User Fees

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Horry County

2022 Virtual South Carolina Local Government Attorneys' Institute

SOUTH CAROLINA
ASSOCIATION OF COUNTIES

Friday, November 18, 2022

308 S.C. 180
Supreme Court of South Carolina.

John D. BROWN and Wilford Harrelson, for Themselves, for the People of Horry County and All Others Similarly Situated, Appellants,
v.
The COUNTY OF HORRY; Laurie McLeod, Chairman of the Horry County Council; Ulysses DeWitt, Grayson Register, Dewey Kirkley, R. Gray Steel, John M. Urban, James R. Frazier, William F. Brown, W. Paul Prince, Johnny Shelley, Steve Dawsey and Robert Smith, Councilmen of the Horry County Council, and M.L. Love, Administrator, Respondents.

No. 23633.
|
Heard Jan. 21, 1992.
|
Decided April 13, 1992.

Synopsis
Action was brought challenging validity of county ordinance imposing road maintenance fee on all motor vehicles registered in county. The Circuit Court, Horry County, Ellis B. Drew, Jr., J., upheld validity of ordinance, and appeal was taken. The Supreme Court, Moore, J., held that ordinance was valid uniform service charge authorized by statute.

Affirmed.

West Headnotes (7)

[1] **Automobiles**Counties

County could properly impose road maintenance fee on all motor vehicles registered in county, pursuant to county's home rule authority, provided only that fee was fair and reasonable alternative to increasing general county property tax and was imposed upon those for whom service was primarily provided. Const. Art. 8, § 7; Code 1976, § 4–9–30(5)(a).

2 Cases that cite this headnote

[2] **Taxation**Distinguishing "tax" and "license" or "fee"

Question of whether particular charge is tax or fee depends on its real nature and not its designation; in doubtful cases, however, intent of legislature as expressed in its characterization of fee must be given judicial respect.

3 Cases that cite this headnote

[3] **Municipal Corporations**Nature of assessment or tax

"Fee" or service charge is imposed on theory that portion of community which is required to pay it receives some special benefit as result of improvement made with proceeds of charge; charge does not become a "tax" merely because general public obtains benefit.

6 Cases that cite this headnote

[4] **Automobiles**Constitutionality and validity of acts and ordinances

County ordinance imposing road maintenance fee on all motor vehicles registered in county was permissible service charge, rather than impermissible tax; although fees went into county's general fund, they were specifically earmarked for use to maintain and improve county roads.

3 Cases that cite this headnote

[5] **Automobiles**Amount

Road maintenance fee imposed by county on all motor vehicles registered in county was "uniform," and thus valid where each owner was required to pay flat fee of $15 per vehicle; claimant's suggestion that fee should be tied to number of miles owners were driving on county roads would have been too burdensome to implement. Code 1976, § 4–9–30(5)(a).

1 Cases that cite this headnote

[6] **Constitutional Law**Statutes and other written regulations and rules

Legislatively created classification will not be set aside as violative of equal protection clause unless it is plainly arbitrary and there is no reasonable hypothesis to support classification. U.S.C.A. Const.Amend. 14.

6 Cases that cite this headnote

[7] **Automobiles**Constitutionality and validity of acts and ordinances
Constitutional Law Taxes and fees

County ordinance imposing road maintenance fee on all motor vehicles registered in county did not violate equal protection absent showing that classification was arbitrary; classification reasonably presumed that such owners were persons who would most often use county roads. U.S.C.A. Const.Amend. 14.

3 Cases that cite this headnote

Attorneys and Law Firms

****566 *181** Franklin R. DeWitt, Conway, for appellants.

John P. Henry of Thompson, Henry, Gwin, Brittain & Stevens, P.A., Conway, and Theodore B. Guerard of Haynsworth, Marion, McKay & Guerard, Charleston, for respondents.

Robert E. Lyon, Jr., and Robert S. Croom, Columbia, for South Carolina Ass'n of Counties, amicus curiae.

Opinion

MOORE, Justice:

This is an appeal from an order upholding a county ordinance which imposes a road maintenance fee on all motor vehicles registered in Horry County. The trial judge held that the fee was a valid uniform service charge authorized under S.C.Code Ann. § 4–9–30 (1986 & Supp.1991). We affirm.

FACTS

Beginning in fiscal year 1985–86, and each year thereafter, the Horry County Council has passed substantially the following ordinance within its annual budget:

> A road maintenance fee of $15.00 on each motorized vehicle ***182** licensed in Horry County is scheduled to be included on motor vehicle tax notices with the proceeds going into the County General Fund and being specifically used for maintenance and improvement of the county road system.

The present cost of maintaining and improving the Horry County road system is $5 million per year with the road maintenance fee generating $1.2 million per year or 25% of the cost. Within the Horry County road system, there are approximately 1,700 miles of dirt roads and 300 miles of paved roads.

On September 25, 1989, appellants brought a class action suit seeking injunctive and declaratory relief and a refund of the fees paid with interest. The trial judge held that the

fee was a valid uniform service charge authorized by S.C.Code Ann. § 4–9–30 (1986 & Supp.1991) and denied the relief sought.

ISSUES

(1) Can a county impose such a fee?

(2) Is the road maintenance fee a service charge or a tax?

(3) Is the fee uniform?

(4) Does the fee comply with the equal protection clause?

DISCUSSION

(1) AUTHORITY TO IMPOSE A SERVICE CHARGE

[1] The Home Rule Act was passed in 1975 "... to comply with the mandate of the Constitution" in Section 7 of Article VIII, which requires the General Assembly to provide by general law for the "... powers, duties, functions, and the responsibilities of counties." Act No. 283 of 1975.

The intent of the constitutional mandate is stated in *Knight v. Salisbury,* 262 S.C. 565, 571, 206 S.E.2d 875, 877 (1974) as follows:

> It is clearly intended that home rule be given to the counties and that county government should function in the county seats rather than at the State Capitol. ****567** If the counties are to remain units of government, the power to function must exist at the county level. Quite obviously, the framers of Article VIII had this in mind.

***183** The extent of power intended for counties is made more explicit in Article VIII, Section 17:

> The provisions of this Constitution and all laws concerning local government shall be liberally construed in their favor. Powers, duties, and responsibilities granted local government subdivisions by this Constitution and by law shall include those fairly implied and not prohibited by this Constitution.

S.C.Code Ann. § 4–9–30 (1991), which sets out the general powers which counties may exercise under the Home Rule Act, grants counties the power:

> (5)(a) to assess property and levy ad valorem property taxes and *uniform service charges* ... and make appropriations for functions and operations of the county, including ... *roads,...*; water,....; sewage.... (emphasis added).

Without ambiguity and by its express terms, this section provides counties with additional and supplemental methods for funding improvements. This is consistent with the intention of the drafters of the Home Rule Act to provide county government with the option of imposing service charges or user fees upon those who use county services in order to reduce the tax burden which otherwise would have to be borne by taxpayers generally.

> It is a settled rule of statutory construction that it is the duty of the court to ascertain the intent of the Legislature and to give it effect so far as possible within constitutional limitations. When a statute is a part of other legislation, designed as a whole to establish an expressed state policy, the court should strive to effectuate that policy. To aid in its construction, the statute must be read in the light

> of cognate legislation. *Gregg Dyeing Co. v. Query,* 166 S.C. 117, 123, 164 S.E. 588, 590 (1931).

The statute does not specify the amount of such fees or the persons upon whom they can be imposed. These limitations are governed by the requirements of equal protection and reasonableness.

***184** It is obvious that the legislature did not necessarily intend that uniform service charges, or such a road maintenance fee, would be imposed in every county.

> "The uniformity contemplated by the Home Rule Act is the realization of complete local autonomy." *Infinger v. Edwards,* 268 S.C. 375, 234 S.E.2d 214 (1977). Implicit in the Act is the realization that different counties will have different problems which will require different solutions. To require all counties to use the same means of financing for local improvements would defeat the objective of achieving complete local autonomy. *Robinson v. Richland County,* 293 S.C. 27, 31, 358 S.E.2d 392, 395 (1987).

Under Home Rule, a county can impose a service charge, as in the situation here, where it is a fair and reasonable alternative to increasing the general county property tax and is imposed upon those for whom the service is primarily provided.

(2) SERVICE CHARGE OR TAX

[2] Appellants argue that the road maintenance fee is a tax rather than a service charge. Respondents argue that the fee is a permissible service charge. The fact that the ordinance refers to the fee as a "road maintenance fee" rather than a tax is not determinative. The question of whether a particular charge is a tax depends on its real nature and not its designation. *Powell v. Chapman,* 260 S.C. 516, 197 S.E.2d 287 (1973); *Jackson v. Breeland,* 103 S.C. 184, 88 S.E. 128 (1915) (in distinguishing assessments from taxes the court held that courts will look behind mere words). In any doubtful case, however, the intent of the legislature as expressed in its characterization of the fee must be given judicial respect. *Emerson College v. City of Boston,* 391 Mass. 415, 462 N.E.2d 1098 (1984) (citing *Associated Indus., Inc. v. Comm'r. of Revenue,* 378 Mass. 657, 393 N.E.2d 812 (1979)).

****568** South Carolina has not distinguished between a service charge and a tax. Other jurisdictions have held that a tax is an enforced contribution to provide for the support of government, whereas a fee is a charge for a particular service. ***185** *Long Run Baptist Ass'n. v. Louisville County Metro. Sewer Dist.,* 775 S.W.2d 520 (Ky.App.1989). *See Craig v. City of Macon,* 543 S.W.2d 772 (Mo.1976) (fees or charges are rendered in connection with a specific purpose while taxes are not); *Emerson College v. City of Boston, supra,* (fees are charged in exchange for a particular governmental service which benefits the party paying in a manner not shared by other members of society).

[3] Although a service charge may possess points of similarity to a tax, it is inherently different and governed by different principles. A service charge is imposed on the theory that the portion of the community which is required to pay it receives some special benefit as a result of the improvement made with the proceeds of the charge. A charge does not become a tax merely because the general public obtains a benefit. *See Robinson v. Richland County Council, supra; Casey v. Richland County Council,* 282 S.C. 387, 320 S.E.2d 443 (1984). Appellants argue that the ordinance is invalid because of the disparity between the people who benefit and the people who pay. In *Home Bldrs. v. Bd. of Comm'rs.,* 446 So.2d 140 (Fla.Dist.Ct.App.1983), a home builders and contractors association challenged an ordinance which imposed an impact fee on any new development activity which generated road traffic to pay for road construction. The court held that any improvement of roads would in some measure benefit those who do not pay and the fee is valid as long as it does not exceed the cost of the improvements and the improvements benefit the payors.

[4] Courts have also looked at the objective in imposing the fee. In *Craig, supra,* the Missouri Supreme Court considered whether the revenues generated by the fees were to be paid into the general fund of the government to defray customary governmental expenditures. In *Emerson, supra,* the Massachusetts Supreme Court held that when the revenue from fees is destined for the general fund this indicates that the fee is a tax. The Horry County ordinance provides that the fees are to go into the general fund but that they are to be specifically used for the maintenance and improvement of county roads. Therefore, because the money collected is specifically allocated for road maintenance, we hold that the fee is service charge.

***186** (3) UNIFORMITY

[5] To be a valid service charge under S.C.Code Ann. § 4–9–30(5), the charge must be uniform. Every owner of a motor vehicle registered in Horry County must pay a flat fee of $15.00 per vehicle. Appellant argues that for the fee to be uniform it should be tied to mileage with owners submitting affidavits certifying the number miles which they have driven on county roads. This procedure would be nearly impossible to implement as most owners would not know when they were driving on county roads, as opposed to state roads, and the record keeping would be burdensome. There is no inequality or discrimination which would render the fee invalid. Therefore, the uniformity requirement is met.

(4) EQUAL PROTECTION

If a classification is reasonably related to a proper legislative purpose and the members of each class are treated equally, any challenge under the equal protection clause fails. *Robinson v. Richland County Council, supra; Medlock v. S.C. Fam. Farm Dev.,* 279 S.C. 316, 306 S.E.2d 605 (1983). The requirements of equal protection are satisfied if: (1) the classification bears a reasonable relation to the legislative purpose; (2) the members of the class are treated alike under similar circumstances; and (3) the classification rests on some reasonable basis. *Medlock, supra.* In addition, the burden is upon those challenging the legislation to prove lack ofrational ****569** basis. *Ex parte Yeargin,* 295 S.C. 521, 369 S.E.2d 844 (1988).

[6] [7] A legislatively created classification will not be set aside as violative of the equal protection clause unless it is plainly arbitrary and there is no reasonable hypothesis to support the classification. *Samson v. Greenville Hosp. System,* 295 S.C. 359, 368 S.E.2d 665 (1988); *Medlock, supra.* Horry County placed all registered vehicles in a class which reasonably relates to the legislative purpose of generating funds for maintaining and improving county roads. Appellant has presented no evidence to show that this classification is arbitrary.

Appellant merely argues that the members of the class are not treated equally because county residents who reside outside a municipality and those who reside within a municipality ***187** are in one class. The members of this class, however, are all treated alike as each owner registering a vehicle in the county must pay $15.00 per vehicle.

The classification rests on a reasonable basis as the vehicle owners are the persons who most often would use the roads. Therefore, the ordinance does not violate the equal protection clause.

AFFIRMED.

HARWELL, C.J., FINNEY and TOAL, JJ., and ALEXANDER M. SANDERS, Jr., Acting Associate Justice, concur.

All Citations

308 S.C. 180, 417 S.E.2d 565

325 S.C. 235
Supreme Court of South Carolina.

C.R. CAMPBELL CONSTRUCTION CO., INC., Home Builders Association of South Carolina, Inc., and Charleston Trident Home Builders Association, Inc., Appellants,
v.
The CITY OF CHARLESTON, a municipality and body corporate and politic, Respondent.

No. 24576.
|
Heard Oct. 2, 1996.
|
Decided Feb. 10, 1997.

Synopsis
Purchaser of lot brought action to enjoin enforcement of municipal ordinance imposing transfer fee, alleging that fee was illegal tax. Louis E. Condon, Master-in-Equity, Charleston County, upheld fee, and purchaser appealed. The Supreme Court, Moore, J., held that transfer fee was valid uniform service charge.

Affirmed.

Procedural Posture(s): On Appeal.

West Headnotes (2)

[1] **Taxation**Distinguishing "tax" and "license" or "fee"
TaxationValidity

Municipal transfer fee imposed on conveyances of real property, equal to .25% of purchase price, was lawful uniform service charge, rather than nonuniform property tax, where fee was used only for parks and recreational facilities, payers benefitted by enhancement of property values, fee did not generate more revenue than was spent on parks and recreational facilities, and all payers paid uniform percentage of sale price of property conveyed. Code 1976, § 5–7–30.

2 Cases that cite this headnote

[2] **Municipal Corporations**Nature and scope of power of municipality

Municipal fee is valid as uniform service charge if revenue generated is used to benefit payers, even if general public also benefits; revenue generated is used only for specific improvement contemplated; revenue generated does not exceed cost of improvement; and fee is uniformly imposed on all payers.

1 Cases that cite this headnote

Attorneys and Law Firms

***437** Jay Bender and Charles E. Baker, both of Baker, Barwick, Ravenel & Bender, L.L.P., Columbia, for appellants.

Corporation Counsel William B. Regan and Assistant Corporation Counsel Frances I. Cantwell, both of Charleston, for respondent.

Opinion

MOORE, Justice:

This appeal is from an order finding a municipal ordinance imposing a transfer fee on the conveyance of real property valid as a uniform service charge. We affirm.

FACTS

The facts in this case are undisputed. Respondent City of Charleston (City) passed an ordinance effective January 1, 1994, imposing a "transfer fee" equal to .25% of the

purchase price on the conveyance of real property.[1] All of the revenue generated by the transfer fee is used solely for acquiring, improving, operating, and maintaining parks and public recreational facilities. In enacting the ordinance, City Council made a specific finding that parks and recreational facilities add to the value of real estate within the City. This finding is supported by evidence in the record that property values are in fact enhanced by such amenities. Finally, it is undisputed ***438** City spends more on parks and recreational facilities than the amount generated by the transfer fee.

In February 1994, appellant C.R. Campbell Construction Company (hereinafter referred to as "Taxpayer" on behalf of all appellants) purchased a lot for $15,000 and paid under protest the transfer fee of $37.50. Taxpayer then brought this action to enjoin enforcement of the ordinance on the ground it was an illegal tax. The trial judge found the transfer fee was a valid uniform service charge and denied the injunction.

DISCUSSION

[1] The issue before us is a narrow one: Is the transfer fee a uniform service charge or a tax? Taxpayer concedes there is no challenge to the transfer fee if it meets the definition of a uniform service charge. If, on the other hand, the transfer fee is actually a tax, Taxpayer contends it violates S.C. Const. art. X, § 6, which requires that "[p]roperty tax levies shall be uniform in respect to persons and property within the jurisdiction of the body imposing such taxes." As a property tax, Taxpayer contends the transfer fee is unconstitutional because it applies only to property that is conveyed and not otherwise. We need not address this constitutional challenge since we find the transfer fee is a uniform service charge and not a tax.

Our recent decision in *Brown v. County of Horry,* 308 S.C. 180, 417 S.E.2d 565 (1992), is dispositive on this issue. In *Brown,* we upheld a $15 road maintenance fee on all cars registered in the county as a valid uniform service charge under S.C.Code Ann. § 4–9–30(5)(a) (Supp.1995). Similarly, under S.C.Code Ann. § 5–7–30 (Supp.1995), municipalities are authorized to impose uniform service charges. If the transfer fee meets the criteria set forth in *Brown* to constitute a uniform service charge, it is valid.

[2] Under *Brown,* a fee is valid as a uniform service charge if (1) the revenue generated is used to the benefit of the payers, even if the general public also benefits (2) the revenue generated is used only for the specific improvement contemplated (3) the revenue generated by the fee does not exceed the cost of the improvement and (4) the fee is uniformly imposed on all the payers. In this case, it is undisputed the transfer fee is used only for parks and recreational facilities, the payers benefit because their real property values are enhanced, the transfer fee does not generate more revenue than that spent on such facilities, and all payers pay a uniform percentage of the sale price of property conveyed. According to the facts in the record, the transfer fee is a uniform service charge and therefore valid under *Brown.*[2]

AFFIRMED.

FINNEY, C.J., and TOAL, WALLER and BURNETT, JJ., concur.

All Citations

325 S.C. 235, 481 S.E.2d 437

Footnotes

1 The ordinance allows certain exemptions not applicable here.

2 Effective July 1, 1994, S.C.Code Ann. § 6–1–70 (Supp.1995) requires that any revenue generated by a transfer fee on the conveyance of real property be remitted to the State Treasurer. Since § 6–1–70 did not become effective until July 1, 1994, however, it does not apply to the transfer fee in this case and does not impact its validity as a uniform service charge. *See Town of Hilton Head Island v. Morris,* Op. No. 24575, —— S.C. ——, —— S.E.2d —— (S.C.Sup.Ct. filed February 10, 1997).

481 S.E.2d 437

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433 S.C. 583
Supreme Court of South Carolina.

James Mikell "Mike" BURNS, Garry R. Smith and Dwight A. Loftis, Appellants,
v.
GREENVILLE COUNTY COUNCIL and Greenville County, Respondents.

Appellate Case No. 2018-002255
|
Opinion No. 28041
|
Heard August 20, 2020
|
Filed June 30, 2021

Synopsis
Background: State legislators brought action alleging that county ordinances imposing road maintenance and telecommunications fees constituted illegal taxes. The Circuit Court, Greenville County, Charles B. Simmons, Master-In-Equity, entered judgment in county's favor, and legislators appealed.

Holdings: The Supreme Court, Few, J., held that:

[1] road maintenance fee did not constitute permissible "service or user fee," and

[2] county failed to establish that telecommunications fee was permissible "service or user fee."

Reversed.

Kittredge, J., concurred and filed opinion in which Beatty, C.J., joined.

Procedural Posture(s): On Appeal; Judgment.

West Headnotes (2)

[1] **Automobiles**Constitutionality and validity of acts and ordinances

Road maintenance fee that county ordinance required owners of every vehicle registered in county to pay did not benefit individual payers in some manner different from members of general public, and thus constituted a tax, rather than a permissible "service or user fee." S.C. Code Ann. § 6-1-300(6).

[2] **Counties**Power to incur indebtedness in general
TaxationDistinguishing "tax" and "license" or "fee"
TelecommunicationsFranchise or license fees or taxes in general

County failed to establish that its fee to upgrade public safety telecommunication services would benefit individual payers in some manner different from members of general public, and thus, fee constituted a tax, rather than permissible "service or user fee," despite county's contention that fee would enhance real property values; neither county council when it adopted ordinance nor county when it tried case put any effort into demonstrating that new telecommunications system would meaningfully enhance property values. S.C. Code Ann. § 6-1-300(6).

Appeal from Greenville County, Charles B. Simmons Jr., Circuit Court Judge

Attorneys and Law Firms

Robert Clyde Childs III, Childs Law Firm; J. Falkner Wilkes, both of Greenville for Appellants.

Sarah P. Spruill and Boyd Benjamin Nicholson Jr., Haynsworth Sinkler Boyd, PA, both of Greenville for Respondents.

Opinion

JUSTICE FEW:

***585** Greenville County Council implemented what it called a "road maintenance fee" to raise funds for road maintenance and a "telecommunications fee" to upgrade public safety telecommunication services. The plaintiffs—three members of the South Carolina General Assembly—claim the two charges are taxes and, therefore, violate section 6-1-310 of the South Carolina Code (2004). We agree. We declare the road maintenance and telecommunications taxes are invalid under South Carolina law.

I. Facts and Procedural History

Greenville County Council enacted the two ordinances at issue in 2017. Ordinance 4906 was enacted "to change the road maintenance fee to ... $25." Ordinance 4906 amended Ordinance 2474—enacted in 1993—which required the owner of every vehicle ****32** registered in Greenville County[1] to pay $15 a year to the Greenville County Tax Collector. County Council stated in Ordinance 4906 it increased the charge because "the current fee is insufficient to keep up with increased costs of maintenance."

Ordinance 4907 was enacted "for ... the lease, purchase, ... or maintenance of County-wide public safety telecommunications network infrastructure and network components" and related costs. This ordinance requires the owner of every parcel of real property in Greenville County to pay $14.95 a year for ten years to the Greenville County Tax Collector. County Council stated in Ordinance 4907 it imposed the charge to "mov[e] all County-wide public safety telecommunications to a single network platform" to "promote the safety of life and property in Greenville County by providing much needed modernization of current public safety telecommunications infrastructure."

The plaintiffs filed this lawsuit to challenge the validity of the ordinances on several grounds, including their claim the ordinances impose a tax and not a permissible fee. The parties ***586** consented to an order referring the case to the master in equity for trial pursuant to Rule 53(b) of the South Carolina Rules of Civil Procedure. The master found the ordinances did not violate the law. Because one of the grounds on which the plaintiffs brought the challenge was the Equal Protection Clause, they filed their notice of appeal with this Court pursuant to Rule 203(d)(1)(A)(ii) of the South Carolina Appellate Court Rules and subsection 14-8-200(b)(3) of the South Carolina Code (2017). Though we find the Equal Protection Clause question is not a significant issue, we elect not to transfer the case to the court of appeals. *See* Rule 203(d)(1)(A)(ii), SCACR (providing "where the Supreme Court finds that the constitutional issue raised is not a significant one, the Supreme Court may transfer the case"); § 14-8-200(b)(3) (same).

II. Analysis

South Carolina law permits counties "to ... levy ad valorem[2] property taxes and uniform service charges." S.C. Code Ann. § 4-9-30(5)(a) (2021); *see also* S.C. Code Ann. § 6-1-330(A) (2004) ("A local governing body ... is authorized to charge and collect a service or user fee."); S.C. Code Ann. § 6-1-300(6) (2004) (" 'Service or user fee' also includes 'uniform service charges'."). Except for value-based property taxes, a county "may not impose a new tax ... unless specifically authorized by the General Assembly." § 6-1-310.

Neither ordinance imposes a value-based property tax, and the General Assembly has not authorized Greenville County to impose any other new taxes. Therefore, unless the charges in the ordinances are "uniform service charges" under subsection 4-9-30(5)(a) or a "service or user fee" under subsection 6-1-330(A), the charges imposed pursuant to the ordinances are invalid under State law.

In 1992, this Court addressed the question of what is a "uniform service charge authorized under [section] 4-9-30," and in particular, whether a "road maintenance fee" imposed by Horry County was "a service charge or a tax." ***587** *Brown v. Cty. of Horry*, 308 S.C. 180, 181, 182, 417 S.E.2d 565, 566 (1992). We later explained, summarizing our extensive analysis in *Brown*,

> Under *Brown,* a fee is valid as a uniform service charge if (1) the revenue generated is used to the benefit of the payers, even if the general public also benefits (2) the revenue generated is used only for the specific improvement contemplated (3) the revenue

> generated by the fee does not exceed the cost of the improvement and (4) the fee is uniformly imposed on all the payers.

****33** *C.R. Campbell Const. Co., Inc. v. City of Charleston*, 325 S.C. 235, 237, 481 S.E.2d 437, 438 (1997) (citing *Brown*, 308 S.C. at 184-86, 417 S.E.2d at 567-68).

In 1997, the General Assembly enacted subsection 6-1-300(6), which defines "service or user fee"—including "uniform service charges"—as "a charge required to be paid in return for a particular government service or program made available to the payer that benefits the payer in some manner different from the members of the general public not paying the fee." After 1997, therefore, when a local government imposes a charge it contends is not a tax, the charge arguably must meet the requirements we set forth in *Brown* but certainly must meet the requirements the General Assembly set forth in subsection 6-1-300(6).

[1]Our analysis of the two ordinances at issue in this case begins and ends with subsection 6-1-300(6). In its brief, Greenville County argues Ordinance 4906 meets the subsection 6-1-300(6) requirement of a "government service or program ... that benefits the payer in some manner different from the members of the general public" because "the funds collected are 'specifically allocated for road maintenance,' " as this Court approved in *Brown*. The argument conveniently ignores the fact subsection 6-1-300(6) was enacted in 1997, five years after *Brown* and four years after Greenville County enacted its original road maintenance fee in Ordinance 2474. The fact the funds are allocated for road maintenance says nothing of any benefit peculiar to the payer of the fee. In fact, every driver on any road in Greenville County—whether their vehicles are registered in Greenville County, Spartanburg County, ***588** or in some other state—benefits from the fact the funds are "specifically allocated for road maintenance."

At oral argument, Greenville County made the additional argument Ordinance 4906 satisfies subsection 6-1-300(6) because the property owners who pay the charge are the drivers who "most use the roads" maintained by the funds collected. We do not agree this satisfies subsection 6-1-300(6). While Greenville County residents who use the roads every day may derive more benefit from having the roads maintained in good condition, it is still the same benefit every driver gets, no matter where their car is registered.

[2]Greenville County argues Ordinance 4907 satisfies subsection 6-1-300(6) because the improved telecommunications system will "enhance[ ] real property values." We find this argument fails. When County Council enacted Ordinance 4907, it did not address the factual question of whether an improved telecommunications system will enhance property values, and Greenville County presented only speculative evidence of such an enhancement at trial. The County Administrator testified the new system "could ... enhance property values for individual property owners." One County Council member testified his own property "stands to benefit from better coordinated, faster, first responder services." Plaintiff Mike Burns testified on cross-examination the new telecommunication system "would benefit [him] as a property owner," but he said nothing about any benefit to his property value.

The plaintiffs argue any claim of an increase in property value from the new telecommunication system is "too tenuous" to satisfy subsection 6-1-300(6). Greenville County argues this Court already approved enhanced property value as a satisfactory benefit in *C.R. Campbell Construction*. *See* 325 S.C. at 237, 481 S.E.2d at 438 (finding "the payers benefit because their real property values are enhanced"). We find *C.R. Campbell Construction* is not helpful to Greenville County. In that case, "City Council made a specific finding that parks and recreational facilities add to the value of real estate within the City." 325 S.C. at 236, 481 S.E.2d at 437. We stated, "This finding is supported by evidence in the record that property values are in fact enhanced by such amenities." *Id.* In this case, neither County Council when it adopted the ordinance ***589** nor Greenville County when it tried this case put any effort into demonstrating the new telecommunications system would meaningfully enhance property values.

Taxpayers should hope every action taken by local government is calculated to not damage property values. What governing body would attempt—and what electorate would accept—an act that is calculated to damage ****34** property value? Every action of local government, therefore, in at least some minor way, should be calculated to enhance property value. In some instances, as in *C.R. Campbell Construction*, the enhancement of property value may be significant. If the governing body actually addresses the effect on property value and deems an anticipated enhancement significant enough to differentiate the benefit to those paying the fee

from the benefit everyone receives, then it is likely the courts will uphold the decision, as we did in *C.R. Campbell Construction*. In the first instance, however, the question whether an ordinance actually enhances property values must be addressed by the local governing body. In Ordinance 4907, County Council described the aged equipment previously used in multiple networks, and it stated the new single network would improve the delivery of emergency and public safety communications in multiple ways. But the ordinance says nothing of whether property owners would see any benefits from the new network. Even if property owners will see benefits, this Court has no idea whether the impact is significant enough to affect property value. We hold that simply declaring a fee will enhance property value does not make the property owner paying the fee the beneficiary of some unique benefit, as required by subsection 6-1-300(6).

Therefore, as to both Ordinance 4906 and Ordinance 4907, we find Greenville County failed to satisfy the subsection 6-1-300(6) requirement that the "government service or program ... benefits the payer in some manner different from the members of the general public."[3]

***590 III. Conclusion**

Greenville County Ordinances 4906 and 4907 purport to impose a "uniform service charge" on those who are required to pay it. We find the charges are taxes. State law prohibits local government from imposing taxes unless they are value-based property taxes or are specifically authorized by the General Assembly. Neither is true for these two ordinances. Therefore, the ordinances are invalid.

REVERSED.

BEATTY, C.J., KITTREDGE, HEARN and JAMES, JJ., concur. KITTREDGE, J., concurring in a separate opinion in which BEATTY, C.J., joins.

JUSTICE KITTREDGE:

I concur with the majority opinion. I write separately to offer two points. First, the post-*Brown*[4] enactment of section 6-1-300(6) of the South Carolina Code (2004) is the standard set by out legislature for determining what constitutes a "service or user fee." In my judgment, the *Brown* factors may inform the analysis, particularly factors (3) and (4), but section 6-1-300(6) is controlling. Second, this Court in recent years has received an increasing number of challenges to purported "service or user fees." Local governments, for obvious reasons, want to avoid calling a tax a tax. I am hopeful that today's decision will deter the politically expedient penchant for imposing taxes disguised as "service or user fees." I believe today's decision sends a clear message that the courts will not uphold taxes masquerading as "service or user fees." Going forward, courts will carefully scrutinize so-called "service or user fees" to ensure compliance with section 6-1-300(6).

BEATTY, C.J., concurs.

All Citations

433 S.C. 583, 861 S.E.2d 31

Footnotes

1 Section 56-3-110 of the South Carolina Code (2018) requires every motor vehicle in the State to be registered and licensed, and subsection 56-3-195(A) of the South Carolina Code (2018) assigns the registration process to each county for vehicles owned by residents of the county.

2 "Ad valorem" is a Latin term sometimes used to mean "value-based." *See Ad Valorem*, BLACK'S LAW DICTIONARY (11th ed. 2019) (stating "ad valorem" means "proportional to the value of the thing taxed").

3 The plaintiffs raised other issues we find it unnecessary to address. *See Whiteside v. Cherokee Cty. Sch. Dist. No. One*, 311 S.C. 335, 340, 428 S.E.2d 886, 889 (1993) ("In view of our disposition of this issue, we need not address appellants' remaining exceptions." (citations omitted)).

[4] *Brown v. Cty. of Horry*, 308 S.C. 180, 417 S.E.2d 565 (1992).

S 984

Session 124 (2021-2022)

S 0984 General Bill, By Hembree, Massey, Gustafson and Rankin
A BILL TO AMEND SECTION 6-1-300, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS PERTAINING TO THE AUTHORITY OF LOCAL GOVERNMENTS TO ASSESS TAXES AND FEES, SO AS TO PROVIDE THAT A SERVICE OR USER FEE MUST BE USED TO THE NONEXCLUSIVE BENEFIT OF THE PAYERS; AND TO AMEND SECTION 6-1-330, RELATING TO A SERVICE OR USER FEE, SO AS TO PROVIDE THAT A PROVISION APPLIES TO AN ENTIRE ARTICLE.

984.htm">View full text

01/13/22	Senate	Introduced and read first time (Senate Journal-page 3)
01/13/22	Senate	Referred to Committee on Finance (Senate Journal-page 3)
03/29/22	Senate	Committee report: Favorable Finance (Senate Journal-page 15)
03/31/22	Senate	Read second time (Senate Journal-page 42)
04/07/22	Senate	Amended (Senate Journal-page 19)
04/07/22	Senate	Read third time and sent to House (Senate Journal-page 19)
04/07/22	Senate	Roll call Ayes-32 Nays-7 (Senate Journal-page 19)
04/19/22	House	Introduced and read first time (House Journal-page 211)
04/19/22	House	Referred to Committee on Ways and Means (House Journal-page 211)
04/28/22	House	Committee report: Favorable with amendment Ways and Means (House Journal-page 11)
05/05/22	House	Debate adjourned (House Journal-page 72)
05/05/22	House	Requests for debate-Rep(s). Stavrinakis, Rutherford, Hardee, Crawford, Wetmore, Burns, Haddon, Magnuson, Nutt, GR Smith, Trantham, May, McCabe, McGarry, Rivers, Kirby, S Williams, McGinnis, Chumley, Long (House Journal-page 73)
05/11/22	House	Requests for debate removed-Rep(s). McGarry, Kirby (House Journal-page 59)
05/11/22	House	Debate adjourned (House Journal-page 95)
05/11/22	House	Roll call Yeas-57 Nays-54 (House Journal-page 95)
05/11/22	House	Reconsidered (House Journal-page 200)
05/11/22	House	Amended (House Journal-page 200)
05/11/22	House	Read second time (House Journal-page 200)
05/11/22	House	Roll call Yeas-112 Nays-1 (House Journal-page 205)
05/12/22	House	Read third time and returned to Senate with amendments (House Journal-page 108)
05/12/22	Senate	House amendment amended (Senate Journal-page 83)
05/12/22	Senate	Returned to House with amendments (Senate Journal-page 83)

VERSIONS OF THIS BILL

1/13/2022
3/29/2022
4/19/2022
4/28/2022
5/11/2022
5/12/2022

S. 984
~~Indicates Matter Stricken~~
Indicates New Matter

HOUSE AMENDMENTS AMENDED - RETURNED TO HOUSE

May 12, 2022

S. 984
Introduced by Senators Hembree, Massey, Gustafson and Rankin

S. Printed 5/12/22--S.

Read the first time April 19, 2022.

A BILL

TO AMEND SECTION 6-1-300, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS PERTAINING TO THE AUTHORITY OF LOCAL GOVERNMENTS TO ASSESS TAXES AND FEES, SO AS TO PROVIDE THAT A SERVICE OR USER FEE MUST BE USED TO THE NONEXCLUSIVE BENEFIT OF THE PAYERS; AND TO AMEND SECTION 6-1-330, RELATING TO A SERVICE OR USER FEE, SO AS TO PROVIDE THAT A PROVISION APPLIES TO AN ENTIRE ARTICLE.

Amend Title To Conform

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

SECTION 1. Section 6-1-300(6) of the 1976 Code is amended to read:

"(6) 'Service or user fee' means a charge required to be paid in return for a particular government service or program ~~made available to the payer that benefits the payer in some manner different from the members of the general public not paying the fee~~. 'Service or user fee' also includes 'uniform service charges'. The revenue generated from the fee must:
(a) be used to the benefit of the payers, even if the general public also benefits;
(b) only be used for the specific improvement contemplated;
(c) not exceed the cost of the improvement; and
(d) be uniformly imposed on all payers."

SECTION 2. Section 6-1-330(A) of the 1976 Code is amended to read:

"(A) A local governing body, by ordinance approved by a positive majority, is authorized to charge and collect a service or user fee. A local governing body must provide public notice of any new service or user fee being considered and the governing body is required to hold a public hearing on any proposed new service or user fee prior to final adoption of any new service or user fee. Public comment must be received by the governing body prior to the final reading of the ordinance to adopt a new service or user fee. A fee adopted or imposed by a local governing body prior to December 31, 1996, remains in force and effect until repealed by the enacting local governing body, notwithstanding the provisions of this ~~section~~ article."

SECTION 3. Section 6-1-330 of the 1976 Code is amended by adding appropriately lettered new subsections to read:

"( ) A local governing body that repealed a road maintenance fee after June 30, 2021, and subsequently approved a millage increase for road maintenance, must repeal the millage imposed to replace the previous road maintenance fee before reimposing the road maintenance fee.

( ) A local governing body that imposes a user or service fee pursuant to Section 6-1-300(6) must publish the amount of dollars annually collected on each fee on the county's website."

SECTION 4. Notwithstanding Section 8-21-30, et seq., no public officer shall be personally liable for any amount charged pursuant to SECTION 1.

SECTION 5. This act takes effect upon approval by the Governor and applies retroactively to any service or fee imposed after December 31, 1996.

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S*233

Session 124 (2021-2022)

S 0233 {Rat #252, Act #236 of 2022} General Bill, By Turner
AN ACT TO AMEND SECTION 12-37-220, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PROPERTY TAX EXEMPTIONS, SO AS TO PROVIDE THAT A QUALIFIED SURVIVING SPOUSE MAY QUALIFY FOR AN EXEMPTION IF THE QUALIFIED SURVIVING SPOUSE OWNS THE HOUSE, AND TO PROVIDE THAT CERTAIN HEIRS' PROPERTY QUALIFIES FOR THE EXEMPTION IF CERTAIN OTHER REQUIREMENTS ARE MET; TO AMEND SECTION 6-1-300, RELATING TO DEFINITIONS PERTAINING TO THE AUTHORITY OF LOCAL GOVERNMENTS TO ASSESS TAXES AND FEES, SO AS TO PROVIDE THAT A SERVICE OR USER FEE MUST BE USED TO THE NONEXCLUSIVE BENEFIT OF THE PAYERS; TO AMEND SECTION 6-1-330, RELATING TO A SERVICE OR USER FEE, SO AS TO PROVIDE THAT A PROVISION APPLIES TO AN ENTIRE ARTICLE, TO REQUIRE MILLAGE IMPOSED TO REPLACE A CERTAIN ROAD MAINTENANCE FEE MUST BE REPEALED BEFORE REIMPOSING A ROAD MAINTENANCE FEE, AND TO PROVIDE A REPORTING REQUIREMENT AND A LIABILITY PROVISION; TO AMEND SECTION 12-39-250, RELATING TO ADJUSTMENTS IN VALUATION AND ASSESSMENT FOR PURPOSES OF AD VALOREM TAXATION, SO AS TO REQUIRE AN ADJUSTMENT FOR DAMAGES CAUSED BY FLOODING OR A HURRICANE; AND TO AMEND SECTION 12-37-220, AS AMENDED, RELATING TO PROPERTY TAX EXEMPTIONS, SO AS TO EXEMPT CERTAIN FARM BUILDINGS AND AGRICULTURAL STRUCTURES. - ratified title

233.htm">View full text

12/09/20	Senate	Prefiled
12/09/20	Senate	Referred to Committee on Finance
01/12/21	Senate	Introduced and read first time (Senate Journal-page 229)
01/12/21	Senate	Referred to Committee on Finance (Senate Journal-page 229)
02/24/22	Senate	Committee report: Favorable with amendment Finance (Senate Journal-page 8)
02/28/22		Scrivener's error corrected
03/01/22	Senate	Committee Amendment Adopted (Senate Journal-page 35)
03/02/22	Senate	Read second time (Senate Journal-page 15)
03/02/22	Senate	Roll call Ayes-40 Nays-0 (Senate Journal-page 15)
03/03/22	Senate	Read third time and sent to House (Senate Journal-page 16)
03/08/22	House	Introduced and read first time
03/08/22	House	Referred to Committee on Ways and Means (House Journal-page 5)
04/28/22	House	Committee report: Favorable with amendment Ways and Means (House Journal-page 10)
05/04/22	House	Amended (House Journal-page 121)
05/04/22	House	Read second time (House Journal-page 121)
05/04/22	House	Roll call Yeas-107 Nays-4 (House Journal-page 121)
05/05/22	House	Read third time and returned to Senate with amendments (House Journal-page 10)
05/05/22		Scrivener's error corrected
05/11/22	Senate	House amendment amended (Senate Journal-page 82)
05/11/22	Senate	Returned to House with amendments (Senate Journal-page 82)
05/12/22	House	Non-concurrence in Senate amendment (House Journal-page 88)
05/12/22	House	Roll call Yeas-1 Nays-100 (House Journal-page 88)
05/12/22	Senate	Senate insists upon amendment and conference committee appointed Verdin, Davis, Williams (Senate Journal-page 47)
05/12/22	House	Conference committee appointed Crawford, Hewitt, Weeks (House Journal-page 130)
06/15/22	Senate	Conference report received and adopted (Senate Journal-page 169)
06/15/22	Senate	Roll call Ayes-24 Nays-12 (Senate Journal-page 169)
06/15/22	House	Conference report rejected (House Journal-page 190)
06/15/22	House	Roll call Yeas-46 Nays-53 (House Journal-page 195)
06/15/22	House	Reconsidered (House Journal-page 216)

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06/15/22  House  Adopted (House Journal-page 216)
06/15/22  House  Roll call Yeas-47  Nays-40 (House Journal-page 222)
06/15/22  House  Ordered enrolled for ratification
                  (House Journal-page 237)
06/16/22         Ratified R  252
06/22/22         Signed By Governor
06/28/22         Effective date  06/22/22
06/28/22         Act No.  236
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VERSIONS OF THIS BILL

12/9/2020
2/24/2022
2/28/2022
3/1/2022
4/28/2022
5/4/2022
5/5/2022
5/11/2022
6/15/2022

S. 233

(A236, R252, S233)

AN ACT TO AMEND SECTION 12-37-220, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PROPERTY TAX EXEMPTIONS, SO AS TO PROVIDE THAT A QUALIFIED SURVIVING SPOUSE MAY QUALIFY FOR AN EXEMPTION IF THE QUALIFIED SURVIVING SPOUSE OWNS THE HOUSE, AND TO PROVIDE THAT CERTAIN HEIRS' PROPERTY QUALIFIES FOR THE EXEMPTION IF CERTAIN OTHER REQUIREMENTS ARE MET; TO AMEND SECTION 6-1-300, RELATING TO DEFINITIONS PERTAINING TO THE AUTHORITY OF LOCAL GOVERNMENTS TO ASSESS TAXES AND FEES, SO AS TO PROVIDE THAT A SERVICE OR USER FEE MUST BE USED TO THE NONEXCLUSIVE BENEFIT OF THE PAYERS; TO AMEND SECTION 6-1-330, RELATING TO A SERVICE OR USER FEE, SO AS TO PROVIDE THAT A PROVISION APPLIES TO AN ENTIRE ARTICLE, TO REQUIRE MILLAGE IMPOSED TO REPLACE A CERTAIN ROAD MAINTENANCE FEE MUST BE REPEALED BEFORE REIMPOSING A ROAD MAINTENANCE FEE, AND TO PROVIDE A REPORTING REQUIREMENT AND A LIABILITY PROVISION; TO AMEND SECTION 12-39-250, RELATING TO ADJUSTMENTS IN VALUATION AND ASSESSMENT FOR PURPOSES OF AD VALOREM TAXATION, SO AS TO REQUIRE AN ADJUSTMENT FOR DAMAGES CAUSED BY FLOODING OR A HURRICANE; AND TO AMEND SECTION 12-37-220, AS AMENDED, RELATING TO PROPERTY TAX EXEMPTIONS, SO AS TO EXEMPT CERTAIN FARM BUILDINGS AND AGRICULTURAL STRUCTURES.

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

Tax exemptions

SECTION 1. Section 12-37-220(B)(1) of the 1976 Code is amended to read:

"(1)(a) the house owned by an eligible owner in fee or jointly with a spouse;

(b) the house owned by a qualified surviving spouse and a house subsequently acquired by an eligible surviving spouse. The qualified surviving spouse shall inform the Department of Revenue of the address of a subsequent house;

(c) when a trustee holds legal title to a dwelling for a beneficiary and the beneficiary is a person who qualifies otherwise for the exemptions provided in subitems (a) and (b) and the beneficiary uses the dwelling as the

beneficiary's domicile, the dwelling is exempt from property taxation in the same amount and manner as dwellings are exempt pursuant to subitems (a) and (b);

(d) The Department of Revenue may require documentation it determines necessary to determine eligibility for the exemption allowed by this item.

(e) A person who owns an interest in a house and meets all other requirements of this item and is otherwise an eligible owner but for the ownership requirement is deemed to be an eligible owner and is eligible for the exemption allowed by this item so long as the county assessor certifies to the Department of Revenue that the house is located on heirs' property and the person is the owner-occupied resident of the house. A person eligible pursuant to this subitem must not claim the special assessment rate allowed pursuant to Section 12-43-220(c) on any other property. For purposes of this item, heirs' property has the same meaning as provided in Section 15-61-320.

(f) As used in this item:

(i) 'eligible owner' means:

(A) a veteran of the Armed Forces of the United States who is permanently and totally disabled as a result of a service-connected disability and who files with the Department of Revenue a certificate signed by the county service officer certifying this disability;

(B) a former law enforcement officer as further defined in Section 23-23-10, who is permanently and totally disabled as a result of a law enforcement service-connected disability;

(C) a former firefighter, including a volunteer firefighter as further defined in Chapter 80, Title 40, who is permanently and totally disabled as a result of a firefighting service-connected disability;

(ii) 'permanently and totally disabled' means the inability to perform substantial gainful employment by reason of a medically determinable impairment, either physical or mental, that has lasted or is expected to last for a continuous period of twelve months or more or result in death;

(iii) 'qualified surviving spouse' means the surviving spouse of an individual described in subsubitem (i) while remaining unmarried, who resides in the house, and who owns the house in fee or for life. Qualified surviving spouse also means the surviving spouse of a member of the Armed Forces of the United States who was killed in action, or the surviving spouse of a law enforcement officer or firefighter who died in the line of duty as a law enforcement officer or firefighter, as these terms are further defined in Section 23-23-10 and Chapter 80, Title 40, if the surviving spouse remains unmarried, resides in the house, and has acquired ownership of the house in fee or for life;

(iv) 'house' means a dwelling and the lot on which it is situated classified in the hands of the current owner for property tax purposes pursuant to Section 12-43-220(c). However, for an eligible owner that qualifies pursuant to item (1)(e), 'house' means a dwelling that is eligible to be classified in the hands of the current owner for property tax purposes pursuant to Section 12-43-220(c) except for the ownership requirement."

Fees

SECTION 2. A. Section 6-1-300(6) of the 1976 Code is amended to read:

"(6) 'Service or user fee' means a charge required to be paid in return for a particular government service or program. 'Service or user fee' also includes 'uniform service charges'. The revenue generated from the fee must:

(a) be used to the benefit of the payers, even if the general public also benefits;

(b) only be used for the specific improvement contemplated;

(c) not exceed the cost of the improvement; and

(d) be uniformly imposed on all payers."

B. Section 6-1-330(A) of the 1976 Code is amended to read:

"(A) A local governing body, by ordinance approved by a positive majority, is authorized to charge and collect a service or user fee. A local governing body must provide public notice of any new service or user fee being considered and the governing body is required to hold a public hearing on any proposed new service or user fee prior to final adoption of any new service or user fee. Public comment must be received by the governing body prior to the final reading of the ordinance to adopt a new service or user fee. A fee adopted or imposed by a local governing body prior to December 31, 1996, remains in force and effect until repealed by the enacting local governing body, notwithstanding the provisions of this article."

C. Section 6-1-330 of the 1976 Code is amended by adding appropriately lettered subsections to read:

"( ) A local governing body that repealed a road maintenance fee after June 30, 2021, and subsequently approved a millage increase for road maintenance, must repeal the millage imposed to replace the previous road maintenance fee before reimposing the road maintenance fee.

( ) A local governing body that imposes a user or service fee pursuant to Section 6-1-300(6) must publish the amount of dollars annually collected on each fee on the county's website."

D. Notwithstanding Section 8-21-30, et seq., no public officer shall be personally liable for any amount charged pursuant to SECTION 2.A.

E. This SECTION takes effect upon approval by the Governor and applies retroactively to any service or fee imposed after December 31, 1996.

Taxes

SECTION 3. A. Section 12-39-250(B) of the 1976 Code is amended to read:

"(B) Notwithstanding any other provision of law, the county tax assessor or the County Board of Assessment Appeals, upon application of the taxpayer, must order the county auditor to make appropriate adjustments in the valuation and assessment of any real property and improvements which have sustained damage as a result of fire, flooding, hurricane, or wind event provided, that the application for correction of the assessment is made prior to payment of the tax."

B. Section 12-37-220(B)(14) of the 1976 Code is amended to read:

"(14) all farm buildings and agricultural structures owned by a producer in this State used to house livestock, poultry, crops, farm equipment, or farm supplies and all farm machinery and equipment including self-propelled farm machinery and equipment except for motor vehicles licensed for use on the highways. For the purpose of this section 'self-propelled farm machinery and equipment' means farm machinery or equipment which contains within itself the means for its own locomotion. For purposes of this item, farm equipment includes greenhouses;"

C. This SECTION takes effect upon approval by the Governor and applies to property tax years beginning after 2021.

Time effective

SECTION 4. This act takes effect upon approval by the Governor.

Ratified the 16th day of June, 2022.

Approved the 22nd day of June, 2022.

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