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## Revenue and Transportation Interim Committee

### Statutes Related to the Appeals Process

By

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**15-15-101. County tax appeal board -- meetings and compensation.** (1) The board of county commissioners of each county shall appoint a county tax appeal board, with a minimum of three members and with the members to serve staggered terms of 3 years each. The members of each county tax appeal board must be residents of the county in which they serve. The members receive compensation of \$45 a day and travel expenses, as provided for in 2-18-501 through 2-18-503, only when the county tax appeal board meets to hear taxpayers' appeals from property tax assessments or when they are attending meetings called by the state tax appeal board. Travel expenses and compensation must be paid from the appropriation to the state tax appeal board. Office space and equipment for the county tax appeal boards must be furnished by the county. All other incidental expenses must be paid from the appropriation of the state tax appeal board.

(2) The county tax appeal board shall hold an organizational meeting each year on the date of its first scheduled hearing, immediately before conducting the business for which the hearing was otherwise scheduled. At the organizational meeting, the members shall choose one member as the presiding officer of the board. The county tax appeal board shall continue in session from July 1 of the current tax year until December 31 of the current tax year to hear protests concerning assessments made by the department until the business of hearing protests is disposed of and, as provided in 15-2-201, may meet after December 31.

(3) In counties that have appointed more than three members to the county tax appeal board, only three members shall hear each appeal. The presiding officer shall select the three members hearing each appeal.

(4) **In connection with an appeal, the county tax appeal board may change any assessment or fix the assessment at some other level.** Upon notification by the county tax appeal board, the county clerk and recorder shall publish a notice to taxpayers, giving the time the county tax appeal board will be in session to hear scheduled protests concerning assessments and the latest date the county tax appeal board may take applications for the hearings. The notice must be published in a newspaper if any is

printed in the county or, if none, then in the manner that the county tax appeal board directs. The notice must be published by May 15 of the current tax year.

(5) Challenges to a department rule governing the assessment of property or to an assessment procedure apply only to the taxpayer bringing the challenge and may not apply to all similarly situated taxpayers unless an action is brought in the district court as provided in 15-1-406.

**15-2-301. Appeal of county tax appeal board decisions.** (1) The county tax appeal board shall mail a copy of its decision to the taxpayer and to the property assessment division of the department of revenue. If the appearance provisions of 15-15-103 have been complied with, a person or the department on behalf of the state or any municipal corporation aggrieved by the action of the county tax appeal board may appeal to the state board by filing with the state tax appeal board a notice of appeal within 30 calendar days after the receipt of the decision of the county board. The notice must specify the action complained of and the reasons assigned for the complaint. Notice of acceptance of an appeal must be given to the county tax appeal board by the state tax appeal board. The state board shall set the appeal for hearing either in its office in the capital or the county seat as the board considers advisable to facilitate the performance of its duties or to accommodate parties in interest. The board shall give to the appellant and to the respondent at least 15 calendar days' notice of the time and place of the hearing.

(2) At the time of giving notice of acceptance of an appeal, the state board may require the county board to certify to it the minutes of the proceedings resulting in the action and all testimony taken in connection with its proceedings. The state board may, in its discretion, determine the appeal on the record if all parties receive a copy of the transcript and are permitted to submit additional sworn statements, or the state board may hear further testimony. For the purpose of expediting its work, the state board may refer any appeal to one of its members or to a designated hearings officer. The board member or hearings officer may exercise all the powers of the board in conducting a hearing and shall, as soon as possible after the hearing, report the proceedings, together with a transcript or a tape recording of the hearing, to the board. The state board shall determine the appeal on the record.

(3) On all hearings at county seats throughout the state, the state board or the member or hearings officer designated to conduct a hearing may employ a competent person to electronically record the testimony received. The cost of electronically recording testimony may be paid out of the general appropriation for the board.

(4) In connection with any appeal under this section, the state board is not bound by common law and statutory rules of evidence or rules of discovery and may affirm, reverse, or modify any decision. To the extent that this section is in conflict with the Montana Administrative Procedure Act, this section supersedes that act. The state tax appeal board may not amend or repeal any administrative rule of the department. The state tax appeal board shall give an administrative rule full effect unless the board finds a rule arbitrary, capricious, or otherwise unlawful.

(5) The decision of the state tax appeal board is final and binding upon all interested parties unless reversed or modified by judicial review. Proceedings for judicial review of a decision of the state tax appeal board under this section are subject to the

provisions of 15-2-303 and the Montana Administrative Procedure Act to the extent that it does not conflict with 15-2-303.

(6) Sections 15-6-134 and 15-7-111 may not be construed to prevent the department from implementing an order to change the valuation of property.

**15-2-302. Direct appeal from department decision to state tax appeal board -- hearing.** (1) A person may appeal to the state tax appeal board a final decision of the department of revenue involving:

- (a) property centrally assessed under chapter 23;
- (b) classification of property as new industrial property;
- (c) any other tax, other than the property tax, imposed under this title; or
- (d) any other matter in which the appeal is provided by law.

(2) The appeal is made by filing a complaint with the board within 30 days following receipt of notice of the department's final decision. The complaint must set forth the grounds for relief and the nature of relief demanded. The board shall immediately transmit a copy of the complaint to the department.

(3) The department shall file with the board an answer within 30 days following filing of a complaint.

(4) The board shall conduct the appeal in accordance with the contested case provisions of the Montana Administrative Procedure Act.

(5) The decision of the state tax appeal board is final and binding upon all interested parties unless reversed or modified by judicial review. Proceedings for judicial review of a decision of the state tax appeal board under this section are subject to the provisions of 15-2-303 and the Montana Administrative Procedure Act to the extent that it does not conflict with 15-2-303.

**15-2-303. Judicial review.** (1) Any party to an appeal before the state tax appeal board who is aggrieved by a final decision is entitled to judicial review under this part.

(2) Proceedings for review must be instituted by filing a petition in district court in the county in which the taxable property or some portion of it is located, except the taxpayer has the option to file in the district court of the first judicial district. A petition for judicial review must be filed within 60 days after service of the final decision of the state tax appeal board or, if a rehearing is requested, within 60 days after service of the final decision. Copies of the petition must be promptly served on all parties of record. The department of revenue shall promptly notify the state tax appeal board, in writing, of any judicial review, but failure to do so has no effect on the judicial review. The department of revenue shall, on request, submit to the state tax appeal board a copy of all pleadings and documents.

(3) If the judicial review involves a taxpayer who is seeking a refund of taxes paid under protest, the appealing party shall provide a copy of the petition to the treasurer of the county in which the taxable property or some portion of it is located, but failure to do so has no effect on the judicial review.

(4) Proceedings for review of a decision by the state tax appeal board by a company under the jurisdiction of the public service commission must be instituted in the district court of the first judicial district.

(5) Notwithstanding the provisions of 2-4-704(1), the court may, for good cause shown, permit additional evidence to be introduced.

**15-2-304. Petition for interlocutory adjudication.** (1) (a) Either party, within 30 days of the filing of an answer to an appeal before the state tax appeal board, may file a petition for an interlocutory adjudication under 15-2-305. The petition may be filed with the district court:

- (i) in the first judicial district;
- (ii) in the county in which the taxable property is located; or
- (iii) in cases not involving property taxes, in the county where the taxpayer resides or has the taxpayer's principal place of business in the state.

(b) The petition may raise any question involving procedure, the admissibility of evidence, or a substantive question of law raised by the pleadings within 30 days of filing an answer to the appeal with the state tax appeal board.

(c) A nonpetitioning party shall respond to the petition within 30 days after service of the petition. The response may raise any question not raised in the petition involving procedure, the admissibility of evidence, or a substantive question of law.

(2) After the 30-day period specified in subsection (1)(b) but before arguments have been heard, the parties to the proceeding may jointly petition a district court to make an interlocutory adjudication as provided under 15-2-305. A petition for an adjudication must be signed by each party to the proceeding.

(3) In a petition under subsection (1) or (2), one party must be designated as the petitioner and every other party must be designated a respondent. The court may in its discretion grant a petition if it appears that the issues presented involve procedure, the admissibility of evidence, or a substantive question of law and do not require the determination of questions of fact and that the controversy would be more expeditiously resolved by an adjudication. If the court grants a petition, it shall rule on all issues presented in the petition and the response, regardless of whether a ruling on less than all of the issues is dispositive of the case.