

South Carolina General Assembly
119th Session, 2011-2012

A87, R31, H3806

STATUS INFORMATION

Joint Resolution

Sponsors: Reps. Toole, Bingham, Quinn, Frye, Huggins, Atwater, Spires, McLeod, Ballentine and Ott
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Introduced in the House on March 3, 2011

Introduced in the Senate on March 15, 2011

Passed by the General Assembly on March 24, 2011

Governor's Action: April 12, 2011, Signed

Summary: Property tax credit

HISTORY OF LEGISLATIVE ACTIONS

| Date | Body | Action Description with journal page number |
|-----------|--------|--|
| 3/3/2011 | House | Introduced, read first time, placed on calendar without reference (House Journal-page 17) |
| 3/8/2011 | House | Debate adjourned until Wednesday, March 9, 2011 (House Journal-page 62) |
| 3/9/2011 | House | Read second time (House Journal-page 19) |
| 3/10/2011 | House | Read third time and sent to Senate (House Journal-page 17) |
| 3/15/2011 | Senate | Introduced, read first time, placed on local & uncontested calendar (Senate Journal-page 15) |
| 3/16/2011 | Senate | Read second time (Senate Journal-page 17) |
| 3/16/2011 | Senate | Roll call Ayes-3 Nays-0 (Senate Journal-page 17) |
| 3/24/2011 | Senate | Read third time and enrolled (Senate Journal-page 10) |
| 4/6/2011 | | Ratified R 31 |
| 4/12/2011 | | Signed By Governor |
| 4/15/2011 | | Effective date 04/12/11 |
| 8/23/2011 | | Act No. 87 |

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VERSIONS OF THIS BILL

[3/3/2011](#)
[3/3/2011-A](#)
[3/15/2011](#)

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(A87, R31, H3806)

A JOINT RESOLUTION TO PROVIDE A PROPERTY TAX CREDIT FOR PROPERTY TAX YEAR 2011 FOR OWNER-OCCUPIED RESIDENTIAL PROPERTY SITUATED IN LEXINGTON COUNTY SCHOOL DISTRICT NOS. 1 AND 4 AS THE SOLE REMEDY FOR REFUNDING OVERPAYMENTS OF PROPERTY TAX ON SUCH PROPERTY FOR PROPERTY TAX YEARS 2007 AND 2008 AS A RESULT OF THE OPINION OF THE SOUTH CAROLINA SUPREME COURT IN THE CASE OF *BERKELEY COUNTY SCHOOL DISTRICT ET AL. V. SOUTH CAROLINA DEPARTMENT OF REVENUE*, AND TO PROVIDE FOR THE CALCULATION OF THE CREDIT AND OTHER REFUNDS RESULTING FROM THE CASE, AND TO PROVIDE THOSE ELIGIBLE TO RECEIVE THE CREDIT.

Be it enacted by the General Assembly of the State of South Carolina:

Findings

SECTION 1. The General Assembly finds that:

(1) In 2006, the General Assembly enacted Act 388 of 2006. That act, among other things, exempts one hundred percent of the value of owner-occupied real property from property taxes imposed for “school operating purposes”, beginning with Fiscal Year 2008. In substitution for property tax revenues not collected as a result of this new exemption, the act provides to the school districts of the State the proceeds of a new one-cent statewide sales tax, which took effect June 1, 2007.

(2) In July, 2009, the South Carolina Supreme Court ruled in *Berkeley County School District et al. v. South Carolina Department of Revenue* (the case) that, pursuant to that portion of the act codified as Section 12-37-220(B)(47)(a), Code of Laws of South Carolina, 1976, owner-occupied real property must be exempted from millage imposed to repay certain lease-purchase obligations entered into by school districts for capital construction (construction lease-purchase

obligations). Moreover, school districts must be reimbursed by the State such amounts to the extent provided by that portion of the act codified as Section 11-11-156(A). The property was subject to millage imposed for construction lease-purchase obligations under a prior law, no longer applicable, which exempted a portion of the value of owner-occupied real property from school operating millage.

(3) Lexington County School District No. 1 and Lexington County School District No. 4 have had in place for a number of years construction lease-purchase obligations to finance school building construction. Unlike the other plaintiff school districts in the case, tax millage was imposed against owner-occupied property in Lexington County School District No. 1 and Lexington County School District No. 4 for construction lease-purchase obligations in tax years 2007 and 2008, and the districts were not reimbursed pursuant to Section 11-11-156(A) for that portion of the exemption. The imposition of tax millage in Lexington County School District No. 1 and Lexington County School District No. 4 for construction lease-purchase obligations was consistent with Opinion No. 2008-3 issued by the South Carolina Department of Revenue. That opinion stated that debt service payments for construction lease-purchase obligations is not reimbursable by the State pursuant to Section 11-11-156(A).

(4) As directed by the Supreme Court in the case, the Department of Revenue has subsequently reimbursed all plaintiff school districts for amounts relating to construction lease-purchase obligations reimbursable under Section 11-11-156(A) for property tax years 2007 and 2008. There is no effective means under the law of the State whereby funds from property taxes imposed on owner-occupied residential real property during 2007 and 2008 to pay debt service on construction lease-purchase obligations may be efficiently returned to the taxpayers of these districts. In that regard, the General Assembly notes the existence of a sales tax credit for school debt service in these school districts imposed pursuant to Act 378 of 2004, the Lexington County School District Property Tax Relief Act, which complicates the issue of providing the reimbursed funds to taxpayers. In addition, with the passage of time, a number of properties have changed hands. Furthermore, individual requests for refunds of taxes on owner-occupied residential property are now time-barred.

(5) It is necessary to enact an economical and efficient method whereby amounts collected from property taxes imposed on owner-occupied residential real property within Lexington County School District No. 1 and Lexington County School District No. 4 for debt service on construction lease-purchase obligations as described in the opinion of the case may be reimbursed by way of credits against

property taxes, and that the credit enacted by this joint resolution is that method and constitutes the exclusive remedy for claims related in any way to the decision in the case.

Property tax credit, eligibility, calculation

SECTION 2. (A) As used in this section:

(1) "Auditor" means the Lexington County Auditor.
(2) "District" or "districts" include Lexington County School District No. 1 and Lexington County School District No. 4, as applicable.

(3) "The act" means Act 388 of 2006.
(4) "The local act" means Act 378 of 2004, the Lexington County School District Property Tax Relief Act.
(5) "Treasurer" means the Lexington County Treasurer or the Office of the Lexington County Treasurer, as applicable.

(B) There is allowed for property tax year 2011 a credit against property taxes imposed on owner-occupied residential real property in the districts. The credit is determined and must be calculated in accordance with this section. This section provides the sole remedy for recovery of any taxes paid by any taxpayer as a consequence, direct or indirect, of any of the matters described in Section 1.

(C) The auditor, as to each parcel of owner-occupied residential real property in the districts, shall determine an amount to be credited against property taxes imposed on those parcels for property tax year 2011 by the earlier of June 30, 2011, or sixty days after the effective date of this section.

(1) In making the determination, the auditor first shall list from records of the county the property tax liability as actually billed for each such parcel for property tax years 2007 and 2008, net of all credits for the homestead exemption and as provided in the local act, actually applied in those years, but excluding any penalties paid for late payment of taxes.

(2) Next, there must be calculated the property tax liability for each such parcel for property tax years 2007 and 2008, net of all credits applied in those years for the homestead exemption and as provided in the local act, excluding any penalties paid for late payment of taxes, but also including in the calculation the exemption from taxes imposed for capital lease-purchase obligations as described in the findings in Section 1.

(3) Next, there must be calculated as to each such parcel the aggregate difference in the tax liability for property tax years 2007 and 2008:

(a) as actually billed, as described in item (1) of this subsection; and

(b) as calculated taking into account the exemption for capital lease-purchase obligations, as calculated in accordance with item (2) of this subsection. This aggregate difference as to each parcel constitutes a base credit to be credited against property taxes imposed on the parcel for property tax year 2011.

The county shall provide to the districts the data generated in accordance with items (1), (2), and (3) of this subsection in a mutually agreeable computer readable file format. The districts within ten days of the receipt of the data, shall notify the county of any disagreement with the calculation required by this item as to any parcel.

(4) To the extent that as to any parcel the tax liability for capital lease-purchase obligations was satisfied by a credit allowed pursuant to Section 7(C) of the local act, or any other source, then an amount equal to such credit must be reimbursed to the account created for that district pursuant to Section 7 of the local act.

(5) These credits and reimbursements must be funded solely as provided in subsection (G) of this section.

(6) The auditor may rely on certifications by the districts as to amounts paid as debt service on capital lease-purchase obligations for property tax years 2007 and 2008. The county is not liable for any errors in certifications given by the district. The sole remedy for any errors in the calculation of credits allowed pursuant to this section is an adjustment in connection with credits allowed pursuant to the local act for property tax year 2012.

(7) As to any parcel of real property allowed a credit pursuant to this section, the ownership of the real property must be determined as of July 1, 2011.

(8) Each tax notice to which a credit provided pursuant to this section applies must contain a concise explanation of the reason for the credit.

(D) If a parcel to which a credit under this section would otherwise be applicable has been subdivided, the credit must be allocated pro rata based on appraised value as of July 1, 2011, among the parcels resulting from the subdivision.

(E) If, as to owner-occupied real property previously taxed as described in the findings in Section 1, the applicable tax map number no longer exists within the Lexington County tax map system except in the case of subdivision, funds in the amount of the credit applicable to that property pursuant to this section must be withdrawn from the applicable account in the Lexington School Districts Tax Reimbursement Fund, deemed abandoned within the meaning of

Section 27-18-30 of the 1976 Code, and deposited with the State Treasurer as unclaimed property in accordance with Chapter 18, Title 27 of the 1976 Code, the Uniform Unclaimed Property Act.

(F) If the credit applied to a parcel pursuant to this section exceeds the property tax liability for the parcel for property tax year 2011, that fact must be noted upon the tax notice for such parcel for property tax year 2011, and the tax notice must further state that the owner of the parcel may apply to the treasurer for a check in an amount equal to the credit applicable to the parcel less the tax liability, if any. Upon receipt of the application, the treasurer shall pay the amount from funds in the applicable account of the Lexington School Districts Tax Reimbursement Fund. Amounts equal to credits payable under this subsection which have not been claimed as of December 1, 2012, are deemed abandoned within the meaning of Section 27-18-30 of the 1976 Code and must be deposited with the State Treasurer as unclaimed property in accordance with the Uniform Unclaimed Property Act.

(G) Upon making the calculations described in subsection (C) of this section, the auditor shall notify the school districts of the total amount of credits and reimbursements to be funded pursuant to this section and the district's respective pro rata share of the costs in administering this section as determined by the auditor. The districts, within fifteen days, shall deposit with the treasurer, but only from amounts paid them by the South Carolina Department of Revenue pursuant to the opinion in the case and investment earnings thereon:

- (1) amounts sufficient to fund the base credits and reimbursements applicable to the respective districts as determined pursuant to subsection (C);
- (2) amounts sufficient to pay the costs of administration; and
- (3) amounts equal to the investment earnings derived by the districts from the amounts paid to fund base credits as identified in item (1) of this subsection.

The investment earnings must be allocated pro rata among and added to the base credit amounts calculated in accordance with subsection (C) of this section.

Funds paid by the districts in accordance with this subsection must be held in trust by the treasurer in a fund to be known as the Lexington School Districts Tax Reimbursement Fund and must be applied only in accordance with this section. Separate accounts, one for each district, must be maintained within the Lexington School Districts Tax Reimbursement Fund. To the extent the amount a district has received from the Department of Revenue as a result of the opinion in the case is insufficient to fund the credits and reimbursements calculated by the auditor and costs of administration, the difference must be provided

from funds on deposit and allocated to the district pursuant to Section 7 of the local act. Except as provided in the preceding sentence, all credits and all reimbursements provided pursuant to this section and costs of administration must be funded only from applicable accounts in the Lexington School Districts Tax Reimbursement Fund.

(H) Provisions of this section do not apply to any property as to a year for which taxes were not actually paid.

Time effective

SECTION 3. This joint resolution takes effect upon approval by the Governor.

Ratified the 6th day of April, 2011.

Approved the 12th day of April, 2011.
