

Senate Bill 410

By: Senators Kennedy of the 18th, Dugan of the 30th, Gooch of the 51st, Miller of the 49th,
Stone of the 23rd and others

AS PASSED

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 authorize the conduct of ad valorem tax appeal
3 hearings by virtual means; provide an alternative means of recovering costs of litigation and
4 attorney's fees in ad valorem tax appeals; to provide for a definition; to require electronic
5 transmission of returns to the Department of Revenue by public utilities; to provide for
6 related matters; to provide for an effective date and applicability; to repeal conflicting laws;
7 and for other purposes.

8 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

9 **SECTION 1.**

10 Code Section 48-5-311 of the Official Code of Georgia Annotated, relating to creation of
11 county boards of equalization, duties, review of assessments, and appeals, is amended by
12 revising subparagraph (e)(6)(A) and subdivision (g)(4)(B)(ii)(III) and adding a new
13 subdivision to read as follows:

14 "(A) Within 15 days of the receipt of the notice of appeal, the county board of
15 equalization shall set a date for a hearing on the questions presented and shall so notify
16 the taxpayer and the county board of tax assessors in writing. Such notice shall be sent
17 by first-class mail to the taxpayer and to any authorized agent or representative of the
18 taxpayer to whom the taxpayer has requested that such notice be sent. Such notice shall
19 be transmitted by email to the county board of tax assessors if such board has adopted
20 a written policy consenting to electronic service, and, if it has not, then such notice shall
21 be sent to such board by first-class mail or intergovernmental mail. Such written notice
22 shall advise each party that he or she may request a list of witnesses, documents, or
23 other written evidence to be presented at the hearing by the other party. Such request
24 must be made not less than ten days prior to the hearing date, and such information
25 shall be provided to the requesting party not less than seven days prior to the time of
26 the hearing. Any failure to comply with this requirement shall be grounds for an

27 automatic continuance or for exclusion of such witness, documents, or other written
 28 evidence. A taxpayer may appear before the board of equalization concerning any
 29 appeal in person, by his or her authorized agent or representative, or both. The appeal
 30 administrator, in his or her discretion and with the consent of all parties, may
 31 alternatively conduct the hearing by audio or video teleconference or any other remote
 32 communication medium. The taxpayer shall specify in writing to the board of
 33 equalization the name of any such agent or representative prior to any appearance by
 34 the agent or representative before the board."

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

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

49 SECTION 2.

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

54 "48-5-511.

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

60 (2) The chief executive officer of each public utility shall be required to make by
 61 electronic transmission an annual tax return of all property located in this state to the

62 commissioner. The return shall be made to the commissioner on or before March 1 in
63 each year and shall be current as of January 1 preceding.

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

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

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

- 82 (A) The location of the various classes of property;
- 83 (B) The gross or net investment in the property;
- 84 (C) Any other factor reflecting the public utility's investment in property;
- 85 (D) Pertinent business factors reflecting the utility of the property;
- 86 (E) Pertinent mileage factors; and
- 87 (F) Any other factors which in the commissioner's judgment are reasonably calculated
88 to apportion fairly and equitably the property between the various tax jurisdictions.

89 (3) Any reasonable value directly attributable to property physically located in one
90 jurisdiction in this state shall not be apportioned to any other jurisdiction in this state."

91 **SECTION 3.**

92 This Act shall become effective upon its approval by the Governor or upon its becoming law
93 without such approval and shall be applicable to tax years beginning on or after January 1,
94 2021.

95 **SECTION 4.**

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