

The Senate Finance Committee offered the following substitute to HB 225:

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 48-7-27 of the Official Code of Georgia Annotated, relating to
2 computation of taxable net income for state income tax purposes, so as to change certain
3 provisions regarding the amounts of retirement income which may be excluded from Georgia
4 taxable net income and the requirements regarding such exclusions; to change certain
5 provisions regarding the deduction for contributions to certain college savings plans; to
6 provide an effective date; to provide applicability; to repeal conflicting laws; and for other
7 purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 Code Section 48-7-27 of the Official Code of Georgia Annotated, relating to computation of
10 taxable net income for state income tax purposes, is amended in subsection (a) by revising
11 paragraph (5) as follows:

12 "(5)(A) Retirement income otherwise included in Georgia taxable net income not to
13 exceed the exclusion ~~amount~~ amounts as follows:

14 (i) For taxable years beginning on or after January 1, 1989, and prior to January 1,
15 1990, retirement income not to exceed an exclusion amount of \$8,000.00 per year
16 received from any source;

17 (ii) For taxable years beginning on or after January 1, 1990, and prior to January 1,
18 1994, retirement income not to exceed an exclusion amount of \$10,000.00 per year
19 received from any source;

20 (iii) For taxable years beginning on or after January 1, 1994, and prior to January 1,
21 1995, retirement income from any source not to exceed an exclusion amount of
22 \$11,000.00;

23 (iv) For taxable years beginning on or after January 1, 1995, and prior to January 1,
24 1999, retirement income from any source not to exceed an exclusion amount of
25 \$12,000.00;

1 (v) For taxable years beginning on or after January 1, 1999, and prior to January 1,
2 2000, retirement income from any source not to exceed an exclusion amount of
3 \$13,000.00;

4 (vi) For taxable years beginning on or after January 1, 2000, and prior to January 1,
5 2001, retirement income not to exceed an exclusion amount of \$13,500.00 per year
6 received from any source;

7 (vii) For taxable years beginning on or after January 1, 2001, and prior to January
8 1, 2002, retirement income from any source not to exceed an exclusion amount of
9 \$14,000.00;

10 (viii) For taxable years beginning on or after January 1, 2002, and prior to January
11 1, 2003, retirement income from any source not to exceed an exclusion amount of
12 \$14,500.00;

13 (ix) For taxable years beginning on or after January 1, 2003, and prior to January 1,
14 2006, retirement income from any source not to exceed an exclusion amount of
15 \$15,000.00;

16 (x) For taxable years beginning on or after January 1, 2006, and prior to January 1,
17 2007, retirement income from any source not to exceed an exclusion amount of
18 \$25,000.00;

19 (xi) For taxable years beginning on or after January 1, 2007, and prior to January 1,
20 2008, retirement income from any source not to exceed an exclusion amount of
21 \$30,000.00; ~~and~~

22 (xii) For taxable years beginning on or after January 1, 2008, and prior to January 1,
23 2009, retirement income from any source not to exceed an exclusion amount of
24 \$35,000.00;

25 (xiii) For taxable years beginning on or after January 1, 2009, retirement income
26 from any source not to exceed an exclusion amount of \$35,000.00 for each taxpayer
27 meeting the eligibility requirement set forth in division (i) or (ii) of subparagraph (D)
28 of this paragraph or an amount of \$65,000.00 for each taxpayer meeting the eligibility
29 requirement set forth in division (iii) of subparagraph (D) of this paragraph;

30 (xiv) For taxable years beginning on or after January 1, 2010, retirement income from
31 any source not to exceed an exclusion amount of \$35,000.00 for each taxpayer
32 meeting the eligibility requirement set forth in division (i) or (ii) of subparagraph (D)
33 of this paragraph or an amount of \$100,000.00 for each taxpayer meeting the
34 eligibility requirement set forth in division (iii) of subparagraph (D) of this paragraph;

35 (xv) For taxable years beginning on or after January 1, 2011, retirement income from
36 any source not to exceed an exclusion amount of \$35,000.00 for each taxpayer
37 meeting the eligibility requirement set forth in division (i) or (ii) of subparagraph (D)

1 of this paragraph or an amount of \$150,000.00 for each taxpayer meeting the
 2 eligibility requirement set forth in division (iii) of subparagraph (D) of this paragraph;
 3 (xvi) For taxable years beginning on or after January 1, 2012, retirement income
 4 from any source not to exceed an exclusion amount of \$35,000.00 for each taxpayer
 5 meeting the eligibility requirement set forth in division (i) or (ii) of subparagraph (D)
 6 of this paragraph or an amount of \$200,000.00 for each taxpayer meeting the
 7 eligibility requirement set forth in division (iii) of subparagraph (D) of this paragraph;
 8 and

9 (xvii) For taxable years beginning on or after January 1, 2013, retirement income
 10 from any source not to exceed an exclusion amount of \$35,000.00 for each taxpayer
 11 meeting the eligibility requirement set forth in division (i) or (ii) of subparagraph (D)
 12 of this paragraph or an exclusion of all retirement income from any source for each
 13 taxpayer meeting the eligibility requirement set forth in division (iii) of subparagraph
 14 (D) of this paragraph.

15 (B) In the case of a married couple filing jointly, each spouse shall if otherwise
 16 qualified be individually entitled to exclude retirement income received by that spouse
 17 up to the exclusion amount; ~~so that the total amount excluded on such joint return may~~
 18 ~~if otherwise allowable be up to twice the individual exclusion amount.~~

19 (C) The ~~exclusion~~ exclusions provided for in this paragraph shall not apply to or affect
 20 and shall be in addition to those adjustments to net income provided for under any other
 21 paragraph of this subsection.

22 (D) A taxpayer shall be eligible for the ~~exclusion~~ exclusions granted by this paragraph
 23 only if the taxpayer:

24 (i) Is 62 years of age or older but less than 65 years of age during any part of the
 25 taxable year; ~~or~~

26 (ii) Is permanently and totally disabled in that the taxpayer has a medically
 27 demonstrable disability which is permanent and which renders the taxpayer incapable
 28 of performing any gainful occupation within the taxpayer's competence; or

29 (iii) Is 65 years of age or older during any part of the taxable year.

30 (E) For the purposes of this paragraph, retirement income shall include but not be
 31 limited to interest income, dividend income, net income from rental property, capital
 32 gains income, income from royalties, income from pensions and annuities, and no more
 33 than \$4,000.00 of an individual's earned income. Earned income in excess of
 34 \$4,000.00, including but not limited to net business income earned by an individual
 35 from any trade or business carried on by such individual, wages, salaries, tips, and other
 36 employer compensation, shall not be regarded as retirement income. The receipt of
 37 earned income shall not diminish any taxpayer's eligibility for the retirement income

1 ~~exclusion~~ exclusions allowed by this paragraph except to the extent of the express
2 limitation provided in this subparagraph.

3 (F) The commissioner shall by regulation require proof of the eligibility of the taxpayer
4 for the ~~exclusion~~ exclusions allowed by this paragraph.

5 (G) The commissioner shall by regulation provide that for taxable years beginning on
6 or after January 1, 1989, and ending before October 1, 1990, penalty and interest may
7 be waived or reduced for any taxpayer whose estimated tax payments and tax
8 withholdings are less than 70 percent of such taxpayer's Georgia income tax liability
9 if the commissioner determines that such underpayment or deficiency is due to an
10 increase in net taxable income attributable directly to amendments to this paragraph or
11 paragraph (4) of this subsection enacted at the 1989 special session of the General
12 Assembly and not due to willful neglect or fraud;"

13 SECTION 2.

14 Said Code section is further amended in subsection (a) by revising paragraph (11) and by
15 adding a new paragraph to read as follows:

16 "(11)(A) For taxable years beginning on or after January 1, 2002, and prior to
17 January 1, 2007, an amount equal to the amount of contributions by parents or
18 guardians of a designated beneficiary to a savings trust account established pursuant to
19 Article 11 of Chapter 3 of Title 20 on behalf of the designated beneficiary who is
20 claimed as a dependent on the Georgia income tax return of the beneficiary's parents
21 or guardians, but not exceeding \$2,000.00 per beneficiary.

22 (B) If the parents or guardians file joint returns, separate returns, or single returns, the
23 sum of contributions constituting deductions on their returns under this paragraph shall
24 not exceed \$2,000.00 per beneficiary.

25 (C) In order to claim the deduction for a taxable year:

26 (i) Such parent or guardian must have claimed and been allowed itemized deductions
27 pursuant to Section 63(d) of the Internal Revenue Code of 1986 and paragraph (1) of
28 this subsection;

29 (ii) The federal adjusted gross income for such taxable year cannot exceed
30 \$100,000.00 for a joint return or \$50,000.00 for a separate or single return except as
31 provided in subparagraph (D) of this paragraph; and

32 (iii) Such parent or guardian must be the account owner of the designated
33 beneficiary's account.

34 (D) The maximum deduction authorized by this paragraph for each beneficiary shall
35 decrease by \$400.00 for each \$1,000.00 of federal adjusted gross income over
36 \$100,000.00 for a joint return or \$50,000.00 for a separate or single return.

1 (E) For purposes of this paragraph, contributions or payments for any such taxable year
2 may be made during or after such taxable year but on or before the deadline for making
3 contributions to an individual retirement account pursuant to Section 219(f)(3) of the
4 Internal Revenue Code of 1986;

5 (11.1)(A) For taxable years beginning on or after January 1, 2007, an amount equal to
6 the amount of contributions to a savings trust account established pursuant to Article
7 11 of Chapter 3 of Title 20 on behalf of the designated beneficiary, but not exceeding
8 \$2,000.00 per beneficiary.

9 (B) If the contributor files a joint return, separate return, or single return, the sum of
10 contributions constituting deductions on the contributor's returns under this paragraph
11 shall not exceed \$2,000.00 per return.

12 (C) For purposes of this paragraph, contributions or payments for any such taxable year
13 may be made during or after such taxable year but on or before the deadline for making
14 contributions to an individual retirement account under federal law for such taxable
15 year;"

16 SECTION 3.

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

19 SECTION 4.

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