COMMITTEE REPORT

May 19, 2010

**H. 4430**

Introduced by Reps. Merrill, Lowe, Bingham, Hutto, Limehouse, Crawford, Harrell, Harrison and G.M. Smith

S. Printed 5/19/10--S.

Read the first time April 27, 2010.

**THE COMMITTEE ON FINANCE**

To whom was referred a Bill (H. 4430) to amend the Code of Laws of South Carolina, 1976, by adding Section 12-43-218 so as to provide that if a municipality consists of real property located, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by adding appropriately numbered SECTIONS to read:

/ SECTION \_\_\_. Chapter 45, Title 12 of the 1976 Code is amended by adding:

“Section 12‑45‑17. (A) A person serving as the county tax collector shall complete satisfactorily a minimum of six hours of annual continuing education courses that the department establishes or causes to be established. The content, cost, and dates of the courses must be determined by the department.

(B) The department, for reasonable cause, may excuse a person serving as the county tax collector from attending these courses for any year.

(C) The provisions of this section do not apply to a county treasurer who is also the county tax collector and completes satisfactorily the requirements of Section 12‑45‑15.”

SECTION \_\_\_. Article 1, Chapter 59, Title 12 of the 1976 Code is amended by adding:

“Section 12‑59‑85. After land has been bid in by the county auditor and before it has been conveyed to the county’s forfeited land commission, the forfeited land commission or a majority of its members may refuse to accept title to the property if the commission determines that to accept title would be against the interest of the public.”

SECTION \_\_\_. Section 12‑37‑2725 of the 1976 Code is amended to read:

“Section 12‑37‑2725. When the title to a licensed vehicle is transferred, or the owner of the vehicle becomes a legal resident of another state and registers the vehicle in the new state of residence, the license plate and registration certificate may be returned for cancellation. The license plate and registration certificate must be delivered to the auditor of the county of the vehicle’s registration and tax payment. A request for cancellation must be made in writing to the auditor upon forms approved by the Department of Motor Vehicles. The auditor, upon receipt of the license plate, registration certificate, and the request for cancellation, shall order and the treasurer shall issue a credit or refund of property taxes paid by the transferor on the vehicle. A receipt form 5051 issued by the Department of Motor Vehicles substitutes for the license plate and registration certificate otherwise required. The amount of the refund or credit is that proportion of the tax paid that is equal to that proportion of the complete months remaining in that tax year. The auditor, within five days ~~thereafter~~ after that, shall deliver the license plate, registration certificate, and the written request for cancellation to the Department of Motor Vehicles. Upon receipt, the Department of Motor Vehicles shall cancel the license plate and registration certificate and may not reissue ~~the same~~ them.”

SECTION \_\_\_. Section 12‑37‑3150(A)(8) of the 1976 Code, as added by Act 57 of 2007, is amended to read:

“(8) a transfer of an ownership interest in a single transaction or as a part of a series of related transactions within a twenty‑five year period in a corporation, partnership, sole proprietorship, limited liability company, limited liability partnership, or other legal entity if the ownership interest conveyed is more than fifty percent of the corporation, partnership, sole proprietorship, limited liability company, limited liability partnership, or other legal entity. The corporation, partnership, sole proprietorship, limited liability company, limited liability partnership, or other legal entity shall notify the applicable property tax assessor on a form provided by the Department of Revenue not more than forty‑five days after a conveyance of an ownership interest that constitutes an assessable transfer of interest or transfer of ownership under this item~~;~~. Failure to provide this notice or failure to provide accurate information of a transaction required to be reported on this notice subjects the property to a civil penalty of not less than one hundred nor more than one thousand dollars as determined by the assessor. This penalty is enforceable and collectible as property tax and is in addition to any other penalties that may apply;”

SECTION \_\_\_. Section 12‑39‑220 of the 1976 Code is amended to read:

“Section 12‑39‑220. If the county ~~auditor shall at any time discover~~ assessor discovers that ~~any~~ real estate or a new structure or if the auditor discovers personal property, duly returned and appraised for taxation, has been omitted from the duplicate, he ~~shall~~ immediately shall notify the auditor who shall immediately charge it on the duplicate with the taxes of the current year and the simple taxes of each preceding year ~~it may have escaped taxation. And if~~ allowed pursuant to Section 12‑54‑85. If the owner of ~~any~~ the real estate ~~or~~, new structure ~~thereon~~, or personal property subject to taxation~~,~~ has not reported it for taxation, according to the requirements of this chapter, and it has not been appraised for taxation, the ~~auditor shall~~ appropriate official, upon discovery ~~thereof~~ of that, shall appraise it and, upon making return of ~~such~~ the appraisement, shall charge it upon the duplicate, with the taxes of the then current year and the taxes of each preceding year ~~it may have escaped taxation~~ allowed pursuant to Section 12‑54‑85, with twenty percent penalty upon ~~such~~ the taxes of preceding years. ~~And if any~~ If real estate ~~shall have~~ has been omitted in ~~any~~ a return, the ~~auditor~~ assessor of the county shall appraise it immediately for taxation, file ~~such~~ the appraisement in his office and the auditor shall charge it with the taxes of the current year and the simple taxes of preceding years ~~it may have escaped taxation~~ allowed pursuant to Section 12‑54‑85.”

SECTION \_\_\_. Section 12‑51‑50 of the 1976 Code, as last amended by Act 399 of 2000, is further amended to read:

“Section 12‑51‑50. The property duly advertised must be sold, by the person officially charged with the collection of delinquent taxes, at public auction at the courthouse or other convenient place within the county, if designated and advertised, on ~~a legal sales~~ the advertised date ~~during regular hours~~ for legal tender payable in full by cash, cashier’s check, certified check, or money order on the date of the sale. If the defaulting taxpayer or the grantee of record of the property has more than one item advertised to be sold, as soon as sufficient funds have been accrued to cover all of the delinquent taxes, assessments, penalties, and costs, further items ~~may~~ must not be sold.”

SECTION \_\_\_. Section 12‑51‑70 of the 1976 Code is amended to read:

“Section 12‑51‑70. ~~In case~~ If the successful bidder fails to remit in legal tender within the time specified, the person officially charged with the collection of delinquent taxes shall cancel that bid and duly readvertise the same property for sale, in the same manner, on a subsequent delinquent tax sale date. The defaulting bidder is liable for no more than ~~three hundred~~ one thousand dollars damages upon default, which may be collected by suit by the person officially charged with the collection of delinquent taxes in the name of the taxing authority.”

SECTION \_\_\_. Section 12‑54‑85(C) of the 1976 Code, as last amended by Act 116 of 2007, is further amended to read:

“(C) Taxes may be determined and assessed after the thirty‑six month limitation if:

(1) there is fraudulent intent to evade the taxes;

(2) the taxpayer failed to file a return or document as required by law;

(3) there is a twenty percent understatement of the total of all taxes required to be shown on the return or document. The taxes in this case may be assessed at any time within seventy‑two months from the date the return or document was filed or due to be filed, whichever is later. For the purpose of this item, the total of all taxes required to be shown on the return is the total of all taxes required to be shown on the return before any reduction for estimated payments, withholding payments, other prepayments, or discount allowed for timely filing of the return and payment of the tax due, but that amount must be reduced by another credit that may be claimed on the return;

(4) the person liable for any taxes consents in writing, before the expiration of the time prescribed in this section for assessing taxes due, to the assessment of the taxes after the time prescribed by this section; ~~or~~

(5) the tax is a use tax imposed under Chapter 36 of this title, or a local use tax administered and collected by the department on behalf of a local jurisdiction, and the assessment of the use tax is the result of information received from, or as a result of exchange agreements with, other state or local taxing authorities, regional or national tax administration organizations, or the federal government. The use taxes in this case may be assessed at any time within twelve months after the department receives the information, but no later than seventy‑two months after the last day the use tax may be paid without penalty~~.~~; or

(6) the property has been omitted pursuant to Section 12‑39‑220. In this case, the taxes may be assessed at any time within the seventy‑two months from the date the taxes would have been due.”

SECTION \_\_\_. Section 12‑43‑220(c)(2) of the 1976 Code is amended to read:

“(2)(i) To qualify for the special property tax assessment ratio allowed by this item, the owner‑occupant must have actually owned and occupied the residence as his legal residence and been domiciled at that address for some period during the applicable tax year. Additionally, the taxpayer must provide his social security number and the social security number of all members of his household. A residence which has been qualified as a legal residence for any part of the year is entitled to the four percent assessment ratio provided in this item for the entire year, for the exemption from property taxes levied for school operations pursuant to Section 12‑37‑251 for the entire year, and for the homestead exemption under Section 12‑37‑250, if otherwise eligible, for the entire year.

(ii) This item does not apply unless the owner of the property or the owner’s agent applies for the four percent assessment ratio before the first penalty date for the payment of taxes for the tax year for which the owner first claims eligibility for this assessment ratio. In the application the owner or his agent must certify to the following statement:

‘Under penalty of perjury I certify that:

(A) the residence which is the subject of this application is my legal residence and where I am domiciled at the time of this application and that neither I ~~do not~~ nor my spouse claim to be a legal resident of a jurisdiction other than South Carolina for any purpose, unless my spouse and I are separated; and

(B) that neither I nor any other member of my household is residing in or occupying any other residence which I or any member of my immediate family has qualified for the special assessment ratio allowed by this section.’

(iii) For purposes of subitem (ii)(B) of this item, ‘a member of my household’ means:

(A) the owner‑occupant’s spouse, except when that spouse is legally separated from the owner‑occupant; and

(B) any child under the age of eighteen years of the owner‑occupant claimed or eligible to be claimed as a dependent on the owner‑occupant’s federal income tax return.”

SECTION \_\_\_. Chapter 43, Title 12 of the 1976 Code is amended by adding:

“Section 12‑43‑226. Notwithstanding any other provision of law, the county assessor may require a taxpayer to re‑qualify for the special four percent assessment ratio set forth in Section 12‑43‑220(c) for all or a portion of the parcels of real estate then receiving the special four percent assessment ratio. However, no property owner may be required to re‑qualify more than once every three years.”

SECTION \_\_\_. A. Section 12‑37‑251(E) of the 1976 Code is amended to read:

“(E) Rollback millage is calculated by dividing the prior year property ~~tax revenues~~ taxes levied as adjusted by abatements and additions by the adjusted total assessed value applicable in the year the values derived from a countywide equalization and reassessment program are implemented. This amount of assessed value must be adjusted by deducting assessments added for property or improvements not previously taxed, for new construction, and for renovation of existing structures.”

B. This section takes effect for rollback millage calculated for property tax years beginning after 2009. /

Renumber sections to conform.

Amend title to conform.

HUGH K. LEATHERMAN, SR. for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**REVENUE IMPACT 1/**

This bill is not expected to impact state revenues. This bill is not expected to negatively impact local revenues.

## Explanation

Under current law, when a county implements a reassessment and equalization program all the properties in the county are reassessed up to the 15% cap. This bill would require a municipality that is in more than one county to calculate an equivalent millage to be used when the different counties that the municipality is located in do not implement reassessment in the same year. This codifies and standardizes what is already common practice across most of the state. The purpose of this equivalent millage would be to equalize the tax burdens within the municipality. We have identified 19 municipalities that are in more than one county. Since the purpose of this bill is to equalize the tax burden in municipalities that cross county lines and do not implement reassessment programs in the same year, municipalities are expected to set an equivalent millage that maintains their revenue stream. Therefore, this bill is not expected to negatively impact local revenues.

*Approved By:*

William C. Gillespie

Board of Economic Advisors

1/ This statement meets the requirement of Section 2-7-71 for a state revenue impact by the BEA, or Section 2-7-76 for a local revenue impact or Section 6-1-85(B) for an estimate of the shift in local property tax incidence by the Office of Economic Research.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 12-43-218 SO AS TO PROVIDE THAT IF A MUNICIPALITY CONSISTS OF REAL PROPERTY LOCATED IN TWO OR MORE COUNTIES AND ONE OF THOSE COUNTIES BUT NOT ALL UNDERGOES AND IMPLEMENTS A COUNTYWIDE REASSESSMENT AND EQUALIZATION PROGRAM IN A PARTICULAR YEAR, ANY HIGHER REAL PROPERTY TAX VALUATIONS IN THAT COUNTY RESULTING FROM THE REASSESSMENT SHALL NOT APPLY FOR PURPOSES OF COMPUTING MUNICIPAL AD VALOREM TAXES UNTIL THE YEAR IN WHICH ALL OTHER COUNTIES IN THE MUNICIPALITY HAVE COMPLETED AND IMPLEMENTED SUCH A REASSESSMENT AND EQUALIZATION PROGRAM.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 43, Title 12 of the 1976 Code is amended by adding:

“Section 12‑43‑219. If the boundaries of a municipality extend into more than one county and those counties implement the countywide appraisal and equalization programs required pursuant to Section 12‑43‑217 on different schedules, then the governing body of the municipality shall set an equivalent millage to be used thereafter to compute municipal ad valorem property taxes. The equivalent millage to be set by the municipal governing body shall be determined by methodology established by the respective county auditors which shall be consistent with the methodology for calculating equivalent millage to be established by the Department of Revenue for use in such situations, the purpose of this section being to equalize the tax burdens within this municipality.”

SECTION 2. This act takes effect upon approval by the Governor.

‑‑‑‑XX‑‑‑‑