



FREE CONFERENCE COMMITTEE

on Senate Bill 516

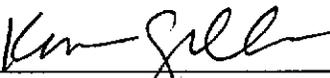
Report No. 1, April 20, 2005

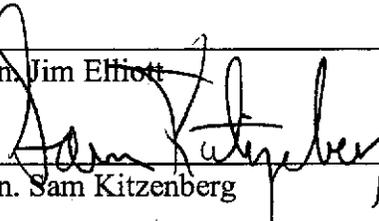
Page 1 of 4

Mr. President and Mr. Speaker:

We, your Free Conference Committee met and considered **Senate Bill 516** (reference copy -- salmon) and recommend this Free Conference Committee report be adopted.

For the Senate:


Sen. Kim Gillan Chair

Sen. Jim Elliott

Sen. Sam Kitzenberg


Amendment Coordinator

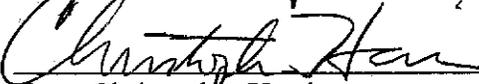
Secretary of the Senate

For the House:


Rep. Karl Waitschies

Rep. Bob Lake


Rep. Dave McAlpin


Rep. Christopher Harris

And, recommend that **Senate Bill 516** (reference copy -- salmon) be amended as follows:

1. Title, page 1, line 12.
Strike: "1"

2. Title, page 1, line 13.
Strike: "YEAR"
Insert: "3 YEARS"

ADOPT

Amendment # SB 516-1

REJECT



Following: "APPEAL;"
Insert: "PROVIDING EXCEPTIONS;"

3. Title, page 1, line 15.

Strike: "WITH"
Insert: "WITHIN"

4. Title, line 18.

Following: "REFUND;"
Insert: "PROVIDING FOR APPEAL DISCOVERY AND PREHEARING PROCEDURES
RELATED TO PROPERTY TAX APPEALS FOR CENTRALLY ASSESSED AND
INDUSTRIAL PROPERTY;"

5. Page 2, line 3.

Strike: "FOR THE PURPOSES OF SUBSECTION (7)."

6. Page 2, line 13.

Strike: "Disputes"
Insert: "Except as provided in subsection (7), disputes"

7. Page 3, line 1.

Strike: "60"
Insert: "180"

8. Page 3, line 27.

Following: "REGARDING ANY"
Insert: "property tax"

9. Page 9, line 8.

Strike: "except as provided in subsection (1)(b)"

10. Page 10, line 8.

Strike: "1 year"
Insert: "3 years"

11. Page 10, line 20.

Following: "(C)"
Insert: "(i)"
Following: "ONLY TO"
Insert: "property tax"

12. Page 10.

Following: line 21

Insert: "(ii) This subsection (5) does not apply to property tax appeals involving 3 or more years on the same property."

13. Page 12, line 19.

Insert: "NEW SECTION. Section 6. Discovery procedures -- prehearing procedures. (1) Within 30 days of filing a complaint, the taxpayer shall provide to the department, without waiting for a discovery request, a preliminary discovery disclosure in conformity with subsection (2). Within the same 30-day period, the department shall provide to the taxpayer, without waiting for a discovery request, a preliminary discovery disclosure in conformity with subsections (2)(a) and (2)(b).

(2) The preliminary discovery disclosure must contain the following information:

(a) the name and, if known, the address and telephone number of each individual likely to have discoverable information that the party may use to support its claims or defenses, unless solely for impeachment, identifying the subjects of the information;

(b) a copy of, or description by category and location of, all documents, data compilations, and tangible things that are in the possession, custody, or control of the party and that the disclosing party may use to support its claims or defenses, unless solely for impeachment; and

(c) a specific statement of the value of property or the amount of tax that the taxpayer seeks to be awarded by the state tax appeal board, including any computation supporting the statement of value or tax as well as the documents or other evidence upon which the computation and statement of value and tax are based.

(3) A party shall make its preliminary discovery disclosures based on the information then reasonably available to it and is not excused from making its disclosures because it has not fully completed its investigation of the case, because it challenges the sufficiency of another party's disclosures, or because another party has not made its disclosures. The preliminary discovery disclosure must conform with the requirements of Rule 26 of the Montana Rules of Civil Procedure.

(4) A party shall disclose to the other party the identity of any person who may be used at trial to present evidence under Rule 702, 703, or 705 of the Montana Rules of Evidence. With respect to a witness who is retained or specially employed to provide expert testimony in the case or whose duties as an employee of the party regularly involve giving expert testimony, the disclosure must be accompanied by a written report prepared and signed by the witness. The report must contain:

(a) a complete statement of all opinions to be expressed and the basis and reasons for the opinions;

(b) the data or other information considered by the witness in forming the opinions;

(c) any exhibits to be used as a summary of or support for the opinions;

(d) the qualifications of the witness, including a list of all publications authored by the witness within the preceding 10 years;

(e) the compensation to be paid for the study and testimony; and

(f) a listing of any other cases in which the witness has testified as an expert at trial or by deposition within the preceding 10 years.

(5) A party shall provide to the other party and file with the board at least 30 days prior to the hearing the following information regarding the evidence that it may present at trial other than solely for impeachment:

(a) the name, address, and telephone number of each witness, separately identifying those whom the party expects to present and those whom the party may call if the need arises;

(b) the designation of those witnesses whose testimony is expected to be presented by means of a deposition; and

(c) an appropriate identification of each document or other exhibit, including summaries of other evidence, separately identifying those that the party expects to offer and those that the party may offer if the need arises.

(6) Within 14 days following receipt of the information provided for in subsection (5), a party may serve and file a list disclosing any objection to the use under Rule 32 of the Montana Rules of Civil Procedure of a deposition designated by another party under subsection (5) and any objection, together with the grounds for the motion, that may be made to the admissibility of materials identified under subsection (5). Objections not disclosed, other than objections under Rules 402 and 403 of the Montana Rules of Evidence, are waived.

(7) If a party fails to make the disclosures required by this section or fails to answer or cooperate in discovery, the other party may file an order compelling disclosure or discovery in the first judicial district court. The provisions of Rule 37 of the Montana Rules of Civil Procedure apply to any motion to compel disclosure or discovery. The court shall hear and decide the motion expeditiously.

(8) The provisions of subsections (1) through (6) apply only to appeals filed pursuant to 15-2-302(1)(a) through (1)(c)."

Insert: "NEW SECTION. Section 7. Codification instruction.

[Section 6] is intended to be codified as an integral part of Title 15, chapter 2, part 3, and the provisions of Title 15, chapter 2, part 3, apply to [section 6]."

Renumber: subsequent sections

Elliott

TO: SENATOR Giltan

FROM: KATHY FABIANO
ASSISTANT SECRETARY TO THE SENATE

RE: CONFERENCE COMMITTEE

Your secretary for the ^{free} conference committee on HB 516 will be
Kyanne Kelly (x 1512). Your staffer for the conference committee
is Jeff Martin
Dave

Once you have decided when the committee will meet, please contact the secretary and she will find a room for you. Please try to talk to the secretary before you announce the meeting under order of business #12. I will provide the secretary with a packet containing everything you will need for the committee meeting, including copies of the reference bill and amendments and a copy of the third reading votes in both houses. Meetings must be posted with the Secretary of the Senate's office as usual. Your secretary will notice all committee members and the staffer.

Each house votes separately and a majority of each house is needed to report the bill out of conference committee. If the committee can't reach agreement you may meet again and reconsider your action, dissolve and appoint new members, or dissolve and become a free conference committee.

Please call me at 4840 or stop by my office in room 302 if you have any questions.

Cc: Conference Committee Secretary

11-SB - Accede to Senate request to appoint a FREE conference committee:

Date: April 19, 2005
To: Bill Lombardi, Secretary of the Senate
From: Marilyn Miller, Chief Clerk of the House

I am directed by the House of Representatives to inform the Senate that the House of Representatives this day, acceded to the request of the Senate and has authorized the Speaker to appoint a FREE conference committee to meet with a like committee from the Senate on Senate bill 516. The Speaker appointed the following members:

Reps. Waitschies, Lake, Mcalpin , and Harris appointed.

SB 516 Gillan, Kim 19-APR-05 (H) Free Conference Committee Appointed

Revise certain tax appeal and penalty provisions

Senate members: The President Appoints Senators Gillan, Elliott, and Kitzenberg

All here

Lake moved his amend SB051610.akj
ex 1

Harris - wait until all discussed

Jeff explained similarities

Lake withdraw motion

ex. 2 SB05169.alh - DOR 1

ex. 3 SB03169.alh - DOR 2

Elliott - agree w/ Harris - don't consider DOR 1

DOR
Dave ~~Other~~ Chief Legal DOR

purp - speed up appeals w/ respect prop tax
large tax payers

- #outset of appeal

lang #11 drawn off fed rules civ proc.

will speed discovery process

Rhonda Carp Wigg - county Treas assn.

- Lake not change philosophy, just technical

- DOR change phil of bill - no hearing

Elliott → Wiggers - dilatory
" " " know discovery

Harris - Fed rules of discovery well-vetted

Lake - speeds up but expands DOR power

Elliott Dan Bucks dir. DOR
how affect small taxpayer?
can make both work

Harris → Bucks

~~Greg~~ ^{Dir} Thornton State Tax . . .

Ohler - dept of rev.

Elliott - can we not affect small taxpayer?

Lake moved his amendment

~~Gillan~~

~~Elliott~~

~~Kirtenberg~~

~~Walt Schies~~

Lake

Mealpin

Harris

Lake made sub motion replace amend 2 w/
"except as provided in subsection 7"

Jeff → #4

Harris made sub motion to seg. out
1, 3, 4, 5 ← adopt
and #2 w/ changes
unanim y

Harris moved ^{his} amendments

~~Gillan
Elliott
Kitzenberg
Waitschies
Lake
McAlpin
Harris~~

recess

Gillan sub. motion move rep Harris amend
changing no time frame to 3 yrs

Waitschies - 3 yrs time from appeal or litigation
Wait prefer from appeal

Dan Bucks - 3 concerns

1. incr. cost of lit. for dept
2. target to drag process out
3. will want to move deadline back

- if amend made no deadline on 3 cons yrs
would people suggest abusing that?

elliott → thornquist
- smaller cases before st appeals

Belliot - effect on central property?

Gillan sub motion - move harris amend w/
3 yrs to appeal to Stab ... w/ waitschies
~~bill as amended~~ amend
cont report

Gillan	N	Y	Y
ELLIOTT	N	Y	Y
Kitzenberg	N	Y	Y
Waitschies	Y	Y	Y
Lake	Y	N	N
McAlpin	N	Y	Y
Harris	N	Y	Y

Lake @ sub motion move 1 to 3

back on Gillan's original motion

Harris move whole conf report

SHORT TITLE: Revise certain tax appeal
and penalty provisions

SPONSOR: Sen. Gillan

ORDER OF BUSINESS NO. 6
CONFERENCE COMMITTEE APPOINTMENTS

SENATOR Ellingson: MR. PRESIDENT, I MOVE THE
APPOINTMENT OF A (FREE) CONFERENCE COMMITTEE ON
SB 516 AND REQUEST THE HOUSE TO APPOINT A
LIKE COMMITTEE.

President Tester: The President Appoints:

House Appoints:

SEN. Gillan _____, CHAIR

REP. _____, VICE CHAIR

SEN. Elliott _____

REP. _____

SEN. Kitsonberg _____

REP. _____

TO THE (FREE) CONFERENCE COMMITTEE ON (S) BILL NO. 516