



Revenue and Transportation Interim Committee

61st Montana Legislature

SENATE MEMBERS

KIM GILLAN--Chair
RON ERICKSON
JEFF ESSMANN
CHRISTINE KAUFMANN
JIM PETERSON
BRUCE TUTVEDT

HOUSE MEMBERS

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DICK BARRETT
CYDNIE (CARLIE) BOLAND
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BILL NOONEY

COMMITTEE STAFF

JEFF MARTIN, Research Analyst
LEE HEIMAN, Staff Attorney
FONG HOM, Secretary

MINUTES

RESIDENTIAL AND COMMERCIAL PROPERTY REAPPRAISAL SUBCOMMITTEE

February 18, 2010

Room 102, Capitol Building
Helena, Montana

Please note: These minutes provide abbreviated information about committee discussion, public testimony, action taken, and other activities. The minutes are accompanied by an audio recording. For each action listed, the minutes indicate the approximate amount of time in hours, minutes, and seconds that has elapsed since the start of the meeting. This time may be used to locate the activity on the audio recording.

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COMMITTEE MEMBERS PRESENT

REP. DICK BARRETT, Chair
SEN. JEFF ESSMANN
SEN. CHRISTINE KAUFMANN
SEN. KIM GILLAN
SEN. BRUCE TUTVEDT
REP. BILL NOONEY

STAFF PRESENT

LEE HEIMAN, Staff Attorney
FONG HOM, Secretary

VISITORS LIST

Visitors' list, Attachment #1.

COMMITTEE ACTION

None.

CALL TO ORDER AND ROLL CALL

00:00:02 REP. BARRETT called the meeting to order at 8:05 a.m. The secretary noted roll visually. Rep. Nooney was excused.

AGENDA

DISCUSSION OF GOALS AND OBJECTIVES OF THE SUBCOMMITTEE

00:01:07 SEN. GILLAN said that the subcommittee's goal should be to look at improving the process, not to redo the reappraisal process.

00:04:28 SEN. KAUFMANN said that the quality of the appraisal is a concern but their job is to look at policy issues around the tax structure itself not whether an individual's property was appraised right.

00:06:11 REP. BARRETT said that he agrees with Sen. Kaufmann that this subcommittee cannot serve as a court of last resort with respect to a particular reappraisal.

QUALITY OF REAPPRAISAL OF COMMERCIAL PROPERTY

00:09:47 **Alan Peura, Deputy Director, Department of Revenue**, distributed the Department of Revenue's reports (**Exhibit 1**) to the committee. He also announced that Randy Wilke is retiring from the Department of Revenue.

REP. BARRETT asked Mr. Peura to pass along to Mr. Wilke the committee's appreciation for his many years of service and to congratulate him on his retirement.

00:15:31 **Larson Silbaugh, Economist, Department of Revenue**, discussed the reappraisal process for commercial property (**Tab 1, Department of Revenue Report**).

Questions

00:39:20 SEN. ESSMANN asked Mr. Silbaugh whether there was a statistically significant sample when there is about a million parcels of all types of property in the state? **Mr. Silbaugh** said that in a draft version of their report, they used time adjusted sales prices and they were able to get 3000 samples. They measured the assessed value of about 330,000 commercial properties and compared that to the 818 sales that he used for the assessment study and there is no difference in assessment level.

SEN. ESSMANN asked if that same kind of analysis was done for the 313 versus the 330,000. **Mr. Silbaugh** said that the 313 sales that occurred in the second half of 2008 had a different assessment level. By using the sales in the second half of the year, they only measured the value of the middle 98% of commercial properties in the state.

00:44:45 SEN. KAUFMANN asked if hitting the mark at 100% instead of 91% affects the

amount of taxes paid? **Mr. Silbaugh** said that there would have been a slight shift to commercial properties if it had been right at 100%. It is hard to get a sales price that reflects real property and not things that are associated with commercial property.

00:47:03 SEN. GILLAN asked if there are any analysis by range of value or is it based on the median? **Mr. Silbaugh** said that he did not break it out by value, it is just looking at the total population of commercial properties.

00:47:57 REP. BARRETT said that what they are trying to understand is if these statistics indicate systematic underevaluation and the hypothesis says that they are, the statistical test would be if it is significantly less than one. **Mr. Silbaugh** said that that would be asking if they met the statutory requirement or direction of assessing properties at market value, and market value is measured by the sales price during 2008. He said he could run that test and provide that information.

00:51:29 **Richard Almy, Property Taxation Consultant with Almy, Gloudemans, Jacobs & Denne**, talked about the reappraisal study on both the residential side and on the commercial side.

OVERVIEW OF THE METHODS USED TO VALUE COMMERCIAL PROPERTY AND FACTORS AFFECTING THE METHODS USED - Ross Halverson, Commercial Appraiser

01:06:43 Mr. Halverson gave a presentation on Income Valuation of Commercial Property (Tab 1, Department of Revenue Report).

Questions

01:26:28 SEN. TUTVEDT asked about rents and percentage rents. **Mr. Halverson** said that not all properties rent for the same square foot. His model allows them to have a range that would address differences in properties, location, quality and usefulness.

01:31:47 SEN. ESSMANN said that in terms of the AB 26 process, it is his understanding that the residential AB 26s are progressing but the commercial AB 26s are just beginning. **Mr. Halverson** said that the commercial AB 26s are more complicated to address than residential AB 26s.

01:36:43 SEN. TUTVEDT asked about the rent rate and how it relates to a tax percentage. **Mr. Halverson** said that without having specifics to look at, he doesn't think he can address that because there could be different variables within each property that could change which would affect the tax rate from one property versus another. To answer Sen. Tutvedt's question, he would have to know specific properties first.

SEN. TUTVEDT asked if there was a percentage of rental value that is appropriate for us to be taxing? **Mr. Halverson** said that the standard isn't rent, the standard is market value and regardless of the method we were using, whether it was cost or income approach, market value is what taxes are based on.

SEN. TUTVEDT said that in a perfect world, the cost approach, the market approach, and the income approach should all equal. He said that he would like equalization across the state on an income approach. **Mr. Halverson** said that without being able to look at a specific property, he is not sure that he can answer his question because he isn't sure that it relates to a specific percentage of the rent that they are using or a specific percentage of the rent that they collect. If it is a specific percentage of the rent that they collect, that is not information that they have.

- 01:45:51 **Scott Williams, PAD Region 1 Manager, Department of Revenue**, explains why location of property is important and the type of use of the property; i.e., retail and multiple use residences such as apartments.
- 01:52:46 SEN. ESSMANN asked about the processes that the Department uses in excluding outliers. **Mr. Halverson** said that sometimes they need those extremes to help value other properties such as the high end box stores. If they identify them as outliers, they can remove them from some of their analysis.
- 01:56:43 SEN. ESSMANN asked if there shouldn't be a uniform policy for outliers. **Mr. Williams** said that the sales verification process looks at whether outliers are at the high end or at the low end. There is a policy that states if there is a doubt in the appraiser's mind that a sale does not meet the standards of market value, they will address it by excluding that from their model and sales verification process as well.

DEPARTMENT OF REVENUE'S PROCESS USED TO ESTIMATE COMMERCIAL REAPPRAISAL VALUES DURING SESSION - Alan Peura, Deputy Director

- 02:05:43 **Mr. Peura** said that the process used during the session was the valuation that was presented today. During the session their process was to provide a snapshot at each moment as to what the value changes were from the last reappraisal cycle to present. He said that in terms of the impact of tax revenue differences on a statewide basis is approximately \$512,000 in fiscal year 2010, and \$987,000 in fiscal year 2011.

Questions

- 02:12:38 SEN. ESSMANN said that we need to look at improving the process as we go forward. **Mr. Peura** said that the Department's goal is to get as much data as they can in every reappraisal cycle.

Public Comment

- 02:19:01 **Greg Thornquist, Appraiser**, distributed and discussed a letter (**Exhibit 2**) from the Department of Revenue regarding property identifier information used in the Income and CAP rate model.

Questions

- 02:26:35 SEN. ESSMANN said that the AB 26 process was designed to afford due process to the protesting taxpayer. **CA Daw, Chief Legal Counsel, Dept of**

Revenue, said that the Department's concern is the legislative law that deals with confidentiality of the realty transfer certificates. Mr. Thornquist is raising a new issue which is the income and expense data that they collect voluntarily from commercial landowners in the state presents an issue of privacy beyond the ordinary revenue transfer certificate privacy.

02:31:08 SEN. GILLAN said that as a committee we are on a slippery slope and cannot get into the nitty gritty of individual AB 26s. However, since we started out this subcommittee by saying that we wanted to look at improving the process, this is obviously something that has come up in the process and she urged the Department to work at giving the citizens of Montana a voice.

02:31:59 REP. BARRETT said that he agrees with Sen. Gillan's judgment. We have the AB 26 review coming up later and it is important for the committee to consider issues arising with respect to AB 26 procedures in general. He said that we will not be able to make ourselves the court of last resort for resolving these kinds of specific issues about specific appeals.

Break

02:51:02 Rep. Barrett reconvened at 10:55 a.m.

ALTERNATIVE FOR ALLOWING RESIDENTIAL PROPERTY TAXPAYERS TO DEFER PROPERTY TAX PAYMENTS - Lee Heiman, Staff Attorney

02:51:48 Mr. Heiman discussed the alternatives for deferral of payment of property taxes (**Exhibit 3**). He talked about three basic types: homestead payment deferral, reverse annuity mortgages, and installment payment plans.

Questions

02:59:57 REP. BARRETT asked if any states provide in any of these plans for some kind of risk sharing in a reduction of those deferred payments? **Mr. Heiman** said that he didn't see any provisions like that. The closest are those provisions that limit it to a percentage of either equity or a value.

EFFECTS ON LOCAL TAXING JURISDICTION

Status of AB 26 Review and tax appeals, potential property tax revenue implications - Cynthia Monteau Moore, Acting Property Assessment Division Administrator, and Alan Peura, Deputy Director, DOR

03:04:33 Ms. Moore discussed the charts on "2009 Reappraisal Reactions - Cumulative Results" found in the Department's Report under Tab 2.

03:08:16 Mr. Peura discussed the chart "2009 Change in Value from Time of Certification to February 16, 2010" found in the Department's Report under Tab 2.

Questions

03:14:56 SEN. ESSMANN said that we have about \$20 million in taxes that are being protested. He asked what the total of protested taxable value would be in terms of the percentage? **Mr. Peura** said that he didn't have that data but will provide it

to the committee.

03:16:08 REP. BARRETT asked if Mr. Peura could tell the committee how complete the figures are for the Property Tax Assistance programs. **Mr. Peura** said that the numbers for PTAP, EPTAP and DAV are complete and can be found under Tab 3 of the Department of Revenue's report.

FEASIBILITY OF RECERTIFYING TAXABLE VALUES AND REVISING MILL LEVIES - Lee Heiman, Staff Attorney

03:27:30 Mr. Heiman discussed the feasibility of recertifying taxable values and revising mill levies (**Exhibit 4**).

PROPERTY TAX AND MILL LEVY IMPLICATIONS OF 15-10-420, MCA, RELATED TO REVISED TAXABLE VALUES - Lee Heiman, Staff Attorney

03:33:36 Mr. Heiman discussed loss of taxing authority for local governments (**Exhibit 5**).

Public Comment

03:42:00 **Ben Cabin, Whitefish, Montana**, wants to improve the system for residential taxpayers. His neighbors and he are impacted by the huge tax increases. He said that the values are not consistent.

Other discussion -- next meeting -- instruction to staff

04:01:07 REP. BARRETT said that they will continue to address these issues and the question of timing at the next meeting. He encouraged the members to formulate more specific questions and guidance to the Department of Revenue so that they will have some lead time in terms of answering questions. He asked the committee members to get the questions to the staff so that they can set an agenda.

Adjournment

04:02:18 REP. BARRETT adjourned the meeting at 12:08 p.m.

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