

1 SB58  
2 216093-1  
3 By Senator Chesteen  
4 RFD: Governmental Affairs  
5 First Read: 11-JAN-22

SYNOPSIS: Under existing law, a county official may not represent the state or county personally in a property tax appeal and may retain legal counsel to handle property tax appeals.

This bill would authorize the county tax assessing official to appear and defend the state in appeals when the taxable value of property is at issue and would provide that the action is considered an appearance of the state unless the Department of Revenue intervenes.

A BILL  
TO BE ENTITLED  
AN ACT

Relating to taxable property; to amend Section 40-3-26, Code of Alabama 1975, to authorize the county tax assessing official to represent the state in appeals when the taxable value of property is at issue.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1           Section 1. Section 40-3-26, Code of Alabama 1975, is  
2 amended to read as follows:

3           "§40-3-26.

4           "(a) The county commission shall be responsible for  
5 securing legal counsel to represent the state and county in  
6 all property tax cases appealed to the circuit court in the  
7 county. The district attorneys and state and county officials  
8 are prohibited from representing taxpayers in any controversy  
9 between ~~such~~ taxpayers and the state or county; ~~provided, that~~  
10 they however, a district attorney or county official may  
11 appear where the value of ~~their~~ his or her own property is in  
12 controversy. The county may retain legal counsel to handle a  
13 property tax appeal or, when available pursuant to coverage  
14 provided by a self-insurance fund created under Chapter 30 of  
15 Title 11, utilize legal counsel provided through that  
16 coverage. In each case where the county commission employs its  
17 own legal counsel for a property tax case appeal, the county  
18 commission, in consultation with the local tax official, shall  
19 adopt a resolution approving the employment of the counsel.  
20 All expenses incurred by the county commission in complying  
21 with this section shall be paid from the budget of the county  
22 board of equalization as provided in Section 40-7-68.

23           "(b) In addition to the appearance specifications  
24 provided in Section 40-3-25, the county tax assessing official  
25 may appear in his or her official capacity and defend on  
26 behalf of the state in any appeal in which the taxable value  
27 of real or personal property is at issue. The appearance of

1 the tax assessing official in the action shall be considered  
2 an appearance of the state, unless the Department of Revenue  
3 files a notice of appearance or subsequently intervenes on  
4 behalf of the state. The tax assessing official may act in the  
5 appeal as appropriate and necessary to defend the taxable  
6 value of real or personal property. The appearance provided  
7 for in this subsection shall not extend beyond this section  
8 unless otherwise provided by law.

9           "~~(b)~~(c) In addition to all other powers granted to  
10 the board of trustees of a self-insurance fund created  
11 pursuant to Chapter 30 of Title 11, the board of trustees of  
12 the fund may provide legal counsel for property tax cases  
13 appealed to the circuit court. Coverage, when available, shall  
14 be treated as a claim filed under Chapter 30."

15           Section 2. This act shall become effective on the  
16 first day of the third month following its passage and  
17 approval by the Governor, or its otherwise becoming law.