**South Carolina General Assembly**

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**H. 4312**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. W.J. McLeod, Pitts and Cobb‑Hunter

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Introduced in the House on June 3, 2015

Currently residing in the House Committee on **Ways and Means**

Summary: Property tax millage

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

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6/3/2015 House Referred to Committee on **Ways and Means** ([House Journal‑page 7](file:///h:\HJ%20Archive\2015\06-03-15.docx))

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**VERSIONS OF THIS BILL**

[6/3/2015](file:///p:\pprever\2015-16\4312_20150603.docx)

**A** **BILL**

TO AMEND SECTION 6‑1‑320, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE LIMIT ON ANNUAL PROPERTY TAX MILLAGE INCREASES IMPOSED BY POLITICAL SUBDIVISIONS, SO AS TO RESTORE THE FORMER METHOD OF OVERRIDING THE ANNUAL CAP BY A POSITIVE MAJORITY OF THE APPROPRIATE GOVERNING BODY AND DELETING THE SUPER MAJORITY REQUIREMENT FOR OVERRIDING THE CAP FOR SPECIFIC CIRCUMSTANCES AND TO MAKE CONFORMING CHANGES.

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

SECTION 1. Section 6‑1‑320 of the 1976 Code, as last amended by Act 249 of 2014, is further amended to read:

“Section 6‑1‑320. (A)~~(1)~~ Notwithstanding Section 12‑37‑251(E), a local governing body may increase the millage rate imposed for general operating purposes above the rate imposed for such purposes for the preceding tax year only to the extent of the increase in the average of the twelve monthly consumer price indices for the most recent twelve‑month period consisting of January through December of the preceding calendar year~~, plus, beginning in 2007, the percentage increase in the previous year in the population of the entity as determined by the Office of Research and Statistics of the Revenue and Fiscal Affairs Office~~. If the average of the twelve monthly consumer price indices experiences a negative percentage, the average is deemed to be zero. ~~If an entity experiences a reduction in population, the percentage change in population is deemed to be zero.~~ However, in the year in which a reassessment program is implemented, the rollback millage, as calculated pursuant to Section 12‑37‑251(E), must be used in lieu of the previous year’s millage rate.

~~(2) There may be added to the operating millage increase allowed pursuant to item (1) of this subsection any such increase, allowed but not previously imposed, for the three property tax years preceding the year to which the current limit applies.~~

(B) Notwithstanding the limitation upon millage rate increases contained in subsection (A), the millage rate limitation may be suspended and the millage rate may be increased ~~upon a two‑thirds vote of the membership of the local governing body~~ for the following purposes:

(1) the deficiency of the preceding year;

(2) any catastrophic event outside the control of the governing body such as a natural disaster, severe weather event, act of God, or act of terrorism, fire, war, or riot;

(3) compliance with a court order or decree;

(4) taxpayer closure due to circumstances outside the control of the governing body that decreases by ten percent or more the amount of revenue payable to the taxing jurisdiction in the preceding year; or

(5) compliance with a regulation promulgated or statute enacted by the federal or state government after the ratification date of this section for which an appropriation or a method for obtaining an appropriation is not provided by the federal or state government.

(6) purchase by the local governing body of undeveloped real property or of the residential development rights in undeveloped real property near an operating United States military base which property has been identified as suitable for residential development but which residential development would constitute undesirable residential encroachment upon the United States military base as determined by the local governing body. The local governing body shall enact an ordinance authorizing such purchase and the ordinance must state the nature and extent of the potential residential encroachment, how the purchased property or development rights would be used and specifically how and why this use would be beneficial to the United States military base, and what the impact would be to the United States military base if such purchase were not made. Millage rate increases for the purpose of such purchase must be separately stated on each tax bill and must specify the property, or the development rights to be purchased, the amount to be collected for such purchase, and the length of time that the millage rate increase will be in effect. The millage rate increase must reasonably relate to the purchase price and must be rescinded five years after it was placed in effect or when the amount specified to be collected is collected, whichever occurs first. The millage rate increase for such purchase may not be reinstated unless approved by a majority of the qualified voters of the governmental entity voting in a referendum. The cost of holding the referendum must be paid from the taxes collected due to the increased millage rate; or

(7) to purchase capital equipment and make expenditures related to the installation, operation, and purchase of the capital equipment including, but not limited to, taxes, duty, transportation, delivery, and transit insurance, in a county having a population of less than one hundred thousand persons and having at least forty thousand acres of state forest land. For purposes of this section, “capital equipment” means an article of nonexpendable, tangible, personal property, to include communication software when purchased with a computer, having a useful life of more than one year and an acquisition cost of fifty thousand dollars or more for each unit.

If a tax is levied to pay for items (1) through (5) above, then the amount of tax for each taxpayer must be listed on the tax statement as a separate surcharge, for each aforementioned applicable item, and not be included with a general millage increase. Each separate surcharge must have an explanation of the reason for the surcharge. The surcharge must be continued only for the years necessary to pay for the deficiency, for the catastrophic event, or for compliance with the court order or decree.

(C) ~~The millage increase permitted by subsection (B) is in addition to the increases from the previous year permitted pursuant to subsection (A) and shall be an additional millage levy above that permitted by subsection (A). The millage limitation provisions of this section do not apply to revenues, fees, or grants not derived from ad valorem property tax millage or to the receipt or expenditures of state funds.~~ The millage rate limitation provided for in subsection (A) may be overridden and the millage rate may be further increased by a positive majority vote of the appropriate governing body. The vote must be taken at a specially called meeting held solely for the purpose of taking a vote to increase the millage rate. The governing body must provide public notice of the meeting notifying the public that the governing body is meeting to vote to override the limitation and increase the millage rate. Public comment must be received by the governing body before the override vote.

(D) The restriction contained in this section does not affect millage that is levied to pay bonded indebtedness or payments for real property purchased using a lease‑purchase agreement or used to maintain a reserve account. Nothing in this section prohibits the use of energy‑saving performance contracts as provided in Section 48‑52‑670.

(E) Notwithstanding any provision contained in this article, this article does not and may not be construed to amend or to repeal the rights of a legislative delegation to set or restrict school district millage, and this article does not and may not be construed to amend or to repeal any caps on school millage provided by current law or statute or limitation on the fiscal autonomy of a school district that are more restrictive than the limit provided pursuant to subsection (A).

(F) The restriction contained in this section does not affect millage imposed to pay bonded indebtedness or operating expenses of a special tax district established pursuant to Section 4‑9‑30(5), but the special tax district is subject to the millage rate limitations in Section 4‑9‑30(5).

(G)(1) Notwithstanding the limitation upon millage rate increases contained in subsection (A), a fire district’s governing body may adopt an ordinance or resolution requesting the governing body of the county to conduct a referendum to suspend the millage rate limitation for general operating purposes of the fire district. If the governing body of the county agrees to hold the referendum and subject to the results of the referendum, the millage rate limitation may be suspended and the millage rate may be increased for general operating purposes of the fire district. The referendum must be held at the time of the general election, and upon a majority of the qualified voters within the fire district voting favorably in the referendum, the millage rate may be increased in the next fiscal year. The referendum must include the amount of the millage increase. The actual millage levy may not exceed the millage increase specified in the referendum.

(2) This subsection only applies to a fire district that existed on January 1, 2014, and serves less than seven hundred homes.

(H) Notwithstanding the limitation upon millage rate increases contained in subsection (A), the governing body of a county may adopt an ordinance, subject to a referendum, to suspend the millage rate limitation for the purpose of imposing up to six‑tenths of a mill for mental health. The referendum must be held at the time of the general election, and upon a majority of the qualified voters within the county voting favorably in the referendum, this special millage may be imposed in the next fiscal year. The state election laws apply to the referendum mutatis mutandis. This special millage may be removed only upon a majority vote of the local governing body. The amounts collected from the increased millage:

(1) must be deposited into a mental health services fund separate and distinct from the county general fund and all other county funds;

(2) must be dedicated only to expenditures for mental health services in the county; and

(3) must not be used to supplant existing funds for mental health programs in the county.

(I) The positive majority vote of the governing body required by this section does not apply to school districts that have their budgets approved by qualified electors at a town meeting.”

SECTION 2. This act takes effect July 1, 2016.

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