
BOARD OF TAX APPEALS

- Requires the Governor, with the advice and consent of the Senate, to appoint two alternate members to the Board of Tax Appeals (BTA), to serve in the event a member is disqualified from a proceeding.
- Disqualifies members of the BTA who are certain former employees of the Office of the Attorney General in specific proceedings before the BTA.

Disqualification and alternate members

(R.C. 5703.03)

The bill requires members of the Board of Tax Appeals (BTA) to disqualify themselves from hearing certain proceedings and enlarges the membership of the BTA to include two alternate members to stand-in for any disqualified member. Under current law, BTA is comprised of three members appointed by the Governor, with the advice and consent of the Senate. No more than two of the three members may be affiliated with the same political party and at least two of the members must be attorneys with at least six years of experience in practicing Ohio tax law.

The bill requires the Governor, with the advice and consent of the Senate, to appoint two alternate members to BTA, to serve in the event a regular member is disqualified from a particular proceeding, as discussed below. Each alternate must be an attorney admitted to practice in Ohio and must have at least three years of experience in the practice of Ohio tax law. The alternates cannot be affiliated with the same political party. Alternates serve six years in the same manner as full BTA members and must give the same \$5,000 performance bond as those members. Alternates are not prohibited from holding other positions or engaging in other business that could interfere with or be inconsistent with the alternate's official BTA duties but are prohibited from serving on any committee of a political party.

The function of the alternate members is to serve as a substitute in the event that a regular BTA member is required by the bill to be disqualified from hearing a BTA case. Under the bill, disqualification is required for regular members of BTA who are certain former employees of the Attorney General ("former employees"), including any member who previously served as Attorney General (AG), First Assistant Attorney General, or an attorney employee, in any of the three following types of proceedings:

- Proceedings where the Tax Commissioner and the Department of Taxation are parties, if the member previously provided legal representation to that party, and that proceeding was pending at the BTA during the member's employment by the AG.
- Proceedings related to the valuation of tangible personal property that were pending at BTA during the member's previous AG employment.
- Proceedings that the former employee was substantially involved in during an earlier proceeding while employed by the AG.

In the event a member is disqualified from a particular proceeding, the remaining members must appoint an alternate member to replace the disqualified member. Once appointed to a particular proceeding, an alternate member has the same powers as a member of the board as to that proceeding. An alternate member is compensated for performing the member's duties related to the particular proceeding to which the alternate has been appointed in the same manner as full members of the board.