

The Senate Committee on Finance offered the following substitute to HB 1280:

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, so as to require the state revenue commissioner to contract with the board
3 of the Employees' Retirement System of Georgia to offer certain county tax commissioners
4 the option to participate in a state administered deferred compensation plan; to provide for
5 a limited state match of contributions; to provide for terms and conditions; to revise
6 provisions concerning the duties of county tax commissioners with respect to the assessment
7 and collection of municipal taxes and fees; to provide for terms and conditions; to provide
8 for related matters; to provide for effective dates and applicability; to provide for
9 nonseverability; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to ad valorem
13 taxation, is amended by adding a new Code section to Part 3 of Article 3, relating to
14 compensation for county tax officials and administration, to read as follows:

15 "48-5-184.

16 (a) As used in this Code section, the term 'eligible county tax commissioner' means any
17 county tax commissioner or tax collector who is compensated by a minimum annual salary
18 pursuant to paragraph (1) of subsection (b) of Code Section 48-5-183 and is not eligible
19 to participate in any state retirement system as such term is defined in Code Section
20 47-20-3.

21 (b) The state revenue commissioner shall contract with the Board of Trustees of the
22 Employees' Retirement System of Georgia for the administration of a deferred
23 compensation plan offered as a state benefit for eligible county tax commissioners.

24 (c)(1) Subject to the contract required under subsection (b) of this Code section, the
25 Board of Trustees of the Employees' Retirement System of Georgia shall investigate and
26 approve a deferred compensation plan that offers to eligible county tax commissioners
27 income tax benefits in connection with plans authorized by the United States Internal
28 Revenue Code of 1986, so that compensation deferred under such plan shall not be
29 included for purposes of computation of any federal income tax withheld on behalf of any
30 such tax commissioner or payable by such tax commissioner before any deferred payment
31 date. All contributions to such deferred compensation plans shall also be exempt from
32 state withholding tax so long as such contributions are not includable in gross income for
33 federal income tax purposes.

34 (2) Notwithstanding any conflicting provisions of paragraph (1) of this subsection, for
35 any deferred compensation plan established pursuant to said paragraph, the Board of
36 Trustees of the Employees' Retirement System of Georgia shall be authorized to include
37 as an option for eligible county tax commissioners a qualified Roth contribution program
38 in accordance with Section 402A of the United States Internal Revenue Code of 1986.

39 (d)(1) On and after July 1, 2022, for any eligible county tax commissioner who
40 contributes a percentage from his or her minimum annual salary paid by the county
41 pursuant to paragraphs (1) and (2) of subsection (b) of Code Section 48-5-183 into the

42 deferred compensation plan established under this Code section, the state shall contribute
43 an equal amount into such eligible county tax commissioner's plan account, up to a
44 maximum of 5 percent; provided, however, that all state contributions to plan accounts
45 shall be subject to limitations imposed by federal law.

46 (2) Each eligible county tax commissioner may make such additional contributions as
47 he or she desires, subject to limitations imposed by federal law.

48 (e) The Board of Trustees of the Employees' Retirement System of Georgia and the state
49 revenue commissioner shall be entitled to impose requirements for the withholding and
50 remittance of contributions by county governing authorities in order to effectuate this Code
51 section and comply with state and federal law."

52

SECTION 2.

53 Said chapter is further amended by revising Code Section 48-5-359.1, relating to contracts
54 for county tax commissioners to prepare municipal tax digests and assess and collect
55 municipal taxes, as follows:

56 "48-5-359.1.

57 (a)(1)(A) Any municipality wholly or partially located within a county may contract
58 for any such county and its tax commissioner to prepare the tax digest for such
59 municipality; to assess and collect municipal taxes, fees, or special assessments in the
60 same manner as county taxes; and, for the purpose of collecting such municipal taxes,
61 fees, or special assessments to invoke any remedy permitted for collection of municipal
62 taxes or fees.

63 (B) A municipality may only contract with a county tax commissioner under this Code
64 section concerning the areas of the municipality represented by such county tax
65 commissioner.

66 (2) Any contract authorized by this subsection shall:

67 (A) Be a three-party contract negotiated between and approved by the municipality, the
68 county, and the county's tax commissioner;

69 (B) Be applicable only and limited to the county tax commissioner's current term of
70 office plus the year immediately following it, inclusive of any period of the current term
71 of office fulfilled by any other person serving as the county tax commissioner;

72 (C) Specify the exact services to be provided by the county tax commissioner;

73 (D) Specify an amount to be paid by the municipality to such tax commissioner's
74 county; such amount shall substantially approximate the cost to the county of providing
75 the services to the municipality; and

76 (E) Specify the total amount to be paid by the municipality to such county and
77 thereafter paid by such county to its tax commissioner for conducting such services.

78 (3) In addition to the fixed salary that a county must pay to its tax commissioner by law,
79 a county shall pay to its tax commissioner any amounts received by the county and due
80 to the tax commissioner under any contracts approved by such county governing
81 authority in accordance with subparagraph (2)(E) of this subsection, provided that the
82 aggregate amount paid to or accepted, received, or retained by the county tax
83 commissioner for the contractual services allowed under this subsection shall not, for any
84 year, exceed 50 percent of the minimum annual salary to be paid to such tax
85 commissioner by the county pursuant to Code Section 48-5-183 and subsection (g) of
86 Code Section 48-5-137, regardless of whether such county tax commissioner is paid by
87 a fixed salary or by a fee system of compensation in lieu of a fixed salary. For any year
88 in which the amount to be paid to the county tax commissioner would exceed such annual
89 limit, the excess funds shall be returned no later than April 1 of the following year by the
90 county to the contracting municipalities, which paid their contractual amounts in full, in
91 a pro rata share based upon the total number of tax parcels within each municipality
92 relative to the combined number of tax parcels of all such contracting municipalities.

93 ~~(a)(1)(A) This paragraph shall apply to a county which has fewer than 50,000 tax~~
94 ~~parcels within such county.~~

95 ~~(B) Any county and any municipality wholly or partially located within such county~~
96 ~~may contract, subject to approval by the tax commissioner of the county, for the tax~~
97 ~~commissioner to prepare the tax digest for such municipality; to assess and collect~~
98 ~~municipal taxes in the same manner as county taxes; and, for the purpose of collecting~~
99 ~~such municipal taxes, to invoke any remedy permitted for collection of municipal taxes.~~
100 ~~Any contract authorized by this subsection between the county governing authority and~~
101 ~~a municipality shall specify an amount to be paid by the municipality to the county~~
102 ~~which amount will substantially approximate the cost to the county of providing the~~
103 ~~service to the municipality. Notwithstanding the provisions of any other law, the tax~~
104 ~~commissioner is authorized to contract for and to accept, receive, and retain~~
105 ~~compensation from the municipality for such additional duties and responsibilities in~~
106 ~~addition to that compensation provided by law to be paid to the tax commissioner by~~
107 ~~the county.~~

108 ~~(2)(A) This paragraph shall apply to any county which has 50,000 or more tax parcels~~
109 ~~within such county.~~

110 ~~(B) Any county and any municipality wholly or partially located within such county~~
111 ~~may contract for the tax commissioner to prepare the tax digest for such municipality;~~
112 ~~to assess and collect municipal taxes in the same manner as county taxes; and, for the~~
113 ~~purpose of collecting such municipal taxes, to invoke any remedy permitted for~~
114 ~~collection of municipal taxes. Any contract authorized by this subsection between the~~
115 ~~county governing authority and a municipality shall specify an amount to be paid by the~~
116 ~~municipality to the county which amount will substantially approximate the cost to the~~
117 ~~county of providing the service to the municipality. Notwithstanding the provisions of~~
118 ~~any other law, the tax commissioner is authorized to accept, receive, and retain~~

119 compensation from the county for such additional duties and responsibilities in addition
120 to that compensation provided by law to be paid to the tax commissioner by the county.

121 ~~(3)(A) This paragraph shall apply to any county which contains 14 or more~~
122 ~~municipalities, in whole or in part, within such county, and paragraphs (1) and (2) of~~
123 ~~this subsection shall not apply to such counties.~~

124 ~~(B) Any county and any municipality wholly or partially located within such county~~
125 ~~may contract for the county tax commissioner to prepare the tax digest for such~~
126 ~~municipality; to assess and collect municipal taxes in the same manner as county taxes;~~
127 ~~and, for the purpose of collecting such municipal taxes, to invoke any remedy permitted~~
128 ~~for collection of municipal taxes. Such contracts shall not be subject to the approval~~
129 ~~of any county tax commissioner. Any contract authorized by this subparagraph~~
130 ~~between the county governing authority and a municipality shall specify an amount to~~
131 ~~be paid by the municipality to the county which amount will substantially approximate~~
132 ~~the cost to the county of providing the service to the municipality, as well as the cost~~
133 ~~to the county of providing compensation to its tax commissioner, if any, with respect~~
134 ~~to providing such service. Notwithstanding any provision of law to the contrary,~~
135 ~~including paragraphs (1) and (2) of this subsection, the tax commissioner of any such~~
136 ~~county shall conduct such additional duties and responsibilities, and shall be authorized~~
137 ~~to accept, receive, and retain compensation to be determined and paid by the county for~~
138 ~~such additional duties and responsibilities in addition to that compensation provided by~~
139 ~~law to be paid to the tax commissioner by the county. Nothing in this subparagraph~~
140 ~~shall require a county to compensate the county tax commissioner for such additional~~
141 ~~duties and responsibilities.~~

142 (b) With respect to any county for which the office of tax commissioner has not been
143 created, any reference in subsection (a) of this Code section to the tax commissioner shall
144 be deemed to refer to the tax receiver and the tax collector."

145

SECTION 3.

146 (a) This Act shall become effective upon its approval by the Governor or upon its becoming
147 law without such approval, provided, however, that Section 1 of this Act shall become
148 effective on July 1, 2022.

149 (b) Section 2 of this Act shall be applicable on and after the effective date of this Act except
150 with respect to any active contract that was executed in accordance with Code Section
151 48-5-359.1 as it existed the day before the effective date of this Act. For such active
152 contracts, Section 2 of this Act shall become applicable upon the expiration of the present
153 contract year to which such contract pertains and shall be applicable thereafter.

154

SECTION 4.

155 In the event any section, subsection, paragraph, subparagraph, item, sentence, clause, phrase,
156 or word of this Act is declared or adjudged to be invalid or unconstitutional, the remaining
157 portions of this Act shall automatically be repealed upon the entry of such declaration or
158 adjudication and shall not remain of full force and effect after such declaration or
159 adjudication. The General Assembly declares that it would not have enacted the remaining
160 parts of this Act if it had known that such portion of this Act would be declared or adjudged
161 invalid or unconstitutional.

162

SECTION 5.

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