SB 280

SPONSOR'S REBUTTAL TO FISCAL NOTE

Bill Number: SB0280 **Date Prepared: 2/20/2013**

Short Title: **Authorizing Property Tax Mediation With Ability to Appeal to District Court**

Sponsor: **Senator Fred Thomas**

Fiscal Note Version & Date:

Generally, why do you disagree with the fiscal note?

***The fiscal note does not represent the bill as written regarding property "not assessed annually" for year 2014 (Assumption 5). (Assumption 6) uses numbers for the amount of cases going to mediation that are hard to justify. (Assumptions 6, 7, and 8) are incorrect due to differences in #5 and #6.**

Specifically, what in the fiscal note do you feel is flawed?
(Describe specific assumptions, calculations, technical issues, etc.)

Assumption #5: States, "*The department assumes that for owners of property not assessed annually, there will be 1,125 mediations in FY 2014, 426 mediations in FY 2015, 205 mediations in FY 2016, and 205 mediations in FY 2017*"

This assumption is incorrect as NEW SECTION 13 on page 13 of the bill makes it so Section 2 of the bill (regarding taxpayers that are not assessed annually) will not go into effect until Jan 1, 2015. Furthermore, from information published by the Montana State Tax Appeal Board (STAB) for the last 15 years (1994-2012), the average number of appeals heard per year at STAB is 58.3. ***Please See Attachment #1, page 2 For Background*

When using 58 as the average number for yearly STAB appeals; if you assume that EVERY SINGLE CASE that was "not assessed annually" went to mediation

instead of STAB and that 15 of the cases were "annually assessed" the 2015, 2016 and 2017 mediation numbers for "not assessed annually" would be on average 43 cases/year.

Assumption #6: This assumption will completely change with the new information in Assumption #5. The opening paragraph would now read, "*The estimated cost of mediations to the Department of Revenue for FY 2014 is ~~$462,000~~* ***$12,000****, ~~$182,400 in FY 2015~~, and falling to $****29,200*** *in* ***FY 2015,*** *FY 2016 and FY 2017.*"

Table 1 will change accordingly. ** *Please See Attachment #2 for Background*

Assumption #7: This assumption will completely change with the new information in Assumptions #5 & #6. The opening paragraph would now read, "*Using the mediation count from assumption 5, the mediation fee collected by the Department of Revenue will be ~~$114,000~~* **$1500** *in FY 2014 and ~~$44,100~~* **$5800** *in FY 2015.*

Table 2 will change accordingly. ** *Please See Attachment #2 for Background*

Assumption #8: With Assumptions #5 and #6 changing drastically; there should be no additional FTE required by the department nor extra operation expenses above the cost of mediation. The department usually sends staff to STAB hearings, and now the same staff can attend mediation.

The Table on page 3 will change accordingly. ** *Please See Attachment #3 for Background*

**** All assumptions assume the average of all STAB cases would go to mediation; the likelihood is that this number will be much lower.**

What is your estimate of the fiscal impact? This is explained above.

Sponsor Signature: Fred Thomas

MONTANA STATE TAX APPEAL BOARD

1209 8th Avenue
P.O. Box 200138
Helena, MT 59620-0138

Phone: 406-444-2720
Fax: 406-444-3103
www.stab.mt.gov

Constitutional and statutory History of the Board

The Montana Constitution requires that:

> *The legislature shall provide independent appeal procedures for taxpayer grievances about appraisals, assessments, equalization, and taxes. The legislature shall include a review procedure at the local government unit level."* (Article VIII, Section 7).

The State Tax Appeal Board is the mechanism the legislature chose to implement this Constitutional requirement. There are also 56 county tax appeal boards (CTAB) authorized by the legislature to fulfill the Constitutional requirement for a local review procedure. Each board has three members, appointed by the County Commission, and a secretary. The State Board trains and oversees the county boards and pays all the costs of their work. Those costs are included in our legislative budget request.

Key words in the Constitutional language are "independent" and "taxpayer grievances." The State Board exists to hear "taxpayer grievances" and acts as an administrative tax judge.

The State Board is administratively attached to the Department of Administration (DOA), not the Department of Revenue (DOR). We provide an independent review of the decisions of the DOR. In our hearings, the Taxpayer (whether a homeowner or the largest corporation in the state) is on an equal footing with the DOR. We hear cases ranging from multi-billion dollar valuations (centrally assessed properties such as telecommunication and utility companies) to value of properties under $100,000 (individual residences and agricultural property.

2009 Reappraisal and Budget Request

- Reappraisal of residential, commercial and agricultural property stimulates the largest number of appeals to the county and state boards. In 2009, the Department of Revenue performed the first comprehensive review of agricultural land since 1963. Residential, commercial and forestland property values were also reappraised, so all class 3, 4 and 10 property received an assessment notice with a new valuation (and an opportunity to appeal.)

- Both the state and county tax appeal boards saw a substantial increase in cases during the last biennium. We requested, and received, additional funding in the prior biennium to help with increased county tax appeal board expenses due to reappraisal. We expended all of this one-time-only funding in each fiscal year, and have significant numbers of cases still pending with the counties (due to the outstanding AB-26's).

The State Tax Appeal Board used to travel throughout the state to hear appeals and to train the county boards. However, we reallocated our travel budget to cover the costs of county tax appeal board operations. The State Board pays the county tax appeal board member costs, the county tax appeal board salaries, and expenses for all 56 county tax appeal boards.

The State Tax Appeal Board (STAB) is a three member Board, funded through the general fund. We have two administrative staff. The Board hears appeals from decisions of the 56 county tax appeal boards and takes original jurisdiction in matters involving income taxes, corporate taxes, severance taxes, centrally assessed property, new industry, cabin site lease valuations, motor fuels, and tobacco taxes. Appeals are generally handled through an administrative hearing, which establishes the complete record of the case. The district courts do not hold another hearing.

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While there is a large volume of reappraisal appeals, the direct appeals require a significantly larger amount of work per case by the State Tax Appeal Board and staff.

The table provides case information for the 1993 through 2009 statewide reappraisals:

Calendar year	County Tax Appeal Boards Appeals	State Board Appeals from the County	Direct Appeals
1993 (reappraisal year)	4,072	2,537	(##'s not available until 2003)
1994	694	109	
1995	173	53	
1996 (reappraisal year) – 1st year with phase-in	105	22	
1997	571	170	
1998	156	37	
1999	165	51	
2000-2002	474	39	
2003 (reappraisal year)	341	128	12
2004	67	18	10
2005	35	15	11
2006-2008	46	16	126
2009 (reappraisal year)	2,879	159	33
2010	713	22	13
2011	357	20	15
2012	382	16	12

Tax Appeal Procedure: There are three tracks for an appeal to arrive at the state tax appeal board.

Any local property tax appeal must first be filed with the county tax appeal board. After a determination by the county tax appeal board, the matter may be appealed to the state tax appeal board. By statute, the county and state tax appeals are subject to specific procedures, which are generally less strict than direct appeals, though the deadlines and procedures are very specifically set out in statute.

Corporate, individual, centrally assessed property and other taxes can be appealed directly to the tax appeal board. Those matters are subject to a stricter set of rules on appeal (MAPA, evidentiary rules, etc.). By statute, both types of appeals may be appealed to the district court, but rarely is additional evidence taken at the district court level. From a district court decision, the matter may be appealed to the Montana Supreme Court. A party has limited statutory options to opt-out of a case going before the tax appeal boards.

Finally, there are a few taxes (fuel taxes, for example) which may be appealed to the state tax appeal board which are appellate level review (no new hearing is held.) Those may also proceed to district court and Montana Supreme Court.

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5. The Department of Revenue assumes that there will be 15 mediations annually with owners of centrally assessed property or annually assessed industrial property that will last 8 hours each. The department assumes that for owners of property not assessed annually, there will be 1,125 mediations in 2014, 426 mediations in FY 2015, 205 mediations in FY 2016, and 205 mediations in FY 2017. These mediation hearings are expected to last 4 hours each.
6. The estimated cost of mediations to the Department of Revenue for FY 2014 is $462,000, $182,400 in FY 2015, and falling to $88,000 in FY 2016 and FY 2017. Table 1 displays the methodology used to arrive at these cost assumptions.

Table 1 : Estimated Annual Cost of Mediation to Department of Revenue

	Number of Mediations	Hours per Mediation	Hourly Cost	Total Cost	Costs Paid by DOR
Fiscal Year 2014					
Annually Assessed Property	15	8	$200	$24,000	$12,000
All Other Property	0 ~~1,125~~	~~4~~	~~$200~~	~~$900,000~~	~~$450,000~~
Total	~~1,140~~ 15	-	~~$200~~	~~$924,000~~ 24,000	~~$462,000~~ 12,000
Fiscal Year 2015					
Annually Assessed Property	15	8	$200	$24,000	$12,000
All Other Property	43 ~~426~~	~~4~~ 200	~~$200~~	~~$340,800~~ 34,400	~~$170,400~~ 17,200
Total	58 ~~441~~	- 200	~~$200~~	~~$364,800~~ 58,400	~~$182,400~~ 29,200
Fiscal Year 2016					
Annually Assessed Property	15	8	$200	$24,000	$12,000
All Other Property	43 ~~190~~	4	$200	~~$152,000~~ 34,000	~~$76,000~~ 17,200
Total	58 ~~205~~	-	*$200*	~~$176,000~~ 58,400	~~$88,000~~ 29,200
Fiscal Year 2017					
Annually Assessed Property	15	8	$200	$24,000	$12,000
All Other Property	43 ~~190~~	4	$200	~~$152,000~~ 34,000	~~$76,000~~ 17,200
Total	58 ~~205~~	-	*$200*	~~$176,000~~ 58,400	~~$88,000~~ 29,200

7. Using the mediation count from assumption 5, the mediation fee collected by the Department of Revenue will be $114,000 in FY 2014 and $44,100 in FY 2015. Table 2 displays the estimated mediation fee collection for the estimated fiscal impact period.

Table 2 : Estimate of Total Fee Collection

	Number of Mediations	Fee Amount	Total Fee Collected	
FY 2014	15 ~~1,140~~	$100	~~$114,000~~	1500
FY 2015	58 ~~441~~	$100	~~$44,100~~	5800
FY 2016	58 ~~205~~	$100	~~$20,500~~	5800
FY 2017	58 ~~205~~	$100	~~$20,500~~	5800

8. The Department of Revenue will require 3.75 FTE in FY 2014, 1.75 FTE in FY 2015, 1.00 in FY 2016, and 1.00 FTE in FY 2017, which will cost $236,380 in FY 2014 and $119,362 in FY 2015. The FTE will be

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required to prepare for each mediation hearing and to represent the department's position during the mediation hearing. A greater amount of FTE are required in FY 2014 and FY 2015 because it is expected that there will be more hearings in the first two years of the six year reappraisal cycle.

Fiscal Impact:	**FY 2014 Difference**	**FY 2015 Difference**	**FY 2016 Difference**	**FY 2017 Difference**
FTE	0 ~~3.75~~	0 ~~1.75~~	0 ~~1.00~~	0 ~~1.00~~
Expenditures:				
Personal Services	0 ~~$186,800~~	0 ~~$98,446~~	0 ~~$73,261~~	0 ~~$74,637~~
Operating Expenses	12000 ~~$511,580~~	29,200 ~~$203,316~~	29,200 ~~$97,154~~	29,200 ~~$100,397~~
TOTAL Expenditures	~~$698,380~~	~~$301,762~~	~~$170,415~~	~~$175,034~~
	12,000	29,200	29,200	29,200
Funding of Expenditures:				
General Fund (01)	~~$698,380~~	~~$301,762~~	~~$170,415~~	~~$175,034~~
TOTAL Funding of Exp.	~~$698,380~~	~~$301,762~~	~~$170,415~~	~~$175,034~~
Revenues:				
General Fund (01)	1,500 ~~$114,000~~	5,800 ~~$44,100~~	5,800 ~~$20,500~~	5,800 ~~$20,500~~
TOTAL Revenues	~~$114,000~~	~~$44,100~~	~~$20,500~~	~~$20,500~~
	1,500	5,800	5,800	5,800
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):				
General Fund (01)	~~($584,380)~~	~~($257,662)~~	~~($149,915)~~	~~($154,534)~~
	(10,500)	(23,400)	(23,400)	(23,400)

Technical Notes:

Department of Revenue

1. Section 9 amends 15-23-102, MCA, to allow centrally assessed taxpayers to appeal the department's valuation decision to the county tax appeal board. Centrally assessed property is typically located in multiple counties. This amendment appears to allow a centrally assessed taxpayer to appeal in any or all of the counties where they have property located.
2. The provisions of SB 280 apply to net proceeds of mines and gross proceeds of coal mines. Because these mines are defined as centrally assessed properties.

Sponsor's Initials | *Date* | *Budget Director's Initials* | *Date* 2/19/13

ATTACHMENT #3