

SENATE BILL NO. 156

INTRODUCED BY B. TUTVEDT

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING TAX PROTEST LAWS RELATED TO CENTRALLY ASSESSED PROPERTY; PROVIDING THAT THE STATE SHARE OF PROTESTED PROPERTY TAXES MAY NOT BE ACCESSED BEFORE THE RESOLUTION OF THE PROTEST; AND AMENDING SECTIONS 15-1-402 AND 15-1-409, MCA."

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

Section 1. Section 15-1-402, MCA, is amended to read:

"15-1-402. Payment of property taxes or fees under protest. (1) (a) The person upon whom a property tax or fee is being imposed under this title may, before the property tax or fee becomes delinquent, pay under written protest that portion of the property tax or fee protested.

(b) The protested payment must:

(i) be made to the officer designated and authorized to collect it;

(ii) specify the grounds of protest; and

(iii) not exceed the difference between the payment for the immediately preceding tax year and the amount owing in the tax year protested unless a different amount results from the specified grounds of protest, which may include but are not limited to changes in assessment due to reappraisal under 15-7-111.

(c) If the protested property tax or fee is on property that is subject to central assessment pursuant to 15-23-101, the person shall report to the department the grounds of the protest and the amount of the protested payment for each county in which a protested payment was made.

(2) A person appealing a property tax or fee pursuant to Title 15, chapter 2 or 15, including a person appealing a property tax or fee on property that is annually assessed by the department or subject to central assessment pursuant to 15-23-101(1) or (2), shall pay the tax or fee under protest when due in order to receive a refund. If the tax or fee is not paid under protest when due, the appeal or mediation may continue but a tax or fee may not be refunded as a result of the appeal or mediation.

(3) If a protested property tax or fee is payable in installments, a subsequent installment portion considered unlawful by the state tax appeal board need not be paid and an action or suit need not be commenced

1 to recover the subsequent installment. The determination of the action or suit commenced to recover the first
 2 installment portion paid under protest determines the right of the party paying the subsequent installment to have
 3 it or any part of it refunded to the party or the right of the taxing authority to collect a subsequent installment not
 4 paid by the taxpayer plus interest from the date the subsequent installment was due.

5 (4) ~~(a) Except as provided in subsection (4)(b), all~~ All property taxes and fees paid under protest to a
 6 county or municipality must be deposited by the treasurer of the county or municipality to the credit of a special
 7 fund to be designated as a protest fund and must be retained in the protest fund until the final determination of
 8 any action or suit to recover the taxes and fees unless they are released at the request of the county, municipality,
 9 or other local taxing jurisdiction pursuant to subsection (5). This section does not prohibit the investment of the
 10 money of this fund in the state unified investment program or in any manner provided in Title 7, chapter 6. The
 11 provision creating the special protest fund does not apply to any payments made under protest directly to the
 12 state.

13 ~~(b) (i) Property taxes that are levied by the state against property that is centrally assessed pursuant to~~
 14 ~~15-23-101 and any protested taxes on industrial property that is annually assessed by the department in a school~~
 15 ~~district that has elected to waive its right to protested taxes in a specific year pursuant to 15-1-409 must be~~
 16 ~~remitted by the county treasurer to the department for deposit as provided in subsections (4)(b)(ii) through~~
 17 ~~(4)(b)(iv):~~

18 ~~———(ii) The department shall deposit 50% of that portion of the funds levied for the university system pursuant~~
 19 ~~to 15-10-108 in the state special revenue fund to the credit of the university system, and the other 50% of the~~
 20 ~~funds levied pursuant to 15-10-108 must be deposited in a centrally assessed property tax state special revenue~~
 21 ~~fund:~~

22 ~~———(iii) Fifty percent of the funds remaining after the deposit of university system funds must be deposited~~
 23 ~~in the state general fund, and the other 50% must be deposited in a centrally assessed property tax state special~~
 24 ~~revenue fund:~~

25 ~~(iv) Fifty percent of the funds from a school district that has waived its right to protested taxes must be~~
 26 ~~deposited in the state general fund, and the other 50% must be deposited in a school district property tax protest~~
 27 ~~state special revenue fund:~~

28 (5) ~~(a) Except as provided in subsections (5)(b) and (5)(c), the~~ The governing body of a taxing jurisdiction
 29 affected by the payment of taxes under protest in the second and subsequent years that a tax protest remains
 30 unresolved may demand that the treasurer of the county or municipality pay the requesting taxing jurisdiction all

1 or a portion of the protest payments to which it is entitled, except the amount paid by the taxpayer in the first year
 2 of the protest. The decision in a previous year of a taxing jurisdiction to leave protested taxes in the protest fund
 3 does not preclude it from demanding in a subsequent year any or all of the payments to which it is entitled, except
 4 the first-year protest amount.

5 ~~(b) The governing body of a taxing jurisdiction affected by the payment of taxes under protest on property
 6 that is centrally assessed pursuant to 15-23-101 or on industrial property that is assessed annually by the
 7 department in the first and subsequent years that a tax protest remains unresolved may demand that the
 8 treasurer of the county or municipality pay the requesting taxing jurisdiction all or a portion of the protest
 9 payments to which it is entitled. The decision in a previous year of a taxing jurisdiction to leave protested taxes
 10 of centrally assessed property in the protest fund does not preclude it from demanding in a subsequent year any
 11 or all of the payments to which it is entitled.~~

12 ~~———(c) The provisions of subsection (5)(b) do not apply to a school district that has elected to waive its right
 13 to its portion of protested taxes on centrally assessed property and on industrial property that is assessed
 14 annually by the department for that specific year as provided in 15-1-409.~~

15 (6) (a) If action before the county tax appeal board, state tax appeal board, or district court is not
 16 commenced within the time specified or if the action is commenced and finally determined in favor of the
 17 department of revenue, county, municipality, or treasurer of the county or the municipality, the amount of the
 18 protested portions of the property tax or fee must be taken from the protest fund ~~or the centrally assessed
 19 property tax state special revenue fund~~ and deposited to the credit of the fund or funds to which the property tax
 20 belongs, less a pro rata deduction for the costs of administration of the protest fund and related expenses
 21 charged to the local government units.

22 (b) (i) If the action is finally determined adversely to the governmental entity levying the tax, then the
 23 treasurer of the municipality, county, or state entity levying the tax shall, upon receipt of a certified copy of the
 24 final judgment in the action and upon expiration of the time set forth for appeal of the final judgment, refund to
 25 the person in whose favor the judgment is rendered the amount of the protested portions of the property tax or
 26 fee that the person holding the judgment is entitled to recover, together with interest from the date of payment
 27 under protest. ~~The department shall refund from the school district property tax protest state special revenue fund
 28 the protested portions of property taxes and interest to a taxpayer in a school district in which the school district
 29 has elected to waive its right to its portion of protested taxes for that specific year as provided in 15-1-409. If the
 30 amount available for the refund in the school district property tax protest state special revenue fund is insufficient~~

1 ~~to refund the property tax payments, the department shall pay the remainder of the refund from the state general~~
 2 ~~fund:~~

3 (ii) The taxing jurisdiction shall pay interest at the rate of interest earned by the pooled investment fund
 4 provided for in 17-6-203 for the applicable period.

5 (c) If the amount retained in the protest fund is insufficient to pay all sums due the taxpayer, the treasurer
 6 shall apply the available amount first to tax repayment, then to interest owed, and lastly to costs.

7 (d) ~~(f)~~ If the protest action is decided adversely to a taxing jurisdiction and the amount retained in the
 8 protest fund is insufficient to refund the tax payments and costs to which the taxpayer is entitled and for which
 9 local government units are responsible, the treasurer shall bill and the taxing jurisdiction shall refund to the
 10 treasurer that portion of the taxpayer refund, including tax payments and costs, for which the taxing jurisdiction
 11 is proratably responsible. The treasurer is not responsible for the amount required to be refunded by the state
 12 treasurer as provided in subsection (6)(b).

13 ~~(ii) For an adverse protest action against the state for centrally assessed property, the department shall~~
 14 ~~refund from the centrally assessed property tax state special revenue fund the amount of protested taxes and~~
 15 ~~from the state general fund the amount of interest as required in subsection (6)(b). The amount refunded for an~~
 16 ~~adverse protested action from the centrally assessed property tax state special revenue fund may not exceed~~
 17 ~~the amount of protested taxes or fees required to be deposited for that action pursuant to subsections (4)(b)(ii)~~
 18 ~~and (4)(b)(iii) or, for taxes or fees protested prior to April 28, 2005, an equivalent amount of the money transferred~~
 19 ~~to the fund pursuant to section 3, Chapter 536, Laws of 2005. If the amount available for the adverse protested~~
 20 ~~action in the centrally assessed property tax state special revenue fund is insufficient to refund the tax payments~~
 21 ~~to which the taxpayer is entitled and for which the state is responsible, the department shall pay the remainder~~
 22 ~~of the refund proportionally from the state general fund and from money deposited in the state special revenue~~
 23 ~~fund levied pursuant to 15-10-108.~~

24 (e) In satisfying the requirements of subsection (6)(d), the taxing jurisdiction, including the state, is
 25 allowed not more than 1 year from the beginning of the fiscal year following a final resolution of the protest. The
 26 taxpayer is entitled to interest on the unpaid balance at the rate referred to in subsection (6)(b) from the date of
 27 payment under protest until the date of final resolution of the protest and at the combined rate of the federal
 28 reserve discount rate quoted from the federal reserve bank in New York, New York, on the date of final resolution,
 29 plus 4 percentage points, from the date of final resolution of the protest until refund is made.

30 (7) A taxing jurisdiction, except the state, may satisfy the requirements of this section by use of funds

1 from one or more of the following sources:

2 (a) imposition of a property tax to be collected by a special tax protest refund levy;

3 (b) the general fund or any other funds legally available to the governing body; and

4 (c) proceeds from the sale of bonds issued by a county, city, or school district for the purpose of deriving
5 revenue for the repayment of tax protests lost by the taxing jurisdiction. The governing body of a county, city, or
6 school district is authorized to issue the bonds pursuant to procedures established by law. The bonds may be
7 issued without being submitted to an election. Property taxes may be levied to amortize the bonds.

8 (8) If the department revises an assessment that results in a refund of taxes of \$5 or less, a refund is
9 not owed."

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11 **Section 2.** Section 15-1-409, MCA, is amended to read:

12 **"15-1-409. Exclusion of certain property subject to property tax protest -- guaranteed tax base**

13 **-- tax refund.** (1) A school district that has ~~centrally assessed~~ property subject to pending property tax protests
14 shall, prior to February 1 of each year, elect whether to waive the school district's right to receive its portion of
15 protested taxes ~~under 15-1-402(5)(b)~~ for the previous year.

16 (2) If the school district elects to waive its right to its portion of the protested taxes under subsection (1),
17 the district's guaranteed tax base aid calculated under 20-9-366 must be determined based on the total taxable
18 value of property in the school district less the taxable value of the ~~centrally assessed property for which a school~~
19 ~~district waived its right to receive its portion of protested taxes that is not subject to a tax protest.~~ Upon settlement
20 or other resolution of the protest, the department is responsible for refunding protested taxes or paying any other
21 costs due the protesting taxpayer and retaining any portion of protested taxes that would have been distributed
22 to the school district for each year the school district has elected to waive receiving its portion of the protested
23 taxes.

24 (3) ~~For the purpose of this section, "centrally assessed property" means property that is centrally~~
25 ~~assessed pursuant to 15-23-101 and industrial property that is assessed annually by the department."~~

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- END -