

Department of Finance and Administration

Legislative Impact Statement

Bill: SB2

Bill Subtitle: TO AMEND THE LAW CONCERNING THE INITIAL APPOINTMENTS TO THE TAX APPEALS COMMISSION; AND TO DECLARE AN EMERGENCY.

Basic Change :

Sponsors: Sen. J. Dismang and Rep. J. Jett

Act 586 of 2021 created the Independent Tax Appeals Commission Act at § 26-18-1101, et seq. The Tax Appeals Commission will be created by July 1, 2022, within the Department of Inspector General to resolve tax disputes between the Arkansas Department of Finance and Administration (DFA) and taxpayers. Under current law, taxpayers who receive a proposed assessment or refund claim denial from DFA can protest the decision to DFA's Office of Hearings and Appeals, which consists of two administrative law judges. The administrative decision from the administrative law judge is appealable to an Arkansas circuit court.

The Tax Appeals Commission will be composed of three commissioners. The Governor will appoint three commissioners among a pool of candidates nominated by the Arkansas Bar Association (ABA), a majority of the Arkansas Supreme Court, and the Arkansas Society of Certified Public Accountants (ASCPA). Each organization will nominate three candidates, and the Governor must appoint one nominee from each pool of candidates. The chief commissioner must be licensed to practice law in Arkansas and certified as a certified public accountant in Arkansas. The chief commissioner will be appointed from the pool of candidates nominated by the Arkansas Supreme Court. The second commissioner will be appointed from the pool of candidates nominated by the ABA, who must all be licensed to practice law in Arkansas. The third commissioner will be appointed from the pool of candidates nominated by the ASCPA, who must all be certified as a certified public accountant in Arkansas. Each commissioner will be appointed to an initial staggered term of three, six, or nine years.

SB2 amends uncodified § 2(b) of Act 586 of 2021 to remove redundant and inconsistent language pertaining to how the initial commissioners are appointed to the commission. The conflicting language required each recommending organization to recommend at least one candidate who was both licensed to practice law in Arkansas and certified as a certified public accountant in Arkansas. The conflicting language could also be interpreted to suggest that the Governor could appoint any three commissioners from the nine candidates, rather than one commissioner from each nominated pool of candidates, as required by § 26-18-1106(a)(3).

SB2 contains an emergency clause providing that the bill would become effective immediately.

Revenue Impact :

None.

Taxpayer Impact :

None.

Resources Required :

Rules of the Tax Appeals Commission may need to be promulgated.

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Time Required :

Adequate time is provided for implementation.

Procedural Changes :

None.

Other Comments :

None.

Legal Analysis :

None.