

SB174 ENGROSSED



1 SB174
2 XLAP77E-2
3 By Senator Chambliss
4 RFD: County and Municipal Government
5 First Read: 18-Feb-25



SB174 Engrossed

A BILL
TO BE ENTITLED
AN ACT

Relating to business taxes; to require counties and municipalities to provide certain annual reports on business license taxes and business privilege taxes collected from businesses; to provide for certain causes of action; to amend Section 40-2B-2, Code of Alabama 1975; and to revise the jurisdiction of the Alabama Tax Tribunal.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This act shall be known as the Business License Tax Reporting and Appeals Act.

Section 2. The Legislature finds and declares that Alabama's residents and businesses have a right to do business in this state free from excessive regulations or fees, to have clear knowledge of any fees charged to conduct business, and to seek redress against unfair or duplicative taxation.

Section 3. (a) Each county and municipality that has levied a business privilege tax or business license tax, by March 30, shall file an annual fiscal year report with the Department of Revenue containing all of the following information concerning the previous fiscal year:

(1) The classifications and schedules for business



SB174 Engrossed

license taxes.

(2) Whether the classifications or schedules changed during the reporting year or will change during the year immediately following the fiscal year covered by the report.

(b) The Department of Revenue shall post each report on the department's website.

(c) Any municipality or county that has levied a business privilege tax or business license tax and that fails to comply with subsection (a) shall escrow subsequent business license taxes and business privilege taxes until the municipality or county achieves compliance with subsection (a).

Section 4. A taxpayer may appeal any business license tax or business privilege tax determination of a county or municipality that has levied a business privilege tax or business license tax to the Alabama Tax Tribunal as provided in Section 40-2B-2, Code of Alabama 1975.

Section 5. (a) A private entity contracted by a county or municipality to audit business privilege taxes or business license taxes, when sending any written communication to a business entity that may owe a business privilege tax or business license tax, shall also send a letter or other official notice from the county or municipality that declares the private entity's authority to collect taxes on behalf of the county or municipality.

(b) A county or municipality, on a form supplied by the Department of Revenue, shall notify the department if a private entity is contracted to collect business privilege



SB174 Engrossed

taxes or business license taxes on behalf of the county of municipality.

(c) If a private entity fails to comply with subsection (a) or attempts to collect a business privilege tax or business license tax when the entity knows that the tax is not lawfully due, the entity shall be subject to a private right of action.

(d) Nothing in this section shall be construed as creating or implying a cause of action against a county or municipality, a county or municipal official, a county or municipal employee, or a county or municipal agency, board, or instrumentality.

Section 6. Section 40-2B-2, Code of Alabama 1975, is amended to read as follows:

"§40-2B-2

(a) Statement of Purpose. To increase public confidence in the fairness of the state tax system, the state shall provide an independent agency with tax expertise to resolve disputes between the Department of Revenue and taxpayers, prior to requiring the payment of the amounts in issue or the posting of a bond, but after the taxpayer has had a full opportunity to attempt settlement with the Department of Revenue based, among other things, on the hazards of litigation. By establishing an independent Alabama Tax Tribunal within the executive branch of government, this chapter provides taxpayers with a means of resolving controversies that insures both the appearance and the reality of due process and fundamental fairness.



SB174 Engrossed

85 The tax tribunal shall provide hearings in all tax
86 matters, except those specified by statute, and render
87 decisions and orders relating thereto. A tax tribunal hearing
88 shall be commenced by the filing of a notice of appeal
89 protesting a tax determination made by the Department of
90 Revenue, including any determination that cancels, revokes,
91 suspends, or denies an application for a license, permit, or
92 registration. A final decision of the tax tribunal shall have
93 the same force and effect as, and shall be subject to appeal
94 in the same manner as, a final decision of a state circuit
95 court.

96 It is the intent of the Legislature that this chapter
97 foster the settlement or other resolution of tax disputes to
98 the extent possible and, in cases in which litigation is
99 necessary, to provide the people of Alabama with a fair and
100 independent dispute resolution forum with the Department of
101 Revenue. The chapter shall be interpreted and construed to
102 further this intent.

103 (b) Tax Tribunal: Establishment.

104 (1) A tax tribunal is hereby established in the
105 executive branch of government. The tribunal is referred to in
106 this chapter as the "Alabama Tax Tribunal."

107 (2) The Alabama Tax Tribunal shall be separate from and
108 independent of the authority of the Commissioner of Revenue
109 and the Department of Revenue. For purposes of this chapter,
110 the term "Department of Revenue" means the Alabama Department
111 of Revenue and does not include the governing body of any
112 self-administered county or municipality.



SB174 Engrossed

(3) The Alabama Tax Tribunal shall be created and exist as of October 1, 2014, but the chief judge shall be appointed by July 1, 2014, to take any action that is necessary to enable the Alabama Tax Tribunal to properly exercise the duties, functions, and powers given the Alabama Tax Tribunal under this chapter.

(4) The Alabama Tax Tribunal shall maintain an official docket and other records as deemed necessary by the chief judge. Such records may be maintained in electronic format.

(5) Any judge, or any employee of the Alabama Tax Tribunal as designated in writing by the chief judge, may administer oaths.

(c) Judges: Number; Appointment; Term of Office; Removal.

(1) The Alabama Tax Tribunal shall consist of at least one full-time judge, and there shall be no more than three judges serving at any one time. If there is more than one judge, each shall exercise the powers of the Alabama Tax Tribunal.

(2) The judges of the Alabama Tax Tribunal shall be appointed by the Governor for a term of 6 years. If the tribunal has more than one judge, the judges initially appointed should be given terms of different lengths not exceeding 6 years, so that all judges' terms do not expire in the same year.

(3) The Chief Judge of the Alabama Tax Tribunal shall receive such salary as is provided from time to time at the top pay scale within Pay Grade 88 of the compensation plan of



SB174 Engrossed

the state Merit System. Associate judges shall receive such salary as is provided from time to time within Pay Grade 84 of the compensation plan of the state Merit System, as determined by the chief judge. The judges shall receive no other monetary compensation. This subsection shall neither increase nor decrease the salary received by the chief administrative law judge of the Department of Revenue, who shall become the initial Chief Judge of the Alabama Tax Tribunal pursuant to this chapter.

(4) Once appointed and confirmed, the judge shall continue in office until his or her term expires and until a successor has been appointed, unless otherwise removed as provided herein.

(5) A vacancy in the Alabama Tax Tribunal occurring otherwise than by expiration of term shall be filled for the unexpired term in the same manner as an original appointment.

(6) If more than one judge is appointed, the Governor shall designate one of the members as chief judge, in this chapter referred to as the "chief judge." The chief judge shall be the executive of the Alabama Tax Tribunal, shall have sole charge of the administration of the Alabama Tax Tribunal, and shall apportion among the judges all causes, matters, and proceedings coming before the Alabama Tax Tribunal. The individual designated as chief judge shall serve in that capacity at the pleasure of the Governor.

(7) The Governor, subject to the dismissal provisions of a classified state employee as provided in Section 36-26-10, may remove a judge, after notice and an opportunity



SB174 Engrossed

to be heard, for neglect of duty, inability to perform duties, or malfeasance in office.

(8) Whenever the Alabama Tax Tribunal trial docket or business becomes congested or any judge of the Alabama Tax Tribunal is absent, is disqualified, or for any other reason is unable to perform his or her duties as judge, and it appears to the Governor that it is advisable that the services of an additional judge or judges be provided, the Governor may appoint a judge, or judges, pro tempore of the Alabama Tax Tribunal. Any person appointed judge pro tempore of the Alabama Tax Tribunal shall have the qualifications set forth in subdivisions (1) and (2) of subsection (d) and shall be entitled to serve for a period no longer than six months.

(9) A judge may disqualify himself or herself on his or her own motion in any matter, and may be disqualified for any of the causes specified in Title 12, including, but not limited to, Sections 12-1-12 and 12-1-13.

(d) Judges: Qualifications; Prohibition Against Other Gainful Employment.

(1) Each judge of the Alabama Tax Tribunal shall be a citizen of the United States and, during the period of his or her service, a resident of this state. No person shall be appointed as a judge, unless at the time of appointment, the individual has substantial knowledge of the tax law and substantial experience making the record in a tax case suitable for judicial review.

(2) Before entering upon the duties of office, each judge shall take and subscribe to an oath or affirmation that



SB174 Engrossed

he or she will faithfully discharge the duties of the office, and such oath shall be filed in the office of the Secretary of State.

(3) Each judge shall devote his or her full time during business hours to the duties of his or her office. A judge shall not engage in any other gainful employment or business, nor hold another office or position of profit in a government of this state, any other state, or the United States. Notwithstanding the foregoing provisions, a judge may own passive interests in business entities and earn income from incidental teaching or scholarly activities unless the activities conflict with his or her duties as a judge.

(4) Alabama Tax Tribunal Judges shall be subject to disciplinary proceedings before the Judicial Inquiry Commission to the same extent as circuit judges. The Judicial Inquiry Commission shall have the authority to remove any Alabama Tax Tribunal Judge from office, after notice and an opportunity to be heard, for neglect of duty, inability to perform duties, malfeasance in office, or other good cause.

(5) Alabama Tax Tribunal Judges shall be classified state employees as provided in Section 36-26-10. As such, a judge, except for appointment, reconfirmation, removal, and dismissal as provided herein, shall be entitled to all benefits and protections available to classified state employees.

(6) The chief judge may employ one Executive Assistant III as an unclassified service state employee, as provided in Section 36-26-10(c). All other Alabama Tax Tribunal personnel



SB174 Engrossed

shall be appointed or hired by the chief judge, as necessary for the proper operation of the Alabama Tax Tribunal and shall be state employees under the state Merit System. The Executive Assistant III employed in the Administrative Law Division as of September 30, 2014, shall be transferred to the Alabama Tax Tribunal, along with any other Merit System employees employed by the Administrative Law Division on that date.

(e) Principal Office: Locations; Facilities.

(1) The Alabama Tax Tribunal's principal office shall be located in Montgomery, Alabama.

(2) The Alabama Tax Tribunal shall conduct hearings at its principal office. The Alabama Tax Tribunal may also hold hearings at any place within the state, with a view toward securing to taxpayers a reasonable opportunity to appear before the Alabama Tax Tribunal with as little inconvenience and expense as practicable.

(3) If the appeal involves a tax levied by or on behalf of only one self-administered county or municipality, the Alabama Tax Tribunal, if so requested by the self-administered county or municipality or the taxpayer, shall hold the hearing either in the county seat of the affected county or the county seat of the county in which the affected municipality is located or in the appropriate Department of Revenue taxpayer service center, according to the proximity of such municipality or county to the taxpayer service center.

(4) The principal office of the Alabama Tax Tribunal shall be located in a building that is separate and apart from the building in which the Department of Revenue is located.



SB174 Engrossed

(f) Appointment of Employees, Expenditures of the Alabama Tax Tribunal.

(1) The Alabama Tax Tribunal shall appoint employees and may employ temporary court reporters and make such other expenditures, including expenditures for library, publications, and equipment, as are necessary to permit ~~it~~ the tribunal to efficiently execute its functions.

(2) No employee of the Alabama Tax Tribunal shall act as attorney, representative, or accountant for others in a matter involving any tax imposed or levied by this state.

(3) A non-merit system employee of the Alabama Tax Tribunal may be removed by the chief judge, after notice and an opportunity to be heard, for neglect of duty, inability to perform duties, malfeasance in office, or for other good cause.

(4) In addition to the services of a court reporter, the Alabama Tax Tribunal may contract the reporting of its proceedings and, in the contract, fix the terms and conditions under which transcripts will be supplied by the contractor to the Alabama Tax Tribunal and to other persons and agencies.

(g) Jurisdiction of the Alabama Tax Tribunal.

(1) Except as permitted by subsection (m) relating to judicial review, or the Constitution of Alabama of ~~1901~~ 2022, the Alabama Tax Tribunal shall be the sole, exclusive, and final authority for the hearing and determination of questions of law and fact arising under the tax laws of this state. The Alabama Tax Tribunal shall have jurisdiction to hear and determine all appeals pending before the Department of



SB174 Engrossed

Revenue's Administrative Law Division on October 1, 2014, and all subsequent appeals filed with the Alabama Tax Tribunal pursuant to Chapters 2A, 27, and 29 of this title, Chapters 6, 7A, 8, 13, and 20 of Title 32, relating to motor vehicles, ~~or~~; subdivision (2) of this subsection, relating to self-administered counties and municipalities; business license or privilege taxes or fees levied by counties; or Section 11-51-90, relating to the license of trades, businesses, professions, or other similar activities.

a. However, except for business license or privilege taxes or fees when levied by counties or license taxes or fees charged under Section 11-51-90, such jurisdiction shall also be limited to only those self-administered counties and municipalities that choose to participate under the auspices of the Alabama Tax Tribunal.

b. Such jurisdiction shall not apply to appeals filed directly with the circuit court from a final assessment entered by the department or from the department's denial in whole or in part of a claim for refund.

c. Such jurisdiction shall not apply to the assessment of ad valorem taxes, except that appeals from final assessments of value of property of public utilities under Chapter 21 may be heard by the Alabama Tax Tribunal in accordance with the procedures set forth in this chapter.

(2) a. Unless a self-administered county or municipality elects, in the manner prescribed below, to divest the Alabama Tax Tribunal of jurisdiction over appeals of final assessments or denied refunds in whole or in part, of any



SB174 Engrossed

sales, use, rental, or lodgings taxes levied or collected from time to time by or on behalf of the self-administered county or municipality, a taxpayer may appeal a final assessment or denied refund involving any such tax to the Alabama Tax Tribunal in accordance with the procedures and requirements provided in Section 40-2A-7 and this chapter. For purposes of any appeal filed by a taxpayer pursuant to this section, the term "department" as used in Section 40-2A-7 means the governing body of the applicable self-administered county or municipality and not the Department of Revenue, and the term "secretary" as used in Section 40-2A-7 means the clerk of the governing body of the applicable self-administered county or municipality.

b. Subject to the limitation imposed by paragraph e., the election-out under this section shall be made by serving a copy of the ordinance or resolution evidencing the election-out, adopted by the governing body of the self-administered county or municipality pursuant to this section, with the Alabama Tax Tribunal. Service may be accomplished by mailing a copy of the ordinance or resolution, certified by an appropriate official, by either U.S. mail with delivery confirmation or certified U.S. mail, return receipt requested, by hand delivery, or by an expedited courier service to the Alabama Tax Tribunal's office. The Alabama Tax Tribunal shall promptly publish notice of the election-out pursuant to paragraph d., and the election shall be effective on the date that notice is published. Notwithstanding the foregoing, appeals of final assessments or denied refunds



SB174 Engrossed

involving the electing county or municipality that were pending before the Alabama Tax Tribunal on the date that notice of the election-out is published shall continue to be heard and decided by the Alabama Tax Tribunal as if the election-out had not been made.

c. Subject to the limitation imposed by paragraph e., an election-out may be revoked, prospectively, by the governing body of the self-administered county or municipality at any time by resolution or ordinance, a certified copy of which shall be served on the Alabama Tax Tribunal in the manner prescribed above. The revocation of an election-out vests jurisdiction in the Alabama Tax Tribunal over all appeals of final assessments or denied refunds, in whole or in part, of the county's or municipality's sales, use, rental, and lodgings taxes that are entered or denied on or after the date that notice of revocation is published by the Alabama Tax Tribunal.

d. At least once a month, the Alabama Tax Tribunal shall provide the Department of Revenue with a list of all self-administered counties and municipalities that have elected-out pursuant to paragraph b. or that have filed a notice of revocation of their election-out pursuant to paragraph c. The Department of Revenue shall publish the list on its website and otherwise make available to the public in the same manner that the rates and administrators of certain county and municipal taxes are published by the Department of Revenue. The Alabama Tax Tribunal may also publish the list on its own website.



SB174 Engrossed

e. A self-administered county or municipality may make only one election-out under paragraph b. or one revocation under paragraph c. during each calendar year. If an appeal is timely filed with the Alabama Tax Tribunal after the notice of an election-out by the self-administered county or municipality is published by the Alabama Tax Tribunal, the appeal shall be deemed timely filed with and transferred to the self-administered county or municipality. If an appeal is timely filed with a self-administered county or municipality after the notice of revocation by the self-administered county or municipality is published by the Alabama Tax Tribunal, the appeal shall be deemed timely filed with and transferred to the Alabama Tax Tribunal.

f. The appeals process for a self-administered county or municipality that has elected to divest the Alabama Tax Tribunal of jurisdiction shall function in a manner similar to the procedures prescribed for appeals to the Alabama Tax Tribunal. The hearing or appeals officer shall function and conduct hearings in a manner similar to the Chief Judge of the Alabama Tax Tribunal and must be impartial and reasonably knowledgeable of the sales, use, rental, and lodgings tax laws and the taxing jurisdiction's applicable code or ordinances.

(3) Except as permitted by subsection (m) relating to judicial review, no person shall contest any matter within the jurisdiction of the Alabama Tax Tribunal in any action, suit, or proceeding in any other court of the state. However, such exclusive jurisdiction shall not be required of those self-administered counties and municipalities that choose not



SB174 Engrossed

to participate under the auspices of the Alabama Tax Tribunal. With the aforementioned exceptions noted, if a person attempts to contest any matter with the remaining jurisdiction, then such action, suit, or proceeding shall be dismissed without prejudice. The improper commencement of any action, suit, or proceeding will not extend the time period for commencing a proceeding in the Alabama Tax Tribunal.

(4) Except in cases involving the denial of a claim for refund and except as provided in Alabama statute regarding jeopardy assessments, the taxpayer shall have the right to have his or her case heard by the Alabama Tax Tribunal prior to the payment of any of the amounts asserted as due by the Department of Revenue and prior to the posting of any bond.

(5) If, with or after the filing of a timely notice of appeal, the taxpayer pays all or part of the tax or other amount in issue before the Alabama Tax Tribunal has rendered a decision, the Alabama Tax Tribunal shall treat the taxpayer's notice of appeal as a protest of a denial of a claim for refund of the amount so paid.

(6) The Alabama Tax Tribunal shall decide questions regarding the constitutionality of the application of statutes to the taxpayer and the constitutionality of regulations promulgated by the Department of Revenue, but shall not have the power to declare a statute unconstitutional on its face. A taxpayer desiring to challenge the constitutionality of a statute on its face, at the taxpayer's election, may do so by one of the following methods:

a. Commence a declaratory action in the courts of



SB174 Engrossed

Alabama with respect to the constitutional challenge, and file a notice of appeal with the Alabama Tax Tribunal with respect to the remainder of the matter, which proceeding shall be stayed by the Alabama Tax Tribunal pending final resolution of the constitutional challenge.

b. File a notice of appeal with the Alabama Tax Tribunal with respect to issues other than the constitutional challenge, in which the taxpayer preserves the constitutional challenge until the entire matter, including the constitutional challenge and the facts related to the constitutional challenge, is presented to the appellate court.

c. Commence and simultaneously prosecute a declaratory action in the courts of Alabama with respect to the constitutional challenge and a proceeding in the Alabama Tax Tribunal with respect to the remainder of the issues.

(h) Pleadings.

(1) A taxpayer may commence a proceeding in the Alabama Tax Tribunal by filing a notice of appeal protesting the Department of Revenue's determination imposing a liability for tax, penalty, or interest; denying a refund or credit application; canceling, revoking, suspending, or denying an application for a license, permit, or registration; or taking any other action that gives a person the right to a hearing under the law. The notice of appeal shall be filed in accordance with the time periods required by Sections 40-2A-7 and 40-2A-8, or any other applicable provision that is within the jurisdiction of the Alabama Tax Tribunal. For purposes of this chapter, the term "taxpayer" includes a person a. who is



SB174 Engrossed

challenging the state's jurisdiction over the person, and b. who has standing to challenge the validity or applicability of the tax. The notice of appeal filed by the taxpayer with the Alabama Tax Tribunal shall identify the final assessment, denied refund, or other act or refusal to act by the department which is the subject of the appeal, the position of the appealing party, the basis on which relief should be granted, and the relief sought. A notice of appeal that does not include all of the above information shall be sufficient to invoke the jurisdiction of the Alabama Tax Tribunal. The judge may require a taxpayer to file an amended notice of appeal if more information is deemed necessary.

(2) If the appeal involves a tax levied by or on behalf of a self-administered county or municipality, the Alabama Tax Tribunal shall promptly mail a copy of the notice of appeal by either U.S. mail with delivery confirmation or certified U.S. mail to the governing body of the affected county or municipality and shall provide the taxpayer or its authorized representative with written notification of the date the copy was mailed to the governing body. The affected county or municipality shall file a written answer with the Alabama Tax Tribunal within 45 days of the date of mailing the notice of appeal to the affected county or municipality. The judge may allow the county or municipality additional time, not to exceed 45 days, within which to file an answer. The answer shall state the facts and the issues involved and the county's or municipality's position relating thereto. The judge may require the county or municipality to file an amended answer



SB174 Engrossed

if more information is deemed necessary. The county or municipality and its authorized representatives may consult with the Legal Division of the Department of Revenue concerning the appeal.

(3) The Alabama Tax Tribunal shall notify the Legal Division of the Department of Revenue in writing that an appeal has been filed and shall mail a copy of such notification to the taxpayer or its authorized representative. The Department of Revenue shall file its answer in the Alabama Tax Tribunal no later than 45 days after its receipt of the Alabama Tax Tribunal's notification that the taxpayer has filed a notice of appeal. Upon written request, the Alabama Tax Tribunal may grant up to 45 additional days to file an answer. The Department of Revenue shall serve a copy on the taxpayer's representative or, if the taxpayer is not represented, on the taxpayer, and shall file proof of such service with the answer.

(4) The taxpayer may file a reply in the Alabama Tax Tribunal within 30 days after receipt of the answer. The taxpayer shall serve a copy on the authorized representative of the Department of Revenue and shall file proof of such service with the reply. When a reply has been filed, or, if no reply has been filed, then 30 days after the filing of the answer, the controversy shall be deemed at issue and will be scheduled for hearing.

(5) Either party may amend a pleading once without leave at any time before the period for responding to it expires. After such time, a pleading may be amended only with



SB174 Engrossed

the written consent of the adverse party or with the permission of the Alabama Tax Tribunal. The Alabama Tax Tribunal shall freely grant consent to amend upon such terms as may be just. Except as otherwise ordered by the Alabama Tax Tribunal, there shall be an answer or reply to an amended pleading if an answer or reply is required to the pleading being amended. Filing of the answer, or, if the answer has already been filed, the amended answer, shall be made no later than 75 days after filing of the amended notice of appeal. Filing of the reply or, if the reply has already been filed, the amended reply, shall be made within 30 days after filing of the amended answer. The taxpayer may not amend a notice of appeal after expiration of the time for filing a notice of appeal, if such amendment would have the effect of conferring jurisdiction on the Alabama Tax Tribunal over a matter that would otherwise not come within its jurisdiction. An amendment of a pleading shall relate back to the time of filing of the original pleading, unless the Alabama Tax Tribunal shall order otherwise either on motion of a party or on the Alabama Tax Tribunal's own initiative.

(i) Fees. No filing fee shall be imposed for any appeal filed with the Alabama Tax Tribunal.

(j) Discovery and Stipulation.

(1) The parties to a proceeding shall make every effort to achieve discovery by informal consultation or communication, before invoking the discovery mechanisms authorized by this section.

(2) The parties to a proceeding shall stipulate all



SB174 Engrossed

relevant and non-privileged matters to the fullest extent to which complete or qualified agreement can or fairly should be reached. Neither the existence nor the use of the discovery mechanisms authorized by this section shall excuse failure to comply with this provision.

(3) Subject to reasonable limitations prescribed by the Alabama Tax Tribunal, a party may obtain discovery by written interrogatories; requests for the production of returns, books, papers, documents, correspondence, or other evidence; depositions of parties, non-party witnesses and experts; and requests for admissions. The Alabama Tax Tribunal may provide for other forms of discovery.

(4) A judge of the Alabama Tax Tribunal, on the request of any party to the proceeding, may issue subpoenas requiring the attendance of witnesses and giving of testimony and subpoenas duces tecum requiring the production of evidence or things.

(5) Any employee of the Alabama Tax Tribunal designated in writing for the purpose by the chief judge may administer oaths.

(6) Any witness subpoenaed or whose deposition is taken shall receive the same fees and mileage as a witness in a circuit court of Alabama.

(7) The Alabama Tax Tribunal may enforce its orders on discovery and other procedural issues, among other means, by deciding issues wholly or partly against the offending party.

(k) Hearings.

(1) Proceedings before the Alabama Tax Tribunal shall



SB174 Engrossed

be tried de novo and without a jury.

(2) Except as set forth in this chapter or otherwise precluded by law, the Alabama Tax Tribunal shall take evidence, conduct hearings, and issue final and preliminary orders. An appeal may be held in abeyance at the discretion of the judge or may be submitted for decision on a joint stipulation of facts without a hearing or as otherwise agreed by the parties. A judge of the Alabama Tax Tribunal, with or without a hearing, may dismiss any appeal or grant appropriate relief to any party, if a party refuses to comply with any regulation or statute concerning appeals before the Alabama Tax Tribunal or if a party refuses to comply with any preliminary order directing the party to take such action as deemed appropriate by a judge of the Alabama Tax Tribunal.

(3) Hearings shall be open to the public and shall be conducted in accordance with such rules of practice and procedure as the Alabama Tax Tribunal may promulgate. Notwithstanding the foregoing, on motion of either party, the Alabama Tax Tribunal shall issue a protective order or an order closing part or all of the hearing to the public, if the party shows good cause to protect certain information from being disclosed to the public.

(4) The Alabama Tax Tribunal shall not be bound by the rules of evidence applicable to civil cases in the circuit courts of this state. The Alabama Tax Tribunal shall admit relevant evidence, including hearsay, if it is probative of a material fact in controversy. The Alabama Tax Tribunal shall exclude irrelevant and unduly repetitious evidence.



SB174 Engrossed

589 Notwithstanding the foregoing, the rules of privilege
590 recognized by law shall apply.

591 (5) Testimony may be given only on oath or affirmation.

592 (6) The notice of appeal and other pleadings in the
593 proceeding shall be deemed to conform to the proof presented
594 at the hearing, unless a party satisfies the Alabama Tax
595 Tribunal that presentation of the evidence would unfairly
596 prejudice the party in maintaining its position on the merits
597 or unless deeming the taxpayer's notice of appeal to conform
598 to the proof would confer jurisdiction on the Alabama Tax
599 Tribunal over a matter that would not otherwise come within
600 its jurisdiction.

601 (7) In the case of an issue of fact, the taxpayer shall
602 have the burden of persuasion by a preponderance of the
603 evidence in the record, except that the Department of Revenue
604 shall have the burden of persuasion in the case of an
605 assertion of fraud and in other cases provided by law.

606 (8) Proceedings before the Alabama Tax Tribunal shall
607 be officially reported. The state shall pay the expense of
608 reporting from the appropriation for the Alabama Tax Tribunal.

609 (1) Decisions.

610 (1) The Alabama Tax Tribunal shall render its decision
611 in writing, including therein a concise statement of the facts
612 found and the conclusions of law reached. The Alabama Tax
613 Tribunal's decision, subject to law, shall grant such relief,
614 invoke such remedies, and issue such orders as it deems
615 appropriate to carry out its decision. A judge may enter a
616 preliminary order directing one or more parties to take such



SB174 Engrossed

617 action as deemed appropriate or referring any issue or issues
618 in dispute to the Department of Revenue's Taxpayer Advocate
619 for consideration if the issue or issues relate to a tax
620 administered by the Department of Revenue. A judge, after a
621 hearing or after a case is otherwise submitted for decision,
622 may issue an opinion and preliminary order, which shall
623 include findings of fact and conclusions of law. The opinion
624 and preliminary order may direct the department to recompute a
625 taxpayer's liability or the amount of a refund due or for any
626 party to take such action as specified in the preliminary
627 order.

628 (2) The Alabama Tax Tribunal shall render its
629 preliminary or final order, as applicable, no later than six
630 months after submission of the last brief filed subsequent to
631 completion of the hearing or, if briefs are not submitted,
632 then no later than six months after completion of the hearing.
633 The Alabama Tax Tribunal may extend the six-month period, for
634 good cause, up to three additional months.

635 (3) If the Alabama Tax Tribunal fails to render either
636 a preliminary order or a final order within the prescribed
637 period, either party may institute a proceeding in the circuit
638 court to compel the issuance of such decision.

639 (4) The Alabama Tax Tribunal's decision shall finally
640 decide the matters in controversy, unless any party to the
641 matter timely appeals the decision as provided in this
642 chapter.

643 (5) Any party may apply for rehearing from any final
644 order or opinion and preliminary order of the Alabama Tax



SB174 Engrossed

Tribunal; provided, however, the application must be filed within 15 days from the date of entry of such order. The application for rehearing shall specify the reasons and supporting arguments why such order is incorrect and should be reconsidered. The timely filing of an application for rehearing from a final order shall suspend the time period for filing an appeal to circuit court as provided in this chapter. If an application for rehearing is timely filed, the judge shall thereafter issue a final or other order on rehearing, either with or without a hearing on the application, at the discretion of the judge. The time for filing a notice of appeal to circuit court shall begin anew on the date of entry of the final order on rehearing.

(6) The Alabama Tax Tribunal's final order shall have the same effect, and shall be enforced in the same manner, as a judgment of a circuit court of the state, unless altered or amended on appeal or rehearing.

(7) The Alabama Tax Tribunal's interpretation of a taxing statute subject to contest in one case shall be followed by the Alabama Tax Tribunal in subsequent cases involving the same statute, and its application of a statute to the facts of one case shall be followed by the Alabama Tax Tribunal in subsequent cases involving similar facts, unless the Alabama Tax Tribunal's interpretation or application conflicts with that of an appellate court or the Alabama Tax Tribunal provides satisfactory reasons for reversing prior precedent.

(m) Appeals.



SB174 Engrossed

(1) Other than an application for rehearing to the Alabama Tax Tribunal, the exclusive remedy for review of any final or other appealable order issued by the Alabama Tax Tribunal shall be by appeal to the appropriate circuit court.

(2) The taxpayer, a self-administered county or municipality whose tax is within the jurisdiction of the Alabama Tax Tribunal, or the Department of Revenue may appeal to circuit court from a final or other appealable order issued by the Alabama Tax Tribunal by filing a notice of appeal with the appropriate circuit court within 30 days from the date the final or other appealable order was entered. A copy of the notice of appeal shall be submitted to the Alabama Tax Tribunal within the 30-day appeal period. The Alabama Tax Tribunal shall thereafter prepare a record on appeal, which shall include the orders of the Alabama Tax Tribunal, the stenographic transcript of the hearing before the Alabama Tax Tribunal, the pleadings, and all exhibits and documents admitted into evidence. The appeal shall be filed in the following circuit courts:

a. Any appeal by the Department of Revenue or a self-administered county or municipality whose tax is within the jurisdiction of the Alabama Tax Tribunal shall be filed with the circuit court of the county in which the taxpayer resides or has a principal place of business in Alabama.

b. Any appeal by the taxpayer shall be filed with the Circuit Court of Montgomery County, Alabama, or with the circuit court of the county in which the taxpayer resides or has a principal place of business in Alabama.



SB174 Engrossed

c. Notwithstanding paragraphs a. and b., if the taxpayer does not reside in Alabama or have a principal place of business in Alabama, any appeal by the taxpayer, the Department of Revenue, or a self-administered county or municipality whose tax is within the jurisdiction of the Alabama Tax Tribunal shall be filed with the Circuit Court of Montgomery County, Alabama.

(3) If the appeal to circuit court pursuant to subdivision (2)b. is by a taxpayer from a final order involving a final assessment, the taxpayer shall, within the 30-day period allowed for appeals, satisfy one of the requirements under Section 40-2A-7(b)(5)b.2., relating to appeals to circuit court.

(4) The appeal to circuit court from a final or other appealable order issued by the Alabama Tax Tribunal shall be a trial de novo, except that the order shall be presumed prima facie correct and the burden shall be on the appealing party to prove otherwise. The circuit court shall hear the case by its own rules and shall decide all questions of fact and law. The administrative record and transcript shall be transmitted to the reviewing court as provided herein and shall be admitted into evidence in the trial de novo, subject to the rights of either party to object to any testimony or evidence in the administrative record or transcript. With the consent of all parties, judicial review may be on the administrative record and transcript. The circuit court shall affirm, modify, or reverse the order of the Alabama Tax Tribunal, with or without remanding the case for further hearing, as justice may



SB174 Engrossed

729 require.

730 (n) Representation.

731 (1) Appearances in proceedings conducted by the Alabama
732 Tax Tribunal may be by the taxpayer; by an attorney admitted
733 to practice in this state, including an attorney who is a
734 partner or member of, or is employed by, an accounting or
735 other professional services firm; by an accountant licensed in
736 this state; or by an authorized representative. The Alabama
737 Tax Tribunal may allow any attorney or accountant authorized
738 to practice or licensed in any other jurisdiction of the
739 United States to appear and represent a taxpayer in
740 proceedings before the Alabama Tax Tribunal for a particular
741 matter. In addition, the Alabama Tax Tribunal may promulgate
742 rules and regulations permitting a taxpayer to be represented
743 by an officer, employee, partner, or member.

744 (2) The department shall be represented by an
745 authorized representative in all proceedings before the
746 Alabama Tax Tribunal.

747 (o) Publication of Decisions.

748 The Alabama Tax Tribunal shall index and publish its
749 final decisions in such print or electronic form as it deems
750 best adapted for public convenience. Such publications shall
751 be made permanently available and constitute the official
752 reports of the Alabama Tax Tribunal.

753 (p) Service of Process.

754 (1) Mailing by first class or certified or registered
755 mail, postage prepaid, to the address of the taxpayer given on
756 the taxpayer's notice of appeal, or to the address of the



SB174 Engrossed

taxpayer's representative of record, if any, or to the usual place of business of the Department of Revenue, shall constitute personal service on the other party. The Alabama Tax Tribunal, by rule, may prescribe that notice by other means shall constitute personal service and, in a particular case, may order that notice be given to additional persons or by other means.

(2) Mailing by registered or certified mail and delivery by a private delivery service approved by the Internal Revenue Service in accordance with Section 7502(f) of the Internal Revenue Code of 1986, as amended, shall be deemed to have occurred, respectively, on the date of mailing and the date of submission to the private delivery service.

(3) Timely mailed document considered to be timely filed.

(q) Rules and Forms.

The Alabama Tax Tribunal is authorized to promulgate and adopt all reasonable rules pursuant to the Alabama Administrative Procedure Act and forms as may be necessary or appropriate to carry out the intent and purposes of this chapter.

(r) Budget of Alabama Tax Tribunal.

The Chief Judge of the Alabama Tax Tribunal may contract or enter into agreements with any private or governmental agency, upon approval of the Director of Finance, for the rental of office space, and the rental or purchase of equipment, administrative or other support services, supplies, and all other property or services necessary for the operation



SB174 Engrossed

of the Alabama Tax Tribunal. The funds for the operation of the Alabama Tax Tribunal shall be administered by the Alabama Tax Tribunal, through the chief judge. With respect to the fiscal year beginning October 1, 2014, there shall be transferred from the Revenue Department Administrative Fund to the Alabama Tax Tribunal the amount of four hundred twenty-five thousand dollars (\$425,000). The amount transferred from the Revenue Department Administrative Fund shall be disbursed to the Alabama Tax Tribunal in four equal increments, at the beginning of each quarter of the fiscal year. Thereafter, the Chief Judge of the Alabama Tax Tribunal, shall prepare an annual budget and funds shall be appropriated annually by the Legislature from the Revenue Department Administrative Fund to be used exclusively for the operation of the Alabama Tax Tribunal."

Section 7. This act shall become effective on October 1, 2025.



SB174 Engrossed

802
803
804 Senate

805 Read for the first time and referred18-Feb-25
806 to the Senate committee on County
807 and Municipal Government

808
809 Read for the second time and placed25-Feb-25
810 on the calendar:
811 1 amendment

812
813 Read for the third time and passed08-Apr-25
814 as amended
815 Yeas 33
816 Nays 0
817 Abstains 0

818
819
820 Patrick Harris,
821 Secretary.
822