

1 HB148
2 208999-1
3 By Representative Ellis
4 RFD: State Government
5 First Read: 02-FEB-21
6 PFD: 01/26/2021

8 SYNOPSIS: Under existing law, with the exception of
9 counties with populations in excess of 600,000, the
10 county commission, the county board of education,
11 and incorporated municipalities within the county
12 are authorized to nominate candidates to serve on
13 the county's board of equalization. The
14 Commissioner of Revenue, with the approval of the
15 Governor, appoints three individuals as members of
16 the board of equalization, one each from the
17 nominations submitted by each of the nominating
18 bodies. If a nominating body fails to submit any
19 nominations, the membership of the board cannot be
20 completely filled.

21 This bill would authorize the Commissioner
22 of the Department of Revenue to make appointments
23 to the board from nominations submitted by any of
24 the nominating bodies in the event that a
25 nominating body fails to submit a nomination.

26 This bill would provide a process for
27 filling vacancies and would authorize the

1 chairperson of the county commission to appoint a
2 temporary board member for a period not to exceed
3 45 days to fill the vacancy pending an appointment
4 by the Commissioner of Revenue.

5 This bill would also increase the per diem
6 rate for active board member from \$35 to \$100 and
7 update the qualifications for board members.

8 This bill would also make nonsubstantive,
9 technical revisions to update the existing code
10 language to current style.

11
12 A BILL
13 TO BE ENTITLED
14 AN ACT
15

16 Relating to the appointment of members to county
17 boards of equalization; to amend Sections 40-3-2, 40-3-4,
18 40-3-7, as last amended by Act 2019-452, 2019 Regular Session,
19 and 40-3-8 Code of Alabama 1975; to authorize the Commissioner
20 of the Department of Revenue to make appointments to the board
21 under certain conditions; to provide a process for the filling
22 of vacancies; to increase the per diem rate for an active
23 board member; and to make nonsubstantive, technical revisions
24 to update the existing code language to current style.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Sections 40-3-2, 40-3-4, 40-3-7, as last
2 amended by Act 2019-452, 2019 Regular Session, and 40-3-8 Code
3 of Alabama 1975, are amended to read as follows:

4 "§40-3-2.

5 "(a) This subsection shall apply to every county in
6 the state except a county subject to ~~the provisions of~~
7 subsection (b) ~~of this section~~. During the month of August,
8 1943, and during the month of August of each fourth year
9 thereafter, the county commission of each county, the county
10 board of education and the governing body of the largest
11 municipality in each county shall each submit in writing to
12 the state Commissioner of Revenue the names of three persons,
13 and the governing body of each other incorporated municipality
14 within the county shall, in like manner, submit the name of
15 one person, all of whom are residents of the county, who are
16 each owners of taxable real property which is located within
17 ~~this state~~ the county, who are each qualified electors in ~~said~~
18 the county and who are, in the opinion of ~~said~~ the nominating
19 body, persons competent to serve as members of the county
20 board of equalization. In those counties where there is no
21 incorporated municipality, the commission of ~~said~~ the county
22 shall nominate six persons as competent persons for
23 appointment to membership on such board of equalization. From
24 each group of three nominees, submitted by the county
25 governing bodies and the county board of education and from
26 the total group of nominees submitted by the governing bodies
27 of the municipalities, the Commissioner of Revenue, within 30

1 days after receipt of such lists of nominees, with the
2 approval of the Governor shall appoint one person to
3 membership on the county board of equalization so that the
4 membership of ~~said~~ the board shall be composed of three
5 members, one of whom was nominated by the governing body of
6 the county, one by the county board of education, and one by
7 the governing body of the incorporated municipalities in the
8 county, except, however, that in those counties having no
9 incorporated municipality, two of the three members of ~~said~~
10 the board shall be selected from the six nominees of the
11 county governing body; provided, that the Commissioner of
12 Revenue may reject any group of nominees, in which event the
13 body nominating them shall submit additional names, one of
14 whom shall be appointed by the Commissioner of Revenue with
15 the approval of the Governor. The members of the several
16 county boards of equalization appointed from the nominees as
17 in this section provided shall hold office for four years
18 beginning October 1, 1943, and every fourth year thereafter.
19 In all counties having a population of 400,000 or more persons
20 according to the 1940 federal census or any subsequent census,
21 where there is now or hereafter may be a countywide civil
22 service system, all nominees must take an examination and
23 qualify by a civil service examination to be conducted by ~~said~~
24 the civil service system, except any member of any board of
25 equalization now duly appointed as a member of ~~said~~ the board
26 of equalization shall be deemed qualified for appointment. In
27 the event the names submitted by either the county commission

1 of the county, the county board of education and the governing
2 body of the largest municipality in ~~said the~~ county having a
3 countywide civil service system have already been submitted by
4 either of the nominating parties, the Commissioner of Revenue
5 shall so notify ~~said the~~ nominating ~~authorities~~ bodies, and
6 ~~said the~~ nominating ~~authorities~~ bodies shall forthwith submit
7 the names of another person or persons qualified under ~~said~~
8 the civil service examination not theretofore nominated by the
9 other nominating ~~authorities~~ bodies. In the event that any
10 nominating body fails to timely submit a list of nominations
11 for appointments to the county's board of equalization, the
12 Commissioner of Revenue may appoint members derived from the
13 remaining nominees previously submitted by other nominating
14 bodies.

15 "(b) This subsection shall apply to any county of
16 this state which has a population of 600,000 or more according
17 to the last or any subsequent federal census. On October 1,
18 1975, the office of chairmanship of the board is created. The
19 chairman shall be the executive officer of the board and shall
20 supervise the assignment of duties to members and employees.
21 The provisions of the Merit System law, including the
22 provisions thereof governing appointment and compensation of
23 persons subject to ~~said the~~ Merit System law, shall apply to
24 the chairmanship and to the chairman.

25 "The governing body of the county shall appoint the
26 chairman subject to the Merit System law. Any person who is
27 serving as chairman on October 1, 1975, and who has so served

1 for at least 24 consecutive months immediately prior to such
2 date shall be deemed to have been appointed under the
3 provisions of this subsection and to have acquired permanent
4 civil service status as chairman. Any person serving as
5 chairman on October 1, 1975, and who has served as chairman
6 for more than 12 months and for less than 24 months
7 immediately preceding October 1, 1975, shall be deemed to have
8 been appointed under the provisions of this subsection and to
9 be serving his or her probationary period under the Merit
10 System law. Any person serving as chairman on October 1, 1975,
11 who has served for less than 12 consecutive months immediately
12 prior to ~~said~~ the date shall be deemed to be a temporary
13 appointee under the Merit System law and shall be required to
14 take and pass an appropriate examination or be replaced by
15 another applicant who has taken and passed such examination.

16 "After October 1, 1975, the associate members of the
17 board shall serve the remainder of the term for which they
18 were appointed under subsection (a) ~~of this section~~ to serve.
19 Upon the expiration of such term of office, mentioned in the
20 next foregoing sentence, the associate members of the board
21 shall be appointed in the manner hereinafter provided for in
22 this subsection.

23 "The county board of education and the governing
24 body of the largest municipality in the county shall each
25 submit in writing to the state Commissioner of Revenue the
26 names of three persons, and the governing body of each other
27 municipality within the county shall, in like manner, submit

1 the name of one person, all of whom are residents of the
2 county, who are each owners of taxable property which is
3 located within this state, who are qualified electors in ~~said~~
4 the county and who are, in the opinion of the ~~said~~ nominating
5 board, persons competent to serve as members of the board.

6 "Within 30 days after the receipt of such list of
7 nominees, the state Commissioner of Revenue, with the approval
8 of the Governor, shall nominate an associate member of the
9 board from the nominees of the county board of education and
10 one associate member of the board from the nominees of the
11 governing bodies of the municipalities of the county;
12 provided, that the Commissioner of Revenue may reject any
13 group of nominees, in which event the body nominating them
14 shall submit additional names, one of whom shall be appointed
15 by the Commissioner of Revenue with the approval of the
16 Governor. The associate members of the board appointed from
17 the nominees as provided for in this subsection shall hold
18 office for the four-year terms provided for in subsection (a)
19 ~~of this section.~~

20 "In all counties having a population of 400,000 or
21 more persons according to the 1940 federal census or any
22 subsequent federal census, where there is now or hereafter may
23 be a countywide civil service system, all nominees for the
24 associate members must take an examination and qualify by
25 civil service examination to be conducted by ~~said~~ the civil
26 service system, except any person serving as an associate
27 member on any board of equalization on October 1, 1975, shall

1 be deemed qualified for appointment. In the event the names
2 submitted by either the county board of education, and the
3 governing body of the largest municipality in ~~said~~ the county
4 having a countywide civil service system have already been
5 submitted by either of the nominating parties, the
6 Commissioner of Revenue shall so notify ~~said~~ the nominating
7 ~~authorities~~ bodies, and ~~said~~ the nominating ~~authorities~~ bodies
8 shall forthwith submit the names of another person or persons
9 qualified under ~~said~~ the civil service examination not
10 theretofore nominated by the other nominating ~~authorities~~
11 bodies.

12 "§40-3-4.

13 "Should any person appointed to membership of any
14 board of equalization fail or refuse to take and subscribe to
15 the oaths required by Section 40-3-3 within five days after
16 being notified of his or her appointment to membership on ~~said~~
17 the board, or shall for any other reason herein enumerated
18 become disqualified to serve as a member on ~~said~~ the board, or
19 should a vacancy on any board occur from death, resignation,
20 or any other cause, ~~then~~ the following replacement procedure
21 shall be used:

22 "(1) The Commissioner of Revenue shall select from
23 the remaining nominees on the list from which such original
24 nominee was taken a person to fill the position to which such
25 disqualified person was first appointed or to fill the vacancy
26 on ~~said~~ the board. ~~The proper~~

1 "(2) If no nominees remain on the list from which
2 the original nomination was taken, the Commissioner of Revenue
3 may request from the nominating body ~~may, however, make that~~
4 submitted the nomination that resulted in a vacancy additional
5 nominations ~~so that the total of its nominees from which~~
6 appointments may be made to fill vacancies shall be brought up
7 to a total of not more than three ~~such~~ nominees. ~~Should the~~
8 remaining nominees be, for any reason, disqualified to serve
9 on said board, then the Commissioner of Revenue shall request
10 the proper nominating body to name three additional persons
11 eligible to serve on said board, and from such additional
12 nominees a person shall be selected to fill the vacancy
13 occasioned by the disqualification of the original nominee or
14 nominees or other vacancy. ~~Any appointment to fill a vacancy~~
15 on any board of equalization shall be for the unexpired term
16 only. When requesting additional nominations under this
17 subdivision, the Commissioner of Revenue may require the
18 nominating body to submit nominations within a prescribed time
19 period.

20 "(3) If no nominees remain on the list of the
21 original nominating body and if it fails to timely submit a
22 nominee as provided by subdivision (2), then the Commissioner
23 of Revenue may appoint a member from the remaining nominations
24 previously submitted by other nominating bodies. If no
25 nominees remain on those lists, the Commissioner of Revenue
26 may request that the other nominating body or bodies name a
27 total of not more than three additional nominees, and from the

1 additional nominees a member shall be selected to fill the
2 vacancy occasioned by the disqualification of the original
3 nominee or nominees or other vacancy.

4 "(4) If no appropriate nominee is submitted by any
5 nominating body, the Commissioner of Revenue shall appoint a
6 member.

7 "(5) Pending an appointment by the Commissioner of
8 Revenue to fill a vacancy as prescribed in this section, the
9 chairperson of the county commission may appoint a temporary
10 board member for a period not to exceed 45 days.

11 "(6) With the exception of the temporary
12 appointment, any appointment to fill a vacancy on any board of
13 equalization shall be for the unexpired term only.

14 "§40-3-7.

15 "The annual term of service and compensation of
16 members of the several county boards of equalization shall be
17 on a basis of total assessed value of all taxable property,
18 using the year 1955 as the basis, to be determined as follows:

19 "(1) In those counties in which the total assessed
20 value of all taxable property exceeds six hundred million
21 dollars (\$600,000,000) according to the tax assessor's
22 abstract of assessments for the year, except in a county
23 subject to subdivision (2), the members of the county boards
24 of equalization shall serve on a full-time basis, and each
25 associate member shall be paid at the rate of nineteen
26 thousand four hundred twenty-five dollars (\$19,425) per annum,
27 and the chair shall be paid at the rate of twenty-one thousand

1 ninety dollars (\$21,090) per annum, payable in monthly
2 installments.

3 "(2)a. This subdivision shall apply to any county of
4 this state which has a population of 600,000 or more according
5 to the last or any subsequent federal census and in which the
6 total assessed value of all taxable property exceeds six
7 hundred million dollars (\$600,000,000) according to the tax
8 assessor's abstract of assessments for the year.

9 "b. In any county subject to this subdivision, the
10 members of the county board of equalization shall serve on a
11 full-time basis. Each associate member shall be paid at the
12 rate of nineteen thousand four hundred twenty-five dollars
13 (\$19,425) per annum as provided by existing law, and shall be
14 paid additional compensation in the amount of nine thousand
15 dollars (\$9,000) per annum from the Jefferson County Mapping
16 and Reappraisal Fund, for a total compensation of twenty-eight
17 thousand four hundred twenty-five dollars (\$28,425). The
18 chair's total compensation shall be determined as provided for
19 by the merit system law applying to the county, and the chair
20 shall be subject to and entitled to the benefits of the law
21 establishing the merit system. The chair's total compensation
22 shall be payable from the general funds of the county, and the
23 chair shall promptly pay to the county any compensation he or
24 she receives from the State of Alabama and from the largest
25 municipality of the county for serving as chair. In addition
26 to the salary provided for the chair under the merit system
27 law, the county shall make for and on the chair's account an

1 employer's matching payment to the county pension system fund,
2 if the chair is or becomes a member of the county pension
3 system.

4 "(3) In those counties in which the total assessed
5 value of all taxable property exceeds four hundred million
6 dollars (\$400,000,000) and does not exceed six hundred million
7 dollars (\$600,000,000) according to the tax assessor's
8 abstract of assessments for the year, the members of the
9 county board of equalization shall serve on a full-time basis,
10 and each associate member shall be paid at the rate of eight
11 thousand seven hundred dollars (\$8,700) per annum, and the
12 chair shall be paid at the rate of nine thousand two hundred
13 dollars (\$9,200) per annum, payable in monthly installments.

14 "(4) In those counties in which the total assessed
15 value of all taxable property is not less than eighty million
16 dollars (\$80,000,000) and does not exceed four hundred million
17 dollars (\$400,000,000) according to the tax assessor's
18 abstract of assessments for the year, the members of the
19 county board of equalization shall serve for not less than six
20 months, the exact working period to be fixed or approved by
21 the Department of Revenue, and each member shall be paid at
22 the rate of two hundred fifty dollars (\$250) per month; and
23 the board shall be allowed annual traveling expenses to be
24 approved by the Department of Revenue not to exceed the sum of
25 two hundred fifty dollars (\$250) for any tax year.

26 "(5) In those counties in which the total assessed
27 value of all taxable property is not less than thirty million

1 dollars (\$30,000,000) and does not exceed eighty million
2 dollars (\$80,000,000) according to the tax assessor's abstract
3 of assessments for the year, the members of the county board
4 of equalization shall serve for not more than 150 working
5 days, the exact working period to be fixed or approved by the
6 Department of Revenue, and each member shall be paid at the
7 rate of ~~\$35~~ one hundred dollars (\$100) per diem; and the board
8 shall be allowed mileage at the same rate as that paid to
9 state employees, for official business, payable in the same
10 manner and from the same source as expense allowances;
11 provided however, the total allowance for such mileage shall
12 not exceed the sum of ~~\$600~~ one thousand dollars (\$1,000) per
13 annum.

14 "(6) In those counties in which the total assessed
15 value of all taxable property is not less than twenty-five
16 million dollars (\$25,000,000) and does not exceed thirty
17 million dollars (\$30,000,000), according to the tax assessor's
18 abstract of assessments for the year, the members of the
19 county board of equalization shall serve for not more than 80
20 working days, the exact working period to be fixed or approved
21 by the Department of Revenue, and shall be paid at the rate of
22 ~~\$35~~ one hundred dollars (\$100) each per diem, payable in
23 monthly installments; and the board shall be allowed mileage
24 at the same rate as that paid to state employees, for official
25 business, payable in the same manner and from the same source
26 as expense allowances; provided however, the total allowance

1 for such mileage shall not exceed the sum of ~~\$600~~ one thousand
2 dollars (\$1,000) per annum.

3 "(7) In those counties in which the total assessed
4 value of all taxable property does not exceed twenty-five
5 million dollars (\$25,000,000) according to the tax assessor's
6 abstract of assessments for the year, the members of the
7 county board of equalization shall serve for not more than 80
8 working days, the exact working period to be fixed or approved
9 by the Department of Revenue, and each member shall be paid at
10 the rate of ~~\$35~~ one hundred dollars (\$100) per diem, payable
11 in monthly installments; and the board shall be allowed
12 mileage at the same rate as that paid to state employees, for
13 official business, payable in the same manner and from the
14 same source as expense allowances; provided however, the total
15 allowance for such mileage shall not exceed the sum of ~~\$600~~
16 one thousand dollars (\$1,000) per annum.

17 "§40-3-8.

18 "(a) In every county except a county subject to
19 subsection (b) of this section, the compensation of the
20 members of any board of equalization and adjustments, as
21 provided in Section 40-3-7, shall be ~~paid 22 1/2 percent by~~
22 ~~the state, 38 3/4 percent by the county and 38 3/4 percent by~~
23 ~~the largest municipality in the county~~ prorated in the county
24 mapping and appraisal budget by each county governing body to
25 each agency therein on the basis of the proportion of the net
26 real and personal property taxes remitted to each agency in

1 the county to the total amount received by all agencies of
2 such county.

3 "(b) This subsection shall apply to any county of
4 the state having a population of 600,000 or more according to
5 the last or any subsequent federal census.

6 "In each county subject to this subsection, the
7 compensation of the members of any board of equalization and
8 adjustments, as provided in Section 40-3-7, shall be paid 22
9 1/2 percent by the state, 38 3/4 percent by the county and 38
10 3/4 percent by the largest municipality in the county.

11 ~~"(c) The compensation of the members of the several~~
12 ~~county boards of equalization as provided for in Section~~
13 ~~40-3-7 shall be paid one third by the state, one third by the~~
14 ~~county and one third by any municipality in the county in~~
15 ~~which the total assessed value of all taxable property is~~
16 ~~equal to or greater than 50 percent of the total assessed~~
17 ~~value of all taxable property located in the county. In those~~
18 ~~counties where there is no city in which the total assessed~~
19 ~~value of the taxable property is equal to or greater than 50~~
20 ~~percent of the total taxable property of the county, then the~~
21 ~~compensation of the members of the county board of~~
22 ~~equalization, as provided in Section 40-3-7, shall be paid one~~
23 ~~half by the state and one half by the county.~~

24 ~~"(d)~~ (c) The county board of equalization of any
25 county is hereby authorized and empowered to employ such
26 appraisers, engineers, stenographers, clerks, or assistants as
27 may be necessary for the performance of the duties which may

1 be required of ~~said~~ the boards of equalization, subject
2 however to all the provisions of any merit system law now or
3 hereafter in effect in ~~said~~ the county; and, provided further,
4 that the number of persons to be employed by the board of
5 equalization shall be subject to the approval of the county
6 commission or like governing body and the state Commissioner
7 of Revenue; and, provided further, that if the compensation of
8 ~~said~~ the employee is governed by the provisions of any merit
9 system law in effect, then the provisions of ~~said~~ the law
10 shall govern, otherwise the compensation of ~~said~~ the employee
11 shall be fixed by the county commission or like governing
12 body, subject to the approval of the Commissioner of Revenue,
13 all such compensation to be paid in the same manner as the law
14 provides for the payment of compensation to the members of the
15 county board of equalization of ~~said~~ the county.

16 "The county board of equalization in any county is
17 further authorized and empowered to provide for an inventory
18 of all property in ~~said~~ the county, which inventory shall be
19 under the supervision and control of ~~said~~ the board. The
20 state, county, and governing body of all municipalities in
21 ~~said~~ the county and all boards of education or boards of
22 school commissioners are hereby authorized to contribute so
23 much of the cost of ~~said~~ the inventory as may be approved by
24 the various governing bodies in ~~said~~ the county and the board
25 of education or boards of school commissioners; and, in the
26 event the state elects to contribute to the cost of ~~said~~ the

1 inventory, the amount to be contributed shall be approved by
2 the state Commissioner of Revenue and the Governor.

3 "In all counties having a population of 140,000 or
4 more according to the last or any subsequent federal census,
5 it shall be the duty of the county commission or other like
6 governing bodies of such counties in this state, to furnish
7 and supply the county boards of equalization with adequate
8 office space, necessary furniture and equipment, all necessary
9 books, maps, stationery, and printed blanks, and
10 transportation or reasonable compensation for transportation
11 expense actually incurred in performance of official duties."

12 Section 2. This act shall become effective
13 immediately following its passage and approval by the
14 Governor, or its otherwise becoming law.