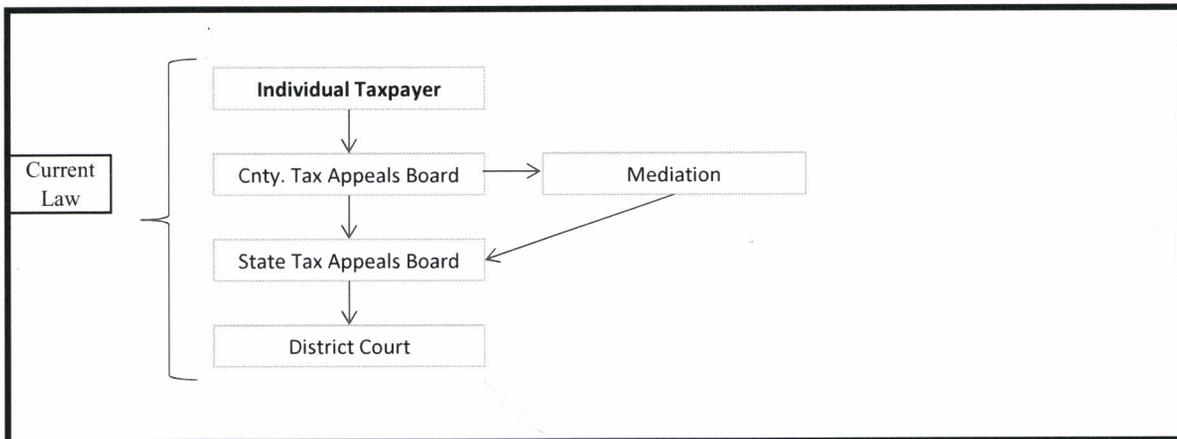
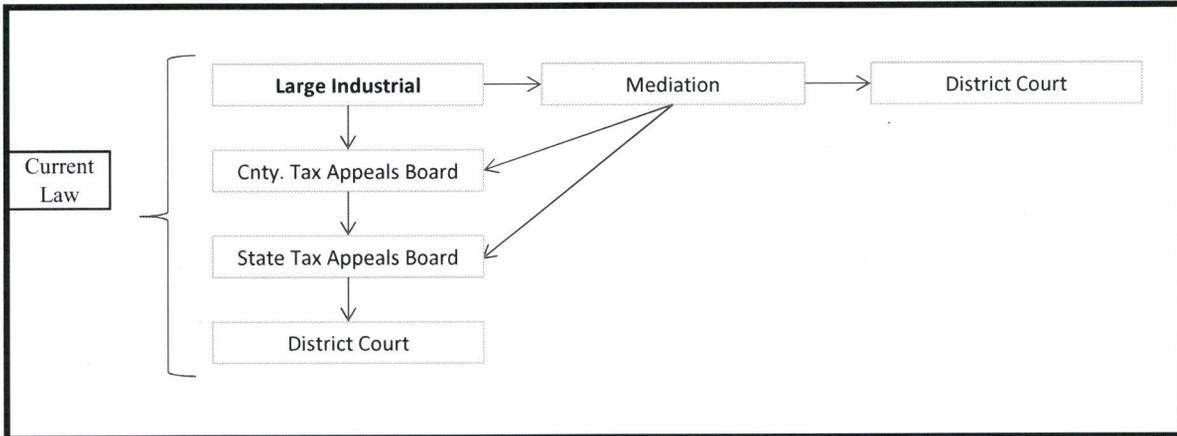
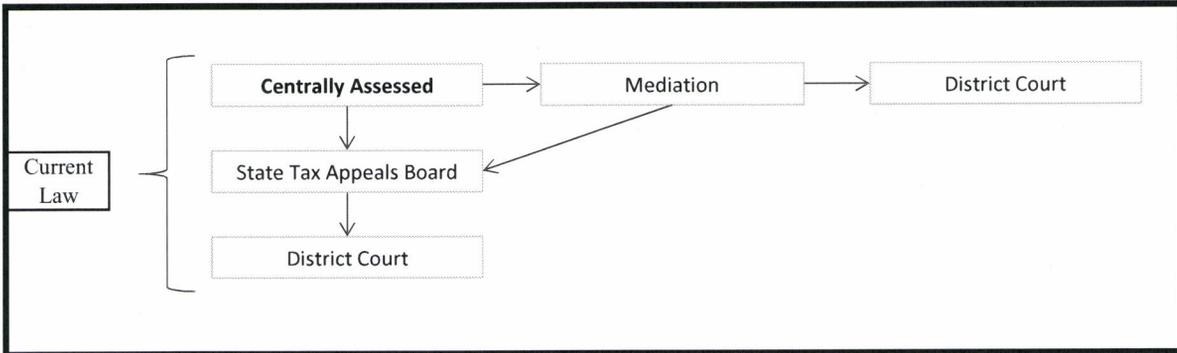


**Senate Bill 280 : Allow mediation for dispute of property valuation
Process Flow Based on Three Different Types of Property**



Montana Code Annotated 2011

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26-1-813. Mediation -- confidentiality -- privilege -- exceptions. (1) Mediation means a private, confidential, informal dispute resolution process in which an impartial and neutral third person, the mediator, assists disputing parties to resolve their differences. In the mediation process, decisionmaking authority remains with the parties and the mediator does not have authority to compel a resolution or to render a judgment on any issue. A mediator may encourage and assist the parties to reach their own mutually acceptable settlement by facilitating an exchange of information between the parties, helping to clarify issues and interests, ensuring that relevant information is brought forth, and assisting the parties to voluntarily resolve their dispute.

(2) Except upon written agreement of the parties and the mediator, mediation proceedings must be:

- (a) confidential;
- (b) held without a verbatim record; and
- (c) held in private.

(3) A mediator's files and records, with the exception of signed, written agreements, are closed to all persons unless the parties and the mediator mutually agree otherwise. Except as provided in subsection (5), all mediation-related communications, verbal or written, between the parties or from the parties to the mediator and any information and evidence presented to the mediator during the proceedings are confidential. The mediator's report, if any, and the information or recommendations contained in it, with the exception of a signed, written agreement, are not admissible as evidence in any action subsequently brought in any court of law or before any administrative agency and are not subject to discovery or subpoena in any court or administrative proceeding unless all parties waive the rights to confidentiality and privilege.

(4) Except as provided in subsection (5), the parties to the mediation and a mediator are not subject to subpoena by any court or administrative agency and may not be examined in any action as to any communication made during the course of the mediation proceeding without the consent of the parties to the mediation and the mediator.

(5) The confidentiality and privilege provisions of this section do not apply to information revealed in a mediation if disclosure is:

- (a) required by any statute;
- (b) agreed to by the parties and the mediator in writing, whether prior to, during, or subsequent to the mediation; or
- (c) necessary to establish a claim or defense on behalf of the mediator in a controversy between a party to the mediation and the mediator.

(6) Nothing in this section prohibits a mediator from conveying information from one party to another during the mediation, unless a party objects to disclosure.

History: En. Sec. 1, Ch. 481, L. 1999.

Provided by Montana Legislative Services

Amendments to Senate Bill No. 280

1st Reading Copy

Requested by the Department of Revenue

For the Senate Taxation Committee

Prepared by Dan Whyte

February 18, 2013

1. Title, lines 6 through 10.

Strike: "ALLOWING" on line 6 through "REVENUE;" on line 10

2. Title, line 12.

Strike: "15-15-102;"

3. Page 1, line 18.

Strike: "Within 30 days after a final decision of the department"

Insert: "For appeals"

4. Page 1.

Following: line 22

Insert: "(2) If the taxpayer requests a mediation, the request is to be included in the complaint filed with the state tax appeal board pursuant to 15-2-302 or, if subsequent to the appeal, upon separate motion to the state tax appeal board. If mediation is requested by the taxpayer, the mediation must be conducted no less than 60 days prior to the contested case hearing on the valuation issues, to be scheduled by the state tax appeal board."

Renumber: Subsequent subsections.

5. Page 2, lines 7 through 11.

Following: "unsuccessful,"

Strike: remainder of line 7 through line 11

Insert: "the parties shall proceed to contested case hearing as scheduled by the state tax appeal board."

6. Page 2, lines 13 and 14.

Strike: "Within" on line 13 through "after" on line 14

Insert: "After"

7. Page 2.

Following: line 18

Insert: “(2) If the taxpayer requests a mediation, the request is to be included in the complaint filed with the state tax appeal board pursuant to 15-2-302 or, if subsequent to the appeal, upon separate motion to the state tax appeal board. If mediation is requested by the taxpayer, the mediation must be conducted no less than 60 days prior to the contested case hearing on the valuation issues, to be scheduled by the state tax appeal board.”

Renumber: subsequent subsections.

8. Page 2. Line 20.

Strike: subsection (3) in its entirety

9. Page 2, line 30.

Following: “23.”

Insert: “The procedure applies to assessments of centrally assessed property taxed pursuant to chapter 23.”

10. Page 8, lines 21 and 22

Strike: “or” on line 21 through [section 1]” on line 22

11. Page 9, lines 11 and 12

Strike: “or” on line 11 through [section 1 or 2]” on line 12

12. Page 11.

Strike: Section 8 in its entirety

Renumber: subsequent sections

13. Page 11, line 30.

Following: “the”

Strike: “county tax appeal board”

Following: “state tax appeal board”

Strike: “, or district court”

14. Page 13, line 9.

Following: “[section1].”

Strike: “or”

Insert: “and”

- END -