

HOUSE SUBSTITUTE TO SENATE BILL 155

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 7 of Chapter 3 of Title 20 of the Official Code of Georgia Annotated,
 2 relating to scholarships, loans, and grants, so as to change the membership of the Georgia
 3 Higher Education Assistance Corporation to accommodate the Fourteenth Congressional
 4 District; to change the membership of the Georgia Student Finance Authority; to provide that
 5 the Georgia Student Finance Authority shall be authorized to solicit funds for its purposes;
 6 to provide that the Georgia Student Finance Authority shall be authorized to incorporate one
 7 or more nonprofit corporations for carrying out the purposes of the authority; to amend
 8 Chapter 9 of Title 32 of the Official Code of Georgia Annotated, relating to mass
 9 transportation, so as to revise provisions relating to suspension of restrictions on use of
 10 annual proceeds from local sales and use taxes by public transit authorities; to reconstitute
 11 the board of directors of the Metropolitan Atlanta Rapid Transit Authority; to provide for
 12 staggered terms for board members; to provide for a limit on reappointment of board
 13 members; to provide for a method for nonparticipating counties to join the authority; to
 14 provide for certain information to be addressed during board meetings; to provide for an
 15 effective date; to provide for related matters; to repeal conflicting laws; and for other
 16 purposes.

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

18 **SECTION 1.**

19 Article 7 of Chapter 3 of Title 20 of the Official Code of Georgia Annotated, relating to
 20 scholarships, loans, and grants, is amended by revising subsection (a) of Code Section
 21 20-3-264, relating to functions, composition, organization, and conduct of affairs of the board
 22 of directors of the Georgia Higher Education Assistance Corporation, as follows:

23 "(a) **Functions and composition.** The corporation shall be governed and all of its
 24 corporate powers, duties, and functions shall be exercised by a board of directors. The
 25 board of directors shall be composed of ~~13~~ 14 members, who shall be the same persons
 26 who are serving and who shall serve as members of the board of commissioners of the

27 commission pursuant to Code Section 20-3-234. The executive director of the corporation,
 28 or president, if designated by such title by the board of directors, shall be an ex officio
 29 member of the board of directors. The board of directors provided for by this subsection
 30 shall be the successor to and a continuation of, without interruption, the board of directors
 31 of the previously existing Georgia Higher Education Assistance Corporation. No director
 32 shall be eligible to become an officer or employee of the corporation for a period of one
 33 year after expiration of the director's period of service as a director of the corporation."

34 **SECTION 2.**

35 Said article is further amended by revising subsection (a) of Code Section 20-3-314, relating
 36 to functions, composition, organization, and conduct of affairs of the board of directors of
 37 the Georgia Student Finance Authority, as follows:

38 "(a) **Functions and composition.** The authority shall be governed and all of its corporate
 39 powers, duties, and functions shall be exercised by a board of directors. The board of
 40 directors shall be composed of ~~13~~ 14 members, who shall be the same persons who are
 41 serving and who shall serve as members of the board of commissioners of the commission
 42 pursuant to Code Section 20-3-234. The executive director of the authority, or president,
 43 if designated by such title by the board of directors, shall be an ex officio member of the
 44 board of directors. The board of directors provided for by this subsection shall be the
 45 successor to and a continuation of, without interruption, the board of directors of the
 46 previously existing Georgia Higher Education Assistance Authority. No director shall be
 47 eligible to become an officer or employee of the authority for a period of one year after
 48 expiration of the director's period of service as a director of the authority."

49 **SECTION 3.**

50 Said article is further amended by revising subparagraph (O) of paragraph (1) of Code
 51 Section 20-3-316, relating to the powers and duties of the Georgia Student Finance
 52 Authority, as follows:

53 "(O) To solicit, receive, and accept funds from any source, public or private, by gift,
 54 grant, bequest, loan, or otherwise, either absolutely or in trust, and to hold, use,
 55 administer, and expend such funds on its behalf and for any of its corporate purposes;
 56 and to acquire from any source, public or private, by purchase, lease, gift, bequest, or
 57 devise, any property, real, personal, or mixed, either absolutely or in trust, and to hold,
 58 use, administer, and dispose of such property on its behalf and for any of its corporate
 59 purposes;"

60

SECTION 4.

61 Said article is further amended by revising paragraph (1) of Code Section 20-3-316, relating
 62 to powers and duties of the Georgia Student Finance Authority, by deleting "and" at the end
 63 of division (1)(W)(iv) and adding a new paragraph to read as follows:

64 "(Y) To incorporate one or more nonprofit corporations to aid the authority in carrying
 65 out any of its powers, duties, and functions. Any such nonprofit corporation created
 66 pursuant to this subparagraph shall be a body corporate and politic and shall be created
 67 pursuant to Chapter 3 of Title 14, the 'Georgia Nonprofit Corporation Code,' and the
 68 Secretary of State shall be authorized to accept such filing. Upon dissolution of any
 69 such nonprofit corporation, any assets shall revert to the authority or to any successor
 70 to the authority or, failing such succession, to the State of Georgia. The authority shall
 71 not be liable for the debts, obligations, or bonds of any such nonprofit corporation or
 72 for the actions or omissions to act of any such nonprofit corporation unless the authority
 73 expressly so consents;"

74

SECTION 5.

75 Chapter 9 of Title 32 of the Official Code of Georgia Annotated, relating to mass
 76 transportation, is amended by revising Code Section 32-9-13, relating to the suspension of
 77 restrictions on the use of annual proceeds from sales and use taxes by public transit
 78 authorities, to read as follows:

79 "32-9-13.

80 Provisions in all laws, whether general or local, including but not limited to the
 81 Metropolitan Atlanta Rapid Transit Authority Act of 1965, approved March 10, 1965 (Ga.
 82 L. 1965, p. 2243), as amended, that set forth restrictions on the use by public transit
 83 authorities of annual proceeds from local sales and use taxes shall be suspended for the
 84 period beginning on June 2, 2010, and continuing ~~for three years~~ through June 30, 2014.
 85 The greater discretion over such funds shall not abrogate the obligation of the public transit
 86 authority to comply with federal and state safety regulations and guidelines. Newly
 87 unrestricted funds shall be utilized, subject to total funding, to maintain the level of service
 88 for the transit system as it existed on January 1, 2010. Furthermore, except as had been
 89 previously contracted to by the public transit authority prior to January 1, 2010, no funds
 90 newly unrestricted during this suspended period shall be used by a public transit authority
 91 to benefit any person or other entity for any of the following: annual cost-of-living or merit
 92 based salary raises or increases in hourly wages; increased overtime due to such wage
 93 increases; payment of bonuses; or to increase the level of benefits of any kind."

94 **SECTION 6.**

95 Said chapter is further amended by revising Code Section 32-9-14, relating to the board of
96 directors of the Metropolitan Atlanta Rapid Transit Authority, to read as follows:

97 "32-9-14.

98 (a) Any provisions to the contrary in the Metropolitan Atlanta Rapid Transit Authority Act
99 of 1965, approved March 10, 1965 (Ga. L. 1965, p. 2243), as amended, notwithstanding,
100 the terms of all members of the board of directors of the Metropolitan Atlanta Rapid
101 Transit Authority shall terminate on December 31, ~~2010~~ 2013, and the board shall be
102 reconstituted according to the provisions of this Code section.

103 (b) Effective January 1, ~~2011~~ 2014, the board of directors of the authority shall be
104 composed of 11 voting members and ~~one~~ two nonvoting ~~member~~ members. Of the voting
105 members: three members shall be residents of the City of Atlanta to be nominated by the
106 mayor and elected by the city council; four members shall be residents of DeKalb County
107 with three of the four appointees to be appointed by the DeKalb County Board of
108 Commissioners and at least one of such appointees shall be a resident of that portion of
109 DeKalb County lying south of the southernmost corporate boundaries of the City of
110 Decatur and at least one of such appointees shall be a resident of that portion of DeKalb
111 County lying north of the southernmost corporate boundaries of the City of Decatur and
112 the fourth appointee to be appointed by a majority vote of a caucus of mayors of the
113 municipalities located wholly in DeKalb County; three members shall be residents of
114 Fulton County ~~to be appointed by the local governing body thereof~~; and one of such
115 appointees shall be a resident of that portion of Fulton County lying south of the corporate
116 limits of the City of Atlanta, to be appointed by a majority vote of a caucus of mayors of
117 the municipalities of Fulton County lying south of the corporate limits of the City of
118 Atlanta, the chairperson of the Fulton County board of commissioners, and the members
119 of the Fulton County board of commissioners whose districts include any portion of Fulton
120 County lying south of the corporate limits of the City of Atlanta, and two of such
121 appointees shall be residents of that portion of Fulton County lying north of the corporate
122 limits of the City of Atlanta to be appointed by a majority vote of a caucus of mayors of
123 the municipalities of Fulton County lying north of the corporate limits of the City of
124 Atlanta; and one member shall be a resident of Fulton or DeKalb County to be appointed
125 by the Governor. Of the nonvoting members: one shall be the commissioner of
126 transportation and one shall be the executive director of the Georgia Regional
127 Transportation Authority. Those board members appointed by a local governing authority,
128 caucus, or the Governor as described in this Code section in office as of January 1, 2014,
129 shall serve initial terms of office as follows: two of the three appointees of the DeKalb
130 County Board of Commissioners, two of the three appointees of the mayor and of the

131 Atlanta City Council, and one of the two appointees of the caucus of mayors from
 132 municipalities lying north of the corporate limits of the City of Atlanta shall serve a term
 133 of two years, and the remaining appointees shall serve for terms of four years. No later
 134 than November 1, 2013, each local governing authority or caucus shall designate which
 135 board members shall serve an initial term of two years. After the initial two-year terms of
 136 those five board members described in this subsection, that governing body or caucus
 137 which appointed the member for that initial term to that office shall appoint successors
 138 thereto for terms of office of four years in the same manner that such governing body or
 139 caucus makes its other appointments to the board. Those board members in office on the
 140 effective date of this Code section shall serve until December 31, 2013. The executive
 141 director of the Georgia Regional Transportation Authority and the commissioner of
 142 transportation shall become nonvoting members of the board on the effective date of this
 143 Code section and shall serve while holding their state offices. The commissioner of
 144 ~~transportation shall be a voting member of the board and the executive director of the~~
 145 ~~Georgia Regional Transportation Authority shall be a nonvoting member of the board. The~~
 146 ~~governing body that appoints a member shall appoint successors thereto for terms of office~~
 147 ~~of four years in the same manner that such governing body makes its other appointments~~
 148 ~~to the board.~~

149 (c) All appointments shall be for terms of four years except that a vacancy caused
 150 otherwise than by expiration of term shall be filled for the unexpired portion thereof by the
 151 ~~local governing body~~ appointing entity that made the original appointment to the vacant
 152 position, or its successor in office. A member of the board may be appointed to succeed
 153 himself or herself for one four-year term; provided, however, that board membership prior
 154 to January 1, 2014, shall not be considered in calculating limits on length of service.
 155 Appointments to fill expiring terms shall be made by the ~~local governing body~~ appointing
 156 entity prior to the expiration of the term, but such appointments shall not be made more
 157 than 30 days prior to the expiration of the term. Members appointed to the board shall
 158 serve for the terms of office specified in this Code section and until their respective
 159 successors are appointed and qualified.

160 (d) The local governing bodies of Clayton, Cobb, and Gwinnett Counties may, any other
 161 provision of this Code section to the contrary notwithstanding, negotiate, enter into, and
 162 submit to the qualified voters of their respective counties the question of approval of a
 163 rapid transit contract between the county submitting the question and the authority, all in
 164 accordance with the provisions of Section 24 of the Metropolitan Atlanta Rapid Transit
 165 Authority Act of 1965, approved March 10, 1965 (Ga. L. 1965, p. 2243), as amended. The
 166 local governing bodies of these counties shall be authorized to execute such rapid transit
 167 contracts prior to the holding of a referendum provided for in said Section 24 ~~of the~~

168 ~~Metropolitan Atlanta Rapid Transit Authority Act of 1965, approved March 10, 1965 (Ga.~~
 169 ~~L. 1965, p. 2243), as amended;~~ provided, however, that any such rapid transit contract shall
 170 not become valid and binding unless the same is approved by a majority of those voting in
 171 said referendum, which ~~approval~~ shall also be deemed approval of further participation in
 172 the authority. Upon approval of such rapid transit contract, the county entering into such
 173 contract shall be a participant in the authority, and its rights and responsibilities shall,
 174 insofar as possible, be the same as ~~those belonging to Fulton and DeKalb Counties~~ if it had
 175 participated in the authority from its beginning, and the local governing body of the county
 176 may then appoint two residents of the county to the board of directors of the authority, to
 177 serve a term ending on ~~the thirty-first day of December~~ 31 in the fourth full year after the
 178 year in which the referendum approving said rapid transit contract was held, in which event
 179 the board of directors of the authority shall, subsection (c) of this Code section to the
 180 contrary notwithstanding, be composed also of such additional members.

181 (e) Except for the executive director of the Georgia Regional Transportation Authority and
 182 the commissioner of transportation, no No person shall be appointed as a member of the
 183 board who holds any other public office or public employment except an office in the
 184 reserves of the armed forces of the United States or the National Guard; any member who
 185 accepts or enters upon any other public office or public employment shall be disqualified
 186 thereby to serve as a member.

187 (f) ~~A local governing body~~ An appointing entity may remove any member of the board
 188 appointed by it for cause. No member shall be thus removed unless the member has been
 189 given a copy of the allegations against him or her and an opportunity to be publicly heard
 190 in his or her own defense in person with or by counsel with at least ten days' written notice
 191 to the member. A member thus removed from office shall have the right to a judicial
 192 review of the member's removal by an appeal to the superior court of the county where ~~of~~
 193 ~~the local governing body which appointed~~ the member resides, but only on the ground of
 194 error of law or abuse of discretion. In case of abandonment of the member's office,
 195 conviction of a crime involving moral turpitude or a plea of nolo contendere thereto,
 196 removal from office, or disqualification under subsection (e) of this Code section, the office
 197 of a member shall be vacant upon the declaration of the board. A member shall be deemed
 198 to have abandoned the member's office upon failure to attend any regular or special
 199 meeting of the board for a period of four months without excuse approved by a resolution
 200 of the board, or upon removal of the member's residence from the territory qualifying ~~of~~
 201 ~~the local governing body that appointed~~ the member to serve on the board.

202 (g) Each appointed member of the board, except the chairperson, shall be paid by the
 203 authority a per diem allowance, in an amount equal to that provided by Code Section
 204 45-7-21 for each day on which that member attends an official meeting of the board, of any

205 committee of the board, or of the authority's Pension Committee; or Board of Ethics, ~~or~~
206 ~~Arts Council~~; provided, however, that said per diem allowance shall not be paid to any such
207 member for more than 130 days in any one calendar year. If the chairperson of the board
208 is an appointed member of the board, the chairperson shall be paid by the authority a per
209 diem allowance in the same amount for each day in which the chairperson engages in
210 official business of the authority, including but not limited to attendance of any of the
211 aforesaid meetings. A member of the board shall also be reimbursed for actual expenses
212 incurred by that member in the performance of that member's duties as authorized by the
213 board. A board member shall not be allowed employee benefits authorized under Section
214 8(b) of the Metropolitan Atlanta Rapid Transit Authority Act of 1965, approved March 10,
215 1965 (Ga. L. 1965, p. 2243), as amended.

216 (h) The board shall elect one of its members as chairperson and another as vice
217 chairperson for terms to expire on December 31 of each year to preside at meetings and
218 perform such other duties as the board may prescribe. The presiding officer of the board
219 may continue to vote as any other member, notwithstanding the member's duties as
220 presiding officer, if ~~the member~~ he or she so desires. The board shall also elect from its
221 membership a secretary and a treasurer who shall serve terms expiring on December 31 of
222 each year. A member of the board may hold only one office on the board at any one time.

223 (i) The board shall hold at least one meeting each month. The secretary of the board shall
224 give written notice to each member of the board at least two days prior to any called
225 meeting that may be scheduled, and said secretary shall be informed of the call of such
226 meeting sufficiently in advance so as to provide for the giving of notice as above. A
227 majority of the total membership of the board, as it may exist at the time, shall constitute
228 a quorum. On any question presented, the number of members present shall be recorded.
229 By affirmative vote of a majority of the members present, the board may exercise all the
230 powers and perform all the duties of the board, except as otherwise hereinafter provided
231 or as limited by its bylaws, and no vacancy on the original membership of the board, or
232 thereafter, shall impair the power of the board to act. All meetings of the board, its
233 executive committee, or any committee appointed by the board shall be subject to Chapter
234 14 of Title 50.

235 (j) Notwithstanding any other provisions of this Code section, the following actions by the
236 board shall require the affirmative vote of one more than a majority of the total
237 membership of the board as it may exist at the time:

- 238 (1) The issuance and sale of revenue bonds or equipment trust certificates;
- 239 (2) The purchase or lease of any privately owned system of transportation of passengers
240 for hire in its entirety, or any substantial part thereof. Prior to the purchase or lease of
241 any such privately owned system a public hearing pertaining thereto shall have been held

242 and notice of such public hearing shall have been advertised as provided in Section 9(c)
 243 of the Metropolitan Atlanta Rapid Transit Authority Act of 1965, approved March 10,
 244 1965 (Ga. L. 1965, p. 2243), as amended; provided, however, that no sum shall be paid
 245 for such privately owned system of transportation in excess of the fair market value
 246 thereof determined by a minimum of two appraisers ~~qualified to appraise privately owned~~
 247 ~~systems of transportation~~ and approved by a majority of the local governments
 248 participating in the financing of such purchase;

249 (3) The award of any contract involving ~~\$100,000.00~~ \$200,000.00 or more for
 250 construction, alterations, supplies, equipment, repairs, maintenance, or services other than
 251 professional services or for the purchase, sale, or lease of any property. Any contract
 252 involving \$200,000.00 or more shall be awarded through a competitive bidding process
 253 as described in Section 14 of the Metropolitan Atlanta Rapid Transit Authority Act of
 254 1965, approved March 10, 1965 (Ga. L. 1965, p. 2243), as amended. The board by
 255 appropriate resolution may delegate to the general manager the general or specific
 256 authority to enter into contracts involving less than ~~\$100,000.00~~ \$200,000.00 if such
 257 contracts are entered into in accordance with Section 14 of said Act;

258 (4) The grant of any concession; and

259 (5) The award of any contract for the management of any authority owned property or
 260 facility.

261 (k) The board shall appoint and employ, as needed, a general manager and a general
 262 counsel, none of whom may be members of the board or a relative of a member of the
 263 board, and delegate to them such authority as it may deem appropriate. It may make such
 264 bylaws or rules and regulations as it may deem appropriate for its own government, not
 265 inconsistent with this Code section, including the establishment of an executive committee
 266 to exercise such authority as its bylaws may prescribe.

267 (l) The treasurer of the authority and such other members of the board and such other
 268 officers and employees of the authority as the board may determine shall execute corporate
 269 surety bonds, conditioned upon the faithful performance of their respective duties. A
 270 blanket form of surety bond may be used for this purpose. Neither the obligation of the
 271 principal or the surety shall extend to any loss sustained by the insolvency, failure, or
 272 closing of any depository which has been approved as a depository for public funds.

273 (m)~~(t)~~ In addition to the requirements of subsection (i) of this Code section, each
 274 member of the board shall hold a meeting once each 12 months with the local governing
 275 body that appointed such member. The secretary of the board shall give written notice
 276 to each member of the board, to each local governing body, and to the governing
 277 authority of each municipality in the county in which there is an existing or proposed rail
 278 line at least two days prior to any meeting that may be scheduled, and said secretary shall

279 be informed of the call of such meeting sufficiently in advance so as to provide for his
280 or her giving such notice. These meetings shall be for the purpose of reporting to the
281 local governing bodies on the operations of the authority and on the activities of the board
282 and making such information available to the general public. No activity that requires
283 action by the board shall be initiated or undertaken at any meeting conducted under this
284 subsection.

285 ~~(2) The board shall submit once each three months a written report on the operations of~~
286 ~~the authority and on the activities of the board to each local governing body that appoints~~
287 ~~a member of the board.~~

288 (n) For any expenditure to a vendor who has received \$5,000.00 or more within a 12
289 month period, such expenditure shall be listed by date, payee, amount, and purpose and
290 shall be listed on a schedule that is included as an appendix to the agenda for the next
291 regular meeting of the board. The schedule shall include all such expenditures for the
292 calendar month of the last regular meeting of the full board and any subsequent calendar
293 month where a full meeting of the board was not held. The agenda for each regular
294 meeting of the full board shall include an opportunity for the board to ask questions or
295 make comments about the expenditures listed in the appendix. The appendix required by
296 this subsection shall be posted on the authority's website no later than 24 hours prior to the
297 meeting."

298 **SECTION 7.**

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

301 **SECTION 8.**

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