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LOCAL GOVERNMENTS Homeowner Tax Relief Grants: Provide for Homeowner Tax Relief Grants to Counties and Local School Districts; Require the Granting of Certain Credits Against County and School Ad Valorem Taxes as a Condition of Such Grants; Provide for Calculation of Credit Amounts of Homestead Owners and Grant Amounts to Counties and School Districts; Provide for Administration and the Adoption of Rules and Regulations by the Georgia Department of Revenue

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LOCAL GOVERNMENTS

Homeowner Tax Relief Grants: Provide for Homeowner Tax Relief Grants to Counties and Local School Districts; Require the Granting of Certain Credits Against County and School Ad Valorem Taxes as a Condition of Such Grants; Provide for Calculation of Credit Amounts to Homestead Owners and Grant Amounts to Counties and School Districts; Provide for Administration and the Adoption of Rules and Regulations by the Georgia Department of Revenue

CODE SECTIONS:	O.C.G.A. §§ 36-89-1 to -6 (new)
BILL NUMBER:	HB 553
ACT NUMBER:	161
GEORGIA LAWS:	1999 Georgia Laws 273
SUMMARY:	The Act creates a statewide homestead tax credit that has the effect of an exemption and is in addition to existing local exemptions. The Act gives homeowners a credit against their property tax liabilities to counties and school districts, and the state reimburses these entities for lost revenue. The tax credits take effect only if the state has adequate revenue to fund them; the Act does not guarantee them on an annual basis. The Georgia General Assembly has authority to appropriate funds and the Department of Revenue will have authority over disbursements to the counties and school boards.
EFFECTIVE DATE:	April 15, 1999[1]

History

The State of Georgia has grown rapidly, and this growth has fueled an escalation in property values.[2] Counties and school districts

1. *See* 1999 Ga. Laws 273, §§ 2-3, at 276. The Act took effect upon approval by the Governor. *See id.*

2. *See* Letter from Rep. Richard Royal, House District No. 164 (June 9, 1999) [hereinafter Royal Letter]; Bill Torpy, *Tax Bill of Rights Unveiled Shutting the*

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throughout Georgia derive income from real property taxes.[3] When the fair market value of property increases and the assessment ratio and mill rates remain constant, the tax bill to the landowner will increase.[4] Increased tax burdens have caused tension and disputes between taxpayers and taxing authorities.[5] The tax burdens of property ownership have the strongest impact on the elderly homeowners who live on fixed incomes and individuals with law incomes.[6] To mitigate these burdens, local authorities have created exemptions for some portion of the assessed value of the property.[7] The nature and amount of the exemptions vary among jurisdictions.[8]

Georgia's economic growth has generated surplus funds for the state treasury.[9] Governor Roy Barnes viewed the availability of these funds as an opportunity to mitigate the tax burdens on property owners without a consequent loss of revenue to local authorities.[10] Governor Barnes promised relief to taxpayers in his 1998 election campaign.[11]

Backdoor: Barnes Plan Would Prevent Local Governments from Letting Property Reassessments Rise Without Cutting the Millage Rates, ATLANTA J. & CONST., Feb. 16, 1999, at A1.

3. *See* Kathy Pruitt, *Barnes Unveils Tax Cut for Homeowners*, ATLANTA J.& CONST., Feb. 9, 1999, at A1 [hereinafter Pruitt, *Barnes Unveils Tax Cut*]; *Tab for Exemption: $650 Million a Year*, ATLANTA J. & CONST., Feb. 9, 1999, at B4.

4. *See* Torpy, *supra* note 2.

5. *See id.*

6. *See* Pruitt, *Barnes Unveils Tax Cut*, *supra* note 3.

7. *See id.*; Kathy Pruitt, *Tax Cut Plan on Way to Voters?*, ATLANTA J. & CONST., Feb. 12, 1999, at C6 [hereinafter Pruitt, *Tax Cut Plan*].

8. *See* Pruitt, *Barnes Unveils Tax Cut*, *supra* note 3; Pruitt, *Tax Cut Plan*, *supra* note 7.

9. *See Editorial, Big Issues Await Barnes*, ATLANTA J. & CONST., Jan. 11, 1999, at A8; *Editorial, Barnes' Midyear Budget a Good Sign for Future*, ATLANTA J. & CONST., Jan. 6, 1999, at A12.

10. *See* Peter Mantius, *Barnes to Sign Tax Cut Plan on Pay-Up Day on April 15: The Governor Will Sign His Name to a Program that Will Increase Georgian's Homestead Exemption*, ATLANTA J. & CONST., Apr. 1, 1999; Wayne Snow, *Property Tax Cut Painless for Counties' Reimbursement: The State is Expected to Make Up Shortfall Quickly*, ATLANTA J. & CONST., FAYETTEVILLE EXTRA, Apr. 1, 1999, at JM1; Charles Walston, *A Talk with Georgia's New Governor Already at Work: Barnes Putting Emphasis on Education, Property Taxes and HMOs*, ATLANTA J. & CONST., Nov. 8, 1998, at H8.

11. *See* Jim Tharpe, *Big Changes: New Laws Affect Georgians' Daily Life*, ATLANTA J. & CONST., Mar. 28, 1999, at D1; Mantius, *supra* note 10.

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HB 553

Introduction

Sponsors introduced HB 553 to the House on February 10, 1999.[12] The House ordered the bill engrossed[13] on February 11, 1999.[14] The House referred the bill to the Ways and Means Committee.[15] The House passed the bill on February 22, 1999 and transferred it to the Senate.[16] The Senate ordered the bill engrossed on February 24, 1999 and subsequently referred it to the Finance and Public Utilities Committee.[17] The Senate passed the bill on March 16, 1999.[18] HR 269 was introduced and passed simultaneously with HB 553 in each chamber.[19] Governor Barnes signed HB 553 into law on April 15, 1999.[20] Because the bill was engrossed, it was passed in its original form without modification by either chamber of the General Assembly.[21]

The Act

The Act provides that the Georgia Assembly *may* appropriate funds for homeowner tax relief grants to counties and local school districts.[22]

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12. *See* State of Georgia Final Composite Status Sheet, May 3, 1999.
13. "Engrossed" means the measure cannot be amended in Committee or on the floor; it must pass or fail as it is introduced.
14. *See* State of Georgia Final Composite Status Sheet, May 3, 1999.
15. *See id.*
16. *See id.*
17. *See id.*
18. *See id.*
19. *See id.* HR 269 was a proposal for a Constitutional Amendment specifically granting the legislature the power to appropriate for such tax relief. *See* Facsimile Interview with Rep. Charlie Smith, Jr., House District No. 175, Governor's House Floor Leader (May 26, 1999) [hereinafter Smith Interview]. The Amendment will go before voters in November 2000. *See id.*
20. *See* State of Georgia Final Composite Status Sheet, May 3, 1999.
21. *See id.*
22. *See* O.C.G.A. § 36-89-2 (Supp. 1999). The Act does not actually increase the statewide homestead exemption, which is established in the Georgia Constitution. *See* Smith Interview, *supra* note 19. Rather, the Act creates a tax credit/rebate method for homestead owners that has the same effect as an increase in the exemption. *See id.* The current homestead exemption in the Georgia Constitution is $5000 of Fair Market Value, and $2000 of Assessed Value. *See id.*; GA. CONST. art. VII, § 2. Real property is assessed at 40% of fair market value in Georgia. *See* O.C.G.A. § 48-5-7(a) (Supp. 1999). The current homestead exemption was enacted in the 1930s, when the average cost of a home was $5000 *See* Smith Interview, *supra* note 19. The goal of this Act is to increase the rebate over eight years so that it equals $18,000 of assessed value, and when added to the constitutional exemption, will be the equivalent of $20,000 of assessed value. *See id.*

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The Act does not obligate the General Assembly to do so, and the provision for such grants depends upon the availability of funds in the state budget.[23] When an appropriation for relief is made, the General Appropriations Act must specify the amount appropriated and the eligible assessed value of each qualified homestead in the state.[24]

The Act provides for the calculation of tax credits for home owners and reimbursements for which the counties and school districts qualify.[25] The county tax commissioner will calculate the amount of revenue that would be generated by applying the sum of the state and county millage rates to the eligible assessed value of each qualified homestead in the county.[26] The total amount of actual tax credits calculated in this manner will equal the amount granted to the county.[27]

The school districts will calculate the grant for which they qualify in a similar manner.[28] The district's fiscal managers will apply the school millage rate to the eligible assessed value of each qualified homestead within the district.[29] The total amount of actual tax credits given to homesteads in the district will equal the amount of the grant to that local school district.[30] The credit granted by either of these two methods cannot exceed the amount of actual tax liability that exists after all other millage rollbacks and exemptions have been applied.[31] Counties and school districts will not receive grants unless they actually receive the tax liability for each qualified homestead.[32]

The Georgia Department of Revenue administers the program, and the Commissioner promulgates the necessary rules and regulations.[33] Counties must return excess grant funds to the state.[34] Moreover, the

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23. *See* O.C.G.A. §§ 36-89-2 to -3 (Supp. 1999). The General Assembly must appropriate funds for the rebate program each year. *See* Mantius, *supra* note 10. The first grant will be effective in 1999, and the General Assembly appropriated $83 million for the that year. *See id.*

24. *See* O.C.G.A. § 36-89-3 (Supp. 1999).

25. *See id.* § 36-89-4.

26. *See id.* § 36-89-4(a)(1).

27. *See id.*

28. *See id.* § 36-89-4(a)(2).

29. *See id.*

30. *See id.*

31. *See id.* § 36-89-4.

32. *See id.* § 36-89-4(b)-(c).

33. *See id.* § 36-89-5(a).

34. *See id.* § 36-89-5(b).

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granting entity may recover any credits granted to taxpayers erroneously or illegally.[35]

Each county and school fiscal authority must show the credit amount on the taxpayer's bill.[36] They must place a prominent notice on the bill indicating that the reduction was the product of the Governor and General Assembly.[37] The statute includes a model notice to taxpayers, and local authorities must substantially comply with the model.[38]

Opposition

Some county officials expressed concerns about the method of granting the relief and about the prospect that some counties may not gain as much relief as others.[39] Representative Bob Irvin of the 45th District stated that he believed an inherent flaw existed in the bill that would allow the counties to keep the grants and not pass them on through tax bill reductions.[40] Nonetheless, he stated that he would vote for the bill because it was engrossed.[41] Both the House and the Senate unanimously passed HB 553.[42]

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35. *See id.* § 36-89-6.

36. *See id.* § 36-89-4(d).

37. *See id.*

38. *See id.* The model notice states "This reduction in your bill is the result of homeowner's tax relief enacted by the Governor and the General Assembly of the State of Georgia." *Id.*

39. *See* Pruitt, *Barnes Unveils Tax Cut*, *supra* note 3. Jerry Griffin, Executive Director of the Association of County Commissioners of Georgia, stated that the Governor met their concerns, but "it's still a confusing way to go." *Id.* DeKalb County replaced county property taxes with a homestead exemption sales tax. *See id.* Thus, DeKalb homestead owners will not be entitled to relief for ordinary county property taxes but will get relief on school taxes imposed on property. *See id.* In Cobb County, residents over the age of 62 are exempt from school taxes, and they will not receive additional relief from school taxes under the legislation. *See Tab for Exemption*, *supra* note 3. Such additional relief could be a problem under the Anti-Gratuities Clause of the Georgia Constitution. *See* GA. CONST. art. III, § 6, ¶ 6; Smith Interview, *supra* note 19. Those residents will be entitled to relief from county property tax. *See Tab for Exemption*, *supra* note 3.

40. *See Lawmakers'99* (GPTV broadcast, Feb. 22, 1999) (remarks by Rep. Bob Irvin, House District No. 45) [hereinafter Irvin Remarks] (available in Georgia State University College of Law Library). *But see* O.C.G.A. § 36-89-4(b) (Supp. 1999) (providing "[t]he grant of funds to each county shall be conditioned on the county reducing each qualified homestead's otherwise applicable liability for county taxes for county purposes by a credit amount calculated in paragraph (1) of subsection (a) of the Code Section"); *id.* § 36-89-4(c) (providing that the grant of funds to each local school district is conditioned on reduction of the applicable liability for school taxes).

41. *See* Irvin Remarks, *supra* note 40.

42. *See* Georgia House of Representatives Voting Record, HB 553 (Feb. 22, 1999);

HR 269

HR 269 was introduced and passed concurrently with HB 553.[43] The Resolution's sponsors presented it as a fail-safe measure.[44] It provides for a referendum on a proposed Constitutional amendment on the November 2000 ballot.[45] The amendment would allow the credit and reimbursement method to survive a constitutional challenge.[46] The bill will have been enacted as law for approximately eighteen months prior to the vote on the amendment.[47]

Vince Tilley

Georgia Senate Voting Record, HB 553 (Mar. 16, 1999).

43. *See* State of Georgia Final Composite Status Sheet, May 3, 1999.

44. *See* Smith Interview, *supra* note 19; Royal Letter, *supra* note 2. The concern was a challenge under the Anti-Gratuities Clause and the Homestead provision sections of the Georgia Constitution. *See* Smith Interview, *supra* note 19.

45. *See* Smith Interview, *supra* note 19. Some attorneys who reviewed the matter did not believe the amendment was necessary, but the proponents decided to present it anyway. *See* Royal Letter, *supra* note 2.

46. *See* Smith Interview, *supra* note 19.

47. *See id.*; Royal Letter, *supra* note 2.

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