

Briefing on the Constitutional History of the Montana Tax Appeal Process
For the SJR23 Study of the Taxpayer Appeal Process

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For the Revenue & Transportation Interim Committee
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The 1972 Montana Constitution

The current Montana Constitution is the result of a Constitutional Convention held in the winter of 1972. The 100 delegates adopted the 1972 Constitution on March 22, 1972, and it was ratified by Montana citizens on June 6, 1972, in the form of Referendum No. 68.

The convention delegates served on committees and the Revenue and Finance Committee was responsible for the drafting of what is now Article VIII, the Revenue and Finance article. Transcripts of the floor sessions of the Constitutional Convention are available as are committee reports. There are transcripts of some committee work but they are not available at this time and it is unclear whether there are any transcripts from the Revenue and Finance Committee.¹ The information that is available, however, does provide insight into the reasons for establishing Section 7, which provides for an independent tax appeal process:

Section 7. Tax appeals. The legislature shall provide independent appeal procedures for taxpayer grievances about appraisals, assessments, equalization, and taxes. The legislature shall include a review procedure at the local government unit level.

Tax Appeals in the Constitution

Comments accompanying the original tax appeal proposal (discussed below) provide the reasons for including a taxpayer appeal process in the 1972 Constitution. The committee was concerned that the same entities, county and state boards of equalization, "that establish revenue policies and procedures also sit in judgement on the implementation of those procedures."² The comments further provide that the Revenue and Finance Committee heard "overwhelming testimony" that the process did not "guarantee an independent, non-partial, objective review of tax decisions."³ The Committee concluded that the "Montana taxpayer needs some avenue of recourse, besides the tax administrator or the courts, to evaluate his tax treatment."⁴ Revenue and Finance Committee Chairman Sterling Rygg's comments on the convention floor in support of Section 7 reiterated these points from the committee report.⁵

¹The Montana Historical Society is currently undertaking a construction project to enable them to better store historical documents. Certain documents, including Constitutional Convention documents, are being stored off-site until completion of the project, which is anticipated by April 15, 2014, at the earliest. There is no way to access the documents or know whether there are relevant Revenue and Finance committee documents until the documents are available again after completion of the construction project.

²"Revenue and Finance Committee," Volume I, p. 593.

³Ibid.

⁴Ibid.

⁵"Verbatim Transcript, March 4, 1972," Verbatim Transcript March 1, 1972-March 9, 1972, Volume V, p. 1490.

The Original Proposal

The Revenue and Finance Committee originally drafted a more detailed section related to tax appeals. That proposal (attached) provided for a State Board of Tax Audit and Appeals with five members to be appointed from five different districts. The Governor was to appoint the members with the advice and consent of the Senate and the appointees had to be balanced as to political party affiliation.

Comments made by Delegate Rygg on the convention floor give the reasons the Committee scaled back its proposal to the current Section 7. Delegate Rygg said:

"Mr. Chairman. I suppose all you committees probably had the same trouble we did in meeting our deadline. And about 11 o'clock one night, we were still wrestling with this section. We did have quite an involved section. At the time, there were some who felt that perhaps this was too involved and really too much of a legislative article to be contained in the Constitution. However, because of the lateness of the hour and the nearness of the deadline, we did feel that we had to submit it. Since then, we have met on several occasions and discussed this particular section. We are not changing our concept at all, because we think that this concept of establishing independent tax review is something that is needed....So again I reiterate, we have in no way changed our concept. We just feel that we were too legislative in our former Section 7, and now we recommend this shortened plan to this group."⁶

Following Delegate Rygg's statement, Chairman Graybill called for debate on Delegate Rygg's motion to adopt the amended version of Section 7. There was no discussion and the amended version of Section 7 passed on a voice vote with no opposition.

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⁶Ibid.