

1 HB85
2 189389-1
3 By Representative Johnson (R)
4 RFD: Ways and Means General Fund
5 First Read: 09-JAN-18
6 PFD: 01/08/2018

2
3
4
5
6
7
8 SYNOPSIS: Under current law, the Commissioner of
9 Revenue may request the Attorney General or a
10 district attorney to take actions for the
11 collection of taxes or penalties or to prosecute
12 for violations of tax laws. There is currently no
13 provision to reimburse the Attorney General or a
14 district attorney for costs of prosecution or
15 reasonable fees when requested to take such
16 actions.

17 This bill will allow the Commissioner of
18 Revenue to reimburse the Attorney General or
19 district attorney for costs of actions,
20 proceedings, and prosecutions associated with
21 violations of tax laws.

22
23 A BILL
24 TO BE ENTITLED
25 AN ACT
26

1 To amend Section 40-2-11, Code of Alabama 1975, to
2 provide compensation or reimbursement to the Attorney General
3 or district attorney for the costs of actions, proceedings,
4 and prosecutions associated with violations of tax laws.

5 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

6 Section 1. Section 40-2-11, Code of Alabama is
7 amended to read as follows:

8 "§40-2-11.

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

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

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

22 "(3) To confer with, advise, and direct the several
23 county tax assessors, county tax collectors, probate judges,
24 boards, or commissions and each and every state and county
25 official charged with the assessment and collection of taxes
26 as to their duties under the laws of this state;

1 "(4) To direct actions to be instituted by the
2 Attorney General, district attorneys, or attorneys especially
3 employed for such purposes, with the approval of the Attorney
4 General for the collection of any taxes or penalties due the
5 state or any county, or to compel any officer or taxpayer to
6 comply with the provisions of the tax laws; to direct actions,
7 prosecutions, and proceedings to be instituted to enforce the
8 laws of this state relating to taxes, penalties, forfeitures,
9 and liabilities, and for the punishment of any public officers
10 or any person or any officer or agent of any corporation,
11 company, or association, trustee, or receiver for failure or
12 neglect to comply with the provisions of the tax laws, and to
13 cause complaints, informations, actions, or prosecutions to be
14 made or instituted against any tax assessor, tax collector,
15 probate judge, or other public official for the removal of
16 such officers for official misconduct or neglect of duty and
17 to further direct actions as may become necessary to obtain an
18 order from circuit court enjoining or restraining a taxpayer
19 from continuing in business in Alabama whenever such taxpayer
20 fails to collect, account for, and/or pay over any trust fund
21 tax imposed by Sections 40-17-220, 40-17-325, 40-18-71,
22 40-21-82, 40-21-102, 40-21-121, 40-23-2, 40-23-61, 40-23-193,
23 40-26-1, or any other local sales, use, and gross receipts
24 taxes collected by the department. Such actions and
25 proceedings may be instituted in the circuit court of any
26 county in which the taxpayer resides or does business, or in
27 the Circuit Court of Montgomery County, Alabama, and shall

1 remain in effect until such time as the taxpayer has come into
2 full compliance with the tax laws;

3 "(5) To require district attorneys and the Attorney
4 General of the state to commence and prosecute, within the
5 respective jurisdictions or spheres of official duty of the
6 officers, actions, proceedings, and prosecutions for
7 penalties, forfeitures, impeachments, and punishments for
8 violations of the tax laws of the state, to enter into
9 agreements with district attorneys and the Attorney General of
10 the state to reimburse those offices for reasonable fees or
11 costs of actions, proceedings, and prosecutions, and to fund
12 the reimbursements, in whole or in part, from penalties
13 assessed and collected pursuant to Section 40-2A-11;

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

23 "(7) (a) To require individuals, partnerships,
24 associations, corporations, trustees, and receivers, and the
25 agents, officers, and employees thereof, to furnish
26 information concerning their capital, funded or otherwise,
27 gross receipts, net profits or income, excess profits, current

1 assets and liabilities, values of franchises, intangibles,
2 value of property, earnings, operating and other expenses,
3 bonds, deeds, conduct of business, and all other facts,
4 records, books, papers, documents, and other information of
5 any kind demanded which may be needful in order to enable the
6 department to ascertain the value and relative burden to be
7 borne by every kind of property in this state and to ascertain
8 the proper amount of license, privilege, excise, corporation,
9 franchise, income, or ad valorem taxes;

10 "(b) To require reporting of retail sales and
11 customer notification, within constitutional limitations, when
12 the seller does not collect sales, use, or simplified sellers
13 use tax on Alabama sales transactions, to provide for
14 penalties pursuant to Section 40-2A-11;

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

24 "(9) To visit, by the commissioner or by duly
25 authorized agents, the several counties in the state for the
26 purpose of investigating the work and methods of county tax
27 assessors, tax collectors, probate judge, or other officers or

1 boards charged with the duty of administering the tax laws of
2 the state; to examine carefully into all cases where evasions
3 or violations of the tax laws are alleged, complained of, or
4 discovered, and to ascertain wherein existing laws are
5 defective or are improperly or negligently administered and to
6 report the result of the investigation and the facts
7 ascertained to the Governor from time to time when required by
8 the Governor;

9 "(10) To investigate the tax system of other states;
10 to thoroughly inform itself upon the subject of taxation and
11 of the progress made in other states and counties in improving
12 their tax system, to formulate and recommend such legislation
13 as may be deemed expedient to prevent evasion of existing tax
14 laws and to secure just and equal taxation and improvements in
15 the system of taxation in this state;

16 "(11) To consult and confer with the Governor upon
17 the subject of taxation and the administration of the laws and
18 progress of the work of the department, and to furnish to the
19 Governor from time to time such information as the Governor
20 may require;

21 "(12) To transmit to the Governor, 30 days before
22 the meeting of the Legislature, a written report showing all
23 the taxable property in the state and the value of the same,
24 in tabulated form, with recommendations for improvements in
25 the system of taxation in the state, together with suggestions
26 of such measures as the department may formulate for the
27 consideration of the Legislature in regard thereto;

1 "(13) For good reason shown and entered on the
2 minutes of the department, to extend the time for filing any
3 report or written statement required to be filed with the
4 department;

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

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

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

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

19 Section 2. This act shall become effective
20 immediately following its passage and approval by the
21 Governor, or upon its otherwise becoming law.