

SENATE BILL NO. 6

INTRODUCED BY F. THOMAS

BY REQUEST OF THE REVENUE AND TRANSPORTATION INTERIM COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT THE DEPARTMENT OF REVENUE'S UNIFORM DISPUTE REVIEW PROCEDURES PROVIDE THE RIGHT TO REQUEST ALTERNATIVE DISPUTE RESOLUTION METHODS, INCLUDING MEDIATION; ~~AND~~ AMENDING SECTION 15-1-211, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 15-1-211, MCA, is amended to read:

"15-1-211. Uniform dispute review procedure -- notice -- appeal. (1) The department shall provide a uniform dispute review procedure for all persons or other entities, except as provided in subsection (1)(a).

(a) The department's dispute review procedure must be adopted by administrative rule and applies to all matters administered by the department and to all issues arising from the administration of the department, except estate taxes, property taxes, and the issue of whether an employer-employee relationship existed between the person or other entity and individuals subjecting the person or other entity to the requirements of chapter 30, part 25, or whether the employment relationship was that of an independent contractor. The procedure applies to assessments of centrally assessed property taxed pursuant to chapter 23.

(b) (i) The term "other entity", as used in this section, includes all businesses, corporations, and similar enterprises.

(ii) The term "person" as used in this section includes all individuals.

(2) (a) Persons or other entities having a dispute with the department have the right to have the dispute resolved by appropriate means, including consideration of alternative dispute resolution procedures such as mediation.

(b) The department shall establish a dispute resolution office to resolve disputes between the department and persons or other entities.

(c) Disputes must be resolved by a final department decision within 180 days of the referral to the dispute resolution office, unless extended by mutual consent of the parties. If a final department decision is not issued

1 within the required time period, the remedy is an appeal to the appropriate forum as provided by law.

2 (3) (a) The department shall provide written notice to a person or other entity advising the person or
3 entity of a dispute over matters administered by the department.

4 (b) The person or other entity shall have the opportunity to resolve the dispute with the department
5 employee who is responsible for the notice, as indicated on the notice.

6 (c) If the dispute cannot be resolved, either the department or the other party may refer the dispute to
7 the dispute resolution office.

8 (d) The notice must advise the person or other entity of their opportunity to resolve the dispute with the
9 person responsible for the notice and their right to refer the dispute to the dispute resolution office.

10 (4) Written notice must be sent to the persons or other entities involved in a dispute with the department
11 indicating that the matter has been referred to the dispute resolution office. The written notice must include:

12 (a) a summary of the department's position regarding the dispute;

13 (b) an explanation of the right to the resolution of the dispute with a clear description of all procedures
14 and options available;

15 (c) the right to obtain a final department decision within 180 days of the date that the dispute was referred
16 to the dispute resolution office;

17 (d) the right to appeal should the department fail to meet the required deadline for issuing a final
18 department decision; and

19 (e) the right to ~~have the department consider~~ request alternative dispute resolution methods, including
20 mediation.

21 (5) The department shall:

22 (a) develop guidelines that must be followed by employees of the department in dispute resolution
23 matters;

24 (b) develop policies concerning the authority of an employee to resolve disputes; and

25 (c) establish procedures for reviewing and approving disputes resolved by an employee or the dispute
26 resolution office.

27 (6) (a) (i) The director of revenue or the director's designee is authorized to enter into an agreement with
28 a person or other entity relating to a matter administered by the department.

29 (ii) The director or the director's designee has no authority to bind a future legislature through the terms
30 of an agreement.

1 (b) Subject to subsection (6)(a)(ii), an agreement under the provisions of subsection (6)(a)(i) is final and
2 conclusive, and, except upon a showing of fraud, malfeasance, or misrepresentation of a material fact:

3 (i) the agreement may not be reopened as to matters agreed upon or be modified by any officer,
4 employee, or agent of this state; and

5 (ii) in any suit, action, or proceeding under the agreement or any determination, assessment, collection,
6 payment, abatement, refund, or credit made in accordance with the agreement, the agreement may not be
7 annulled, modified, set aside, or disregarded."

8

9 NEW SECTION. SECTION 2. EFFECTIVE DATE. [THIS ACT] IS EFFECTIVE ON PASSAGE AND APPROVAL.

10

- END -