

The House Committee on Ways and Means offers the following substitute to SB 410:

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to ad
2 valorem taxation of property, so as to provide an alternative means of recovering costs of
3 litigation and attorney's fees in ad valorem tax appeals; to provide for a definition; to require
4 electronic transmission of returns to the Department of Revenue by public utilities; to
5 provide for related matters; to provide for an effective date and applicability; to repeal
6 conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Code Section 48-5-311 of the Official Code of Georgia Annotated, relating to creation of
10 county boards of equalization, duties, review of assessments, and appeals, is amended by
11 revising subdivision (g)(4)(B)(ii)(III) and adding a new subdivision to read as follows:

12 "(III) If the taxpayer appeals to the superior court pursuant to this subsection and
13 the final determination of value on appeal is 85 percent or less of the valuation set
14 by the county board of equalization, hearing officer, or arbitrator as to any real
15 property, the taxpayer, in addition to the interest provided for in subsection (m) of
16 this Code section, shall recover costs of litigation and reasonable attorney's fees
17 incurred in the action. Any appeal of an award of attorney's fees by the county shall
18 be specifically approved by the governing authority of the county.

19 (IV) If the board of assessors appeals to the superior court pursuant to this
20 subsection and the final determination of value on appeal is 85 percent or less of the
21 valuation set by the board of assessors as to any real property, the taxpayer, in
22 addition to the interest provided for in subsection (m) of this Code section, shall
23 recover costs of litigation and reasonable attorney's fees incurred in the action. Any
24 appeal of an award of attorney's fees by the county shall be specifically approved
25 by the governing authority of the county."

SECTION 2.

26
27 Said chapter is further amended by revising Code Section 48-5-511, relating to returns of
28 public utilities to commissioner of the Department of Revenue, itemization and fair market
29 value of property, other information, and apportionment to more than one tax jurisdiction,
30 as follows:

31 "48-5-511.

32 (a)(1) As used in this Code section, the term 'electronic transmission' means any form
33 of communication that does not directly involve the physical transmission of paper and
34 that creates a record that may be retained, retrieved, and reviewed by a recipient thereof
35 and that may be directly reproduced in paper form by such a recipient through an
36 automated process.

37 (2) The chief executive officer of each public utility shall be required to make by
38 electronic transmission an annual tax return of all property located in this state to the
39 commissioner. The return shall be made to the commissioner on or before March 1 in
40 each year and shall be current as of January 1 preceding.

41 (b) The returns of each public utility shall be in writing and sworn to under oath by the
42 chief executive officer to be a just, true, and full return of the fair market value of the
43 property of the public utility without any deduction for indebtedness. Each class or species
44 of property shall be separately named and valued as far as practicable and shall be taxed
45 like all other property under the laws of this state. The returns shall also include the capital
46 stock, net annual profits, gross receipts, business, or income (gross, annual, net, or any
47 other kind) for which the public utility is subject to taxation by the laws of this state. Each
48 parcel of real estate included in the return shall be identified by its street address. If the
49 commissioner is unable to locate the property by its street address after exercising due
50 diligence in attempting to locate the property, then the commissioner may request more
51 information from the taxpayer to help identify the exact location of the property. Such
52 additional information may include a map or parcel identification information.

53 (c)(1) Each chief executive officer shall apportion, under rules and regulations
54 promulgated by the commissioner, the fair market value of his or her public utility's
55 properties to this state, if the public utility owns property in states other than this state,
56 and between the several tax jurisdictions in this state.

57 (2) In promulgating the regulations specifying the method of apportionment, the
58 commissioner shall consider:

- 59 (A) The location of the various classes of property;
- 60 (B) The gross or net investment in the property;
- 61 (C) Any other factor reflecting the public utility's investment in property;
- 62 (D) Pertinent business factors reflecting the utility of the property;

- 63 (E) Pertinent mileage factors; and
64 (F) Any other factors which in the commissioner's judgment are reasonably calculated
65 to apportion fairly and equitably the property between the various tax jurisdictions.
66 (3) Any reasonable value directly attributable to property physically located in one
67 jurisdiction in this state shall not be apportioned to any other jurisdiction in this state."

68 **SECTION 3.**

69 This Act shall become effective upon its approval by the Governor or upon its becoming law
70 without such approval and shall be applicable to tax years beginning on or after January 1,
71 2021.

72 **SECTION 4.**

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