

SB174 ENROLLED



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



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1 Enrolled, An Act,

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

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

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

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

23 (1) The classifications and schedules for business
24 license taxes.

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

28 (b) The Department of Revenue shall post each report on



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29 the department's website.

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

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

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

49 (b) A county or municipality, on a form supplied by the
50 Department of Revenue, shall notify the department if a
51 private entity is contracted to collect business privilege
52 taxes or business license taxes on behalf of the county of
53 municipality.

54 (c) If a private entity fails to comply with subsection
55 (a) or attempts to collect a business privilege tax or
56 business license tax when the entity knows that the tax is not



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57 lawfully due, the entity shall be subject to a private right
58 of action.

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

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

66 "§40-2B-2

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

80 The tax tribunal shall provide hearings in all tax
81 matters, except those specified by statute, and render
82 decisions and orders relating thereto. A tax tribunal hearing
83 shall be commenced by the filing of a notice of appeal
84 protesting a tax determination made by the Department of



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85 Revenue, including any determination that cancels, revokes,
86 suspends, or denies an application for a license, permit, or
87 registration. A final decision of the tax tribunal shall have
88 the same force and effect as, and shall be subject to appeal
89 in the same manner as, a final decision of a state circuit
90 court.

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

98 (b) Tax Tribunal: Establishment.

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

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

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



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113 under this chapter.

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

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

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

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

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

133 (3) The Chief Judge of the Alabama Tax Tribunal shall
134 receive such salary as is provided from time to time at the
135 top pay scale within Pay Grade 88 of the compensation plan of
136 the state Merit System. Associate judges shall receive such
137 salary as is provided from time to time within Pay Grade 84 of
138 the compensation plan of the state Merit System, as determined
139 by the chief judge. The judges shall receive no other monetary
140 compensation. This subsection shall neither increase nor



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141 decrease the salary received by the chief administrative law
142 judge of the Department of Revenue, who shall become the
143 initial Chief Judge of the Alabama Tax Tribunal pursuant to
144 this chapter.

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

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

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

161 (7) The Governor, subject to the dismissal provisions
162 of a classified state employee as provided in Section
163 36-26-10, may remove a judge, after notice and an opportunity
164 to be heard, for neglect of duty, inability to perform duties,
165 or malfeasance in office.

166 (8) Whenever the Alabama Tax Tribunal trial docket or
167 business becomes congested or any judge of the Alabama Tax
168 Tribunal is absent, is disqualified, or for any other reason



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169 is unable to perform his or her duties as judge, and it
170 appears to the Governor that it is advisable that the services
171 of an additional judge or judges be provided, the Governor may
172 appoint a judge, or judges, pro tempore of the Alabama Tax
173 Tribunal. Any person appointed judge pro tempore of the
174 Alabama Tax Tribunal shall have the qualifications set forth
175 in subdivisions (1) and (2) of subsection (d) and shall be
176 entitled to serve for a period no longer than six months.

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

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

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

190 (2) Before entering upon the duties of office, each
191 judge shall take and subscribe to an oath or affirmation that
192 he or she will faithfully discharge the duties of the office,
193 and such oath shall be filed in the office of the Secretary of
194 State.

195 (3) Each judge shall devote his or her full time during
196 business hours to the duties of his or her office. A judge



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197 shall not engage in any other gainful employment or business,
198 nor hold another office or position of profit in a government
199 of this state, any other state, or the United States.

200 Notwithstanding the foregoing provisions, a judge may own
201 passive interests in business entities and earn income from
202 incidental teaching or scholarly activities unless the
203 activities conflict with his or her duties as a judge.

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

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

217 (6) The chief judge may employ one Executive Assistant
218 III as an unclassified service state employee, as provided in
219 Section 36-26-10(c). All other Alabama Tax Tribunal personnel
220 shall be appointed or hired by the chief judge, as necessary
221 for the proper operation of the Alabama Tax Tribunal and shall
222 be state employees under the state Merit System. The Executive
223 Assistant III employed in the Administrative Law Division as
224 of September 30, 2014, shall be transferred to the Alabama Tax



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225 Tribunal, along with any other Merit System employees employed
226 by the Administrative Law Division on that date.

227 (e) Principal Office: Locations; Facilities.

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

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

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

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

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

250 (1) The Alabama Tax Tribunal shall appoint employees
251 and may employ temporary court reporters and make such other
252 expenditures, including expenditures for library,



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253 publications, and equipment, as are necessary to permit ~~it~~the
254 tribunal to efficiently execute its functions.

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

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

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

268 (g) Jurisdiction of the Alabama Tax Tribunal.

269 (1) Except as permitted by subsection (m) relating to
270 judicial review, or the Constitution of Alabama of ~~1901~~2022,
271 the Alabama Tax Tribunal shall be the sole, exclusive, and
272 final authority for the hearing and determination of questions
273 of law and fact arising under the tax laws of this state. The
274 Alabama Tax Tribunal shall have jurisdiction to hear and
275 determine all appeals pending before the Department of
276 Revenue's Administrative Law Division on October 1, 2014, and
277 all subsequent appeals filed with the Alabama Tax Tribunal
278 pursuant to Chapters 2A, 27, and 29 of this title, Chapters 6,
279 7A, 8, 13, and 20 of Title 32, relating to motor vehicles, ~~or;~~
280 subdivision (2) of this subsection, relating to



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281 self-administered counties and municipalities; business
282 license or privilege taxes or fees levied by counties; or
283 Section 11-51-90, relating to the license of trades,
284 businesses, professions, or other similar activities.

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

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

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

300 (2) a. Unless a self-administered county or
301 municipality elects, in the manner prescribed below, to divest
302 the Alabama Tax Tribunal of jurisdiction over appeals of final
303 assessments or denied refunds in whole or in part, of any
304 sales, use, rental, or lodgings taxes levied or collected from
305 time to time by or on behalf of the self-administered county
306 or municipality, a taxpayer may appeal a final assessment or
307 denied refund involving any such tax to the Alabama Tax
308 Tribunal in accordance with the procedures and requirements



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309 provided in Section 40-2A-7 and this chapter. For purposes of
310 any appeal filed by a taxpayer pursuant to this section, the
311 term "department" as used in Section 40-2A-7 means the
312 governing body of the applicable self-administered county or
313 municipality and not the Department of Revenue, and the term
314 "secretary" as used in Section 40-2A-7 means the clerk of the
315 governing body of the applicable self-administered county or
316 municipality.

317 b. Subject to the limitation imposed by paragraph e.,
318 the election-out under this section shall be made by serving a
319 copy of the ordinance or resolution evidencing the
320 election-out, adopted by the governing body of the
321 self-administered county or municipality pursuant to this
322 section, with the Alabama Tax Tribunal. Service may be
323 accomplished by mailing a copy of the ordinance or resolution,
324 certified by an appropriate official, by either U.S. mail with
325 delivery confirmation or certified U.S. mail, return receipt
326 requested, by hand delivery, or by an expedited courier
327 service to the Alabama Tax Tribunal's office. The Alabama Tax
328 Tribunal shall promptly publish notice of the election-out
329 pursuant to paragraph d., and the election shall be effective
330 on the date that notice is published. Notwithstanding the
331 foregoing, appeals of final assessments or denied refunds
332 involving the electing county or municipality that were
333 pending before the Alabama Tax Tribunal on the date that
334 notice of the election-out is published shall continue to be
335 heard and decided by the Alabama Tax Tribunal as if the
336 election-out had not been made.



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

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

360 e. A self-administered county or municipality may make
361 only one election-out under paragraph b. or one revocation
362 under paragraph c. during each calendar year. If an appeal is
363 timely filed with the Alabama Tax Tribunal after the notice of
364 an election-out by the self-administered county or



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365 municipality is published by the Alabama Tax Tribunal, the
366 appeal shall be deemed timely filed with and transferred to
367 the self-administered county or municipality. If an appeal is
368 timely filed with a self-administered county or municipality
369 after the notice of revocation by the self-administered county
370 or municipality is published by the Alabama Tax Tribunal, the
371 appeal shall be deemed timely filed with and transferred to
372 the Alabama Tax Tribunal.

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

382 (3) Except as permitted by subsection (m) relating to
383 judicial review, no person shall contest any matter within the
384 jurisdiction of the Alabama Tax Tribunal in any action, suit,
385 or proceeding in any other court of the state. However, such
386 exclusive jurisdiction shall not be required of those
387 self-administered counties and municipalities that choose not
388 to participate under the auspices of the Alabama Tax Tribunal.
389 With the aforementioned exceptions noted, if a person attempts
390 to contest any matter with the remaining jurisdiction, then
391 such action, suit, or proceeding shall be dismissed without
392 prejudice. The improper commencement of any action, suit, or



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393 proceeding will not extend the time period for commencing a
394 proceeding in the Alabama Tax Tribunal.

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

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

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

415 a. Commence a declaratory action in the courts of
416 Alabama with respect to the constitutional challenge, and file
417 a notice of appeal with the Alabama Tax Tribunal with respect
418 to the remainder of the matter, which proceeding shall be
419 stayed by the Alabama Tax Tribunal pending final resolution of
420 the constitutional challenge.



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

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

431 (h) Pleadings.

432 (1) A taxpayer may commence a proceeding in the Alabama
433 Tax Tribunal by filing a notice of appeal protesting the
434 Department of Revenue's determination imposing a liability for
435 tax, penalty, or interest; denying a refund or credit
436 application; canceling, revoking, suspending, or denying an
437 application for a license, permit, or registration; or taking
438 any other action that gives a person the right to a hearing
439 under the law. The notice of appeal shall be filed in
440 accordance with the time periods required by Sections 40-2A-7
441 and 40-2A-8, or any other applicable provision that is within
442 the jurisdiction of the Alabama Tax Tribunal. For purposes of
443 this chapter, the term "taxpayer" includes a person a. who is
444 challenging the state's jurisdiction over the person, and b.
445 who has standing to challenge the validity or applicability of
446 the tax. The notice of appeal filed by the taxpayer with the
447 Alabama Tax Tribunal shall identify the final assessment,
448 denied refund, or other act or refusal to act by the



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449 department which is the subject of the appeal, the position of
450 the appealing party, the basis on which relief should be
451 granted, and the relief sought. A notice of appeal that does
452 not include all of the above information shall be sufficient
453 to invoke the jurisdiction of the Alabama Tax Tribunal. The
454 judge may require a taxpayer to file an amended notice of
455 appeal if more information is deemed necessary.

456 (2) If the appeal involves a tax levied by or on behalf
457 of a self-administered county or municipality, the Alabama Tax
458 Tribunal shall promptly mail a copy of the notice of appeal by
459 either U.S. mail with delivery confirmation or certified U.S.
460 mail to the governing body of the affected county or
461 municipality and shall provide the taxpayer or its authorized
462 representative with written notification of the date the copy
463 was mailed to the governing body. The affected county or
464 municipality shall file a written answer with the Alabama Tax
465 Tribunal within 45 days of the date of mailing the notice of
466 appeal to the affected county or municipality. The judge may
467 allow the county or municipality additional time, not to
468 exceed 45 days, within which to file an answer. The answer
469 shall state the facts and the issues involved and the county's
470 or municipality's position relating thereto. The judge may
471 require the county or municipality to file an amended answer
472 if more information is deemed necessary. The county or
473 municipality and its authorized representatives may consult
474 with the Legal Division of the Department of Revenue
475 concerning the appeal.

476 (3) The Alabama Tax Tribunal shall notify the Legal



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477 Division of the Department of Revenue in writing that an
478 appeal has been filed and shall mail a copy of such
479 notification to the taxpayer or its authorized representative.
480 The Department of Revenue shall file its answer in the Alabama
481 Tax Tribunal no later than 45 days after its receipt of the
482 Alabama Tax Tribunal's notification that the taxpayer has
483 filed a notice of appeal. Upon written request, the Alabama
484 Tax Tribunal may grant up to 45 additional days to file an
485 answer. The Department of Revenue shall serve a copy on the
486 taxpayer's representative or, if the taxpayer is not
487 represented, on the taxpayer, and shall file proof of such
488 service with the answer.

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

497 (5) Either party may amend a pleading once without
498 leave at any time before the period for responding to it
499 expires. After such time, a pleading may be amended only with
500 the written consent of the adverse party or with the
501 permission of the Alabama Tax Tribunal. The Alabama Tax
502 Tribunal shall freely grant consent to amend upon such terms
503 as may be just. Except as otherwise ordered by the Alabama Tax
504 Tribunal, there shall be an answer or reply to an amended



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505 pleading if an answer or reply is required to the pleading
506 being amended. Filing of the answer, or, if the answer has
507 already been filed, the amended answer, shall be made no later
508 than 75 days after filing of the amended notice of appeal.
509 Filing of the reply or, if the reply has already been filed,
510 the amended reply, shall be made within 30 days after filing
511 of the amended answer. The taxpayer may not amend a notice of
512 appeal after expiration of the time for filing a notice of
513 appeal, if such amendment would have the effect of conferring
514 jurisdiction on the Alabama Tax Tribunal over a matter that
515 would otherwise not come within its jurisdiction. An amendment
516 of a pleading shall relate back to the time of filing of the
517 original pleading, unless the Alabama Tax Tribunal shall order
518 otherwise either on motion of a party or on the Alabama Tax
519 Tribunal's own initiative.

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

522 (j) Discovery and Stipulation.

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

527 (2) The parties to a proceeding shall stipulate all
528 relevant and non-privileged matters to the fullest extent to
529 which complete or qualified agreement can or fairly should be
530 reached. Neither the existence nor the use of the discovery
531 mechanisms authorized by this section shall excuse failure to
532 comply with this provision.



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

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

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

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

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

554 (k) Hearings.

555 (1) Proceedings before the Alabama Tax Tribunal shall
556 be tried de novo and without a jury.

557 (2) Except as set forth in this chapter or otherwise
558 precluded by law, the Alabama Tax Tribunal shall take
559 evidence, conduct hearings, and issue final and preliminary
560 orders. An appeal may be held in abeyance at the discretion of



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561 the judge or may be submitted for decision on a joint
562 stipulation of facts without a hearing or as otherwise agreed
563 by the parties. A judge of the Alabama Tax Tribunal, with or
564 without a hearing, may dismiss any appeal or grant appropriate
565 relief to any party, if a party refuses to comply with any
566 regulation or statute concerning appeals before the Alabama
567 Tax Tribunal or if a party refuses to comply with any
568 preliminary order directing the party to take such action as
569 deemed appropriate by a judge of the Alabama Tax Tribunal.

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

578 (4) The Alabama Tax Tribunal shall not be bound by the
579 rules of evidence applicable to civil cases in the circuit
580 courts of this state. The Alabama Tax Tribunal shall admit
581 relevant evidence, including hearsay, if it is probative of a
582 material fact in controversy. The Alabama Tax Tribunal shall
583 exclude irrelevant and unduly repetitious evidence.
584 Notwithstanding the foregoing, the rules of privilege
585 recognized by law shall apply.

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

587 (6) The notice of appeal and other pleadings in the
588 proceeding shall be deemed to conform to the proof presented



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589 at the hearing, unless a party satisfies the Alabama Tax
590 Tribunal that presentation of the evidence would unfairly
591 prejudice the party in maintaining its position on the merits
592 or unless deeming the taxpayer's notice of appeal to conform
593 to the proof would confer jurisdiction on the Alabama Tax
594 Tribunal over a matter that would not otherwise come within
595 its jurisdiction.

596 (7) In the case of an issue of fact, the taxpayer shall
597 have the burden of persuasion by a preponderance of the
598 evidence in the record, except that the Department of Revenue
599 shall have the burden of persuasion in the case of an
600 assertion of fraud and in other cases provided by law.

601 (8) Proceedings before the Alabama Tax Tribunal shall
602 be officially reported. The state shall pay the expense of
603 reporting from the appropriation for the Alabama Tax Tribunal.

604 (1) Decisions.

605 (1) The Alabama Tax Tribunal shall render its decision
606 in writing, including therein a concise statement of the facts
607 found and the conclusions of law reached. The Alabama Tax
608 Tribunal's decision, subject to law, shall grant such relief,
609 invoke such remedies, and issue such orders as it deems
610 appropriate to carry out its decision. A judge may enter a
611 preliminary order directing one or more parties to take such
612 action as deemed appropriate or referring any issue or issues
613 in dispute to the Department of Revenue's Taxpayer Advocate
614 for consideration if the issue or issues relate to a tax
615 administered by the Department of Revenue. A judge, after a
616 hearing or after a case is otherwise submitted for decision,



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617 may issue an opinion and preliminary order, which shall
618 include findings of fact and conclusions of law. The opinion
619 and preliminary order may direct the department to recompute a
620 taxpayer's liability or the amount of a refund due or for any
621 party to take such action as specified in the preliminary
622 order.

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

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

634 (4) The Alabama Tax Tribunal's decision shall finally
635 decide the matters in controversy, unless any party to the
636 matter timely appeals the decision as provided in this
637 chapter.

638 (5) Any party may apply for rehearing from any final
639 order or opinion and preliminary order of the Alabama Tax
640 Tribunal; provided, however, the application must be filed
641 within 15 days from the date of entry of such order. The
642 application for rehearing shall specify the reasons and
643 supporting arguments why such order is incorrect and should be
644 reconsidered. The timely filing of an application for



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645 rehearing from a final order shall suspend the time period for
646 filing an appeal to circuit court as provided in this chapter.
647 If an application for rehearing is timely filed, the judge
648 shall thereafter issue a final or other order on rehearing,
649 either with or without a hearing on the application, at the
650 discretion of the judge. The time for filing a notice of
651 appeal to circuit court shall begin anew on the date of entry
652 of the final order on rehearing.

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

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

667 (m) Appeals.

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

672 (2) The taxpayer, a self-administered county or



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673 municipality whose tax is within the jurisdiction of the
674 Alabama Tax Tribunal, or the Department of Revenue may appeal
675 to circuit court from a final or other appealable order issued
676 by the Alabama Tax Tribunal by filing a notice of appeal with
677 the appropriate circuit court within 30 days from the date the
678 final or other appealable order was entered. A copy of the
679 notice of appeal shall be submitted to the Alabama Tax
680 Tribunal within the 30-day appeal period. The Alabama Tax
681 Tribunal shall thereafter prepare a record on appeal, which
682 shall include the orders of the Alabama Tax Tribunal, the
683 stenographic transcript of the hearing before the Alabama Tax
684 Tribunal, the pleadings, and all exhibits and documents
685 admitted into evidence. The appeal shall be filed in the
686 following circuit courts:

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

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

696 c. Notwithstanding paragraphs a. and b., if the
697 taxpayer does not reside in Alabama or have a principal place
698 of business in Alabama, any appeal by the taxpayer, the
699 Department of Revenue, or a self-administered county or
700 municipality whose tax is within the jurisdiction of the



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701 Alabama Tax Tribunal shall be filed with the Circuit Court of
702 Montgomery County, Alabama.

703 (3) If the appeal to circuit court pursuant to
704 subdivision (2)b. is by a taxpayer from a final order
705 involving a final assessment, the taxpayer shall, within the
706 30-day period allowed for appeals, satisfy one of the
707 requirements under Section 40-2A-7(b)(5)b.2., relating to
708 appeals to circuit court.

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

725 (n) Representation.

726 (1) Appearances in proceedings conducted by the Alabama
727 Tax Tribunal may be by the taxpayer; by an attorney admitted
728 to practice in this state, including an attorney who is a



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

739 (2) The department shall be represented by an
740 authorized representative in all proceedings before the
741 Alabama Tax Tribunal.

742 (o) Publication of Decisions.

743 The Alabama Tax Tribunal shall index and publish its
744 final decisions in such print or electronic form as it deems
745 best adapted for public convenience. Such publications shall
746 be made permanently available and constitute the official
747 reports of the Alabama Tax Tribunal.

748 (p) Service of Process.

749 (1) Mailing by first class or certified or registered
750 mail, postage prepaid, to the address of the taxpayer given on
751 the taxpayer's notice of appeal, or to the address of the
752 taxpayer's representative of record, if any, or to the usual
753 place of business of the Department of Revenue, shall
754 constitute personal service on the other party. The Alabama
755 Tax Tribunal, by rule, may prescribe that notice by other
756 means shall constitute personal service and, in a particular



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757 case, may order that notice be given to additional persons or
758 by other means.

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

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

767 (q) Rules and Forms.

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

773 (r) Budget of Alabama Tax Tribunal.

774 The Chief Judge of the Alabama Tax Tribunal may
775 contract or enter into agreements with any private or
776 governmental agency, upon approval of the Director of Finance,
777 for the rental of office space, and the rental or purchase of
778 equipment, administrative or other support services, supplies,
779 and all other property or services necessary for the operation
780 of the Alabama Tax Tribunal. The funds for the operation of
781 the Alabama Tax Tribunal shall be administered by the Alabama
782 Tax Tribunal, through the chief judge. With respect to the
783 fiscal year beginning October 1, 2014, there shall be
784 transferred from the Revenue Department Administrative Fund to



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785 the Alabama Tax Tribunal the amount of four hundred
786 twenty-five thousand dollars (\$425,000). The amount
787 transferred from the Revenue Department Administrative Fund
788 shall be disbursed to the Alabama Tax Tribunal in four equal
789 increments, at the beginning of each quarter of the fiscal
790 year. Thereafter, the Chief Judge of the Alabama Tax Tribunal,
791 shall prepare an annual budget and funds shall be appropriated
792 annually by the Legislature from the Revenue Department
793 Administrative Fund to be used exclusively for the operation
794 of the Alabama Tax Tribunal."

795 Section 7. This act shall become effective on October
796 1, 2025.



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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB174

Senate 08-Apr-25

I hereby certify that the within Act originated in and passed the Senate, as amended.

Patrick Harris,
Secretary.

House of Representatives

Passed: 01-May-25

By: Senator Chambliss