

The House Committee on Judiciary offers the following substitute to SB 289:

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 48 of the Official Code of Georgia Annotated, relating to revenue and
2 taxation, so as to require that all questions of law decided by a court or the Georgia Tax
3 Tribunal on matters arising from the state board of equalization or arising from refunds and
4 appeals of state administration of Title 48 be decided with due deference to any rule which
5 has been properly promulgated pursuant to Code Section 50-13-1 and without deference to
6 any determination or interpretation, whether written or unwritten, that may have been made
7 on the matter by the Department of Revenue; to amend Chapter 13A of Title 50 of the
8 Official Code of Georgia Annotated, relating to tax tribunals, so as to require that all
9 questions of law decided by the Georgia Tax Tribunal be decided with due deference to any
10 rule which has been properly promulgated pursuant to Code Section 50-13-1 and without
11 deference to any determination or interpretation, whether written or unwritten, that may have
12 been made on the matter by the Department of Revenue; to provide for related matters; to
13 provide an effective date; to provide for applicability; to repeal conflicting laws; and for
14 other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

16 style="text-align:center">**SECTION 1.**

17 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
18 amended by adding a new paragraph to Code Section 48-1-2, relating to definitions, to read
19 as follows:

20 "(8.1) As used in this title, the term 'due deference' means:

21 (A) A recognition of the experience, technical competence, and specialized knowledge
22 of the department and the public process by which its rules are promulgated; and

23 (B) In cases when the taxpayer's interpretation and the department's interpretation are
24 equally reasonable, deferring to the interpretation of the department."

25 **SECTION 2.**

26 Said title is further amended by revising subsection (c) of Code Section 48-2-18, relating to
27 the State Board of Equalization and duties, as follows:

28 "(c) As chairperson and chief administrative officer of the board, the commissioner shall
29 furnish to the board all necessary records and files and in this capacity may compel the
30 attendance of witnesses and the production of books and records or other documents as the
31 commissioner is empowered to do in the administration of the tax laws. After final
32 approval by the State Board of Equalization of the digest of proposed assessments made
33 by the commissioner and after any adjustments by the board as authorized by this Code
34 section are made, the commissioner shall notify within 30 days each taxpayer in writing
35 of the proposed assessment of its property. At the same time, the commissioner shall notify
36 in writing the board of tax assessors of such county, as outlined in Code Section 48-5-511,
37 of the total proposed assessment of the property located within the county of taxpayers who
38 are required to return their property to the commissioner. If any such taxpayer notifies the
39 commissioner and the board of tax assessors in any such county of its intent to dispute a
40 portion of the proposed assessment within 20 days after receipt of the notice, the county
41 board of tax assessors shall include in the county digest only the undisputed amount of the
42 assessment, and the taxpayer may challenge the commissioner's proposed assessment in
43 an appeal filed in the Superior Court of Fulton County or with the Georgia Tax Tribunal
44 in accordance with Chapter 13A of Title 50 within 30 days of receipt of the notice. In any
45 such appeal to the superior court, the taxpayer shall have the right of discovery as provided
46 in Chapter 11 of Title 9, the 'Georgia Civil Practice Act.' In any such appeal to the Georgia
47 Tax Tribunal, discovery shall be as provided in Chapter 13A of Title 50, the 'Georgia Tax
48 Tribunal Act of 2012.' All questions of law decided by a court or the Georgia Tax Tribunal
49 pursuant to this subsection, including interpretations of constitutional, statutory, and
50 regulatory provisions, shall be made with due deference to any rule which has been
51 properly promulgated pursuant to Code Section 50-13-1 and without deference to any
52 determination or interpretation, whether written or unwritten, that may have been made on
53 the matter by the department. Upon conclusion of the appeal, the taxpayer shall remit to
54 the appropriate counties any additional taxes owed, with interest at the rate provided by law
55 for judgments. Such interest shall accrue from the date the taxes would have been due
56 absent the appeal to the date the additional taxes are remitted."

57 **SECTION 3.**

58 Said title is further amended by adding a new paragraph to subsection (c) of Code Section
59 48-2-35, relating to refunds, to read as follows:

60 "(7) In an action for a refund pursuant to paragraph (4) of this subsection, all questions
 61 of law decided by a court or the Georgia Tax Tribunal, including interpretations of
 62 constitutional, statutory, and regulatory provisions, shall be made with due deference to
 63 any rule which has been properly promulgated pursuant to Code Section 50-13-1 and
 64 without deference to any determination or interpretation, whether written or unwritten,
 65 that may have been made on the matter by the department."

66 **SECTION 4.**

67 Said title is further amended by adding a new subsection to Code Section 48-2-59, relating
 68 to appeals, payment of taxes admittedly owed, bond, and costs, to read as follows:

69 "(e) In an action pursuant to subsection (a) of this Code section, all questions of law
 70 decided by a court or the Georgia Tax Tribunal, including interpretations of constitutional,
 71 statutory, and regulatory provisions, shall be made with due deference to any rule which
 72 has been properly promulgated pursuant to Code Section 50-13-1 and without deference
 73 to any determination or interpretation, whether written or unwritten, that may have been
 74 made on the matter by the department."

75 **SECTION 5.**

76 Chapter 13A of Title 50 of the Official Code of Georgia Annotated, relating to tax tribunals,
 77 is amended by revising subsection (a) of Code Section 50-13A-14, relating to conduct of
 78 trials, evidence, and recordings, as follows:

79 "(a)(1) Trials in proceedings before the tribunal shall be de novo and without a jury. All
 80 questions of law decided by the tribunal, including interpretations of constitutional,
 81 statutory, and regulatory provisions, shall be made with due deference to any rule which
 82 has been properly promulgated pursuant to Code Section 50-13-1 and without deference
 83 to any determination or interpretation, whether written or unwritten, that may have been
 84 made on the matter by the Department of Revenue. Hearings shall be open to the public,
 85 but on motion of any party, if such party shows good cause to protect certain information
 86 from being disclosed to the public, the tribunal judge may issue a protective order or an
 87 order closing part or all of a hearing to the public.

88 (2) As used in this subsection, the term 'due deference' means:

89 (A) A recognition of the experience, technical competence, and specialized knowledge
 90 of the department and the public process by which its rules are promulgated; and
 91 (B) In cases when the taxpayer's interpretation and the department's interpretation are
 92 equally reasonable, deferring to the interpretation of the department."

93

SECTION 6.

94 This Act shall become effective upon its approval by the Governor or upon its becoming law
95 without such approval, and shall be applicable to all proceedings commenced before the
96 Georgia Tax Tribunal or a superior court of this state on or after such date.

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SECTION 7.

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