

1 SENATE BILL NO. 362

2 INTRODUCED BY R. RIPLEY

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING THE REQUIREMENT THAT COUNTY TREASURERS
5 MUST REMIT PROTESTED PROPERTY TAX PAYMENTS ON CERTAIN CENTRALLY ASSESSED PROPERTY
6 TO THE DEPARTMENT OF REVENUE; AMENDING SECTION 15-1-402, MCA; AND PROVIDING AN
7 APPLICABILITY DATE."

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

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11 **Section 1.** Section 15-1-402, MCA, is amended to read:
12 **"15-1-402. Payment of property taxes or fees under protest.** (1) (a) The person upon whom a
13 property tax or fee is being imposed under this title may, before the property tax or fee becomes delinquent, pay
14 under written protest that portion of the property tax or fee protested.

15 (b) The protested payment must:
16 (i) be made to the officer designated and authorized to collect it;
17 (ii) specify the grounds of protest; and
18 (iii) not exceed the difference between the payment for the immediately preceding tax year and the
19 amount owing in the tax year protested unless a different amount results from the specified grounds of protest,
20 which may include but are not limited to changes in assessment due to reappraisal under 15-7-111.

21 (c) If the protested property tax or fee is on property that is subject to central assessment pursuant to
22 15-23-101, the person shall report to the department the grounds of the protest and the amount of the protested
23 payment for each county in which a protested payment was made. By November 1 of each year, the department
24 shall mail a notice stating the requirements of this subsection (1)(c) to owners of property subject to central
25 assessment under 15-23-101(1) and (2) who have filed a timely appeal under 15-1-211.

26 (2) A person appealing a property tax or fee pursuant to chapter 2 or 15, including a person appealing
27 a property tax or fee on property that is subject to central assessment pursuant to 15-23-101(1) or (2), shall pay
28 the tax or fee under protest when due in order to receive a refund. If the tax or fee is not paid under protest when
29 due, the appeal may continue but a tax or fee may not be refunded as a result of the appeal.

30 (3) If a protested property tax or fee is payable in installments, a subsequent installment portion

1 considered unlawful by the state tax appeal board need not be paid and an action or suit need not be commenced
 2 to recover the subsequent installment. The determination of the action or suit commenced to recover the first
 3 installment portion paid under protest determines the right of the party paying the subsequent installment to have
 4 it or any part of it refunded to the party or the right of the taxing authority to collect a subsequent installment not
 5 paid by the taxpayer plus interest from the date the subsequent installment was due.

6 (4) ~~(a) Except as provided in subsection (4)(b), all~~ All property taxes and fees paid under protest to a
 7 county or municipality must be deposited by the treasurer of the county or municipality to the credit of a special
 8 fund to be designated as a protest fund and must be retained in the protest fund until the final determination of
 9 any action or suit to recover the taxes and fees unless they are released at the request of the county, municipality,
 10 or other local taxing jurisdiction pursuant to subsection (5). This section does not prohibit the investment of the
 11 money of this fund in the state unified investment program or in any manner provided in Title 7, chapter 6. The
 12 provision creating the special protest fund does not apply to any payments made under protest directly to the
 13 state.

14 ~~(b) (i) Property taxes that are levied by the state against property that is centrally assessed pursuant to~~
 15 ~~15-23-101 must be remitted by the county treasurer to the department.~~

16 ~~————(ii) The department shall deposit 50% of that portion of the funds levied for the university system pursuant~~
 17 ~~to 15-10-107 in the state special revenue fund to the credit of the university system, and the other 50% of the~~
 18 ~~funds levied pursuant to 15-10-107 must be deposited in a centrally assessed property tax state special revenue~~
 19 ~~fund.~~

20 ~~————(iii) Fifty percent of the funds remaining after the deposit of university system funds must be deposited~~
 21 ~~in the state general fund, and the other 50% must be deposited in a centrally assessed property tax state special~~
 22 ~~revenue fund.~~

23 (5) (a) Except as provided in subsection (5)(b), the governing body of a taxing jurisdiction affected by
 24 the payment of taxes under protest in the second and subsequent years that a tax protest remains unresolved
 25 may demand that the treasurer of the county or municipality pay the requesting taxing jurisdiction all or a portion
 26 of the protest payments to which it is entitled, except the amount paid by the taxpayer in the first year of the
 27 protest. The decision in a previous year of a taxing jurisdiction to leave protested taxes in the protest fund does
 28 not preclude it from demanding in a subsequent year any or all of the payments to which it is entitled, except the
 29 first-year protest amount.

30 (b) The governing body of a taxing jurisdiction affected by the payment of taxes under protest on property

1 that is centrally assessed pursuant to 15-23-101 in the first and subsequent years that a tax protest remains
2 unresolved may demand that the treasurer of the county or municipality pay the requesting taxing jurisdiction all
3 or a portion of the protest payments to which it is entitled. The decision in a previous year of a taxing jurisdiction
4 to leave protested taxes of centrally assessed property in the protest fund does not preclude it from demanding
5 in a subsequent year any or all of the payments to which it is entitled.

6 (6) (a) If action before the county tax appeal board, state tax appeal board, or district court is not
7 commenced within the time specified or if the action is commenced and finally determined in favor of the
8 department of revenue, county, municipality, or treasurer of the county or the municipality, the amount of the
9 protested portions of the property tax or fee must be taken from the protest fund or the centrally assessed
10 property tax state special revenue fund and deposited to the credit of the fund or funds to which the property tax
11 belongs, less a pro rata deduction for the costs of administration of the protest fund and related expenses
12 charged to the local government units.

13 (b) (i) If the action is finally determined adversely to the governmental entity levying the tax, then the
14 treasurer of the municipality, county, or state entity levying the tax shall, upon receipt of a certified copy of the
15 final judgment in the action and upon expiration of the time set forth for appeal of the final judgment, refund to
16 the person in whose favor the judgment is rendered the amount of the protested portions of the property tax or
17 fee that the person holding the judgment is entitled to recover, together with interest from the date of payment
18 under protest.

19 (ii) The taxing jurisdiction shall pay interest at the rate of interest earned by the pooled investment fund
20 provided for in 17-6-203 for the applicable period.

21 (c) If the amount retained in the protest fund is insufficient to pay all sums due the taxpayer, the treasurer
22 shall apply the available amount first to tax repayment, then to interest owed, and lastly to costs.

23 (d) (†) If the protest action is decided adversely to a taxing jurisdiction and the amount retained in the
24 protest fund is insufficient to refund the tax payments and costs to which the taxpayer is entitled and for which
25 local government units are responsible, the treasurer shall bill and the taxing jurisdiction shall refund to the
26 treasurer that portion of the taxpayer refund, including tax payments and costs, for which the taxing jurisdiction
27 is proratably responsible. The treasurer is not responsible for the amount required to be refunded by the state
28 treasurer as provided in subsection (6)(b).

29 (ii) ~~For an adverse protest action against the state for centrally assessed property, the department shall~~
30 ~~refund from the centrally assessed property tax state special revenue fund the amount of protested taxes and~~

1 from the state general fund the amount of interest as required in subsection (6)(b). The amount refunded for an
 2 adverse protested action from the centrally assessed property tax state special revenue fund may not exceed
 3 the amount of protested taxes or fees required to be deposited for that action pursuant to subsections (4)(b)(ii)
 4 and (4)(b)(iii) or, for taxes or fees protested prior to April 28, 2005, an equivalent amount of the money transferred
 5 to the fund pursuant to section 3, Chapter 536, Laws of 2005. If the amount available for the adverse protested
 6 action in the centrally assessed property tax state special revenue fund is insufficient to refund the tax payments
 7 to which the taxpayer is entitled and for which the state is responsible, the department shall pay the remainder
 8 of the refund proportionally from the state general fund and from money deposited in the state special revenue
 9 fund levied pursuant to 15-10-107.

10 (e) In satisfying the requirements of subsection (6)(d), the taxing jurisdiction, including the state, is
 11 allowed not more than 1 year from the beginning of the fiscal year following a final resolution of the protest. The
 12 taxpayer is entitled to interest on the unpaid balance at the rate referred to in subsection (6)(b) from the date of
 13 payment under protest until the date of final resolution of the protest and at the combined rate of the federal
 14 reserve discount rate quoted from the federal reserve bank in New York, New York, on the date of final resolution,
 15 plus 4 percentage points, from the date of final resolution of the protest until refund is made.

16 (7) A taxing jurisdiction, except the state, may satisfy the requirements of this section by use of funds
 17 from one or more of the following sources:

- 18 (a) imposition of a property tax to be collected by a special tax protest refund levy;
- 19 (b) the general fund or any other funds legally available to the governing body; and
- 20 (c) proceeds from the sale of bonds issued by a county, city, or school district for the purpose of deriving
 21 revenue for the repayment of tax protests lost by the taxing jurisdiction. The governing body of a county, city, or
 22 school district is authorized to issue the bonds pursuant to procedures established by law. The bonds may be
 23 issued without being submitted to an election. Property taxes may be levied to amortize the bonds.

24 (8) If the department revises an assessment that results in a refund of taxes of \$5 or less, a refund is
 25 not owed."

26
 27 **NEW SECTION. Section 2. Applicability.** [This act] applies to tax protest payments made after
 28 December 31, 2009.

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