

SENATE BILL NO. 126

INTRODUCED BY K. REGIER

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO APPEALS OF PROPERTY VALUATION FOR TAX PURPOSES; ~~REQUIRING~~ ALLOWING THE DEPARTMENT OF REVENUE AND THE TAXPAYER TO PROVIDE INDEPENDENT APPRAISALS TO THE STATE TAX APPEAL BOARD; AMENDING ~~SECTIONS~~ SECTION 15-2-301 ~~AND 15-2-302~~, MCA; AND PROVIDING AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-2-301, MCA, is amended to read:

"15-2-301. Appeal of county tax appeal board decisions. (1) (a) The county tax appeal board shall mail a copy of its decision to the taxpayer and to the property assessment division of the department of revenue.

(b) If the appearance provisions of 15-15-103 have been complied with, a person or the department on behalf of the state or any municipal corporation aggrieved by the action of the county tax appeal board may appeal to the state tax appeal board by filing with the state board a notice of appeal within 30 calendar days after the receipt of the decision of the county board. The notice must specify the action complained of and the reasons assigned for the complaint.

(c) Notice of acceptance of an appeal must be given to the county board by the state board.

(d) The state board shall set the appeal for hearing either in its office in the capital or at the county seat as the state board considers advisable to facilitate the performance of its duties or to accommodate parties in interest.

(e) The state board shall give to the appellant and to the respondent at least 15 calendar days' notice of the time and place of the hearing.

(2) (a) At the time of giving notice of acceptance of an appeal, the state board may require the county board to certify to it the minutes of the proceedings resulting in the action and all testimony taken in connection with its proceedings.

(b) The state board may, in its discretion, determine the appeal on the record if all parties receive a copy of the transcript and are permitted to submit additional sworn statements, or the state board may hear further testimony.



1 (c) For industrial property that is assessed annually by the department, the state board's review must
 2 be de novo and conducted in accordance with the contested case provisions of the Montana Administrative
 3 Procedure Act.

4 (d) For the purpose of expediting its work, the state board may refer any appeal to one of its members
 5 or to a designated hearings officer. The board member or hearings officer may exercise all the powers of the state
 6 board in conducting a hearing and shall, as soon as possible after the hearing, report the proceedings, together
 7 with a transcript or a tape recording of the hearing, to the state board. The state board shall determine the appeal
 8 on the record.

9 (3) (A) EXCEPT AS PROVIDED IN SUBSECTION (3)(B), THE STATE TAX APPEAL BOARD SHALL CONSIDER AN
 10 INDEPENDENT APPRAISAL PROVIDED BY THE TAXPAYER IF THE APPRAISAL IS CONDUCTED BY A MONTANA LICENSED
 11 APPRAISER AND THE APPRAISAL WAS PREPARED USING DATA COLLECTED WITHIN 6 MONTHS OF THE VALUATION DATE. IF
 12 THE STATE BOARD DOES NOT USE THE APPRAISAL PROVIDED BY THE TAXPAYER IN CONDUCTING THE APPEAL, THE STATE
 13 BOARD SHALL PROVIDE TO THE TAXPAYER THE REASON FOR NOT USING THE APPRAISAL.

14 (B) The If the appeal is an appeal of the valuation of the property RESIDENTIAL PROPERTY THAT HAS BEEN
 15 OWNED BY THE TAXPAYER FOR AT LEAST 5 CONSECUTIVE YEARS, the state tax appeal board must consider require
 16 the taxpayer and the department to provide SHALL CONSIDER an independent appraisal provided by the taxpayer
 17 if the appraisal conducted within 6 months of PROVIDED BY THE TAXPAYER IF THE APPRAISAL IS CONDUCTED BY A
 18 MONTANA LICENSED APPRAISER AND USES VALUES OBTAINED WITHIN the valuation date TIMEFRAME that meets
 19 standards set by the Montana board of real estate appraisers PROVIDED FOR IN SUBSECTION (3)(A) and the
 20 appraisal was conducted within 6 months of the valuation date. If the state board does not use the appraisal
 21 provided by the taxpayer in conducting the appeal, the state board must provide to the taxpayer the reason for
 22 not using the appraisal. THE APPRAISAL THAT IS PROVIDED BY THE TAXPAYER IS PRESUMED TO ESTABLISH ASSESSED
 23 VALUE IN THE STATE BOARD PROCEEDING UNLESS THE DEPARTMENT PROVIDES SUFFICIENT EVIDENCE TO REBUT THE
 24 PRESUMPTION OF CORRECTNESS, INCLUDING ANOTHER INDEPENDENT APPRAISAL OR OTHER COMPELLING VALUATION
 25 EVIDENCE. The state board shall address the TAXPAYER'S independent appraisals APPRAISAL AND THE DEPARTMENT'S
 26 VALUATION EVIDENCE in the decision.

27 (4) In every hearing at a county seat throughout the state, the state board or the member or hearings
 28 officer designated to conduct a hearing may employ a competent person to electronically record the testimony
 29 received. The cost of electronically recording testimony may be paid out of the general appropriation for the
 30 board.

1 (5) Except as provided in subsection (2)(c) regarding industrial property, in connection with any appeal
 2 under this section, the state board is not bound by common law and statutory rules of evidence or rules of
 3 discovery and may affirm, reverse, or modify any decision. To the extent that this section is in conflict with the
 4 Montana Administrative Procedure Act, this section supersedes that act. The state board may not amend or
 5 repeal any administrative rule of the department. The state board shall give an administrative rule full effect unless
 6 the state board finds a rule arbitrary, capricious, or otherwise unlawful.

7 (6) The decision of the state board is final and binding upon all interested parties unless reversed or
 8 modified by judicial review. Proceedings for judicial review of a decision of the state board under this section are
 9 subject to the provisions of 15-2-303 and the Montana Administrative Procedure Act to the extent that it does not
 10 conflict with 15-2-303.

11 (7) Sections 15-6-134 and 15-7-111 may not be construed to prevent the department from implementing
 12 an order to change the valuation of property."
 13

14 ~~Section 2. Section 15-2-302, MCA, is amended to read:~~

15 ~~"15-2-302. Direct appeal from department decision to state tax appeal board -- hearing. (1) (a) An~~
 16 ~~appeal of a final decision of the department of revenue involving one of the matters provided for in subsection~~
 17 ~~(1)(b) must be made to the state tax appeal board.~~

18 ~~(b) Final decisions of the department for which appeals are provided in subsection (1)(a) are final~~
 19 ~~decisions involving:~~

20 ~~(i) property centrally assessed under chapter 23;~~

21 ~~(ii) classification of property as new industrial property;~~

22 ~~(iii) any other tax, other than the property tax, imposed under this title; or~~

23 ~~(iv) any other matter in which the appeal is provided by law.~~

24 ~~(2) A person may appeal the department's annual assessment of an industrial property to the state board~~
 25 ~~as provided in this section or to the county tax appeal board for the county in which the property is located as~~
 26 ~~provided in Title 15, chapter 15, part 1.~~

27 ~~(3) The appeal is made by filing a complaint with the state board within 30 days following receipt of notice~~
 28 ~~of the department's final decision. The complaint must set forth the grounds for relief and the nature of relief~~
 29 ~~demanded. The state board shall immediately transmit a copy of the complaint to the department.~~

30 ~~(4) The department shall file with the state board an answer within 30 days following filing of a complaint.~~

1 ~~———— (5) The state board shall conduct the appeal in accordance with the contested case provisions of the~~
2 ~~Montana Administrative Procedure Act.~~

3 ~~———— (6) If the appeal involves property valuation, the state board must require the taxpayer and the~~
4 ~~department to provide SHALL CONSIDER an independent appraisal conducted within 6 months of PROVIDED BY THE~~
5 ~~TAXPAYER IF THE APPRAISAL USES VALUES OBTAINED WITHIN the valuation date TIMEFRAME that meets standards set~~
6 ~~by the Montana board of real estate appraisers. THE APPRAISAL THAT IS PROVIDED BY THE TAXPAYER IS PRESUMED~~
7 ~~TO ESTABLISH ASSESSED VALUE IN THE STATE BOARD PROCEEDING UNLESS THE DEPARTMENT PROVIDES SUFFICIENT~~
8 ~~EVIDENCE TO REBUT THE PRESUMPTION OF CORRECTNESS, INCLUDING ANOTHER INDEPENDENT APPRAISAL OR OTHER~~
9 ~~COMPELLING VALUATION EVIDENCE. The state board shall address the TAXPAYER'S independent appraisals APPRAISAL~~
10 ~~AND THE DEPARTMENT'S VALUATION EVIDENCE in the decision.~~

11 ~~———— (6)(7) The decision of the state board is final and binding upon all interested parties unless reversed~~
12 ~~or modified by judicial review. Proceedings for judicial review of a decision of the state board under this section~~
13 ~~are subject to the provisions of 15-2-303 and the Montana Administrative Procedure Act to the extent that it does~~
14 ~~not conflict with 15-2-303."~~

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16 NEW SECTION. **Section 2. Applicability.** [This act] applies to appeals filed on or after [the effective
17 date of this act].

18 - END -