

HOUSE BILL NO. 501
INTRODUCED BY J. COHENOUR

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE ASSESSMENT AND TAXATION OF CERTAIN IMPROVEMENTS TO REAL PROPERTY; REQUIRING THAT THE OWNER REPORT OCCUPATION OR USE OF THE IMPROVEMENTS TO THE DEPARTMENT OF REVENUE; PROVIDING A PENALTY IF THE OWNER DOES NOT REPORT OCCUPATION OR USE OF THE IMPROVEMENTS; PROVIDING THAT THE OWNER OF THE IMPROVEMENTS MAY APPEAL THE VALUATION OF THE IMPROVEMENTS; PROVIDING FOR THE PAYMENT OF PROPERTY TAXES; PROVIDING FOR THE EXPENDITURE OF REVENUE COLLECTED FROM TAXES ON CERTAIN IMPROVEMENTS TO REAL PROPERTY; ALLOWING A TAXPAYER A REDUCTION OF PROPERTY TAXES DUE FOR IMPROVEMENTS DEMOLISHED OR DESTROYED; PROVIDING FOR A REFUND OF TAXES PAID ON IMPROVEMENTS DEMOLISHED OR DESTROYED IN THE TAX YEAR; PROVIDING THAT THE ASSESSMENT AND TAXATION OF PROPERTY BE CONDUCTED WITH EXISTING EMPLOYEES AND FUNDING; AMENDING SECTIONS 7-6-4006, 15-8-201, 15-15-102, 15-16-102, 15-16-603, AND 20-9-161, MCA; AND PROVIDING AN APPLICABILITY DATE."

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

NEW SECTION. Section 1. Assessment and taxation of certain improvements -- procedures -- penalty -- exceptions -- appeal. (1) Except as provided in 15-24-1402, 15-24-1501, 15-24-1502, and subsection (9) of this section, improvements classified under 15-6-134 that are completed after January 1 of the tax year must be assessed and taxed from the date on which the property is occupied or the property is put in use.

(2) (a) The owner of improvements described in subsection (1) shall, within 30 days of the applicable date referred to in subsection (1), notify the department, on a form prescribed by the department, that the property exists and is capable of being occupied or used.

(b) If the owner fails to notify the department as required under subsection (2)(a), the owner is subject to a penalty equal to 2% of the amount of tax due, as determined under subsection (5).

(3) (a) As soon as practical after receiving the notice under subsection (2), the department shall appraise the improvements, as provided in Title 15, chapters 7 and 8.

(b) Notwithstanding 15-7-102(1), the department shall, within 30 days of the appraisal, mail the owner a notice of classification and appraisal, as provided in 15-7-102.

(4) If the owner of the improvements is dissatisfied with the appraisal, the procedures for review and appeal described in 15-7-102(3) through (6) apply.

(5) To determine the amount of tax due for improvements described in subsection (1), the department shall multiply the taxable value of the new improvement by the total number of mills levied on the property for the current fiscal year and multiply the product by the ratio that the number of days in the calendar year that the property will be in taxable status bears to 365. The county treasurer shall add to the amount due the penalty, if any, under subsection (2).

(6) (a) Except as provided in subsection (6)(b), upon determining the amount of tax due, the county treasurer shall notify the person to whom the tax is assessed, in the same manner as notification is provided under 15-16-101(2), of the amount due, and the notification must state that the taxes and penalty, if any, are payable within 30 days after the notification is postmarked. Taxes imposed under this section are subject to the penalty and interest provisions under 15-16-102(2) and (3).

(b) If the department determines the amount of the taxes due on the improvements after the second Monday in August of the tax year, the notification must state that the taxes are payable by May 31 of the following year.

(7) Upon receipt of taxes imposed under this section, the county treasurer shall distribute the money in the same manner as property taxes are distributed. Upon receipt of money, a governing body may amend its budget, as provided in 7-6-4006, and a school district may amend its budget, as provided in 20-9-161.

(8) Improvements that are assessed and taxed under this section must be included in the tax base as newly taxable property, as provided in 15-10-420. Improvements that are assessed on or before July 1 of the current tax year must be included in the estimate of the total taxable value of newly taxable property for the purposes of 15-10-202(1) for the current tax year. Improvements assessed after July 1 of the current tax year must be included in the estimate of the total taxable value of newly taxable property in the following tax year.

(9) This section does not apply to:

(a) improvements described in subsection (1) if the market value of the improvements is less than \$100,000; or

(b) remodeling of or additions to existing improvements.

(10) The provisions of this section do not prohibit the department from assessing and taxing improvements classified under 15-6-134 that are under construction on January 1 of the tax year. The improvements must be valued based upon the percentage of completion of the construction on that date.

NEW SECTION. Section 2. Reduction in property tax for destruction of property -- refund. (1) The department shall, upon a showing of reasonable cause by a taxpayer that some or all of the improvements on the taxpayer's real property have been demolished or destroyed to such an extent that the improvements have been rendered unsuitable for their previous use, adjust the taxable value on the improvements, accounting for the demolition or destruction of the improvements.

(2) The county treasurer shall adjust the tax due and payable for the current year on the property under 15-16-102 as provided in subsection (3) of this section.

(3) To determine the amount of tax due for demolished or destroyed property, the county treasurer shall:

(a) multiply the amount of tax levied and assessed on the original taxable value of the property for the year by the ratio that the number of days in the year that the property existed before demolition or destruction bears to 365; and

(b) multiply the amount of tax levied and assessed on the adjusted taxable value of the property for the remainder of the year by the ratio that the number of days remaining in the year after the demolition or destruction of the property bears to 365.

(4) (a) If the improvements are demolished or destroyed after the property taxes have been paid for the current year, the taxpayer is entitled to a refund of the amount of tax paid in excess of the adjusted amount required by subsection (3).

(b) The refund must be made as provided for in 15-16-603 through 15-16-605.

(5) This section does not apply to delinquent taxes owed on the demolished or destroyed improvements for a year prior to the year in which the property was demolished or destroyed.

(6) A taxpayer receiving a reduction in taxes on improvements under this section shall notify the department if the taxpayer replaces the demolished or destroyed improvements in the same tax year that the improvements were demolished or destroyed. The tax on the improvements replacing the demolished or destroyed improvements is determined as provided in [section 1].

Section 3. Section 7-6-4006, MCA, is amended to read:

"7-6-4006. Appropriation power -- requirements. (1) A governing body may appropriate money and provide for the payment of the debts and expenses of the local government.

(2) Money may not be disbursed, expended, or obligated except pursuant to an appropriation for which working capital is or will be available.

(3) Appropriations may be adjusted according to procedures authorized by the governing body for:

- (a) debt service funds for obligations related to debt approved by the governing body;
 - (b) trust funds for obligations authorized by trust covenants;
 - (c) any fund for federal, state, local, or private grants and shared revenue accepted and approved by the governing body;
 - (d) any fund for special assessments approved by the governing body;
 - (e) the proceeds from the sale of land;
 - (f) any fund for gifts or donations; ~~and~~
 - (g) money borrowed during the fiscal year; and
 - (h) any revenue distributed under [section 1(7)].
- (4) The governing body may amend the budget during the fiscal year by conducting public hearings at regularly scheduled meetings. Budget amendments providing for additional appropriations must identify the fund reserves, unanticipated revenue, or previously unbudgeted revenue that will fund the appropriations."

Section 4. Section 15-8-201, MCA, is amended to read:

"15-8-201. General assessment day. (1) The department shall, between January 1 and the first Monday of August in each year, ascertain the names of all taxable inhabitants and assess all property subject to taxation in each county.

(2) The department shall assess property to:

(a) the person by whom it was owned or claimed or in whose possession or control it was at midnight of the preceding January 1; or

(b) except in the case of land splits, the new owner if the provisions of 15-7-304 have been met and the transfer certificate has been received and processed prior to determining the taxes that are due as provided in 15-10-305(2).

(3) The department shall also ascertain and assess all mobile homes arriving in the county after midnight of the preceding January 1.

(4) A mistake in the name of the owner or supposed owner of real property does not invalidate the assessment.

(5) The procedure provided by this section does not apply to:

- (a) motor vehicles;
- (b) motor homes, travel trailers, and campers;
- (c) watercraft, snowmobiles, and off-highway vehicles;

- (d) livestock;
- (e) property defined as special mobile equipment in 61-1-101 that is subject to assessment for personal property taxes on the date that application is made for a special mobile equipment decal;
- (f) mobile homes and manufactured homes held by a distributor or dealer as stock in trade; ~~and~~
- (g) property subject to the provisions of 15-16-203; and
- (h) improvements that are subject to the provisions of [section 1]."

Section 5. Section 15-15-102, MCA, is amended to read:

"15-15-102. Application for reduction in valuation. The valuation of property may not be reduced by the county tax appeal board unless either the taxpayer or the taxpayer's agent makes and files a written application for reduction with the county tax appeal board. The application for reduction may be obtained at the local appraisal office or from the county tax appeal board. The completed application must be submitted to the county clerk and recorder. The date of receipt is the date stamped on the appeal form by the county clerk and recorder upon receipt of the form. The county tax appeal board is responsible for obtaining the applications from the county clerk and recorder. The application must be submitted on or before the first Monday in June or 30 days after receiving either a notice of classification and appraisal, including notice of classification and appraisal under [section 1], or determination after review under 15-7-102(3), including review of an appraisal under [section 1], from the department, whichever is later. If the department's determination after review is not made in time to allow the county tax appeal board to review the matter during the current tax year, the appeal must be reviewed during the next tax year, but the decision by the county tax appeal board is effective for the year in which the request for review was filed with the department. The application must state the post-office address of the applicant, specifically describe the property involved, and state the facts upon which it is claimed the reduction should be made."

Section 6. Section 15-16-102, MCA, is amended to read:

"15-16-102. Time for payment -- penalty for delinquency. Unless suspended or canceled under the provisions of 10-1-606 or Title 15, chapter 24, part 17, and except as provided in [section 1(6)(b)], all taxes levied and assessed in the state of Montana, except assessments made for special improvements in cities and towns payable under 15-16-103, are payable as follows:

- (1) One-half of the taxes are payable on or before 5 p.m. on November 30 of each year or within 30 days after the tax notice is postmarked, whichever is later, and one-half are payable on or before 5 p.m. on May 31

of each year.

(2) ~~Unless~~ Except as provided in [section 1(6)(b)], unless one-half of the taxes are paid on or before 5 p.m. on November 30 of each year or within 30 days after the tax notice is postmarked, whichever is later, the amount payable is delinquent and draws interest at the rate of 5/6 of 1% a month from and after the delinquency until paid and 2% must be added to the delinquent taxes as a penalty.

(3) All taxes due and not paid on or before 5 p.m. on May 31 of each year are delinquent and draw interest at the rate of 5/6 of 1% a month from and after the delinquency until paid, and 2% must be added to the delinquent taxes as a penalty.

(4) (a) If the date on which taxes are due falls on a holiday or Saturday, taxes may be paid without penalty or interest on or before 5 p.m. of the next business day in accordance with 1-1-307.

(b) If taxes on property qualifying under the low-income property tax assistance provisions of 15-6-134(1)(c) and 15-6-191 are paid within 20 calendar days of the date on which the taxes are due, the taxes may be paid without penalty or interest. If a tax payment is made later than 20 days after the taxes were due, the penalty must be paid and interest accrues from the date on which the taxes were due.

(5) (a) A taxpayer may pay current year taxes without paying delinquent taxes. The county treasurer shall accept a partial payment equal to the delinquent taxes, including penalty and interest, for one or more full tax years if taxes for both halves of the current tax year have been paid. Payment of taxes for delinquent taxes must be applied to the taxes that have been delinquent the longest. The payment of taxes for the current tax year is not a redemption of the property tax lien for any delinquent tax year.

(b) A payment by a co-owner of an undivided ownership interest that is subject to a separate assessment otherwise meeting the requirements of subsection (5)(a) is not a partial payment.

(6) The penalty and interest on delinquent assessment payments for specific parcels of land may be waived by resolution of the city council. A copy of the resolution must be certified to the county treasurer.

(7) If the department revises an assessment that results in an additional tax of \$5 or less, an additional tax is not owed and a new tax bill does not need to be prepared.

(8) The county treasurer may accept a partial payment of centrally assessed property taxes as provided in 76-3-207."

Section 7. Section 15-16-603, MCA, is amended to read:

"15-16-603. Refund of taxes -- limitations on refunds. (1) Subject to the provisions in subsections (2) and (3), a board of county commissioners shall order a refund:

(a) on a tax, penalty, interest, or cost paid more than once or erroneously or illegally collected if an appeal pursuant to 15-1-402 was not available;

(b) on a tax paid for which a refund is allowed under [section 2], 15-16-612, or 15-16-613;

(c) on a tax, penalty, or interest collected as a result of an error in the description or location of real property or improvements or for duplicate taxes paid as determined by the department of revenue;

(d) on net or gross proceeds tax; or centrally assessed property tax; or local government severance tax, penalty, or interest when the department of revenue notifies the board of county commissioners of an assessment revision completed pursuant to 15-8-601;

(e) upon entry of a decision either by the district court or by the state tax appeal board under 15-2-306 that has not been appealed to a higher court; or

(f) on a decision that a refund is payable as a result of a taxpayer prevailing in a motor vehicle tax or fee proceeding under 15-15-201.

(2) The taxpayer shall prove that a refund is due under subsection (1)(a) or (1)(b).

(3) (a) A refund may not be granted under subsection (1)(a) or (1)(b) unless the taxpayer or a representative of the taxpayer files a written claim with the board of county commissioners within 10 years after the date when the second half of the taxes would have become delinquent if the taxes had not been paid.

(b) The refund required under subsection (1)(c) must be made for 5 tax years or for the duration of the error, whichever period is shorter.

(c) A refund may not be made under subsection (1)(c) unless the taxpayer allowed the department of revenue access to the taxpayer's property for the purposes of appraising the property."

Section 8. Section 20-9-161, MCA, is amended to read:

"20-9-161. Definition of budget amendment for budgeting purposes. As used in this title, unless the context clearly indicates otherwise, the term "budget amendment" for the purpose of school budgeting means an amendment to an adopted budget of the district for the following reasons:

(1) an increase in the enrollment of an elementary or high school district that is beyond what could reasonably have been anticipated at the time of the adoption of the budget for the current school fiscal year whenever, because of the enrollment increase, the district's budget for any ~~or all~~ of the regularly budgeted funds does not provide sufficient financing to properly maintain and support the district for the entire current school fiscal year;

(2) the destruction or impairment of any school property necessary to the maintenance of the school,

by fire, flood, storm, riot, insurrection, or act of God, to an extent rendering school property unfit for its present school use;

(3) a judgment for damages against the district issued by a court after the adoption of the budget for the current year;

(4) an enactment of legislation after the adoption of the budget for the current year that imposes an additional financial obligation on the district;

(5) the receipt of:

(a) a settlement of taxes protested in a prior school fiscal year;

(b) taxes from a prior school fiscal year as the result of a tax audit by the department of revenue or its agents;

(c) delinquent taxes from a prior school fiscal year; ~~and~~

(d) any revenue distributed under [section 1(7)]; and

~~(d)~~(e) a determination by the trustees that it is necessary to expend all or a portion of the taxes received under subsection (5)(a), (5)(b), or (5)(c) for a project or projects that were deferred from a previous budget of the district; or

(6) any other unforeseen need of the district that cannot be postponed until the next school year without dire consequences affecting the safety of the students and district employees or the educational functions of the district."

NEW SECTION. Section 9. Performance of assessment and taxation. It is the intent of the legislature that the assessment and taxation of property required under [section 1] be conducted with existing employees and within existing levels of funding.

NEW SECTION. Section 10. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 15, chapter 6, part 2, and the provisions of Title 15, chapter 6, part 2, apply to [section 1].

(2) [Section 2] is intended to be codified as an integral part of Title 15, chapter 16, part 6, and the provisions of Title 15, chapter 16, part 6, apply to [section 2].

NEW SECTION. Section 11. Applicability. [This act] applies to property tax years beginning after December 31, 2007.

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