

2023

SB 146 - Amendments Regarding the Supply, Oversight, and Taxation of Motor Fuel for Electric Vehicles

Margaret L. R. DuBose

Georgia State University College of Law, mdubose7@student.gsu.edu

Kyle R. Tau

Georgia State University College of Law, ktau2@student.gsu.edu

Follow this and additional works at: <https://readingroom.law.gsu.edu/gsulr>



Part of the [Legislation Commons](#), and the [Taxation-State and Local Commons](#)

Recommended Citation

Margaret L. R. DuBose & Kyle R. Tau, *SB 146 - Amendments Regarding the Supply, Oversight, and Taxation of Motor Fuel for Electric Vehicles*, 40 GA. ST. U. L. REV. 227 (2023).

Available at: <https://readingroom.law.gsu.edu/gsulr/vol40/iss1/16>

This Peach Sheet is brought to you for free and open access by the Publications at Reading Room. It has been accepted for inclusion in Georgia State University Law Review by an authorized editor of Reading Room. For more information, please contact gfowke@gsu.edu.

REVENUE AND TAXATION

Motor Fuel and Road Taxes: Amend Article 2 of Chapter 2 of Title 46, Chapter 1 of Title 10, and Article 1 of Chapter 9 of Title 48 of the Official Code of Georgia Annotated, Relating to Jurisdiction of and Powers and Duties of the Georgia Public Service Commission generally, Selling and Other Trade Practices, and Motor Fuel Tax, respectively, so as to Provide for the Regulation and Taxation of the Provision of Certain Electricity Used as a Motor Fuel in Electric Vehicles; Provide for Definitions; Exclude the Provision of Electricity to Propel Motor Vehicles through an Electric Vehicle Charging Station from the Regulative Authority of the Public Service Commission; Provide for Limitations upon the Ownership, Operation, and Maintenance of Electric Vehicle Charging Stations by Electric Utilities; Provide for Standards for Rates, Terms, and Conditions of Service by an Electric Utility in Certain Instances; Provide for Operating and Advertising Standards, Licensing, and Inspections of Electric Vehicle Charging Stations; Provide for Penalties; Provide for Condemnation and Seizure of Noncompliant Electric Vehicle Charging Stations; Provide for Collection of a Motor Fuel Excise Tax upon the Sale and Use of Certain Electricity and Hydrogen; Provide for Procedures, Conditions, Limitations, and Exceptions upon Collection of such Excise Tax; Amend Code Section 40-2-151 of the Official Code of Georgia Annotated, Relating to Annual License Fees for Operation of Vehicles, Fee for permanent Licensing of Certain Trailers, and Fee for new Passenger Car with paid Title Ad Valorem Taxes, so as to Remove a Prohibition on the use of the Consumer Price Index for Determining the Annual Adjustment of an Annual Fee for Alternative Fueled Vehicles; Provide for Related Matters; Provide for Effective Dates; Repeal Conflicting Laws; and for Other Purposes

CODE SECTIONS:	O.C.G.A. §§ 10-1-220, -221, -222, -223, -224, -225, -226, -227, -228 (new); 10-1-164 (amended); 40-2-151 (amended); 46-2-20.1 (new); 48-9-2, -3, -8, -9, -12 (amended)
BILL NUMBER:	SB 146
ACT NUMBER:	248
GEORGIA LAWS:	2023 Ga. Laws 376
EFFECTIVE DATES:	O.C.G.A. §§ 46-2-20.1, 40-2-151, July 1, 2023; §§ 10-1-220 to -228, -164, January 1, 2025; §§ 48-9-2, -3, -8, -9, -12, January 1, 2025.
SUMMARY:	The Act amends and adds several Code sections related to the supply, oversight, and taxation of motor fuel in anticipation of increased use of electric vehicles on Georgia roadways. The Act has three primary goals. First, the Act allows for electricity to be sold through electric vehicle chargers by the kilowatt-hour. Second, the Act establishes parameters for ensuring proper calibration of electric vehicle charging stations, as is already done for other types of motor vehicle fuel. Third, the Act provides for a motor fuel tax on electricity to ensure continued funding for Georgia's road and bridge infrastructure.

History

Georgia Governor Brian Kemp (R) has made it his mission to make Georgia the electric vehicle capital of the United States.¹ The Governor has spearheaded initiatives to secure major investments from companies like Rivian and Hyundai for manufacturing electric vehicles in the state.² The push to increase Georgia's investment in the electric vehicle market has also facilitated the development of major battery manufacturing facilities in the state.³ One reporter noted that as of January 2023, "the electric mobility industry will be responsible for 35 projects across Georgia to the tune of \$23 billion dollars of investment in 28,000 new jobs."⁴ The federal government also approved \$135 million from its 2021 infrastructure bill for the state to expand its public charging network substantially.⁵

This economic boom in the state, however, is not without policy drawbacks. As the market accelerates the shift away from gasoline- and diesel-powered vehicles and the state government becomes a player in bringing that shift to fruition, the state also faces the prospect of losing a major source of revenue: the state excise tax on the sale of gasoline and diesel fuel. The State Motor Fuel Tax is the primary source of revenue for funding the state's maintenance and improvement of its transportation infrastructure.⁶ For instance, in 2020, the Motor Fuel Tax in Georgia raised a sum of nearly \$2 billion, all of which was earmarked for the construction and maintenance of roads and bridges.⁷ Funds raised through the Motor Fuel Tax

1. Stanley Dunlap, *Georgia's Big Bet on Electric Vehicle Rollout Rides Heavily on State and Federal Backing*, GA. RECORDER (Jan. 30, 2023, 1:00 AM), <https://georgiarecorder.com/2023/01/30/georgias-big-bet-on-electric-vehicle-rollout-rides-heavily-on-state-and-federal-backing/> [https://perma.cc/GM54-Q3G5].

2. *Id.*

3. *Id.*

4. *Id.*

5. Jill Nolin, *State Rolls Out Plan to Use Federal Cash for Georgia's EV Charging Network*, GA. PUB. BROAD. (Aug. 18, 2022, 8:45 AM), <https://www.gpb.org/news/2022/08/18/state-rolls-out-plan-use-federal-cash-for-georgias-ev-charging-network#:~:text=Georgia's%20multiyear%20plan%20to%20spend,be%20hard%20to%20come%20by> [https://perma.cc/5RCK-6S8X].

6. *Motor Fuel Funds: Slowed Growth in Motor Fuel Funds Did Not Impact Current Transportation Projects*, GA. DEP'T OF AUDITS & ACCTS. (Jan. 2021) [hereinafter DOAA], https://www.audits.ga.gov/PAO/files/20-10_1PGSum.pdf [https://perma.cc/83BB-HNQH].

7. *Id.*

comprised half of the total appropriations for the Georgia Department of Transportation that year.⁸

Thus, while the state has begun embracing and reaping the benefits of large investments in the state's electric vehicle economy, every electric vehicle that hits the market in Georgia represents a potential dent in the state's primary source of funding for the maintenance of the same roads and bridges on which those vehicles will drive. The threat to state reserves posed by the emergence of electric vehicles prompted a rather abrupt shift in policy in 2015, when the State Legislature passed the Georgia Transportation Funding Act.⁹ With this Act, the state went from offering Georgia consumers one of the nation's most generous state income tax credits for purchasing an electric vehicle (\$5,000) to levying one of the nation's highest annual registration taxes on alternatively fueled vehicles (\$200/year for noncommercial vehicles; \$300/year for commercial vehicles).¹⁰ The 2015 Act indexed the annual registration tax to a formula accounting for inflation and increases in the national average of vehicle fuel efficiency.¹¹ The Act also indexed the Motor Fuel Tax to a similar formula.¹²

While the 2015 Georgia Transportation Funding Act significantly increased revenues from the Motor Fuel Tax in the first five years after its passage, the growth rate for this revenue stream slowed significantly in 2020.¹³ Furthermore, the annual registration tax on electric vehicles sought to replace the average Motor Fuel Tax paid by vehicle owners in the state based on average miles driven.¹⁴ The advent

8. *Id.*

9. *See Transportation Funding Act of 2015 (HB 170)*, GA. DEP'T OF REVENUE [hereinafter DOR], <https://dor.georgia.gov/transportation-funding-act-2015-hb-170> [https://perma.cc/PUV8-TGWQ].

10. Chris Joyner, *Here's Why Electric Car Sales Are Plummeting in Georgia*, ATLANTA J.-CONST. (Jan. 12, 2017), <https://www.ajc.com/news/state—regional-govt—politics/here-why-electric-car-sales-are-plummeting-georgia/1NGjfnDMALGkv2iUzwwXIO/> [https://perma.cc/L6AA-LTP2]; DOR, *supra* note 9.

11. O.C.G.A. § 40-2-151(a)(19)(B)(iii) (2015).

12. O.C.G.A. § 48-9-3(a)(1.1) (2023); *see also* Patty Rasmussen, *Georgia's Transportation Funding Act is Transforming the Future*, GA. TREND (Oct. 31, 2020), <https://www.georgiatrend.com/2020/10/31/transforming-the-future/> [https://perma.cc/2CFE-T6PH].

13. DOAA, *supra* note 6.

14. Video Recording of Senate Committee on Regulated Industries and Utilities Meeting at 14 min., 55 sec. (Feb. 14, 2023) [hereinafter Feb. 14, 2023 Senate Committee Video] (remarks by Sen. Steve Gooch (R-51st)), <https://vimeo.com/showcase/8821984/video/798903344> [https://perma.cc/9E58-H753].

of longer range electric vehicles and public charging stations, however, meant that: (1) out-of-state drivers could drive in and through Georgia without contributing toward the maintenance of Georgia's roads and bridges via the Motor Fuel Tax, and (2) some electric vehicle drivers, particularly those driving commercial vehicles, could drive tens of thousands more miles annually than the average mileage assumed in the registration tax, resulting in payment of a far smaller proportional share of taxes for the maintenance of roads and bridges than other drivers in relation to actual miles driven.¹⁵

In recognition of the challenges and opportunities posed by the continued advances in electric vehicle technology, infrastructure, and market share, the Georgia Legislature passed Senate Resolution 463 in 2022, creating the Joint Study Committee on the Electrification of Transportation.¹⁶ Representative Rick Jasperse (R-11th) and Senator Steve Gooch (R-51st) cochaired the Joint Study Committee.¹⁷ The Committee met seven times throughout 2022.¹⁸ The Committee published a final report in the final months of 2022, noting nineteen distinct recommendations and findings.¹⁹ Perhaps the most consequential item to come out of the Committee, however, was proposed legislation incorporating a number of those recommendations that would do the following: (1) clarify that the public sale of electricity via electric car charging stations did not violate the Georgia Territorial Act that establishes regional monopolies for the sale of electricity by state-recognized utilities; (2) provide for the regulation and monitoring of public charging stations by the Department of Agriculture (the same agency that regulates and monitors fuel pumps in the state); and (3) establish a tax on electric power sold via public electric vehicle charging stations that would

15. *See id.*

16. SR 463, as passed, 2022 Ga. Gen. Assemb.

17. *Joint Study Committee on the Electrification of Transportation*, GA. HOUSE OF REPRESENTATIVES, <https://www.house.ga.gov/Committees/en-US/ElectrificationofTransportation.aspx> [<https://perma.cc/ATX7-EMW7>].

18. *Id.*

19. GA. SENATE RSCH. OFF., FINAL REPORT OF THE JOINT STUDY COMMITTEE ON THE ELECTRIFICATION OF TRANSPORTATION § 5, at 72–74 (2022) [hereinafter JOINT STUDY COMMITTEE REPORT].

mirror the existing Motor Fuel Tax.²⁰ That proposed legislation would become Senate Bill (SB) 146 and would eventually pass in both chambers of the Georgia Legislature with near unanimous support.²¹

Bill Tracking of SB 146

Consideration and Passage by the Senate

Senator Steve Gooch (R-51st) sponsored SB 146 in the Senate with Senator Bill Cowsert (R-46th), Senator Larry Walker, III (R-20th), Senator David Lucas (D-26th), Senator Jason Anavitarte (R-31st), Senator Russ Goodman (R-8th), Senator Brandon Beach (R-21st), and Senator Frank Ginn (R-47th) cosponsoring.²² The Senate read the bill for the first time on February 13, 2023, and committed the bill to the Senate Regulated Industries and Utilities Committee that same day.²³

The Committee favorably reported the bill by Committee substitute on March 1, 2023.²⁴ The substitute incorporated a wide range of changes. First, the substitute added a new subsection, prohibiting electric utility companies that are subject to regulation by the Georgia Public Service Commission (PSC) from owning and operating public charging stations, unless those charging stations are owned and operated by “a separate legal entity not subject to the authority of and regulation by the commission.”²⁵ The substitute allowed an exception to this rule for so-called community charging stations specifically approved by the PSC that are a part of Georgia Power’s “charger of

20. Feb. 14, 2023 Senate Committee Video, *supra* note 14, at 4 min., 50 sec. (remarks by Sen. Steve Gooch (R-51st)).

21. Georgia Senate Voting Record, SB 146, #150 (Mar. 6, 2023); Georgia Senate Voting Record, SB 146, #320 (Mar. 27, 2023); Georgia House of Representatives Voting Record, SB 146, #300 (Mar. 27, 2023).

22. Georgia General Assembly, SB 146, Bill Tracking [hereinafter SB 146, Bill Tracking], <https://www.legis.ga.gov/legislation/64250> [<https://perma.cc/66EM-LDZ3>].

23. *Id.*; State of Georgia Final Composite Status Sheet, SB 146, May 9, 2023.

24. State of Georgia Final Composite Status Sheet, SB 146, May 9, 2023; SB 146, Bill Tracking, *supra* note 22.

25. SB 146 (SCS), § 1-1, p. 3, ll. 47–51, 2023 Ga. Gen. Assemb.

last resort program for rural and low income areas,” formally referred to as its Community Charging Program.²⁶

Second, the Committee substitute added another subsection requiring that electric utility companies offer the same “rates, terms and conditions for service” to all “electric vehicle charging services,” ensuring parity of treatment for public chargers owned by a subsidiary of a utility company under the above-mentioned Code section and all other public charging stations.²⁷ This change and the changes discussed in the paragraph *supra* were added at the request of “Americans for Affordable Clean Energy, a coalition of national convenience stores,” and these changes were “not opposed by Georgia Power or the [Electric Membership Corporations].”²⁸

Third, the Committee substitute added language allowing the measurement and display of the kilowatt-hours dispensed in any given charging transaction to take place on a “digital network” (i.e., an “online enabled application” on one’s phone).²⁹ The original bill only specified that this information be “prominently display[ed]” on the charging station itself.³⁰ Tesla requested the change because the roughly 900 chargers already operated by Tesla in the state do not display the information as required in the original bill.³¹ Instead, transactions on Tesla chargers take place via a web-based application.³² Thus, these changes to the bill were made to accommodate charging stations that only display charging transaction details from a web-based application, rather than on the charger itself.

Fourth, the Committee substitute added language exempting charging stations housed on the premises of multifamily dwellings from the new excise tax.³³ The bill as introduced only exempted

26. *Id.* § 1-1, pp. 2–3, ll. 26–27, 47–48; Video Recording of Senate Committee on Regulated Industries and Utilities Meeting at 11 min., 54 sec. (Feb. 28, 2023) [hereinafter Feb. 28, 2023 Senate Committee Video] (remarks by Sen. Steve Gooch (R-51st)), <https://vimeo.com/showcase/8821984/video/803243133> [<https://perma.cc/QSC2-FX3S>].

27. SB 146 (SCS), § 1-1, p. 3, ll. 52–55, 2023 Ga. Gen. Assemb.

28. Feb. 28, 2023 Senate Committee Video, *supra* note 26, at 12 min., 14 sec.

29. SB 146 (SCS), § 2-2, pp. 4–6, ll. 71–74, 119–22, 2023 Ga. Gen. Assemb.

30. SB 146, as introduced, § 2-2, p. 5, ll. 92–95, 2023 Ga. Gen. Assemb.

31. Feb. 14, 2023 Senate Committee Video, *supra* note 14, at 32 min., 26 sec. (remarks by Bill Ehrlich, Senior Policy Advisor for EV Charging Policy & Rates, Tesla, Inc.).

32. *Id.*

33. SB 146 (SCS), § 2-2, p. 4, ll. 79–87, 2023 Ga. Gen. Assemb.

charging that took place on the premises of a “single-family dwelling or residential building that contains no more than two dwelling units.”³⁴ Tesla also requested this change, as the company believed it was important that people in “multi-unit dwellings are treated similarly as those living in single family homes.”³⁵ The new language includes within the definition of “residence” a “multifamily dwelling which provides lodging for the public for longer than 30 consecutive days” and exempts vehicle chargers on such premises “for purposes other than commercial” and which are exclusively used by “employees, tenants, visitors, or residents” of such dwellings.³⁶

Fifth, the Committee substitute added language to the bill requiring the Agriculture Commissioner to “take into consideration and provide for consistency with any rules and regulations of the National Institute for the Standards and Technology [NIST] of the United States Department of Commerce” when promulgating rules for the regulation of public charging stations.³⁷ This change came after consideration of Tesla’s Committee testimony, which characterized the NIST standards as “providing alignment with what’s in existing national guidance.”³⁸

Sixth, the Committee substitute added language protecting confidential information obtained from public charging stations by the Department of Agriculture and the Department of Revenue and provided for penalties for “any person who divulges confidential information obtained pursuant to this Code section.”³⁹ This language originated from the Department of Revenue and was included at its request.⁴⁰

34. SB 146, as introduced, § 2-2, p. 4, ll. 69–70, 2023 Ga. Gen. Assemb.

35. Feb. 14, 2023 Senate Committee Video, *supra* note 14, at 34 min., 15 sec. (remarks by Bill Ehrlich, Senior Policy Advisor for EV Charging Policy & Rates, Tesla, Inc.).

36. SB 146 (SCS), § 2-2, p. 4, ll. 79–87, 2023 Ga. Gen. Assemb.

37. *Id.* § 2-2, p. 5, ll. 106–08.

38. Feb. 14, 2023 Senate Committee Video, *supra* note 14, at 35 min., 27 sec. (remarks by Francesca Wahl, Senior Policy Manager for Public Policy and Business Development, Tesla, Inc.); *see also* Feb. 28, 2023 Senate Committee Video, *supra* note 26, at 8 min., 36 sec. (remarks by Sen. Steve Gooch (R-51st)) (referring to the NIST amendment and stating that “those are the regulations that we think are appropriate because they would be more consistent throughout the United States and they wouldn’t change from state to state. So, everyone agrees with that language as well”).

39. SB 146 (SCS), § 2-2, pp. 5–6, ll. 111–17, 2023 Ga. Gen. Assemb.

40. Feb. 28, 2023 Senate Committee Video, *supra* note 26, at 9 min., 3 sec.

Seventh, the Committee substitute changed the gallon equivalent of motor fuel for electric power (for purposes of calculating the equivalent excise tax to be charged) from a generic 33.7 kilowatts to 9 kilowatt-hours for gasoline and 14 kilowatt-hours for diesel.⁴¹ Committee members came to refer to the change from kilowatts to kilowatt-hours as the “Ginn amendment.”⁴² Senator Ginn, an engineer by trade, noted in Committee hearings that kilowatts are not an appropriate measurement for gallon equivalence because kilowatts measure “not a quantity of power” but rather a “rate of power” at any given time.⁴³ Thus, in order to calculate a quantity of electric power equivalent to a gallon of gasoline or diesel fuel, the proper measurement would be in kilowatt-hours.⁴⁴

Finally, the Committee substitute delayed the effective date of the substantive portions of the bill related to the “regulative authority of the Department of Agriculture” and those “relating to revenue and taxation” until January 1, 2025.⁴⁵

The Senate read the bill for the second time on March 2, 2023.⁴⁶ The Senate tabled the bill on March 6, 2023, and subsequently took the bill from the table on the same day.⁴⁷ The Senate then read the bill for a third time on March 6, 2023, and passed it on the same day, without amendment, by a vote of 55 to 1.⁴⁸

Consideration and Passage by the House

Representative Rick Jasperse (R-11th) sponsored the bill in the House, and the House first read the bill on March 7, 2023.⁴⁹ The House

41. Compare SB 146, as introduced, § 3-2, p. 13, l. 304, 2023 Ga. Gen. Assemb., with SB 146 (SCS), § 3-2, p. 14, ll. 332–34, 2023 Ga. Gen. Assemb.

42. See, e.g., Feb. 28, 2023 Senate Committee Video, *supra* note 26, at 10 min., 33 sec. (remarks by Sen. Steve Gooch (R-51st)).

43. Feb. 14, 2023 Senate Committee Video, *supra* note 14, at 22 min., 19 sec. (remarks by Sen. Frank Ginn (R-47th)).

44. *Id.*

45. SB 146 (SCS), § 4-1, p. 18, ll. 417–19, 2023 Ga. Gen. Assemb.

46. SB 146, Bill Tracking, *supra* note 22; State of Georgia Final Composite Status Sheet, SB 146, May 9, 2023.

47. SB 146, Bill Tracking, *supra* note 22; State of Georgia Final Composite Status Sheet, SB 146, May 9, 2023.

48. SB 146, Bill Tracking, *supra* note 22.

49. *Id.*; State of Georgia Final Composite Status Sheet, SB 146, May 9, 2023.

read the bill for a second time on March 8, 2023.⁵⁰ On March 20, 2023, Senator Gooch presented a substitute of the bill to the House Technology and Infrastructure Innovation Committee.⁵¹ The Committee favorably reported on the bill the same day.⁵² The House passed the bill by Rules Committee substitute on March 27, 2023, by a vote of 175 to 1.⁵³

The substitute included several changes from the version originally passed in the Senate. First, the revised bill added hydrogen as a motor vehicle fuel source.⁵⁴ Though hydrogen as a fuel source was originally included in the House's version of the same bill, House Bill (HB) 406, hydrogen had not yet appeared as a fuel source in SB 146.⁵⁵

Second, the substitute updated gallonage equivalence for motor vehicle fuel sources, including a gallonage equivalence for hydrogen of 2.2 pounds.⁵⁶ Further, to comply with North American Free Trade Agreement (NAFTA) regulations requiring that states charge one rate for motor fuel tax per power source, the substitute removed the existing breakdown of separate electricity conversion rates for diesel and gasoline; the new version replaced them with one conversion rate of 11 kilowatt-hours.⁵⁷

Third, the substitute changed the definition of "residence" to include "an extended stay rental," in addition to "a single-family dwelling" or "multifamily dwelling."⁵⁸ As defined by Code section 48-13-50.3,

50. State of Georgia Final Composite Status Sheet, SB 146, May 9, 2023.

51. Video Recording of House Committee on Technology and Infrastructure Innovation Meeting at 18 min., 27 sec. (Mar. 20, 2023) [hereinafter Mar. 20, 2023 House Committee Video] (remarks by Sen. Steve Gooch (R-51st)), <https://www.youtube.com/watch?v=4rN2ErPuQQ4&t=1062s> [<https://perma.cc/GTK7-Y3B3>].

52. State of Georgia Final Composite Status Sheet, SB 146, May 9, 2023.

53. SB 146, Bill Tracking, *supra* note 22.

54. SB 146 (HRCS), § 3-1, p. 12, ll. 278–79, 2023 Ga. Gen. Assemb.

55. Video Recording of House Committee on Technology and Infrastructure Innovation Meeting at 29 min., 38 sec. (Mar. 13, 2023) [hereinafter Mar. 13, 2023 House Committee Video] (remarks by Rep. Sam Park (D-107th) & Sen. Steve Gooch (R-51st)), <https://www.youtube.com/watch?v=Y-AeVrQMpwQ> [<https://perma.cc/A863-U3TW>].

56. 2023 Ga. Laws 376, § 3-2, at 385.

57. *Compare* 2023 Ga. Laws 376, § 3-2, at 385, *with* SB 146 (SCS), § 3-2, p. 14, ll. 333–34, 2023 Ga. Gen. Assemb. In the March 20, 2023 Committee meeting, Senator Gooch stated that the combined conversion rate was nine kilowatt-hours; the rate of eleven appears in the House version as passed on March 27, 2023. *See* Mar. 20, 2023 House Committee Video, *supra* note 51, at 25 min., 46 sec. (remarks by Sen. Steve Gooch (R-51st)).

58. SB 146 (SCS), § 2-2, p. 4, ll. 82–87, 2023 Ga. Gen. Assemb.; 2023 Ga. Laws 376, § 2-2, at 378.

“‘extended stay rental’ means providing for value to the public a hotel or motel room for longer than 30 consecutive days to the same customer.”⁵⁹

Fourth, the definition of “digital network” changed from “an online enabled application, website, or system”⁶⁰ to “internet enabled technology or digital media, including, but not limited to, consumer applications accessible through computers or mobile electronic devices.”⁶¹ In line with the updated definition of “digital network,” the substitute added a provision expressly permitting charging stations to display the amount of electricity delivered to an electric vehicle “either directly upon the station or remotely through the use of a digital network.”⁶² Because existing charging stations often rely upon mobile apps to convey information to the customer, the digital network provision permits charging companies to keep their current technology while still ensuring that customers have access to the required information.⁶³

Fifth, the Committee substitute expanded a conflict-of-interest provision, now providing that an inspector of electric vehicle charging stations would be disqualified from the position if the inspector has a direct or indirect interest in the manufacturing or sale of charging stations.⁶⁴ This disqualification provision supplemented an existing provision establishing a misdemeanor offense for anyone maintaining such an interest while employed as a vehicle charging inspector.⁶⁵

The final change restored the Consumer Price Index (CPI) inflation measure for the annual fee for vehicles operated in the state.⁶⁶

On March 27, 2023, the Senate agreed to the House substitute by a vote of 51 to 4, upon which it sent the bill to the Governor.⁶⁷ Governor Brian Kemp (R) signed SB 146 into law on May 2, 2023.⁶⁸

59. O.C.G.A. § 48-13-50.3(a)(1) (2023).

60. SB 146 (SCS), § 2-2, p. 4, ll. 71–74, 2023 Ga. Gen. Assemb.

61. 2023 Ga. Laws 376, § 2-2, at 378.

62. *Id.* at 379.

63. Mar. 13, 2023 House Committee Video, *supra* note 55, at 16 min., 5 sec. (remarks by Sen. Steve Gooch (R-51st)).

64. 2023 Ga. Laws 376, § 2-2, at 382.

65. *Id.*; SB 146 (SCS), § 2-2, p. 10, ll. 240–42, 2023 Ga. Gen. Assemb.

66. 2023 Ga. Laws 376, at 376.; *id.* § 3-2, at 384; *id.* § 4-1, at 387.

67. SB 146, Bill Tracking, *supra* note 22.

68. *Id.*

The Act

The Act amends the following portions of the Official Code of Georgia Annotated: Article 2 of Chapter 2 of Title 46, relating generally to the jurisdiction, powers, and duties of the PSC, is amended by adding a new Code section at 46-2-20.1;⁶⁹ Article 8 of Chapter 1 of Title 10, relating to selling and other trade practices, is amended in Code section 10-1-164;⁷⁰ Chapter 1 of Title 10 is further amended by adding a new Article 8A;⁷¹ Article 1 of Chapter 9 of Title 48, relating to motor fuel tax, is amended in Code sections 48-9-2, 48-9-3, 48-9-8, 48-9-9, and 48-9-12;⁷² and Article 7 of Chapter 2 of Title 40, relating to annual license fees for operation of vehicles, fees for permanent licensing of certain trailers, and fees for new passenger cars with paid title ad valorem taxes, is amended in Code section 40-2-151.⁷³ The overall purposes of the Act are to create a framework for the regulation and taxation of certain electric vehicle charging services, provide limits and conditions on the ownership and operation of electric vehicle charging by electric utilities, and “remove a prohibition on the use of the Consumer Price Index for determining the annual adjustment of an annual fee for alternative fueled vehicles.”⁷⁴

Part I

Part I of the Act adds a new Code section at 46-2-20.1.⁷⁵ This new Code section does three things. First, subsection (b) of the new Code section makes it clear that the provision of electric vehicle charging services “shall not be considered a service of an electric utility subject to the authority and jurisdiction of the commission” and shall not

69. 2023 Ga. Laws 376, § 1-1, at 377.

70. 2023 Ga. Laws 376, § 2-1, at 378.

71. 2023 Ga. Laws 376, § 2-2, at 378–83.

72. 2023 Ga. Laws 376, §§ 3-1 to 3-5, at 383–87.

73. 2023 Ga. Laws 376, § 4-1, at 387.

74. 2023 Ga. Laws 376, at 376.

75. 2023 Ga. Laws 376, § 1-1, at 377.

violate the territorial monopolies granted to electric utilities.⁷⁶ Currently, all electric utilities in Georgia are subject to the regulatory authority of the PSC.⁷⁷ Additionally, the Georgia Territorial Electric Service Act grants electric utilities exclusive rights to supply electricity within assigned geographical areas.⁷⁸ In adding subsection (b) to this Code section, the Georgia General Assembly sought to clarify that private parties could supply electricity for public consumption at electric vehicle charging stations without being considered an electric utility or otherwise violating the Georgia Territorial Electric Service Act.⁷⁹

Second, subsection (c) sets the limitations and terms under which electric utilities can own and operate “publicly available” charging stations.⁸⁰ Other than “community charging equipment” specifically authorized by the PSC to provide charging stations in rural service areas, electric utilities are prohibited from directly owning and operating public charging stations.⁸¹ Instead, electric utilities must create a “separate legal entity not subject to the authority of and regulation by the commission” to own and operate such charging stations.⁸² This subsection was added to prevent electric utilities from gaining an unfair advantage in the electric vehicle charging market by using PSC-approved rate increases to invest in public charging stations.⁸³

Finally, subsection (d) of this new Code section prohibits electric utilities from giving preferential treatment to electric charging stations owned by a subsidiary of the utility under subsection (c), requiring that electric utilities provide the same rates and conditions of service to its own charging stations as it does all others.⁸⁴

76. O.C.G.A. § 46-2-20.1(b) (2023).

77. O.C.G.A. § 46-2-20 (2023).

78. See O.C.G.A. §§ 46-3-1, -3 (2023).

79. Feb. 14, 2023 Senate Committee Video, *supra* note 14, at 4 min., 50 sec. (remarks by Sen. Steve Gooch (R-51st)).

80. § 46-2-20.1(c).

81. *Id.*

82. *Id.*

83. See Virtual Interview with Rep. Rick Jasperse (R-11th) (May 19, 2023) [hereinafter Jasperse Interview] (on file with the Georgia State University Law Review).

84. § 46-2-20.1(d).

Subsections (c) and (d), in part, grew out of work done in the prior legislative session on HB 1322 sponsored by Representative Alan Powell (R-32nd).⁸⁵ Though HB 1322 was passed out of Committee by Committee substitute, it was never taken up on the floor of the House.⁸⁶ Among the findings noted in HB 1322 was a need to provide for “competitively neutral policies to encourage private sector investment in electric vehicle charging equipment deployment” and to “[p]rohibit the ability of an electric supplier to recover the cost of deploying, owning, or operating electric vehicle charging equipment from its ratepayers.”⁸⁷ HB 1322 included language that was eventually included in new Code section 46-2-20.1 as created by the current Act.⁸⁸ The Georgia Association of Convenience Stores, among other convenience store lobbies, supported these provisions out of a fear that the monopolies granted to electric utilities and their ability to pass on the costs of infrastructure investments to their ratepayers would give utilities an unfair advantage in the electric vehicle charging market.⁸⁹

Part II

Part II of the Act grants the Department of Agriculture new regulatory authority to inspect and regulate the provision of public electric vehicle charging services. The Act does so principally by adding a new Article 8A to Chapter 1 of Title 10 that effectively replicates the Department of Agriculture’s existing inspection and

85. Georgia General Assembly, HB 1322, Bill Tracking [hereinafter HB 1322, Bill Tracking], <https://www.legis.ga.gov/legislation/62000> [<https://perma.cc/U32S-L4KW>]; Jasperse Interview, *supra* note 83.

86. HB 1322, Bill Tracking, *supra* note 85; Jasperse Interview, *supra* note 83.

87. HB 1322 (HCS), § 2, pp. 3–4, ll. 59–60, 73–74, 2022 Ga. Gen. Assemb.

88. *Id.* § 2, p. 4, ll. 89–92 (“An electric supplier that provides, owns, operates, and maintains electric vehicle charging equipment directly to the public shall do so through a separate, unregulated entity and must do so on the same rates, terms, and conditions offered to private providers of electric vehicle charging equipment.”).

89. Andy Peters, *Convenience Stores Want Assurances to Install Car Charging Stations*, ATLANTA J.-CONST. (Feb. 22, 2022), <https://www.ajc.com/news/convenience-stores-want-assurances-to-install-car-charging-stations/25SB7KKMUFE35I5UH636CH7GAA/#:~:text=Store%20owners%20want%20to%20also,pricing%20the%20power%20and%20equipment> [<https://perma.cc/RTX8-BB6G>].

regulatory authority over gasoline and diesel pumps for electric charging stations.⁹⁰

Before adding a new Article 8A that discusses the use of electricity and hydrogen as motor fuels, section 2-1 of the Act adds a new subsection to Code section 10-1-164 to limit the meaning of the term “motor fuel” as used in that Code section to “automotive gasoline and blended fuel.”⁹¹

Section 2-2 of the Act establishes broad authority for the Department of Agriculture to inspect and regulate electric vehicle charging stations and provides enforcement mechanisms for violations of the new Code sections or regulations promulgated by the Commissioner of Agriculture.⁹² This section includes definitions that limit this new authority to nonresidential charging stations.⁹³ The section includes authority for the Commissioner to hire inspectors and provide for expenses necessary to carry out their duties.⁹⁴ With respect to the inspectors themselves, this section gives them the power to serve subpoenas and swear out search and arrest warrants.⁹⁵ This section of the Act also grants the Commissioner authority to promulgate regulations for the administration and enforcement of the new Article 8A, requiring the Commissioner to consider and “provide for consistency with any rules and regulations of the National Institute for Standards and Technology of the United States Department of Commerce.”⁹⁶

New Code section 10-1-222 requires that all electric vehicle charging stations be “capable of accurately measuring and prominently displaying the amount of electricity delivered to each electric vehicle on a per kilowatt-hour basis, either directly upon the station or remotely through the use of a digital network,” and subjects all such charging stations to inspection by and registration with the Commissioner.⁹⁷ New Code section 10-1-223 allows the

90. See O.C.G.A. §§ 10-1-140 to -169 (2023).

91. 2023 Ga. Laws 376, § 2-1, at 378 (codified at § 10-1-164(a.1)).

92. 2023 Ga. Laws 376, § 2-2, at 378–83.

93. O.C.G.A. § 10-1-220(6) (2023) (effective Jan. 1, 2025).

94. O.C.G.A. § 10-1-221(b)-(d) (2023) (effective Jan. 1, 2025).

95. *Id.* § 10-1-221(d).

96. *Id.* § 10-1-221(e).

97. O.C.G.A. § 10-1-222 (2023) (effective Jan. 1, 2025).

Commissioner to apply to a superior court to enjoin violations of state laws in “marketing the delivery of electricity for use in electric vehicles” and grants jurisdiction to “the appropriate superior court” to issue such injunctions.⁹⁸

New Code section 10-1-224 provides that, upon inspection, all electric vehicle charging stations “found to be giving accurate measure of the amount of electricity delivered” shall receive the seal of the Commission.⁹⁹ The Code section also provides for procedures for the correction or condemnation of electric vehicle charging stations “found to be giving inaccurate measure of the amount of electricity delivered in excess of the tolerance established by regulations of the Commissioner.”¹⁰⁰

New Code section 10-1-225 details the requirements for advertising the price of electricity offered for sale at an electric vehicle charging station and prohibits the advertising of free gifts or car washes offered upon purchase of electricity unless the provider is able to “supply the reasonably expectable demand” of said gifts or is “prepared . . . to perform such car washes.”¹⁰¹

New Code section 10-1-226 provides for “a civil penalty not to exceed \$1,000.00 for each violation” upon a hearing by the Commission finding such violation of the provisions in this new Article 8A.¹⁰² New Code section 10-1-227 makes it a misdemeanor for “[a]ny electric vehicle charging station inspector” to have a business interest in the “manufacture or vending of any electric vehicle charging station” while in office, and disqualifies from further service any inspector found to be in violation of this Code “until such interest no longer exists.”¹⁰³ Finally, new Code section 10-1-228 provides that “[a]ny person or association of persons, firm, or corporation that violates any of the provisions of this article relating to inspection of electric vehicle charging stations and the resale of electricity or any

98. O.C.G.A. § 10-1-223 (2023) (effective Jan. 1, 2025).

99. O.C.G.A. § 10-1-224(b) (2023) (effective Jan. 1, 2025).

100. *Id.* § 10-1-224(c).

101. O.C.G.A. § 10-1-225 (2023) (effective Jan. 1, 2025).

102. O.C.G.A. § 10-1-226 (2023) (effective Jan. 1, 2025).

103. O.C.G.A. § 10-1-227 (2023) (effective Jan. 1, 2025).

rule or regulation promulgated by the Commissioner for the enforcement of this article shall be guilty of a misdemeanor.”¹⁰⁴

Part III

Part III of the Act amends various Code sections in Article 1 of Chapter 9 of Title 48, relating to the Motor Fuel Tax, to include within the tax the provision of electric vehicle charging services.¹⁰⁵ Section 3-1 of the Act amends Code section 48-9-2 to include the distribution of electricity and hydrogen as motor fuels under the statutory definition of “Distributor” as used in this Article.¹⁰⁶

Section 3-2 of the Act amends Code section 48-9-3 to include the provision of electricity and hydrogen as motor fuels within the per gallon or gallon equivalent excise tax on motor fuels.¹⁰⁷ Specifically, this section of the Act sets the gallon equivalent of electricity for purposes of the tax at “not more than 11 kilowatt-hours” and sets the gallon equivalent of hydrogen at “not less than 2.2 pounds.”¹⁰⁸ This section also includes various provisions to clarify that the tax only applies to electricity and hydrogen sold specifically for use as motor fuel.¹⁰⁹

Sections 3-3 and 3-5 of the Act make minor amendments to various sections of Code to reflect that the Motor Fuel Tax now applies to gallons of gasoline or diesel fuel, as well as other fuels measured in “gallon equivalents.”¹¹⁰ Section 3-4 of the Act amends Code section 48-9-9 to exclude “special fuel of a type other than electricity” from certain reporting requirements for deliveries of motor fuel.¹¹¹

104. O.C.G.A. § 10-1-228 (2023) (effective Jan. 1, 2025).

105. 2023 Ga. Laws 376, §§ 3-1 to 3-5, at 383–87.

106. 2023 Ga. Laws 376, § 3-1, at 383 (codified at O.C.G.A. § 48-9-2(5) (2023) (effective Jan. 1, 2025)).

107. 2023 Ga. Laws 376, § 3-2, at 384–85 (codified at O.C.G.A. § 48-9-3 (2023) (effective Jan. 1, 2025)).

108. § 48-9-3(a)(4)(A)(ii)-(iii).

109. *See, e.g.*, § 48-9-3(c.1).

110. *See* 2023 Ga. Laws 376, § 3-3, at 385 (codified at O.C.G.A. § 48-9-8(c)(3) (2023) (effective Jan. 1, 2025)); 2023 Ga. Laws 376, § 3-5, at 386–87 (codified at O.C.G.A. § 48-9-12(e) (2023) (effective Jan. 1, 2025)).

111. 2023 Ga. Laws 376, § 3-4, at 386 (codified at O.C.G.A. § 48-9-9(a)(1) (2023) (effective Jan. 1, 2025)).

Part IV

Part IV of the Act removes a sunset provision related to use of the CPI in the formula for increasing the annual license fee assessed against alternatively fueled vehicles.¹¹² This amendment allows the Department of Revenue to continue factoring annual inflation data into increases on the assessment of the annual license fee.¹¹³

Part V

Part V of the Act sets the effective date of the legislation, stating that: “Part II of this Act, which provides for the regulative authority of the Department of Agriculture, and Part III of this Act, relating to revenue and taxation, shall become effective on January 1, 2025.”¹¹⁴ All other portions of the Act became effective as of July 1, 2023.¹¹⁵

Analysis

Although SB 146 enjoyed broad bipartisan support in both the House and the Senate, several elected officials and stakeholders voiced concerns about the Act’s possible unintended consequences, as well as anticipated challenges with implementation.¹¹⁶

Annual EV Fee Remains

Stakeholders’ primary concern centered on the possibility that taxing electricity as motor fuel without amending existing fee structures would amount to a double tax imposed upon electric vehicle owners.¹¹⁷ In 2015, the State Legislature implemented an annual

112. 2023 Ga. Laws 376, § 4-1, at 387 (codified at O.C.G.A. § 40-2-151(a)(19)(B)(iii) (2023)).

113. *Id.*

114. 2023 Ga. Laws 376, § 5-1, at 387.

115. *Id.*

116. *See, e.g.*, Georgia Senate Voting Record, SB 146, #320 (Mar. 27, 2023); Georgia House of Representatives Voting Record, SB 146, #300 (Mar. 27, 2023).

117. Jill Nolin, *Taxes Could Toss Sand in Gears of Governor’s Drive to Make Georgia the Electric Vehicle Capital*, GA. PUB. BROAD. (Mar. 27, 2023, 9:09 AM), <https://www.gpb.org/news/2023/03/27/taxes-could-toss-sand-in-gears-of-governors-drive-make-georgia-the-electric-vehicle> [https://perma.cc/D67N-YN4K].

electric vehicle registration fee—the state’s initial attempt to capture a rough equivalent to the gasoline fuel tax.¹¹⁸ Originally \$200 in 2015, the current annual fee for noncommercial electric vehicles is \$210.87.¹¹⁹ Despite stakeholders’ advocacy to drop the annual fee upon the imposition of the electric vehicle charging tax, SB 146 makes no such concession.¹²⁰ Detractors argue that charging electric vehicle drivers more than their fair share may disincentivize electric vehicle use.¹²¹ The bill’s sponsors, however, contend that because SB 146 does not apply the tax to residential charging, the new tax will primarily affect out-of-state electric vehicle drivers who are traveling in Georgia and who do not pay any other fee to use Georgia’s roads.¹²² Thus, because Georgia residents who own electric vehicles are able to charge their vehicles tax-free at home, the annual fee remains appropriate as a proxy for the fuel tax those drivers would otherwise pay at public charging stations.¹²³

Ensuring Compliance Among Preexisting Charging Stations

A second concern among stakeholders is how to bring Georgia’s currently operational charging stations into compliance with SB 146.¹²⁴ To date, charging stations that impose a fee do so based upon time spent charging or through a subscription program, not by

118. DOR, *supra* note 9.

119. GA. DEP’T OF REVENUE, MOTOR VEHICLE BULLETIN: ALTERNATIVE FUEL AND LOW-SPEED VEHICLES, ANNUAL LICENSING FEES EFFECTIVE: JULY 1, 2023 (2023).

120. Amanda Andrews, *Senate Committee Moves Forward on Electric Vehicle Regulations*, GA. PUB. BROAD. (Mar. 21, 2023, 12:54 PM), <https://www.gpb.org/news/2023/03/21/senate-committee-moves-forward-on-electric-vehicle-regulations> [<https://perma.cc/XV55-M6GX>].

121. *See* Nolin, *supra* note 117.

122. Mar. 20, 2023 House Committee Video, *supra* note 51, at 24 min., 16 sec. (remarks by Sen. Steve Gooch (R-51st)); *see also* JOINT STUDY COMMITTEE REPORT, *supra* note 19, § 3, at 14 (“This approach, however, would help to capture taxes from those motorists who drive through the state and use Georgia roads.”).

123. Mar. 20, 2023 House Committee Video, *supra* note 51, at 24 min., 16 sec. (remarks by Sen. Steve Gooch (R-51st)). Though critics approved of the breadth of the residential charging carve-out in SB 146, at least one questioned whether all places of residence had equal access to charging. Mar. 13, 2023 House Committee Video, *supra* note 55, at 59 min., 29 sec. (remarks by Mark Woodall, Conservation Chair, Sierra Club Georgia Chapter) (“But we still got people with houses that have to park on the street. So, I think we still got some equity issues there on how we would exclude people.”).

124. *See* Mar. 13, 2023 House Committee Video, *supra* note 55, at 1 hr., 3 min., 5 sec. (remarks by Doug Teper, Policy Manager, Georgia Conservation Voters). In 2022, approximately 3,800 charging stations existed in Georgia. JOINT STUDY COMMITTEE REPORT, *supra* note 19, § 4, at 19.

the kilowatt-hour.¹²⁵ Further, some commercial entities offer complimentary charging stations to customers and guests; while they may continue to offer free charging, they will be responsible for paying the fuel tax.¹²⁶ Depending upon the upgrades that would be required to bring existing charging stations into compliance with SB 146, retrofitting may be prohibitively expensive and may cause operators to eliminate those charging stations altogether, though Doug Teper of Georgia Conservation Voters noted that “the cost should drop significantly” in time.¹²⁷ Lawmakers also assert that Georgia is poised to receive “thousands” of new charging stations due to \$135 million in federal funding, an influx which may outweigh the loss of chargers unable to be retrofitted.¹²⁸

2025 Implementation Deadline

A third concern pertains to the imminency of the 2025 implementation date.¹²⁹ As it now stands, the bill requires that by 2025, charging stations will calculate and facilitate payment of the kilowatt-hour tax, and the Department of Agriculture will conduct inspections of the charging stations to ensure compliance and safety.¹³⁰ The Department of Agriculture has cited availability and cost of the testing equipment as logistical challenges to implementation.¹³¹ The testing devices, which are not yet commercially available, are expected to cost \$50,000 each.¹³² The Department anticipates needing twenty such devices.¹³³ The Department is also still determining how it will

125. *Id.* § 3, at 15.

126. Video Recording of House Proceedings at 2 hr., 7 min., 6 sec. (Mar. 27, 2023) (remarks by Rep. Rick Jasperse (R-11th)) <https://www.youtube.com/watch?v=9Aw0USa2vic&t=1165s> [<https://perma.cc/S444-XTLZ>].

127. Virtual Interview with Mark Woodall, Conservation Chair, Sierra Club Georgia Chapter (May 26, 2023) [hereinafter Woodall Interview] (on file with the Georgia State University Law Review); Mar. 13, 2023 House Committee Video, *supra* note 55, at 1 hr., 3 min., 5 sec. (remarks by Doug Teper, Policy Manager, Georgia Conservation Voters).

128. Mar. 13, 2023 House Committee Video, *supra* note 55, at 1 hr., 11 min., 28 sec. (remarks by Sen. Steve Gooch (R-51st)).

129. *See, e.g., id.* at 44 min., 43 sec. (remarks by Ben Kessler, Public Policy Manager, ChargePoint).

130. *See supra* notes 90, 96, 104 and accompanying text.

131. Mar. 13, 2023 House Committee Video, *supra* note 55, at 1 hr., 5 min., 53 sec. (remarks by Katherine Russell, Director of Policy, Georgia Department of Agriculture).

132. *Id.*

133. *Id.*

discharge the electricity it must pull from the grid during a test conduction.¹³⁴ Delaying the implementation beyond 2025 would potentially coincide with less expensive methods of retrofitting and testing charging stations as relevant technology continues to develop.¹³⁵

Proponents of SB 146 again note that the anticipated influx of charging stations due to federal funding underscores the need for Georgia to begin working to implement this legislation “now.”¹³⁶ Lawmakers also acknowledged that changes to the bill may be necessary before 2025.¹³⁷

Potential Impact of Vehicle Miles Traveled Program

Concurrent with Georgia’s implementation of SB 146 is a Georgia Department of Transportation pilot study of a different method of funding roadway infrastructure: Vehicle Miles Traveled (VMT) fees.¹³⁸ Under a VMT scheme, motorists do not pay a fuel tax and instead pay a set rate for the number of miles they travel each year; thus, statewide adoption of a VMT scheme would eliminate the need for a traditional motor fuel tax.¹³⁹ Proponents of VMT, including Senator Steve Gooch (R-51st), espouse the framework as more fair than fuel taxes and other funding mechanisms because motorists would only pay for their actual use of state infrastructure.¹⁴⁰ A VMT scheme would also address the concern that a fuel tax may not always account for the increased efficiency of internal combustion engines.¹⁴¹ As drivers are able to travel more miles per gallon, they cause wear and tear on roads in excess of what they pay for in fuel tax. The same may be true in the future with electric vehicles as their batteries become more efficient.

134. *Id.*

135. *Id.* at 44 min., 43 sec. (remarks by Ben Kessler, Public Policy Manager, ChargePoint).

136. *Id.* at 1 hr., 8 min., 34 sec. (remarks by Sen. Steve Gooch (R-51st)).

137. Mar. 13, 2023 House Committee Video, *supra* note 55, at 1 hr., 8 min., 34 sec.

138. Mar. 20, 2023 House Committee Video, *supra* note 51, at 30 min., 19 sec. (remarks by Sen. Steve Gooch (R-51st)).

139. *Id.*

140. Mar. 13, 2023 House Committee Video, *supra* note 55, at 30 min., 27 sec. (remarks by Sen. Steve Gooch (R-51st)).

141. See JOINT STUDY COMMITTEE REPORT, *supra* note 19, § 4, at 55.

Some stakeholders are concerned that the state is simultaneously implementing SB 146 and the VMT pilot program.¹⁴² Should the state adopt a full-scale VMT program in the future, the significant investment SB 146 requires to retrofit existing charging stations and acquire the proper inspection equipment may be for naught.¹⁴³ But while Georgia's Legislature may, in coming years, consider replacing fuel taxes with a VMT scheme, the sponsors of SB 146 fear that waiting to revise the current fuel tax laws until VMT is deemed feasible would ultimately put the state behind in terms of infrastructure funding.¹⁴⁴ Even if the VMT pilot program is successful, questions remain regarding the feasibility of implementation on a broader scale.¹⁴⁵

Conclusion

The coming years are expected to bring a large increase in Georgia's electric vehicle infrastructure, electric vehicle drivers, and, undoubtedly, wear and tear on Georgia's roadways.¹⁴⁶ As technologies continue to bring new developments in transportation methods, SB 146 indicates that Georgians can expect the means of funding transportation infrastructure to adjust accordingly. Lawmakers see SB 146 as a necessary and prudent step toward ensuring that Georgia's roadways continue to be maintained; however, its status as a final resolution to the state's infrastructure funding issue remains to be seen.¹⁴⁷

Margaret L. R. DuBose & Kyle R. Tau

142. Woodall Interview, *supra* note 127.

143. *Id.*

144. Mar. 13, 2023 House Committee Video, *supra* note 55, at 1 hr., 8 min., 34 sec. (remarks by Sen. Steve Gooch (R-51st)).

145. JOINT STUDY COMMITTEE REPORT, *supra* note 19, § 3, at 14 (“Challenges to [a VMT] approach include the lack of a state-wide system to gather the information, highlighting to consumers that they are paying a tax that most do not currently recognize, and consumer resistance to being tracked by the government.”).

146. *See id.* § 4, at 17.

147. Jasperse Interview, *supra* note 83.