

Alternative Fueled Vehicle Registration Fees; Highway User Impact Fees; and Innkeeper Fees

Current law requires a vehicle owner to pay an annual registration licensing fee for the operation of the vehicle, which varies by vehicle type. This bill re-defines the term "alternative fueled vehicle" to mean any vehicle fueled by bi-fuel, dual fuel, or solely by "alternative fuel," the term of which is also re-defined to mean only electricity, natural gas, and propane, and requires an owner of a registered alternative fueled vehicle to pay an additional annual licensing fee of \$200 for non-commercial vehicles or \$300 for commercial fees; however, these fees must not be assessed on vehicles which operate primarily on compressed natural gas or liquefied natural gas. Beginning on January 1, 2016, and annually thereafter, these additional fees must be automatically adjusted on an annual basis using a formula that is based on increases and decreases in fuel efficiency and the Consumer Price Index (CPI); however, the CPI must not be used after July 1, 2018.

This bill also requires, in conjunction with the annual vehicle licensing registration fee, certain heavy vehicles registered in Georgia to pay an annual highway user impact fee of either \$50 or \$100, depending on the vehicle's weight. On or after July 1, 2015, each innkeeper¹ in this state must charge a \$5.00 per night fee to the customer, unless it is an extended stay² rental, for each calendar day a room, lodging, or accommodation is rented or leased. It is the intention of the General Assembly, subject to appropriations, that the highway user impact fees and the innkeeper fees be made available and used exclusively for transportation purposes³ in this state. If the collected amount is ever not appropriated for a fiscal year, as determined joint by the House Budget and Research Office and the Senate Budget and Evaluation Office, then the amount collected must be reduced by 50 percent; the fees must cease to be collected if the amount is not appropriated for a second fiscal year.

Motor Fuel Tax Collection

Current law exempts sales of motor fuel from the first 3 percent of the current 4 percent sales and use tax; however, such sales are subject to the remaining 1 percent. "Motor fuel" is defined as any source of energy that can be used for propulsion of motor vehicles on public highways including, but not limited to: gasoline; fuel oils; compressed petroleum gas; and special fuel. Sales of motor fuel, other than gasoline, that are purchased for off-highway use are fully subject to the 4 percent sales and use tax, but are exempt from the state excise tax, which is imposed at the rate of 7.5 cents per gallon on distributors who sell or use motor fuel within this state. In addition, a prepaid state tax is imposed on the retail sale of motor fuels and collected prior to that retail sale, the rate of which is calculated at 4 percent of the state-wide average retail price by motor fuel type, less taxes.⁴ Of the 4 percent prepaid state tax, 3 percent represents the second motor fuel tax. A prepaid local tax is also imposed on the sale or use of motor fuel that is based on the same average retail sales price. Further, any money derived from motor fuel taxes received by the state is constitutionally-dedicated to the public roads and bridges in this state.⁵

This bill exempts sales of gasoline, and other motor fuels purchased for highway use, entirely from state sales and uses taxes, eliminates the prepaid state tax provision, and increases the excise tax from 7.5 cents per gallon to 26 cents per gallon on distributors who sell or use of motor fuel, and 29 cents per gallon on distributors who sell or use diesel fuel within this state. Beginning on July 1, 2016, and annually thereafter, the amount of this excise tax per gallon on distributors must be automatically adjusted on an annual basis using a formula that is based on fuel efficiency and the CPI; however, the CPI must not be used after July 1, 2018.

On or after July 1, 2015, the joint county and municipal sales and use tax, the homestead option sales and use tax, the county special purpose local option sales tax, the sales tax for education purposes, and the municipal water and sewer projects tax levied on sales of motor fuels must be levied at the rate of 1 percent of the retail sales price of the motor fuel, which is not more than \$3.00 per gallon⁶.

Special District Transportation Sales and Use Tax; Transportation Special Purpose Local Option Sales Tax

This bill also revises current law relating to the special district transportation sales and use tax to so that on or after July 1, 2015, any newly-imposed tax may imposed at a rate of up to 1 percent, but must not be more than 1 percent. Any rate less than 1 percent must be in an increment of .05 percent. Further, the tax may now be imposed upon the adoption of resolutions by the governing bodies of a majority of the counties within a special tax district without approval and enactment by the General Assembly of a Special Regional Transportation Funding Act.

Any special district transportation sales and use tax imposed on or after July 1, 2105 is required to expend at least 30 percent of the estimated revenue on projects included in the state-wide strategic transportation plan.

¹ "Innkeeper" means any person who is subject to taxation for the furnishing for value to the public any rooms, lodgings, or accommodations.

² "Extended stay" means providing lodging for the public for longer than 30 consecutive days to the same customer.

³ "Transportation purposes" is defined in the bill as roads, bridges, public transit, rails, airports, buses, seaports, and all accompanying infrastructure and services necessary to provide access to these transportation facilities, including general obligation debt and other multiyear obligations issued to finance such purposes.

⁴ O.C.G.A. Code Section 48-9-14 requires the Commissioner of the Department of Revenue to issue the prepaid state tax rates on a semi-annual basis. In the event that the retail price changes by 25 percent or more within a semiannual period, the Commissioner must issue a revised prepaid state tax rate for the remainder of that period.

⁵ Article III, Section IX, Paragraph VI of the Georgia Constitution.

⁶ The "prepaid local tax" is now based on the average retail sales price as compiled by the Energy Information Agency of the U.S. Department of Energy, the Oil Pricing Information Service, or a similar reliable index less state excise taxes and all local sales and use or excise taxes levied on motor fuel.

Further, pursuant to the authority granted by Article IX, Section II, Paragraph VI of the State Constitution, this bill creates 159 districts within the state, the geographic boundaries of which correspond, and are conterminous, to each county:

- On or after July 1, 2015, any county: that is not located within a special district with a special district transportation sales and use tax; is currently levying the special purpose location option sales and use tax, the joint county and municipality tax, or the tax collected pursuant to the constitutional authority for MARTA; and is a mass transportation regional system participant⁷, may, subject to referendum approval, impose within the district a special sales and use tax, for up to 1 percent, not to exceed five years, the proceeds of which must be used for transportation purposes.
- On or after July 1, 2017, any county: that is not located within a special district with a special district transportation sales and use tax; and, is currently levying the special purpose location option sales and use tax, the joint county and municipality tax, or the tax collected pursuant to the constitutional authority for MARTA may, subject to referendum approval, impose within the district a special sales and use tax, for up to 1 percent, not to exceed five years, the proceeds of which must be used for transportation purposes.

Prior to the referendum, the county must meet with each qualified municipality⁸ to discuss possible projects for inclusion in the referendum, and may enter into an intergovernmental agreement that details the projects and procedures for distributing proceeds. After execution of the intergovernmental agreement, if applicable, the governing authority of the county may, by majority vote on a resolution, submit the list of transportation purposes and the question of whether the levy should be approved to electors of the district in an election. If the intergovernmental agreement is not entered into, the maximum rate of the tax must not exceed .75 percent and must be determined by the county governing authority. If the proposal includes the authority to issue general obligation debt, and if more than one-half of the votes cast are in favor of the proposal, then the authority to issue such debt in accordance with Article IX, Section V, Paragraph I of the Constitution is given to the proper officers of the county; otherwise, debt must not be issued. Dealers are allowed a percentage of the amount of the tax due at the rate provided for in current law. The proceeds of the tax must be disbursed as follows: one percent of the amount collected must be paid into the general fund of the state treasury in order to defray the costs of administration; and the remaining proceeds must be distributed pursuant to the terms of the intergovernmental agreement, if applicable. The bill provides certain exemptions, and provides that the tax is not subject to any allocation or balancing of state and federal funds provided by general law. Finally, the bill provides certain limitations on the taxing of tangible personal property by and between counties.

Sales and Use Tax Exemption for Jet Fuel; Low or Zero Emission Vehicles

Under current law, the sale or use of jet fuel is exempt from the 1 percent of the 4 percent state sales and use tax. This bill places a sunset date on the exemption, so that the exemption expires on June 30, 2015. Current law which provides for an exemption for the sale or use of jet fuel to, or by, a qualifying airline at a qualifying airport from county special purpose local option taxes remains unchanged. Further, the sale or use of jet fuel remains exempt from the special district transportation sales and use tax. This bill also clarifies that the exemption does not apply to the joint county and municipal sales and use tax, the homestead option sales and use tax, the municipal water and sewer projects tax, and the MARTA tax, but only at the rate at which such taxes were levied as of January 1, 2014. Under the bill, on or after July 1, 2017, revenue derived from the levy of sales and use taxes on jet fuel must be used for a state aviation program or airport related purposes to the extent required to comply with federal law; any portion of this revenue in excess of the amount required for compliance purposes may be appropriated by the General Assembly for other purposes.

Current law also allows a taxpayer to claim a state income tax credit for the purchase or lease of a new low-emission or zero emission vehicle that is registered in the state. The amount of the credit is: for a new low-emission vehicle, 10 percent of the cost of the vehicle or \$2,500, whichever is less; and for a new zero emission vehicle, 20 percent of the cost of the vehicle or \$5,000, whichever is less. Under this legislation, for any new low-emission vehicle or new zero emission vehicle purchased on or after July 1, 2015, the amount of the tax credit is \$0.00.

⁷ “Mass transportation regional participant” is defined in the bill as any county wherein mass transportation service is provided within the district, to the district, or from the district, by a multicounty regional transportation authority created by an Act of the General Assembly, including but not limited to, the Georgia Regional Transportation Authority or the Metropolitan Atlanta Rapid Transit Authority. “Mass transportation” is defined in the bill as any mode of transportation serving the general public which is appropriate to transport people by highways or rail.

⁸ The term “qualified municipality” is one wholly within a district, defined in current law as an incorporated municipality that provides at least three of the specifically-defined list of governmental services.

Governor's Authority to Suspend the Collection of Taxes

Current law authorizes the Governor to suspend the collection of taxes due the state until the meeting of the next General Assembly; however, the Governor must not otherwise interfere with the collection of taxes. Under this bill, unless there has been a state of emergency declaration by the Governor, the Governor must not suspend or modify in any manner the collection of any rate of state motor fuel and aviation gasoline. Any suspension or modification of any state motor fuel taxes is only effective until the next meeting of the General Assembly, which must ratify the suspension or modification by two-thirds' vote of both chambers. In the event the General Assembly fails to ratify the Governor's actions, state motor fuel taxes must be collected at the rate specified, absent the suspension or modification, and any amounts unpaid due to the suspension or modification must be collected using the specified rate.

Georgia Transportation Infrastructure Bank: Eligible Projects

Current law authorizes the Georgia Transportation Infrastructure Bank to provide loans and other financial assistance to a government unit to pay for all or part of the eligible costs of a qualified project. The Board of the State Road and Tollway Authority determines which projects are eligible projects and then selects, from among the eligible projects, qualified projects. Preference for loans may be given to eligible projects which have local financial support. Under this bill, when determining eligibility, the Board must make every effort to balance any loans or other financial assistance among all regions of this state. Further, the bill clarifies that preference for loans may be given to eligible projects in Tier 1 and Tier 2 counties.⁹ Preference for grants and other financial assistance may be given to eligible projects which have local financial support.

Special Joint Committee on Georgia Revenue Structure

This bill creates a 14-member Special Joint Committee on Georgia Revenue Structure (Committee) to consist of:

- The President Pro Tempore of the Senate and the Speaker Pro Tempore of the House of Representatives;
- The majority leader of the Senate and the majority leader of the House of Representatives;
- The minority leader of the Senate and the minority leader of the House of Representatives;
- The chairpersons of the Senate Finance Committee and the House Committee on Ways and Means;
- Three members of the Senate to be appointed by the President of the Senate, two from the majority party and one from the minority party; and
- Three members of the House of Representatives to be appointed by the Speaker of the House of Representatives, two from the majority party and one from the minority party.

The Committee must elect two persons, one Senator and one Representative, to serve as co-chairpersons of the Committee. The Committee must, during the 2016 legislative session, cause to be introduced in the House of Representatives (House) one or more bills or resolutions relating to tax reform, and the legislation must, after its introduction, be referred directly and only to the Committee. If the Committee recommends that one or more of these bills or resolutions referred to it do pass or do pass by committee substitute, the measure(s) recommended must then be in order for consideration only by the House at any time fixed by the Speaker of the House. Any such bill or resolution must be reported directly to the floor of the House and must receive an up or down vote as reported from the Committee without amendment. If one or more of these bills or resolutions are passed by the House, the measure(s) must then be in order for consideration only by the Senate at any time fixed by the President of the Senate. Any such bill or resolution must be reported directly to the floor of the Senate, and must receive an up or down vote as reported from the House without amendment. Any such bills or resolutions must be read three times on three separate days in each house and must be considered in compliance with all other requirements of the Georgia Constitution. This provision stands repealed on July 1, 2016.

Analyst: Angie Fiese
House Vote: 123-46

⁹ O.C.G.A. Code Section 32-10-127 requires the Commissioner of Community Affairs to annually rank and designate, as less developed areas, all 159 counties in this state using a combination of defined, equally- weighted factors. Counties ranked and designated as the first through the 71st least developed counties are classified as Tier 1, and counties ranked and designated as the 72nd through the 106th least developed counties are classified as Tier 2 counties.