



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2023 Biennium

Bill # SB0126

Title: Revise laws related to property valuation appeal process

Primary Sponsor: Regier, Keith

Status: As Introduced

- Significant Local Gov Impact
 Needs to be included in HB 2
 Technical Concerns
 Included in the Executive Budget
 Significant Long-Term Impacts
 Dedicated Revenue Form Attached

FISCAL SUMMARY

	<u>FY 2022 Difference</u>	<u>FY 2023 Difference</u>	<u>FY 2024 Difference</u>	<u>FY 2025 Difference</u>
Expenditures:				
General Fund	\$33,000	\$33,000	\$33,000	\$33,000
Revenue:				
General Fund	\$0	\$0	\$0	\$0
Net Impact-General Fund Balance:	<u>(\$33,000)</u>	<u>(\$33,000)</u>	<u>(\$33,000)</u>	<u>(\$33,000)</u>

Description of fiscal impact: SB 126 requires that the Montana Tax Appeal Board (MTAB) consider independent appraisals that are provided by the taxpayer if it is residential property and the property has been owned by the taxpayer for at least five consecutive years. This bill further requires MTAB to presume the value established in the independent appraisal as being correct and switches the burden of proof from the taxpayer, as is typically the case, and places it upon the Department of Revenue.

FISCAL ANALYSIS

Assumptions:

Department of Revenue

- Under current law, the Department of Revenue's assessed value is presumed to be correct and the taxpayer must show that the department's assessment is incorrect.
- SB 126 adds language that shifts the burden of proof in that the taxpayer's appraisal, if rebutted, will be conclusive proof of value to residential property that has been owned by the taxpayer for at least 5 consecutive years. It also requires that the independent appraisal be conducted by a Montana licensed appraiser and that the appraisal was prepared using data collected within 6 months of the valuation date.
- The department estimates that there are 20 MTAB cases per year that would meet the provisions of SB 126.
- It is estimated that the fee appraisal would cost \$650 per case.

5. In addition to the fee appraisal, the department estimates that each case would take an additional 10 hours of contracted services for case preparation, deposition, and hearing. It is estimated this will cost the department \$100 per hour, or \$1,000 per case.
6. Total contracted services costs are anticipated to be \$33,000 ($\$650 \times 20 + \$100 \times 10 \times 20$) per year as a result of the provisions of SB 126.

Montana Tax Appeal Board

7. SB 126 revises laws related to the property valuation appeal process.
8. This bill could lead to more complicated deliberations, but currently the results are not quantifiable.

<u>Fiscal Impact:</u>	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>	<u>FY 2025</u>
Department of Revenue	<u>Difference</u>	<u>Difference</u>	<u>Difference</u>	<u>Difference</u>
FTE	0.00	0.00	0.00	0.00
<u>Expenditures:</u>				
Personal Services	\$0	\$0	\$0	\$0
Operating Expenses	\$33,000	\$33,000	\$33,000	\$33,000
TOTAL Expenditures	\$33,000	\$33,000	\$33,000	\$33,000
<u>Funding of Expenditures:</u>				
General Fund (01)	\$33,000	\$33,000	\$33,000	\$33,000
TOTAL Funding of Exp.	\$33,000	\$33,000	\$33,000	\$33,000
<u>Revenues:</u>				
General Fund (01)	\$0	\$0	\$0	\$0
TOTAL Revenues	\$0	\$0	\$0	\$0
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>				
General Fund (01)	(\$33,000)	(\$33,000)	(\$33,000)	(\$33,000)

Technical Notes:

Department of Revenue

1. SB 126 reads "...if the appraiser meets standards..." This may be problematic as it does not require a Montana licensed appraiser, only that the appraisal meets the standards set forth by the Montana board of real estate. However, the Montana board of real estate handles licensing and regulation of real estate appraisers and appraisal management companies, not appraisals per se. Standards for an appraisal are contained in Title 37, Chapter 54 of the Montana Code Annotated, and there by reference, Uniform Standards of Professional Appraisal Practices (USPAP) standards.
2. SB 126 states "and uses values obtained within the timeframe provided for in subsection (3)(a)." This may require an appraisal that may not be USPAP compliant. Under USPAP, an appraiser must consider all relevant information to make an informed opinion of value of property. Statutorily limiting the information that an appraiser can use undercuts this appraisal principle.
3. Limiting the shift of burden to the Department of Revenue with an appraisal if a taxpayer owns residential property for five consecutive years may result in an equal protection challenge. There appears to be no "rational basis", as required by law to exclude taxpayers who have owned property for fewer than five years.
4. Use of the word "taxpayer" presents an unclear picture to what extent the use applies. Would a residential property owned by a business and rented as a single-family residence count? Similarly, a duplex or a four-plex or apartment building owned by a corporation? Clarifying language may be needed.

5. SB 126 shifts the long-standing common law burden of proof for a valuation challenge where an "independent appraisal" is presented to the Department of Revenue. "It is true as a general rule that the taxpayer must overcome the presumption in favor of the correctness of the assessment." *Western Airlines v. Michunovich*, 149 Mont. 347, 353 (Mont. 1967). As the Department of Revenue conducts mass appraisal of residential properties, not individual appraisals, the department will be required to pay for an individual appraisal to respond to and rebut the taxpayer's appraisal. Mass appraisal is a recognized USPAP method of appraisal.

NO SPONSOR SIGNATURE

Sponsor's Initials

1/28

Date

KA

Budget Director's Initials

1/27/21

Date