

State of Arkansas

76th General Assembly

Regular Session, 1987

HOUSE BILL 1528

By: Representatives Mahony and D. Wood

"AN ACT TO ESTABLISH A STATE EQUALIZATION BOARD AND TO TRANSFER TO SAID BOARD THE VARIOUS POWERS, FUNCTIONS, AND DUTIES NOW VESTED BY LAW IN THE ARKANSAS PUBLIC SERVICE COMMISSION WITH RESPECT TO THE EQUALIZATION OF ASSESSMENTS OF REAL AND PERSONAL PROPERTY IN THIS STATE UNDER THE AUTHORITY OF ACT 129 OF 1927 AND LAWS AMENDATORY AND SUPPLEMENTAL THERE-TO; TO TRANSFER TO THE STATE EQUALIZATION BOARD ALL POWERS, FUNCTIONS, AND DUTIES OF THE ASSESSMENT COORDINATION DIVISION AND OF THE TAX DIVISION OF THE PUBLIC SERVICE COMMISSION; TO CHARGE THE STATE EQUALIZATION BOARD WITH THE RESPONSIBILITY AND DUTY OF EQUALIZING THE ASSESSMENT OF TAXABLE REAL AND PERSONAL PROPERTY THROUGHOUT THE STATE, AS INTENDED BY THE CONSTITUTION OF THE STATE OF ARKANSAS; AND FOR OTHER PURPOSES."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. There is hereby created a State Equalization Board, hereinafter referred to as the "Board", consisting of three (3) members to be appointed by the Governor with the advice and consent of the Arkansas Senate. The Governor shall make such appointments as follows:

(1) One member, who shall be a resident-elect of this State, shall be appointed by the Governor from a list of three names submitted to him by the executive committee of the Arkansas School Boards Association.

(2) One member, who shall be a resident-elect of this State, shall be appointed by the Governor to represent local government (municipalities and counties). Provided that, no elected municipal or county official or any person employed in their respective offices shall be eligible for such appointment.

(3) One member, who shall be a resident-elect of the State and the

owner of real property in this State, shall be appointed by the Governor to represent the public on said Board.

In the event of a vacancy in any position on said Board, the successor member shall be appointed by the Governor in the same manner and in the same procedure as provided hereinafter for the initial appointment.

SECTION 2. (A) The Governor shall, within sixty (60) days after the effective date of this Act, call the first meeting of the State Equalization Board and shall designate the time and place at which such meeting will be held. At such meeting, the members of the Board shall determine, by lot, their respective terms, in order that the term of one member shall expire on January 14, 1989, and the term of one member shall expire on January 14, 1991, and the term of one member shall expire on January 14, 1993.

Successor members shall be appointed in the manner provided herein for the initial appointments, for terms of six (6) years. In the event a vacancy shall exist on the Board due to death, resignation or other cause, said vacancy shall be filled, for the unexpired portion of the term thereof, by appointment in the same manner provided herein for the initial appointment.

(B) The Board shall annually elect from its membership a chairman, who shall be eligible to succeed himself.

The Board shall meet at least once during each calendar quarter, and shall meet on such other occasions as may be established by the rules of the Board, or upon call by the chairman, or upon call, in writing, by any two (2) members thereof.

(C) Members of the Board shall serve without pay, but shall be entitled to a per diem at the rate provided by law for attendance of members of the General Assembly at meetings of Joint Interim Committees of the General Assembly, and in addition thereto, shall be reimbursed for reasonable and necessary expenses for meals, lodging, and travel incurred in connection with attending meetings of the Board or in transacting official business of the Board. Provided that, mileage for travel by personal automobile shall be reimbursed at the rate provided for reimbursement to State employees for official State travel.

(D) A member of the Board may be removed by the Governor only for the same causes as apply to constitutional officers of this State, after a hearing which may be reviewed by the Circuit Court of Pulaski County, with right of

appeal therefrom to the Supreme Court, with such review and appeal to be without presumption in favor of any finding by the Governor or the trial court.

SECTION 3. The Board shall appoint a Director who shall perform such duties as may be prescribed by the Board or by law. The Director shall serve ex officio as Secretary to the Board, and shall maintain the minutes of Board proceedings and a record of all actions taken by the Board. The Board may employ such additional personnel as may be authorized by the General Assembly, and may establish such divisions and sections thereof as deemed necessary by the Board for proper performance of its duties under this Act.

The Board may delegate to the Director any of the powers, functions, and duties vested in the Board under this Act. Provided that, any person aggrieved by any action taken by the Director may appeal such action to the Board by filing a written objection with the Board, and the Board shall consider such matter at its next regular meeting or at a special meeting scheduled for such purpose. Upon hearing any such matter, the Board shall either confirm the action taken by the Director or take such other action the Board deems appropriate. Appeals from any action of the Board may be made to the Circuit Court of Pulaski County within thirty (30) days from the date of such action, and the Circuit Court shall try such matter on the record and not de novo. Appeals may be taken from the ruling of the Circuit Court to the Supreme Court in the manner provided by law.

SECTION 4. All powers, functions, and duties now vested in the Arkansas Public Service Commission which were originally vested in the Arkansas Tax Commission under the provisions of Act 129 of 1927 and laws amendatory and supplemental thereto with respect to supervision and control over the evaluation, assessment, and equalization of taxable real and personal property and the collection of real and personal property taxes and the enforcement of such tax laws, including the power to serve as the State Equalization Board, which are now vested in the Public Service Commission, are hereby transferred to, and the same shall hereafter be vested in, the State Equalization Board created by this Act.

All powers, functions, and duties of the Public Service Commission and of the Arkansas Transportation Commission, respectively, with respect to the

assessment and equalization of personal and real property belonging to public utilities and public carriers, including the promulgation of rules, regulations, and procedures to be followed in connection therewith, are hereby transferred to, and the same shall hereafter be vested in, the State Equalization Board created by this Act.

SECTION 5. (A) The Tax Division of the Arkansas Public Service Commission, as established pursuant to Section 1 of Act 245 of 1959, as amended by Section 8 of Act 129 of 1961, is transferred to the State Equalization Board by a Type 2 transfer, as defined by Section 2 of Act 38 of 1971, as amended, and shall be known as the "Division of Utility and Carrier Taxation".

All functions and duties of the Arkansas Public Service Commission, and all functions and duties of the Arkansas Transportation Commission regarding assessment and equalization of property of public utilities and carriers shall be administered by the Division of Utility and Carrier Taxation. All authority heretofore vested in the Arkansas Public Service Commission and the Arkansas Transportation Commission with respect to rules, regulations, and procedures to be followed by the Tax Division of the Public Service Commission in assessing taxable real and personal property of public utilities and public carriers, respectively, shall hereafter be vested in the State Equalization Board created by this Act.

(B) The Assessment Coordination Division of the Arkansas Public Service Commission, established pursuant to Section 1 of Act 245 of 1959, as amended by Section 8 of Act 129 of 1961, is transferred to the State Equalization Board by a Type 2 transfer, as defined in Section 2 of Act 38 of 1971, as amended, and shall be known as the "Division of Assessment Coordination and Equalization". All powers and duties assigned to the Assessment Coordination Division of the Arkansas Public Service Commission pursuant to subsection (2) of Section 1 of Act 245 of 1959, as amended, shall be administered by the Division of Assessment Coordination and Equalization of the State Equalization Board under such rules, regulations, and procedures as may be prescribed by the Board.

(C) The State Equalization Board shall prescribe the procedures and appropriate rules and regulations under which the Division of Utility and Carrier Taxation shall assess and equalize the taxable real and personal property of public utilities and carriers, and may assign to the Division of

Assessment Coordination and Equalization responsibility for assisting the Division of Utility and Carrier Taxation in making such assessments and equalization of properties of public utilities and public carriers, as the Board deems necessary.

SECTION 6. All laws and parts of laws in conflict with this Act are hereby repealed.

