

HOUSE BILL NO. 275

INTRODUCED BY T. FACEY

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE ASSESSMENT AND TAXATION OF CERTAIN IMPROVEMENTS TO REAL PROPERTY; REQUIRING THAT THE OWNER REPORT OCCUPATION OR USE OF THE IMPROVEMENTS TO THE DEPARTMENT OF REVENUE; PROVIDING A PENALTY IF THE OWNER DOES NOT REPORT OCCUPATION OR USE OF THE IMPROVEMENTS; PROVIDING THAT THE OWNER OF THE IMPROVEMENTS MAY APPEAL THE VALUATION OF THE IMPROVEMENTS; PROVIDING THAT TAXES IMPOSED ON THE IMPROVEMENTS ARE NOT SUBJECT TO PENALTY AND INTEREST; PROVIDING FOR THE EXPENDITURE OF REVENUE COLLECTED FROM TAXES ON CERTAIN IMPROVEMENTS TO REAL PROPERTY; AMENDING SECTIONS 15-8-201, 15-10-420, 15-15-102, AND 20-9-161, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

NEW SECTION. Section 1. Assessment and taxation of certain improvements -- procedures -- penalty -- exceptions. (1) Except as provided in 15-24-1402, 15-24-1501, 15-24-1502, and subsection (8) of this section, residential and commercial improvements, including additions to existing improvements, completed during the tax year that were not assessed or taxable as of the preceding January 1 or improvements that have become the property of a person subject to taxation must be assessed and taxed from the date of occupation or use.

(2) (a) An owner of improvements described in subsection (1) shall notify the department that the improvements are occupied or in use. As soon as practical after receiving the notice, the department shall appraise the improvements as provided in Title 15, chapters 7 and 8. If the owner fails to notify the department that the improvements are occupied or in use, the owner is subject to a penalty equal to 0.667% of the amount of the tax due as determined under subsection (3).

(b) Upon completion of the appraisal, the department shall notify the owner of the appraisal.

(c) If the owner of the improvements is dissatisfied with the appraisal, the procedures for review and appeal described in 15-7-102(3) through (6) apply.

(3) To determine the amount of tax due for improvements described in subsection (1), the county

1 treasurer shall multiply the taxable value of the new improvement by the total number of mills levied on the
2 property for the current fiscal year and multiply the product by the ratio that the number of days in the calendar
3 year that the property will be in taxable status bears to 365.

4 (4) Because the improvement will not have been assessed or taxed during the tax year because it did
5 not exist on January 1, the department shall prepare a special assessment for the property and the county
6 treasurer shall determine the amount of taxes that would have been due under subsection (3).

7 (5) (a) Except as provided in subsection (5)(b), upon determining the amount of tax due, the county
8 treasurer shall notify the person to whom the tax is assessed, in the same manner as notification is provided
9 under 15-16-101(2), of the amount due, and the notification must state that the taxes are payable within 30 days
10 after the notification is postmarked. Taxes imposed under this section are not subject to the penalty and interest
11 provisions under 15-16-102(2) and (3).

12 (b) If the county treasurer determines the amount of the taxes due on the improvements after October
13 1 of the tax year, the notification must state that the taxes are payable by May 31 of the following year.

14 (6) Immediately upon receipt of taxes imposed under this section, the county treasurer shall distribute
15 the money in the same manner as property taxes are distributed. Upon receipt of money, a governing body may
16 amend its budget, as provided in 7-6-4006, and a school district may amend its budget, as provided in 20-9-161.

17 (7) Improvements that are assessed and taxed under this section must be included in the tax base as
18 newly taxable property, as provided in 15-10-420, for the fiscal year beginning July 1 that follows assessment
19 and taxation of the improvements under this section.

20 (8) This section does not apply to:

21 (a) improvements described in subsection (1) if the market value of the improvements is less than
22 \$20,000; or

23 (b) remodeling of improvements if there is no expansion of the improvements as a result of the
24 remodeling.

25
26 **Section 2.** Section 15-8-201, MCA, is amended to read:

27 **"15-8-201. General assessment day.** (1) The department shall, between January 1 and the second
28 Monday of July in each year, ascertain the names of all taxable inhabitants and assess all property subject to
29 taxation in each county.

30 (2) The department shall assess property to:

(a) the person by whom it was owned or claimed or in whose possession or control it was at midnight of the preceding January 1; or

(b) except in the case of land splits, the new owner if the provisions of 15-7-304 have been met and the transfer certificate has been received and processed prior to determining the taxes that are due as provided in 15-10-305(2).

(3) The department shall also ascertain and assess all mobile homes arriving in the county after midnight of the preceding January 1.

(4) A mistake in the name of the owner or supposed owner of real property does not invalidate the assessment.

(5) The procedure provided by this section does not apply to:

(a) motor vehicles;

(b) motor homes, travel trailers, and campers;

(c) watercraft;

(d) livestock;

(e) property defined in 61-1-104 as special mobile equipment that is subject to assessment for personal property taxes on the date that application is made for a special mobile equipment plate;

(f) mobile homes and manufactured homes held by a distributor or dealer as stock in trade; ~~and~~

(g) property subject to the provisions of 15-16-203; and

(h) improvements that are subject to the provisions of [section 1]."

Section 3. Section 15-10-420, MCA, is amended to read:

"15-10-420. Procedure for calculating levy. (1) (a) Subject to the provisions of this section, a governmental entity that is authorized to impose mills may impose a mill levy sufficient to generate the amount of property taxes actually assessed in the prior year plus one-half of the average rate of inflation for the prior 3 years. The maximum number of mills that a governmental entity may impose is established by calculating the number of mills required to generate the amount of property tax actually assessed in the governmental unit in the prior year based on the current year taxable value, less the current year's value of newly taxable property, plus one-half of the average rate of inflation for the prior 3 years.

(b) A governmental entity that does not impose the maximum number of mills authorized under subsection (1)(a) may carry forward the authority to impose the number of mills equal to the difference between

1 the actual number of mills imposed and the maximum number of mills authorized to be imposed. The mill
2 authority carried forward may be imposed in a subsequent tax year.

3 (c) For the purposes of subsection (1)(a), the department shall calculate one-half of the average rate
4 of inflation for the prior 3 years by using the consumer price index, U.S. city average, all urban consumers, using
5 the 1982-84 base of 100, as published by the bureau of labor statistics of the United States department of labor.

6 (2) A governmental entity may apply the levy calculated pursuant to subsection (1)(a) plus any additional
7 levies authorized by the voters, as provided in 15-10-425, to all property in the governmental unit, including
8 newly taxable property.

9 (3) For purposes of this section, newly taxable property includes:

10 (a) annexation of real property and improvements into a taxing unit;

11 (b) construction, expansion, or remodeling of improvements;

12 (c) transfer of property into a taxing unit;

13 (d) subdivision of real property; and

14 (e) transfer of property from tax-exempt to taxable status.

15 (4) (a) For the purposes of subsection (1), the taxable value of newly taxable property includes the
16 release of taxable value from the incremental taxable value of a tax increment financing district because of:

17 (i) a change in the boundary of a tax increment financing district;

18 (ii) an increase in the base value of the tax increment financing district pursuant to 7-15-4287; or

19 (iii) the termination of a tax increment financing district.

20 (b) For the purpose of subsection (3)(d), the subdivision of real property includes the first sale of real
21 property that results in the property being taxable as class four property or as nonagricultural land as described
22 in 15-6-133(1)(c).

23 ~~(c) For the purposes of this section, newly taxable property does not include an increase in appraised~~
24 ~~value of land that was previously valued at 75% of the value of improvements on the land, as provided in~~
25 ~~15-7-111(4) and (5), as those subsections applied on December 31, 2001.~~

26 (5) Subject to subsection (8), subsection (1)(a) does not apply to:

27 (a) school district levies established in Title 20; or

28 (b) the portion of a governmental entity's property tax levy for premium contributions for group benefits
29 excluded under 2-9-212 or 2-18-703.

30 (6) For purposes of subsection (1)(a), taxes imposed do the amount of property tax actually assessed

1 does not include:

2 (a) net or gross proceeds taxes received under 15-6-131 and 15-6-132; or

3 (b) taxes collected on improvements under the provisions of [section 1].

4 (7) In determining the maximum number of mills in subsection (1)(a), the governmental entity may
5 increase the number of mills to account for a decrease in reimbursements.

6 (8) The department shall calculate, on a statewide basis, the number of mills to be imposed for
7 purposes of 15-10-107, 20-9-331, 20-9-333, 20-9-360, 20-25-423, and 20-25-439. However, the number of mills
8 calculated by the department may not exceed the mill levy limits established in those sections. The mill
9 calculation must be established in whole mills. If the mill levy calculation does not result in a whole number of
10 mills, then the calculation must be rounded up to the nearest whole mill.

11 (9) (a) The provisions of subsection (1) do not prevent or restrict:

12 (i) a judgment levy under 2-9-316 or 7-7-2202;

13 (ii) a levy to repay taxes paid under protest as provided in 15-1-402; or

14 (iii) an emergency levy authorized under 10-3-405, 20-9-168, or 20-15-326.

15 (b) A levy authorized under subsection (9)(a) may not be included in the amount of property taxes
16 actually assessed in a subsequent year.

17 (10) The department may adopt rules to implement this section. The rules may include a method for
18 calculating the percentage of change in valuation for purposes of determining the elimination of property, new
19 improvements, or newly taxable property in a governmental unit."

20
21 **Section 4.** Section 15-15-102, MCA, is amended to read:

22 **"15-15-102. Application for reduction in valuation.** The valuation of property may not be reduced by
23 the county tax appeal board unless either the taxpayer or the taxpayer's agent makes and files a written
24 application for reduction with the county tax appeal board. The application for reduction may be obtained at the
25 local appraisal office or from the county tax appeal board. The completed application must be submitted to the
26 county clerk and recorder. The date of receipt is the date stamped on the appeal form by the county clerk and
27 recorder upon receipt of the form. The county tax appeal board is responsible for obtaining the applications from
28 the county clerk and recorder. The application must be submitted on or before the first Monday in June or 30
29 days after receiving either a notice of classification and appraisal, including notice of appraisal under [section
30 1], or a determination after review under 15-7-102(3), including review of an appraisal under [section 1], from

1 the department, whichever is later. If the department's determination after review is not made in time to allow
2 the county tax appeal board to review the matter during the current tax year, the appeal must be reviewed during
3 the next tax year, but the decision by the county tax appeal board is effective for the year in which the request
4 for review was filed with the department. The application must state the post-office address of the applicant,
5 specifically describe the property involved, and state the facts upon which it is claimed the reduction should be
6 made."

7
8 **Section 5.** Section 20-9-161, MCA, is amended to read:

9 **"20-9-161. Definition of budget amendment for budgeting purposes.** As used in this title, unless
10 the context clearly indicates otherwise, the term "budget amendment" for the purpose of school budgeting means
11 an amendment to an adopted budget of the district for the following reasons:

12 (1) an increase in the enrollment of an elementary or high school district that is beyond what could
13 reasonably have been anticipated at the time of the adoption of the budget for the current school fiscal year
14 whenever, because of the enrollment increase, the district's budget for any ~~or all~~ of the regularly budgeted funds
15 does not provide sufficient financing to properly maintain and support the district for the entire current school
16 fiscal year;

17 (2) the destruction or impairment of any school property necessary to the maintenance of the school,
18 by fire, flood, storm, riot, insurrection, or act of God, to an extent rendering school property unfit for its present
19 school use;

20 (3) a judgment for damages against the district issued by a court after the adoption of the budget for
21 the current year;

22 (4) an enactment of legislation after the adoption of the budget for the current year that imposes an
23 additional financial obligation on the district;

24 (5) the receipt of:

25 (a) a settlement of taxes protested in a prior school fiscal year;

26 (b) taxes from a prior school fiscal year as the result of a tax audit by the department of revenue or its
27 agents;

28 (c) delinquent taxes from a prior school fiscal year; and

29 (d) any revenue distributed under [section 1]; and

30 (e) a determination by the trustees that it is necessary to expend all or a portion of the taxes received

1 under subsection (5)(a), (5)(b), or (5)(c) for a project or projects that were deferred from a previous budget of
2 the district; or

3 (6) any other unforeseen need of the district that cannot be postponed until the next school year without
4 dire consequences affecting the safety of the students and district employees or the educational functions of the
5 district."

6
7 NEW SECTION. **Section 6. Codification instruction.** [Section 1] is intended to be codified as an
8 integral part of Title 15, chapter 16, part 2, and the provisions of Title 15, chapter 16, part 2, apply to [section 1].

9
10 NEW SECTION. **Section 7. Effective date.** [This act] is effective July 1, 2003.

11 - END -