# FISCAL NOTE

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| **Bill #:** | HB764 | **Title:** | Waste management area property tax classification |
| **Primary Sponsor:** | Villa, D | **Status:** | As Introduced |

Sponsor signature Date David Ewer, Budget Director Date

## Fiscal Summary

| | FY 2006 Difference | FY 2007 Difference |
|---|---|---|
| **Expenditures:** | | |
| General Fund | $0 | ($486,541) |
| **Revenue:** | | |
| General Fund | $0 | $1,346,926 |
| State Special Revenue | $0 | $84,597 |
| **Net Impact on General Fund Balance:** | $0 | $1,833,467 |

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|---|---|---|---|
| ☒ | Significant Local Gov. Impact | ☒ | Technical Concerns |
| ☐ | Included in the Executive Budget | ☒ | Significant Long-Term Impacts |
| ☐ | Dedicated Revenue Form Attached | ☒ | Needs to be included in HB 2 |

## Fiscal Analysis

ASSUMPTIONS:

**Department of Revenue**

1. HB764 creates a new property class 14 for waste management area property. The term "waste management area property" means contiguous parcels of land totaling 160 acres or more under one ownership and improvements, if any, on land that: (1) has been rendered environmentally unsound or nonproductive because of the effects of mining, smelting, refining, or other human activity and includes post reclamation property that remains environmentally unsound or is subject to environmental land use controls; **and** (2) is listed as a national priority list site as defined in the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended; or is listed as a state priority compliance list site as provided in Title 75, chapter 10, part 7.
2. Under the proposal's new class 14, waste management area property would be valued as if the property were devoted to a commercial or industrial use, and would be taxed at 12% of market value. Polluted improvements must be valued at replacement cost without adjustment for depreciation of any kind.
3. The proposal also provides for a property tax abatement program for waste management areas that are improved or modernized to represent new industry, or expansion of an existing industry. The abatement applies to the first 5 years that improvements to class 14 property are undertaken.

4. The bill is applicable to tax years starting after December 31, 2005. The first year the bill will have a fiscal impact is tax year 2006, or FY 2007.
5. It is assumed that during the first applicable year, tax year 2006 (FY 2007), none of the waste management area property will receive the local option abatement provided for in section 4 of the bill. (see technical notes #8, #9, and #10)
6. To develop a database for analyzing the impact of this bill, tax year 2004 property valuation records from the Department of Revenue's (DOR) Montana Ownership Database System (MODs) were cross-matched with a list of Montana CERCRA priority sites created by the Montana Department of Environmental Quality, and the list of priority superfund sites from the Federal Environmental Protection Agency.
7. Using the abovementioned cross-match, DOR estimates that approximately $44,509,571 in *current law* market value will be designated as class 14 properties. (see technical notes #1, #2, and #3)
8. For purposes of this analysis, the property that is included in the new class 14 is class 3, agricultural land and class 4, commercial real property.
9. For purposes of this analysis, the property values of the class 3 and class 4 property moving into the new class 14 are held constant because it is unknown how these properties are appreciating, or depreciating.
10. Under *current law,* in tax year 2004 the properties determined to meet the qualifying conditions under the proposal are taxed at 3.3%, for a tax year 2004 taxable value of $1,468,816 ($44,509,571 x 3.3%).
11. Section 3 of the bill requires DOR to value the class 14 agricultural land equal to class 4 commercial/industrial land. Class 4 commercial/industrial land is valued higher than class 3 agricultural land. Agricultural land in class 3 is on average approximately $76 per acre. Under the proposal, DOR anticipates that agricultural land in class 14 would have a minimum per acre value of $300. For purposes of this analysis, the value of all the class 3 land moving into class 14 was raised by $224 to $300 per acre.
12. The proposal by moving the aforementioned agricultural land into class 14 would increase the market value of this property by $79,204,250.
13. Increasing the market value of agricultural land now specified as new class 14, raises the total estimated market value of class 14 property to $123,713,821 ($44,509,571 + $79,204,250).
14. Section 1 of the proposal changes the tax rate on the property from 3.3% to 12%. The total taxable value of class 14 is estimated at $14,845,659 ($123,713,821 x 12%).
15. The proposal increases estimated statewide taxable values (in class 14) by $13,376,843 ($14,845,659 - $1,468,816 current law taxable value).
16. Additionally, because section 3(1) of the bill requires the property to be valued as if it was devoted to a commercial or industrial use, class 14 property will need to be included in the calculation of the class 12 tax rate. It is estimated that the class 12 tax rate would increase by 0.06% over current law.
17. In tax year 2004, the statewide market value in class 12, railroad and airline property was $1,183,046,155. Class 12, airline and railroad property is expected to grow by 0.9% each year. Class 12 market value is projected to be $1,204,436,813 ($1,183,046,155 x 1.009 ^ 2 years) in tax year 2006 (FY 2007).
18. Per assumptions #15 and #16, under the proposal class 12 taxable value is anticipated to increase by $722,662 ($1,204,436,813 x 0.06%) in FY 2007.
19. HB 764 is estimated to increase statewide taxable value by $14,099,505 ($13,376,843 + $722,662) in tax year 2006 (FY 2007).
20. It is estimated that property tax revenue for the state general fund would in*crease* $1,346,926 ($14,099,505 x 95.53 mills) in FY 2007.
21. The mill levy for the university system is 6.00 mills.
22. It is estimated that property tax revenue for the university system would *increase* $84,597 ($14,099,505 x 6 mills) in FY 2007.

**Office of Public Instruction**

23. The increase in property tax values from the HB 764 would impact the state's obligation to fund the guaranteed tax base aid for school districts and counties.
24. Under the proposal, property tax values increase by 0.76317% in FY 2007. Increased taxable values results in a guaranteed tax base (GTB) cost reduction. The guarantee level is determined by the prior year taxable values applied against current year taxable values.
25. The decreased cost for guaranteed tax base aid for the district general fund will be $345,200 in FY 2007. Countywide retirement GTB will decrease by $141,341 in FY 2007 based on a historical average of 27% of the costs paid for by the state and FY 2004 county levies equal to $68.6 million ($ =0.7631% x $68.6 million local levies x 27%). This cost savings is anticipated to occur only in FY 2007. No expenditure savings is anticipated beyond FY 2007.

FISCAL IMPACT:

| | FY 2006 Difference | FY 2007 Difference |
|---|---|---|
| Expenditure: | | |
| Local Assistance | $0 | ($486,541) |
| | | |
| Funding of Expenditures: | | |
| General Fund (01) | $0 | ($486,541) |
| | | |
| Revenues: | | |
| General Fund (01) | $0 | $1,346,926 |
| State Special Revenue (02) | $0 | $84,597 |
| | | |
| Net Impact to Fund Balance (Revenue minus Funding of Expenditures): | | |
| General Fund (01) | $0 | $1,833,467 |
| State Special Revenue (02) | $0 | $84,597 |

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

1. a. This bill would significantly impact local governments and school districts due to the increase in taxable value of $14,099,505 in FY 2007.
   b. The statewide average mill levy for tax year 2004 (FY 2005) is 513.57. Statewide mill levies have increased annually by 4.5% since FY 2001. Assuming growth of 4.5%, the statewide average mill levy would be 536.68 (513.57 x 104.5%) in FY 2006, and 560.83 (536.68 x 104.5%) in FY 2007.
   c. Removing the states 101.53 (95.53 + 6) mills, local governments and schools would have an estimated average statewide mill levy of 459.30 (560.83 – 101.53) in FY 2007.
   d. The associated revenue increase to local governments and school districts under the proposal is estimated to be $6,475,903 ($14,099,505 x 459.30) in FY 2007.
2. However, county and city governments are limited to the amount of property tax it may generate. Under 15-10-420, MCA, county and city governments may only generate revenue above the prior year's revenue of one-half the rate of inflation plus the amount of newly taxable property created in the jurisdiction during the year. 15-10-420, MCA, does not specifically include property changing tax classes as newly taxable property. Therefore, city and county governments would not be able to increase property tax revenues under the proposal; the increased taxable value could result in mill levies being lowered.

LONG-RANGE IMPACTS:
After FY 2007, the amount of property tax revenue the state general fund and the university 6-mill account will receive depends upon the amount of property taken out, or added to the bill's class 14. There could be significant impacts associated with the proposed local option abatement program for property designated as new or expanded industry property. (See technical notes #8, #9, and #10)

**Office of Public Instruction**
There will be no cost savings from guaranteed tax base aid beyond FY 2007.

TECHNICAL NOTES:
1. The names of owners on both the state and federal lists of unsound environmental areas do not match the owner's name on the tax rolls. This will make it difficult for DOR to determine which properties should be included as class 14. If the names do not match, should they still be included? Clarification is necessary. For purposes of this fiscal note, DOR's match could be incomplete or include inaccuracies.
2. Waste management as defined in the bill is a contiguous parcels of land totaling 160 acres or more under one ownership, and improvements upon the land. It is unclear if class 5 pollution control equipment would be included as qualifying property for class 14, as much of pollution control *could* be defined as personal property. The fiscal note does not include any fiscal impacts associated with class 5 property, but would have considerable impact if it were included.
3. It is unclear whether class 10, timberland property would qualify as class 14 under the proposal. Property assessed as class 10, timberland was also not included in the fiscal impacts for this fiscal note
4. The proposal specifies that qualifying property must be rendered environmentally unsound or nonproductive and 160 contiguous acres under a single ownership. The state and federal degraded property lists do not include the amount of acreage which is considered rendered environmentally unsound or nonproductive. This could cause DOR difficulty in determining the taxable statutes of the property. For instance, if a single owner had a site that included 100 acres of unsound or nonproductive property, and 100 acres that could be considered (or argued to be) productive, without clarification, it is unclear how DOR would assess such property.
5. Under EPA's priority super fund list there are several watersheds listed: Basin Watershed, Silver Bow Creek, Mill Town Dam/ Clark Fork River etc. The bill is silent on how to treat all the properties along the watershed's drainage, are all properties within the watershed that meet the 160 acres criteria included in class 14? Does the department include only properties that were the primary location of the environmental damage?
6. In given areas of Superfund sites, the principal responsible party (PRP), is responsible for the clean up of the site, but a separate party may own the land. Although the PRP is responsible for the clean-up to a given degree. For example the land itself has a recorded document on those properties that limits the use of the land. e.g. the PRP has reclaimed the property, but the use of the property is still specifically limited in any future development or use, for example, it may be used as agricultural property but no dwellings can be built. This bill would impact the owner of the property, and not the PRP.
7. Section 4 provides a property tax abatement for the first 5 years that improvements to class 14 property are undertaken. The improvements must be "qualifying improvements or modernized processes," however the terms are not defined: the proposal should provide definitions.
8. The property tax abatement in section 4 provides for a tax rate on "*previously classified*" class 14 property equal to 10% of their taxable value. This provision appears to move class 14 property back to its former

classification then taxes it at 10% of its current rate. The tax rate for class 3 and 4 property moving out of class 14 would be approximately 0.3% for 5 years. This would have a significant impact in future years.

9. Section 4 also provides that after the 5 year abatement period, the property is taxed at 100% of market value. This is most likely a typo, but would have very significant impacts since this would easily be the highest property tax rate in Montana; currently, the highest tax rate is 12% of market value.
10. Section 4 is a local option abatement program; however, under the proposal state mill levies are also included in the abatement. Generally, local option abatement programs only abate local mill levies.
11. Section 6 amends 15-7-103 (1)(d), MCA, to remove timberlands from "a general and uniform method of appraising timberlands" and replace it with "waste management area property." However, it can not be seen anywhere in the bill where there is a provision to provide for a "general and uniform method of appraising timberlands." Perhaps there should have been a subsection 15-7-103 (1)(e), added to this statute to provide for appraising waste management area property, leaving timberland in 15-7-103 (1)(d).
12. Section 7 provides that waste property is assessed at 100% of <u>market value</u> as provided in section 3; however, it is not likely that the valuation established in section 3 is a market value.