

State of Arkansas  
94th General Assembly  
Regular Session, 2023

As Engrossed: H3/8/23

# A Bill

SENATE BILL 185

By: Senator B. Johnson  
By: Representative Eaves

## For An Act To Be Entitled

AN ACT TO AMEND THE APPOINTMENT PROCEDURE FOR THE TAX APPEALS COMMISSION TO PROVIDE FOR THE FILLING OF VACANCIES ON THE COMMISSION; TO DECLARE AN EMERGENCY, AND FOR OTHER PURPOSES.

### Subtitle

TO AMEND THE APPOINTMENT PROCEDURE FOR THE TAX APPEALS COMMISSION TO PROVIDE FOR THE FILLING OF VACANCIES ON THE COMMISSION; AND TO DECLARE AN EMERGENCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

*SECTION 1. Arkansas Code § 26-18-1106(a) and (b), concerning the appointment of commissioners to the Tax Appeals Commission, are amended to read as follows:*

*(a)(1) The Tax Appeals Commission shall consist of three (3) commissioners who are subject to the requirements of § 26-18-1107.*

*(2) Commissioners ~~shall~~ may be selected from a pool of candidates recommended as follows:*

*(A) The Arkansas Bar Association shall nominate three (3) individuals who are licensed to practice law in this state;*

*(B) The majority of the Supreme Court shall nominate three (3) individuals who are:*

*(i) Licensed to practice law in this state; ~~and~~*

*(ii) Certified as a certified public accountant in*



this state; ~~and~~ or

(iii) Both licensed to practice law in this state and certified as a certified public accountant in this state; and

(C) The Arkansas Society of Certified Public Accountants shall nominate three (3) individuals who are certified as a certified public accountant in this state.

(3) The Governor ~~shall:~~

(A) May appoint one (1) commissioner from each pool of candidates nominated under this subsection;

(B) May appoint an individual who is not nominated under this subsection who meets the applicable licensure requirements of a particular pool and who otherwise meets the qualification requirements stated in § 26-18-1107; and

(C)(i) With the advice of the Secretary of the Department of Inspector General, shall designate one (1) of the commissioners of the Tax Appeals Commission to serve as Chief Commissioner of the Tax Appeals Commission.

(ii) The Governor may change the designation of Chief Commissioner of the Tax Appeals Commission at any time.

(iii) A commissioner's designation as Chief Commissioner of the Tax Appeals Commission does not affect the commissioner's term of appointment.

(b) The Chief Commissioner of the Tax Appeals Commission shall:

~~(1) Be appointed from the pool of candidates nominated by the Supreme Court;~~

~~(2) Meet the requirements stated in § 26-18-1107 for the position of chief commissioner;~~

~~(3)(2) Act as the executive officer of the commission;~~

~~(4)(3) Be subject to the same provisions of law as commissioners;~~

~~(5)(4) Be charged with the administration of the commission;~~

~~(6)(5) Apportion among the commission all causes, matters, and hearings coming before the commission;~~

~~(7)(6) Take any action necessary to enable the commission to properly exercise the duties, functions, and powers of the commission under this subchapter; and~~

~~(8)~~(7) Submit an annual report to the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the Chair of the House Committee on Judiciary, the Chair of the Senate Committee on Judiciary, the cochairs of the Legislative Council, the Governor, and the Secretary of the Department of Inspector General that contains the following information for the year that is the subject of the report:

- (A) The case load of the commission;
- (B) The number of petitions filed;
- (C) The number of claims settled;
- (D) The number of decisions the commission rendered;
- (E) The number of decisions rendered:
  - (i) In favor of the Department of Finance and Administration;
  - (ii) In favor of the taxpayer; and
  - (iii) Partially in favor of the department and partially in favor of the taxpayer;
- (F) The number of matters heard:
  - (i) In person;
  - (ii) By teleconference or videoconference;
  - (iii) Using a combination of in-person and either teleconference or videoconference means; and
  - (iv) Solely on the documents filed with the commission; and
- (G) The average time for a claim to be processed from the petition's being filed to a decision's being rendered, calculated for each type of hearing conducted by the commission.

SECTION 2. Arkansas Code § 26-18-1106(f), concerning the appointment of commissioners to the Tax Appeals Commission, is amended to read as follows:

(f)(1) If a vacancy occurs on the commission, the Governor shall appoint a commissioner to fill the vacancy.

(2) If the vacant position is one (1) that was filled by a candidate nominated by:

(A) The Arkansas Bar Association or otherwise appointed by the Governor in lieu of Arkansas Bar Association nominees, the Arkansas Bar

Association shall nominate three (3) individuals who are licensed to practice law in this state;

(B) The majority of the Supreme Court or otherwise appointed by the Governor in lieu of Supreme Court nominees, the majority of the Supreme Court shall nominate three (3) individuals who are:

(i) Licensed to practice law in this state; ~~and~~  
(ii) Certified as a certified public accountant in this state; ~~and~~ or

(iii) Both licensed to practice law in this state and certified as a certified public accountant in this state; and

(C) The Arkansas Society of Certified Public Accountants or otherwise appointed by the Governor in lieu of Arkansas Society of Certified Public Accountants nominees, the Arkansas Society of Certified Public Accountants shall nominate three (3) individuals who are certified as a certified public accountant in this state.

(3)(A) The Governor may appoint:

(i) A commissioner to fill a vacancy from the relevant pool of candidates nominated under this subsection; or

(ii) An individual not nominated under this subsection who meets the applicable licensure requirements of a particular pool and who otherwise meets the qualification requirements stated in § 26-18-1107.

(B) If a vacancy occurs in the position of Chief Commissioner of the Tax Appeals Commission, the Governor shall designate one (1) of the commissioners to act as the interim Chief Commissioner of the Tax Appeals Commission until the vacancy is filled.

SECTION 3. Arkansas Code § 26-18-1107 is amended to read as follows:  
26-18-1107. Qualifications of commissioners.

(a) Each commissioner of the Tax Appeals Commission shall:

(1) Be a qualified elector of the State of Arkansas;  
(2) Be ~~either~~ licensed to practice law in the state or certified as a certified public accountant in the state, or both; and  
(3) Possess substantial knowledge of Arkansas tax law.

(b) In addition to meeting the requirements of subsection (a) of this section, the Chief Commissioner of the Tax Appeals Commission shall+

~~(1) Be licensed to practice law in the state;~~

~~(2) Have have been engaged in the private practice of law or accounting, ~~or~~ employed in the private sector, or ~~both~~ engaged in any combination of the private practice of law, the private practice of accounting, and employment in the private sector, for at least five (5) of the immediately preceding ten (10) years before ~~the chief commissioner's~~ his or her first appointment to the commission; ~~and~~~~

~~(3) Be licensed as a certified public accountant in the state.~~

SECTION 4. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that the Tax Appeals Commission is in the process of setting up to begin receiving and hearing appeals in January 2023, and that this act is immediately necessary to provide for appointments of commissioners upon vacancy. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

/s/B. Johnson

**APPROVED: 3/21/23**