

1 SB312
2 133893-1
3 By Senator Irons
4 RFD: Finance and Taxation General Fund
5 First Read: 14-FEB-12

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8 SYNOPSIS: Under existing law, the Department of
9 Revenue may assign agents or representatives for
10 the purpose of advising boards of equalization with
11 respect to valuing real and personal property for
12 assessment for taxation.

13 This bill would provide that agents or
14 representatives assigned by the Department of
15 Revenue for the purpose of advising boards of
16 equalization with respect to valuing real and
17 personal property for assessment for taxation may
18 not fix values for assessment for property.

19
20 A BILL
21 TO BE ENTITLED
22 AN ACT
23

24 To amend Sections 40-2-11 and 40-3-16, Code of
25 Alabama 1975, relating to the powers and duties of the Alabama
26 Department of Revenue and the duties of agents or
27 representatives of the Department of Revenue assigned by the

1 department to any county for the purpose of advising boards of
2 equalization generally; to provide that agents or
3 representatives assigned by the Department of Revenue for the
4 purpose of advising boards of equalization with respect to
5 valuing real and personal property for assessment for taxation
6 may not fix values for assessment for property.

7 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

8 Section 1. Sections 40-2-11 and 40-3-16, Code of
9 Alabama 1975, are amended to read as follows:

10 "§40-2-11.

11 "It shall be the duty of the Department of Revenue,
12 and it shall have the power and authority, in addition to the
13 authority now in it vested by law:

14 "(1) To have and exercise general and complete
15 supervision and control of the valuation, ~~equalization,~~ and
16 assessment of property, privilege, or franchise and of the
17 collection of all property, privilege, license, excise,
18 intangible, franchise, or other taxes for the state and
19 counties, excluding equalization which shall be executed by
20 each county board of equalization, and of the enforcement of
21 the tax laws of the state, and of the several county tax
22 assessors and county tax collectors, probate judges, and each
23 and every state and county official, board, or commission
24 charged with any duty in the enforcement of tax laws, to the
25 end that all taxable property in the state shall be assessed
26 and taxes shall be imposed and collected thereon in compliance
27 with the law and that all assessments on property, privileges,

1 intangibles, and franchises in the state shall be made in
2 exact proportion to the fair and reasonable market value
3 thereof in substantial compliance with the law;

4 "(2) To ~~equalize,~~ value, and assess or cause to be
5 ~~equalized,~~ valued, and assessed any property subject to
6 taxation, and such valuations and assessments it shall enter
7 or cause to be entered in the proper assessment book, record,
8 or minutes of the proper official, board, or tribunal; to set
9 aside all assessments so entered in any assessment book,
10 record, or minutes within any time before the end of the
11 assessment year and, after 10 days' notice given the taxpayer,
12 which notice shall be given by certified or registered mail,
13 return receipt demanded, of the time and place of hearing,
14 revalue and reassess said property and cause such revaluation
15 and reassessment to be entered in the proper assessment book,
16 record, or minutes in lieu of the original valuation and
17 assessment; provided, that no reassessment or revaluation
18 shall be made of any particular assessment from which an
19 appeal is then pending, or if the valuation of the property
20 for that year has been fixed on appeal by the circuit court or
21 Supreme Court; provided further, that parties may appeal from
22 such revaluation and assessment to the circuit court within
23 like time and in like manner as from the valuation and
24 assessment as fixed by the board of equalization;

25 "(3) To confer with, advise, and direct the several
26 county tax assessors, county tax collectors, probate judges,
27 boards, or commissions and each and every state and county

1 official charged with the assessment and collection of taxes
2 as to their duties under the laws of this state;

3 "(4) To direct actions to be instituted by the
4 Attorney General, district attorneys, or attorneys especially
5 employed for such purposes, with the approval of the Attorney
6 General for the collection of any taxes or penalties due the
7 state or any county, or to compel any officer or taxpayer to
8 comply with the provisions of the tax laws; to direct actions,
9 prosecutions, and proceedings to be instituted to enforce the
10 laws of this state relating to taxes, penalties, forfeitures,
11 and liabilities, and for the punishment of any public officers
12 or any person or any officer or agent of any corporation,
13 company, or association, trustee, or receiver for failure or
14 neglect to comply with the provisions of the tax laws, and to
15 cause complaints, informations, actions, or prosecutions to be
16 made or instituted against any tax assessor, tax collector,
17 probate judge, or other public official for the removal of
18 such officers for official misconduct or neglect of duty and
19 to further direct actions as may become necessary to obtain an
20 order from circuit court enjoining or restraining a taxpayer
21 from continuing in business in Alabama whenever such taxpayer
22 fails to collect, account for, and/or pay over any trust fund
23 tax imposed by Sections 40-17-2, 40-17-220, 40-18-71,
24 40-21-82, 40-21-102, 40-21-121, 40-23-2, 40-23-61, 40-26-1, or
25 any other local sales, use, and gross receipts taxes collected
26 by the department. Such actions and proceedings may be
27 instituted in the circuit court of any county in which the

1 taxpayer resides or does business, or in the Circuit Court of
2 Montgomery County, Alabama, and shall remain in effect until
3 such time as the taxpayer has come into full compliance with
4 said tax laws;

5 "(5) To require district attorneys and the Attorney
6 General of the state to commence and prosecute, within the
7 respective jurisdictions or spheres of official duty of said
8 officers, actions, proceedings, and prosecutions for
9 penalties, forfeitures, impeachments, and punishments for
10 violations of the tax laws of the state;

11 "(6) To require any public official in the state to
12 report information as to valuation, equalization, and
13 assessment of property, privileges, franchises or intangibles,
14 gross receipts, collections of taxes, receipts from licenses
15 and other sources, methods of taxation, values or franchises,
16 or intangible property, or assets subject to taxation, and
17 such other information as may be needful in the work of the
18 Department of Revenue in such forms and upon such blanks as
19 the department may prescribe and furnish;

20 "(7) To require individuals, partnerships,
21 associations, corporations, trustees, and receivers, and the
22 agents, officers, and employees thereof, to furnish
23 information concerning their capital, funded or otherwise,
24 gross receipts, net profits or income, excess profits, current
25 assets and liabilities, values of franchises, intangibles,
26 value of property, earnings, operating and other expenses,
27 bonds, deeds, conduct of business, and all other facts,

1 records, books, papers, documents, and other information of
2 any kind demanded which may be needful in order to enable the
3 department to ascertain the value and relative burden to be
4 borne by every kind of property in this state and to ascertain
5 the proper amount of license, privilege, excise, corporation,
6 franchise, income, or ad valorem taxes;

7 "(8) To cause the deposition of witnesses residing
8 within or without the state to be taken upon such notice to
9 the interested party, if any, as the department may prescribe,
10 in like manner as depositions of witnesses are taken in
11 actions pending in circuit court, in any matter which the
12 department has authority to investigate and determine. The
13 depositions shall be taken upon a commission issued by the
14 Department of Revenue, or the secretary thereof, in the name
15 of the department, and returnable to the department;

16 "(9) To visit, by the commissioner or by duly
17 authorized agents, the several counties in the state for the
18 purpose of investigating the work and methods of county tax
19 assessors, tax collectors, probate judge, or other officers or
20 boards charged with the duty of administering the tax laws of
21 the state; to examine carefully into all cases where evasions
22 or violations of the tax laws are alleged, complained of, or
23 discovered, and to ascertain wherein existing laws are
24 defective or are improperly or negligently administered and to
25 report the result of the investigation and the facts
26 ascertained to the Governor from time to time when required by
27 him;

1 "(10) To investigate the tax system of other states;
2 to thoroughly inform itself upon the subject of taxation and
3 of the progress made in other states and counties in improving
4 their tax system, to formulate and recommend such legislation
5 as may be deemed expedient to prevent evasion of existing tax
6 laws and to secure just and equal taxation and improvements in
7 the system of taxation in this state;

8 "(11) To consult and confer with the Governor upon
9 the subject of taxation and the administration of the laws and
10 progress of the work of the department, and to furnish to the
11 Governor from time to time such information as he may require;

12 "(12) To transmit to the Governor, 30 days before
13 the meeting of the Legislature, a written report showing all
14 the taxable property in the state and the value of the same,
15 in tabulated form, with recommendations for improvements in
16 the system of taxation in the state, together with suggestions
17 of such measures as the department may formulate for the
18 consideration of the Legislature in regard thereto;

19 "(13) For good reason shown and entered on the
20 minutes of the department, to extend the time for filing any
21 report or written statement required to be filed with the
22 Department of Revenue;

23 "(14) To inspect and examine at all reasonable
24 business hours any books, documents, records, or papers kept
25 by any person, firm, corporation, trustee, or receiver;

1 "(15) To make all assessments of taxes or penalties
2 which it is authorized to enforce or collect and report the
3 same to the Attorney General;

4 "(16) To issue executions and writs of garnishment
5 directed to any sheriff of Alabama, on any final assessment or
6 judgment made or rendered by it, and upon such executions the
7 sheriff shall proceed as in cases issued out of the circuit
8 court and shall make return thereof to the Department of
9 Revenue within 60 days after the receipt thereof; and

10 "(17) To perform such other duties as are or may be
11 imposed on it by law.

12 "§40-3-16.

13 "(a) It shall be the duty of the boards of
14 equalization to inspect, review, revise, and fix the value of
15 all the property returned to or listed with the assessing
16 official for taxation each year; provided, that nothing in
17 this chapter shall be construed to require the assessing
18 official or boards of equalization to value any property
19 required by the law to be assessed for taxation by the
20 Department of Revenue.

21 "(b) The majority of the board of equalization shall
22 constitute a quorum of the board for the performance of the
23 duties required herein; ~~provided, that at any time the~~
24 ~~Department of Revenue shall deem it necessary it may go or~~
25 ~~send or use agents or representatives in any county with~~
26 ~~authority to act in an advisory capacity and in conjunction~~
27 ~~with the board of equalization and perform other duties, with~~

1 ~~respect to the valuation and assessment of property for~~
2 ~~taxation, as may be required of them.~~

3 ~~"(c) Agents or representatives of the Department of~~
4 ~~Revenue assigned to any county or counties for the purpose of~~
5 ~~advising with the boards of equalization with respect to~~
6 ~~valuing real and personal property for assessment for taxation~~
7 ~~shall have the power and authority to inspect, review, value,~~
8 ~~and assess any property subject to taxation, and the agents or~~
9 ~~representatives are authorized to fix values for assessment,~~
10 ~~subject to the approval of the board of equalization of the~~
11 ~~county in which the property is located. In cases where the~~
12 ~~agents or representatives have fixed a value for assessment,~~
13 ~~the value must be entered on the tax return of the taxpayer~~
14 ~~showing the day and date when value was fixed, and the agents~~
15 ~~or representatives shall certify to all values fixed by them.~~

16 ~~"It shall be the duty of each agent or~~
17 ~~representative assigned for duty in a given county or~~
18 ~~counties, as soon as letters of protest are filed with the~~
19 ~~board of equalization, to attempt to adjust, equalize, and~~
20 ~~settle the protest. To that end he or she shall notify as many~~
21 ~~of the protesting taxpayers, by mail at the address shown on~~
22 ~~the tax return, as he or she can reasonably interview, to meet~~
23 ~~him or her at the courthouse of the county on a given day, and~~
24 ~~others for the other days intervening prior to the date~~
25 ~~specified by the Department of Revenue, then and there to~~
26 ~~attempt to adjust the protest. If the taxpayer at the~~
27 ~~interview agrees with the tax agent on a valuation and~~

1 ~~consents in writing thereto on his or her return, the~~
2 ~~valuation shall be final, unless the board of equalization~~
3 ~~shall disapprove the same and notify the taxpayer, by mail at~~
4 ~~his or her address shown upon the return, of the disapproval~~
5 ~~and the date specified by the Department of Revenue when the~~
6 ~~board of equalization will hear the taxpayer on the~~
7 ~~assessment. All protests filed within time, which it shall be~~
8 ~~impossible for the tax agent or agents assigned to a given~~
9 ~~county to notify the taxpayer to report for an interview or~~
10 ~~having notified they fail to interview, and all protests of~~
11 ~~taxpayers who fail to report for the preliminary interview and~~
12 ~~all protests of taxpayers who so report and fail to agree upon~~
13 ~~a final valuation or whose agreed final valuation shall be~~
14 ~~disapproved by the board of equalization, shall be listed or~~
15 ~~docketed by the board of equalization for hearing by it. This~~
16 ~~list or docket shall be made up as nearly as may be in the~~
17 ~~order in which the protests were received by the board of~~
18 ~~equalization and shall be heard by the board of equalization~~
19 ~~substantially in the order so listed or docketed. At the~~
20 ~~hearing of these protests, beginning on the date specified by~~
21 ~~the Department of Revenue following the making of the~~
22 ~~assessments as herein elsewhere provided, the board of~~
23 ~~equalization shall accord each a reasonable time and~~
24 ~~opportunity within which to be heard, taking into~~
25 ~~consideration the total time available for hearing the~~
26 ~~protests, the number of protests pending, the amount and~~
27 ~~nature of the property involved in the given assessment, and~~

1 ~~all other relevant circumstances. The board of equalization~~
2 ~~shall cause each protesting taxpayer to be notified by mail at~~
3 ~~his or her address shown upon his or her assessment of the day~~
4 ~~and place when the board proposes to hear the taxpayer; and,~~
5 ~~if he or she shall present himself or herself on that day and~~
6 ~~not be heard, he or she shall be assigned another day certain~~
7 ~~for hearing and so on until he or she is heard. No taxpayer,~~
8 ~~agent, attorney, or adjuster shall be heard out of the order~~
9 ~~in which the protested assessment proposed to be heard appears~~
10 ~~upon the list or docket of protests if any other taxpayer~~
11 ~~whose protest appears first on the list or docket is present~~
12 ~~and ready to be heard.~~

13 "(d) The duties herein imposed upon boards of
14 equalization are declared to be of prior and paramount
15 importance; and, if any member of a board of equalization
16 fails or refuses without good cause and legal excuse to attend
17 upon and perform the duties, the failure or refusal shall
18 constitute official misconduct and nonfeasance in office and
19 subject the offender to removal from office.

20 "(e) No salary or compensation shall be paid any
21 member of a board of equalization for any part of the period
22 commencing on the date specified by the Department of Revenue
23 of each year during which he or she shall be required to sit
24 as a member of the board until he or she shall have first made
25 and filed with the public officer disbursing the salary or
26 compensation a sworn statement that during the period for
27 which the salary or compensation is claimed he or she has

1 performed faithfully and to the best of his or her ability his
2 or her duties as a member of the board of equalization.

3 "(f) Every agent or representative of the Department
4 of Revenue assigned to any county under the provisions of this
5 chapter shall file each month with the Department of Revenue a
6 sworn statement that he or she has performed faithfully and to
7 the best of his or her ability the duties required of him or
8 her hereunder before compensation for service is paid.

9 "(g) Immediately after January 1, of each year, the
10 assessing official shall deliver to the board of equalization
11 all assessments as returned to him or her, and thereafter
12 shall deliver all additional assessments returned to him or
13 her. The assessment sheet shall show the valuation fixed by
14 the assessing official; and, if the valuation be agreed to by
15 the taxpayer, the taxpayer shall endorse on the assessment
16 sheet valuation accepted: _____ taxpayer, this _____ day of
17 _____, 2___. If the valuation is satisfactory to the board of
18 equalization, it shall endorse thereon: Approved _____ board
19 of equalization and the date and signed by the chair; the
20 approved assessments shall be final and no appeal shall lie
21 therefrom."

22 Section 2. This act shall become effective on the
23 first day of the third month following its passage and
24 approval by the Governor, or its otherwise becoming law.