

House Bill 170

By: Representatives Roberts of the 155th, Burns of the 159th, Hamilton of the 24th, England of the 116th, Stover of the 71st, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend various provisions of the Official Code of Georgia Annotated so as to provide for
2 additional revenue necessary for funding transportation purposes in this state; to amend Title
3 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, so as to
4 levy a registration fee on alternative fueled vehicles; to amend Chapter 12 of Title 45 of the
5 Official Code of Georgia Annotated, relating to the Governor, so as to limit the Governor's
6 power to suspend the collection of certain motor fuel taxes and require ratification by the
7 General Assembly; to amend Title 48 of the Official Code of Georgia Annotated, relating to
8 revenue and taxation, so as to provide for the elimination of sales and use taxes with respect
9 to certain sales of motor fuels; to change the rate and method of computation of the excise
10 tax on motor fuels; to repeal the second motor fuel tax; to provide for editorial revision; to
11 prohibit the levy of certain local sales and use taxes on motor fuel; to provide for the levy of
12 local excise taxes on motor fuels; to amend Part 3 of Article 2 of Chapter 10 of Title 32 of
13 the Official Code of Georgia Annotated, the "Georgia Transportation Infrastructure Bank
14 Act," so as to provide new criteria for determination of eligible projects by the Transportation
15 Infrastructure Bank; to provide for a short title; to provide for related matters; to provide for
16 an effective date and applicability; to repeal conflicting laws; and for other purposes.

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

18 **PART I**
19 **SECTION 1-1.**

20 This Act shall be known and may be cited as the "Transportation Funding Act of 2015."

PART II
SECTION 2-1.

Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is amended by revising paragraph (7) of subsection (l) of Code Section 40-2-86.1, relating to certain special license plates, as follows:

"(7)(A) A special license plate to be issued for alternative fueled vehicles, which license plate shall be similar in design to the license plate issued to all other residents of the this state except that the commissioner shall place a distinctive logo or emblem on the license plate which shall distinguish the vehicle as an alternative fueled vehicle eligible to travel in travel lanes designated for such vehicles under paragraph (4) of subsection (a) of Code Section 32-9-4. The words 'alternative fueled vehicle' shall be imprinted on such special license plate in lieu of the county name decal. The funds raised by the sale of this license plate shall be deposited in the general fund.

(B) As used in this paragraph, the term:

(i) 'Alternative fuel' means ~~methanol, denatured ethanol, and other alcohols; mixtures containing 85 percent or more or such other percentage, but not less than 70 percent, as determined by the United States secretary of energy, by rule as it existed on January 1, 1997, to provide for requirements relating to cold start, safety, or vehicle functions, by volume of methanol, denatured ethanol, and other alcohols with gasoline or other fuels; natural gas; liquefied petroleum gas; hydrogen; coal derived liquid fuels; fuels other than alcohol derived from biological materials; electricity including electricity from solar energy; and any other fuel the United States secretary of energy determined by rule as it existed on January 1, 1997, is substantially not petroleum and would yield substantial energy security benefits and substantial environmental benefits~~ electricity, natural gas, and propane.

(ii) 'Alternative fueled vehicle' means: ~~(I) Any~~ any vehicle fueled solely by alternative fuel as defined in division (i) of this subparagraph; or

~~(H) A hybrid vehicle, which means a motor vehicle which draws propulsion energy from onboard sources of stored energy which include an internal combustion or heat engine using combustible fuel and a rechargeable energy storage system; and, in the case of a passenger automobile or light truck, means for any 2000 and later model, a vehicle which has received a certificate of conformity under the Clean Air Act, 42 U.S.C. Section 7401, et seq., and meets or exceeds the equivalent qualifying California low-emission vehicle standard under Section 243(c)(2) of the Clean Air Act, 42 U.S.C. Section 7583(c)(2), for that make and model year or, for any 2004 and later model, a vehicle which has received a certificate that such vehicle meets~~

57 ~~or exceeds the Bin 5 Tier II emission level established in regulations prescribed by~~
 58 ~~the administrator of the Environmental Protection Agency under Section 202(i) of~~
 59 ~~the Clean Air Act, 42 U.S.C. Section 7521(i), for that make and model year vehicle~~
 60 ~~and which achieves a composite label fuel economy greater than or equal to 1.5~~
 61 ~~times the Model Year 2002 EPA composite class average for the same vehicle class~~
 62 ~~and which is made by a manufacturer.~~

63 (C)(i) Pursuant to paragraph (19) of subsection (a) of Code Section 40-2-151, the
 64 applicant for a special license plate for any alternative fueled vehicle shall provide
 65 proof that he or she has paid the registration fee prescribed therein prior to the
 66 issuance of any special license plate under this paragraph.

67 (ii) It is the intention of the General Assembly that all revenue obtained from the fees
 68 assessed on alternative fueled vehicles pursuant to paragraph (19) of subsection (a)
 69 of Code Section 40-2-151 shall be dedicated to funding public transit in this state."

70 SECTION 2-2.

71 Said title is further amended by adding a new paragraph to subsection (a) of Code Section
 72 40-2-151, relating to the annual license fees for the operation of vehicles, as follows:

73 "(19)(A)(i) Upon registration of an alternative fueled vehicle not operated
 74 for commercial purposes 200.00
 75 (ii) Upon registration of an alternative fueled vehicle operated for
 76 commercial purposes 300.00
 77 (B)(i) The fees in this paragraph shall be in addition to any other fee imposed on the
 78 vehicle by this Code section.
 79 (ii) The fees in this paragraph shall be automatically adjusted on an annual basis by
 80 multiplying the percentage of increase or decrease in a given year in the Construction
 81 Price Index published by the United States Census Bureau by the current fee. The
 82 first adjustment shall be calculated and implemented on January 1, 2016."

83 PART III

84 SECTION 3-1.

85 Chapter 12 of Title 45 of the Official Code of Georgia Annotated, relating to the Governor,
 86 is amended by revising Code Section 45-12-22, relating to the Governor's authority to
 87 suspend the collection of taxes, as follows:

88 "45-12-22.

89 (a) Except as provided in subsection (b) of this Code section, the Governor may
 90 suspend the collection of taxes, or any part thereof, due the state until the meeting of the

next General Assembly but no longer; but he or she shall not otherwise interfere with the collection of taxes.

(b) Unless there has been a state of emergency declaration by the Governor, the Governor shall not suspend or modify in any manner the collection of any rate of prepaid state taxes as defined in paragraph (24) of Code Section 48-8-2 and calculated pursuant to Code Section 48-9-14 as it applies to sales of motor fuel and aviation gasoline as such terms are defined in Code Section 48-9-2. Any suspension or modification of any rate of prepaid state taxes under this subsection by the Governor shall be effective only until the next meeting of the General Assembly which must ratify such suspension or modification by a two-thirds' vote of both chambers. In the event the General Assembly fails to ratify the Governor's actions, prepaid state taxes under this subsection shall be collected at the rate specified absent such suspension or modification and any amounts unpaid due to such suspension or modification shall be collected using such rate."

PART IV

SECTION 4-1.

Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is amended by adding a new paragraph to Code Section 48-1-2, relating to definitions relating to taxation, as follows:

"(27) 'Transportation purposes' means and includes roads, bridges, public transit, rails, airports, buses, seaports, and all accompanying infrastructure and services necessary to provide access to these transportation facilities."

SECTION 4-2.

Said title is further amended by revising subsections (a) and (b) of and adding a new subsection to Code Section 48-8-3.1, relating to sales tax exemptions as applied to motor fuels, to read as follows:

"(a) Except as provided in subsection (b) of this Code section, sales of motor fuels as defined in paragraph (9) of Code Section 48-9-2 shall be exempt from the first 3 percent of the state sales and use taxes levied or imposed by this article and shall be subject to the remaining 1 percent of the sales and use taxes levied or imposed by this article.

(b) Sales of motor fuel, other than gasoline, which motor fuel other than gasoline is purchased for purposes other than propelling motor vehicles on public highways as defined in Article 1 of Chapter 9 of this title shall be fully subject to the 4 percent state sales and use taxes levied or imposed by this article unless otherwise specifically exempted by this article."

125 "(d) Any sales and use tax levied by a county, municipality, consolidated government, or
 126 other political subdivision of this state on sales of motor fuels, as defined in paragraph (9)
 127 of Code Section 48-9-2, and authorized under Article 2, 2A, 3, or 4 of this chapter shall be
 128 discontinued upon the expiration of the most recent authorization for the levy of such tax.
 129 No new or renewed local sales and use taxes on motor fuels levied by a county,
 130 municipality, consolidated government, or other political subdivision of this state shall be
 131 permitted; provided, however, that after the expiration of any local sales and use taxes on
 132 motor fuels, a county, municipality, consolidated government, or other political subdivision
 133 of this state may each levy an excise tax of up to 3¢ per gallon on motor fuels by passage
 134 of an ordinance by the governing authority of such county, municipality, consolidated
 135 government, or other political subdivision. If a county, municipality, consolidated
 136 government, or other political subdivision decides to levy an excise tax on motor fuels for
 137 more than 3¢ per gallon, it must first be approved in a referendum presented to the
 138 qualified voters of such county, municipality, consolidated government, or other political
 139 subdivision. No county, municipality, consolidated government, or other political
 140 subdivision shall levy an excise tax on motor fuels to exceed 6¢ per gallon. Any such local
 141 excise tax shall be dedicated to transportation purposes as defined in paragraph (27) of
 142 Code Section 48-1-2."

143 SECTION 4-3.

144 Said title is further amended by revising Code Section 48-8-82, relating to authorization of
 145 counties and municipalities to impose a joint sales and use tax, as follows:

146 "48-8-82.

147 When the imposition of a joint county and municipal sales and use tax is authorized
 148 according to the procedures provided in this article within a special district, the county
 149 whose geographical boundary is conterminous with that of the special district and each
 150 qualified municipality located wholly or partially within the special district shall levy a
 151 joint sales and use tax at the rate of 1 percent. Except as to rate, the joint tax shall
 152 correspond to the tax imposed and administered by Article 1 of this chapter. No item or
 153 transaction which is not subject to taxation by Article 1 of this chapter shall be subject to
 154 the tax levied pursuant to this article, except that the joint tax provided in this article shall
 155 be applicable to ~~sales of motor fuels as prepaid local tax as that term is defined in Code~~
 156 ~~Section 48-8-2 and shall be applicable to the sale of food and food ingredients and~~
 157 ~~alcoholic beverages only to the extent provided for in paragraph (57) of Code Section~~
 158 ~~48-8-3. After the expiration of the current authorization for the joint tax imposed under~~
 159 ~~this article, such joint tax shall not be levied on the sales of motor fuels as defined in~~
 160 ~~paragraph (9) of Code Section 48-9-2."~~

SECTION 4-4.

Said title is further amended by revising subsection (b) of Code Section 48-8-102, relating to the creation of special districts and use of proceeds of the homestead option sales and use tax, as follows:

"(b) When the imposition of a local sales and use tax is authorized according to the procedures provided in this article within a special district, the county whose geographical boundary is coterminous with that of the special district shall levy a local sales and use tax at the rate of 1 percent. Except as to rate, the local sales and use tax shall correspond to the tax imposed and administered by Article 1 of this chapter. No item or transaction which is not subject to taxation by Article 1 of this chapter shall be subject to the sales and use tax levied pursuant to this article, except that the sales and use tax provided in this article shall be applicable to ~~sales of motor fuels as prepaid local tax as that term is defined in Code Section 48-8-2 and shall be applicable to the sale of food and food ingredients and~~ alcoholic beverages only to the extent provided for in paragraph (57) of Code Section 48-8-3. After the expiration of the current authorization for the tax imposed under this article, such tax shall not be levied on the sales of motor fuels as defined in paragraph (9) of Code Section 48-9-2."

SECTION 4-5.

Said title is further amended by revising subsection (c) of Code Section 48-8-110.1, relating to the authorization for the county special purpose local option sales tax and subjects of taxation, as follows:

"(c) Any tax imposed under this part shall be at the rate of 1 percent. Except as to rate, a tax imposed under this part shall correspond to the tax imposed by Article 1 of this chapter. No item or transaction which is not subject to taxation under Article 1 of this chapter shall be subject to a tax imposed under this part, except that a tax imposed under this part shall ~~apply to sales of motor fuels as prepaid local tax as that term is defined in Code Section 48-8-2 and shall be applicable to the sale of food and food ingredients and alcoholic~~ beverages as provided for in Code Section 48-8-3. After the expiration of the current authorization for the tax imposed under this part, such tax shall not be levied on the sales of motor fuels as defined in paragraph (9) of Code Section 48-9-2."

SECTION 4-6.

Said title is further amended by revising subsection (c) of Code Section 48-8-201, relating to the intergovernmental agreement for the distribution of tax proceeds from the water and sewer projects sales tax, as follows:

"(c) In the event a tax imposed under this article is imposed only by the municipality:

196 (1) No item or transaction which is not subject to taxation under Article I of this chapter
 197 shall be subject to a tax imposed under this article, except that a tax imposed under this
 198 article shall apply to:

199 ~~(A) Sales of motor fuels as prepaid local tax as that term is defined in Code Section~~
 200 ~~48-8-2;~~

201 ~~(B)~~ The sale of food and food ingredients and alcoholic beverages as provided for in
 202 Code Section 48-8-3;

203 ~~(C)~~(B) The sale of natural or artificial gas used directly in the production of electricity
 204 which is subsequently sold, notwithstanding paragraph (70) of Code Section 48-8-3;
 205 and

206 ~~(D)~~(C) The furnishing for value to the public of any room or rooms, lodgings, or
 207 accommodations which is subject to taxation under Article 3 of Chapter 13 of this title;
 208 and

209 (2) A tax imposed under this article shall not apply to the sale of motor vehicles; and

210 (3) After the expiration of the current authorization for the tax imposed under this article,
 211 such tax shall not apply to the sale of motor fuel as defined in paragraph (9) of Code
 212 Section 48-9-2."

213 SECTION 4-7.

214 Said title is further amended by revising paragraph (1) of subsection (a) of Code Section
 215 48-9-3, relating to an excise tax on motor fuel, as follows:

216 "(a)(1) An excise tax is imposed at the rate of ~~7-1/2¢~~ 29.2¢ per gallon on distributors who
 217 sell or use motor fuel within this state. An excise tax is imposed at the rate of 33¢ per
 218 gallon on distributors who sell or use diesel fuel within this state. It is the intention of the
 219 General Assembly that the legal incidence of the tax be imposed upon the distributor.
 220 Beginning on January 1, 2016, and annually thereafter, the amount of this excise tax per
 221 gallon on distributors shall be automatically adjusted on an annual basis in accordance
 222 with the formula provided in this paragraph. Using 2014 as a base year, the department
 223 shall determine the average miles per gallon of all new vehicles registered in this state
 224 pursuant to Code Section 48-5C-1 using the average of combined miles per gallon
 225 published in the United States Department of Energy Fuel Economy Guide. Beginning
 226 on January 1, 2016, the department shall again calculate the average miles per gallon of
 227 all new vehicles registered in this state in 2015. Any percentage increase or decrease in
 228 fuel efficiency shall be multiplied by the excise tax rate to determine a preliminary excise
 229 tax rate. Such preliminary excise tax rate shall be multiplied by the annual percentage
 230 of increase or decrease in highway construction costs as measured by the Construction

231 Price Index published by the United States Census Bureau. The result of such calculation
232 shall be the new excise tax rate for the next calendar year."

233 **SECTION 4-8.**

234 Said title is further amended by repealing in its entirety Code Section 48-9-14, relating to the
235 second motor fuel tax, and designating said Code section as reserved.

236 **PART V**

237 **SECTION 5-1.**

238 Part 3 of Article 2 of Chapter 10 of Title 32 of the Official Code of Georgia Annotated, the
239 "Georgia Transportation Infrastructure Bank Act," is amended by revising subsection (b) of
240 Code Section 32-10-127, relating to loans and other financial assistance and the
241 determination of eligible projects, as follows:

242 "(b) The board shall determine which projects are eligible projects and then select from
243 among the eligible projects qualified projects. Preference may be given to eligible projects
244 which have local financial support in tier 1 and tier 2 counties, as defined in Code Section
245 48-7-40 and by the Department of Community Affairs. When determining eligibility, the
246 board shall make every effort to balance any loans or other financial assistance among all
247 regions of this state."

248 **PART VI**

249 **SECTION 6-1.**

250 (a) This Act shall become effective on July 1, 2015.

251 (b) Tax, penalty, and interest liabilities and refund eligibility for prior taxable years shall not
252 be affected by the passage of this Act and shall continue to be governed by the provisions of
253 Title 48 of the Official Code of Georgia Annotated as it existed immediately prior to the
254 effective date of this Act.

255 **SECTION 6-2.**

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