

1 State of Arkansas
2 94th General Assembly
3 Regular Session, 2023
4

As Engrossed: H3/8/23

A Bill

SENATE BILL 185

5 By: Senator B. Johnson
6 By: Representative Eaves
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE APPOINTMENT PROCEDURE FOR THE TAX
10 APPEALS COMMISSION TO PROVIDE FOR THE FILLING OF
11 VACANCIES ON THE COMMISSION; TO DECLARE AN EMERGENCY,
12 AND FOR OTHER PURPOSES.
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Subtitle

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16 TO AMEND THE APPOINTMENT PROCEDURE FOR
17 THE TAX APPEALS COMMISSION TO PROVIDE FOR
18 THE FILLING OF VACANCIES ON THE
19 COMMISSION; AND TO DECLARE AN EMERGENCY.
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
23

24 *SECTION 1. Arkansas Code § 26-18-1106(a) and (b), concerning the*
25 *appointment of commissioners to the Tax Appeals Commission, are amended to*
26 *read as follows:*

27 *(a)(1) The Tax Appeals Commission shall consist of three (3)*
28 *commissioners who are subject to the requirements of § 26-18-1107.*

29 *(2) Commissioners ~~shall~~ may be selected from a pool of*
30 *candidates recommended as follows:*

31 *(A) The Arkansas Bar Association shall nominate three (3)*
32 *individuals who are licensed to practice law in this state;*

33 *(B) The majority of the Supreme Court shall nominate three*
34 *(3) individuals who are:*

35 *(i) Licensed to practice law in this state; ~~and~~*

36 *(ii) Certified as a certified public accountant in*



1 this state; ~~and~~ or

2 (iii) Both licensed to practice law in this state
3 and certified as a certified public accountant in this state; and

4 (C) The Arkansas Society of Certified Public Accountants
5 shall nominate three (3) individuals who are certified as a certified public
6 accountant in this state.

7 (3) The Governor ~~shall~~:

8 (A) May appoint one (1) commissioner from each pool of
9 candidates nominated under this subsection;

10 (B) May appoint an individual who is not nominated under
11 this subsection who meets the applicable licensure requirements of a
12 particular pool and who otherwise meets the qualification requirements stated
13 in § 26-18-1107; and

14 (C)(i) With the advice of the Secretary of the Department
15 of Inspector General, shall designate one (1) of the commissioners of the Tax
16 Appeals Commission to serve as Chief Commissioner of the Tax Appeals
17 Commission.

18 (ii) The Governor may change the designation of
19 Chief Commissioner of the Tax Appeals Commission at any time.

20 (iii) A commissioner's designation as Chief
21 Commissioner of the Tax Appeals Commission does not affect the commissioner's
22 term of appointment.

23 (b) The Chief Commissioner of the Tax Appeals Commission shall:

24 ~~(1) Be appointed from the pool of candidates nominated by the~~
25 ~~Supreme Court;~~

26 ~~(2)~~ Meet the requirements stated in § 26-18-1107 for the
27 position of chief commissioner;

28 ~~(3)~~(2) Act as the executive officer of the commission;

29 ~~(4)~~(3) Be subject to the same provisions of law as
30 commissioners;

31 ~~(5)~~(4) Be charged with the administration of the commission;

32 ~~(6)~~(5) Apportion among the commission all causes, matters, and
33 hearings coming before the commission;

34 ~~(7)~~(6) Take any action necessary to enable the commission to
35 properly exercise the duties, functions, and powers of the commission under
36 this subchapter; and

1 ~~(8)~~(7) Submit an annual report to the Speaker of the House of
2 Representatives, the President Pro Tempore of the Senate, the Chair of the
3 House Committee on Judiciary, the Chair of the Senate Committee on Judiciary,
4 the cochairs of the Legislative Council, the Governor, and the Secretary of
5 the Department of Inspector General that contains the following information
6 for the year that is the subject of the report:

7 (A) The case load of the commission;

8 (B) The number of petitions filed;

9 (C) The number of claims settled;

10 (D) The number of decisions the commission rendered;

11 (E) The number of decisions rendered:

12 (i) In favor of the Department of Finance and
13 Administration;

14 (ii) In favor of the taxpayer; and

15 (iii) Partially in favor of the department and
16 partially in favor of the taxpayer;

17 (F) The number of matters heard:

18 (i) In person;

19 (ii) By teleconference or videoconference;

20 (iii) Using a combination of in-person and either
21 teleconference or videoconference means; and

22 (iv) Solely on the documents filed with the
23 commission; and

24 (G) The average time for a claim to be processed from the
25 petition's being filed to a decision's being rendered, calculated for each
26 type of hearing conducted by the commission.

27
28 SECTION 2. Arkansas Code § 26-18-1106(f), concerning the appointment
29 of commissioners to the Tax Appeals Commission, is amended to read as
30 follows:

31 (f)(1) If a vacancy occurs on the commission, the Governor shall
32 appoint a commissioner to fill the vacancy.

33 (2) If the vacant position is one (1) that was filled by a
34 candidate nominated by:

35 (A) The Arkansas Bar Association or otherwise appointed by
36 the Governor in lieu of Arkansas Bar Association nominees, the Arkansas Bar

1 Association shall nominate three (3) individuals who are licensed to practice
2 law in this state;

3 (B) The majority of the Supreme Court or otherwise
4 appointed by the Governor in lieu of Supreme Court nominees, the majority of
5 the Supreme Court shall nominate three (3) individuals who are:

6 (i) Licensed to practice law in this state; ~~and~~

7 (ii) Certified as a certified public accountant in
8 this state; ~~and~~ or

9 (iii) Both licensed to practice law in this state
10 and certified as a certified public accountant in this state; and

11 (C) The Arkansas Society of Certified Public Accountants
12 or otherwise appointed by the Governor in lieu of Arkansas Society of
13 Certified Public Accountants nominees, the Arkansas Society of Certified
14 Public Accountants shall nominate three (3) individuals who are certified as
15 a certified public accountant in this state.

16 (3)(A) The Governor may appoint:

17 (i) A commissioner to fill a vacancy from the
18 relevant pool of candidates nominated under this subsection; or

19 (ii) An individual not nominated under this
20 subsection who meets the applicable licensure requirements of a particular
21 pool and who otherwise meets the qualification requirements stated in § 26-
22 18-1107.

23 (B) If a vacancy occurs in the position of Chief
24 Commissioner of the Tax Appeals Commission, the Governor shall designate one
25 (1) of the commissioners to act as the interim Chief Commissioner of the Tax
26 Appeals Commission until the vacancy is filled.

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28 SECTION 3. Arkansas Code § 26-18-1107 is amended to read as follows:
29 26-18-1107. Qualifications of commissioners.

30 (a) Each commissioner of the Tax Appeals Commission shall:

31 (1) Be a qualified elector of the State of Arkansas;

32 (2) Be ~~either~~ licensed to practice law in the state or certified
33 as a certified public accountant in the state, or both; and

34 (3) Possess substantial knowledge of Arkansas tax law.

35 (b) In addition to meeting the requirements of subsection (a) of this
36 section, the Chief Commissioner of the Tax Appeals Commission shall+

~~(1) Be licensed to practice law in the state;~~

~~(2) Have have been engaged in the private practice of law or accounting, ~~or~~ employed in the private sector, or ~~both~~ engaged in any combination of the private practice of law, the private practice of accounting, and employment in the private sector, for at least five (5) of the immediately preceding ten (10) years before ~~the chief commissioner's~~ his or her first appointment to the commission; ~~and~~~~

~~(3) Be licensed as a certified public accountant in the state.~~

SECTION 4. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that the Tax Appeals Commission is in the process of setting up to begin receiving and hearing appeals in January 2023, and that this act is immediately necessary to provide for appointments of commissioners upon vacancy. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

/s/B. Johnson

APPROVED: 3/21/23