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Constitution of Montana -- Article II -- DECLARATION OF RIGHTS

Section 9. Right to know. No person shall be deprived of the right to examine documents or to observe the deliberations of all public bodies or agencies of state government and its subdivisions, except in cases in which the demand of individual privacy clearly exceeds the merits of public disclosure.

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Constitution of Montana -- Article II -- DECLARATION OF RIGHTS

Section 10. Right of privacy. The right of individual privacy is essential to the well-being of a free society and shall not be infringed without the showing of a compelling state interest.

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2-4-104. Subpoenas and enforcement -- compelling testimony. (1) An agency conducting any proceeding subject to this chapter may require the furnishing of information, the attendance of witnesses, and the production of books, records, papers, documents, and other objects that may be necessary and proper for the purposes of the proceeding. In furtherance of this power, an agency upon its own motion may and, upon request of any party appearing in a contested case, shall issue subpoenas for witnesses or subpoenas duces tecum. The method for service of subpoenas, witness fees, and mileage must be the same as required in civil actions in the district courts of the state. Except as otherwise provided by statute, witness fees and mileage must be paid by the party at whose request the subpoena was issued.

(2) In case of disobedience of any subpoena issued and served under this section or of the refusal of any witness to testify as to any material matter with regard to which the witness may be interrogated in a proceeding before the agency, the agency may apply to any district court in the state for an order to compel compliance with the subpoena or the giving of testimony. If the agency fails or refuses to seek enforcement of a subpoena issued at the request of a party or to compel the giving of testimony considered material by a party, the party may make an application to the district court. The court shall hear the matter as expeditiously as possible. If the disobedience or refusal is found to be unjustified, the court shall enter an order requiring compliance. Disobedience of the order must be punishable by contempt of court in the same manner and by the same procedures as is provided for similar conduct committed in the course of civil actions in district courts. If another method of subpoena enforcement or compelling testimony is provided by statute, it may be used as an alternative to the method provided for in this section.

History: En. Sec. 20, Ch. 2, Ex. L. 1971; amd. Sec. 19, Ch. 285, L. 1977; R.C.M. 1947, 82-4220(1), (2); amd. Sec. 40, Ch. 61, L. 2007.

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2-4-105. Representation by counsel. Any person compelled to appear in person or who voluntarily appears before any agency or representative thereof shall be accorded the right to be accompanied, represented, and advised by counsel. In a proceeding before an agency, every party shall be accorded the right to appear in person or by or with counsel but this chapter shall not be construed as requiring an agency to furnish counsel to any such person.

History: En. Sec. 21, Ch. 2, Ex. L. 1971; amd. Sec. 20, Ch. 285, L. 1977; R.C.M. 1947, 82-4221.

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2-4-106. Service. Except where a statute expressly provides to the contrary, service in all agency proceedings subject to the provisions of this chapter and in proceedings for judicial review thereof shall be as prescribed for civil actions in the district courts.

History: En. Sec. 22, Ch. 2, Ex. L. 1971; amd. Sec. 21, Ch. 285, L. 1977; R.C.M. 1947, 82-4222.

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2-4-601. Notice. (1) In a contested case, all parties must be afforded an opportunity for hearing after reasonable notice.

(2) The notice must include:

- (a) a statement of the time, place, and nature of the hearing;
- (b) a statement of the legal authority and jurisdiction under which the hearing is to be held;
- (c) a reference to the particular sections of the statutes and rules involved;
- (d) a short and plain statement of the matters asserted. If the agency or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, upon application, a more definite and detailed statement must be furnished.
- (e) a statement that a formal proceeding may be waived pursuant to 2-4-603.

History: En. Sec. 9, Ch. 2, Ex. L. 1971; R.C.M. 1947, 82-4209(1), (2); amd. Sec. 1, Ch. 277, L. 1979.

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2-4-612. Hearing -- rules of evidence, cross-examination, judicial notice. (1) Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved.

(2) Except as otherwise provided by statute relating directly to an agency, agencies shall be bound by common law and statutory rules of evidence. Objections to evidentiary offers may be made and shall be noted in the record. When a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form.

(3) Documentary evidence may be received in the form of copies or excerpts if the original is not readily available. Upon request, parties shall be given an opportunity to compare the copy with the original.

(4) All testimony shall be given under oath or affirmation.

(5) A party shall have the right to conduct cross-examinations required for a full and true disclosure of facts, including the right to cross-examine the author of any document prepared by or on behalf of or for the use of the agency and offered in evidence.

(6) Notice may be taken of judicially cognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within the agency's specialized knowledge. Parties shall be notified either before or during the hearing or by reference in preliminary reports or otherwise of the material noticed, including any staff memoranda or data. They shall be afforded an opportunity to contest the material so noticed.

(7) The agency's experience, technical competence, and specialized knowledge may be utilized in the evaluation of evidence.

History: En. Secs. 9, 10, 11, Ch. 2, Ex. L. 1971; R.C.M. 1947, 82-4209(3), 82-4210, 82-4211(part).

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2-4-614. Record -- transcription. (1) The record in a contested case must include:

- (a) all pleadings, motions, and intermediate rulings;
- (b) all evidence received or considered, including a stenographic record of oral proceedings when demanded by a party;
- (c) a statement of matters officially noticed;
- (d) questions and offers of proof, objections, and rulings on those objections;
- (e) proposed findings and exceptions;
- (f) any decision, opinion, or report by the hearings examiner or agency member presiding at the hearing, which must be in writing;
- (g) all staff memoranda or data submitted to the hearings examiner or members of the agency as evidence in connection with their consideration of the case.

(2) The stenographic record of oral proceedings or any part of the stenographic record must be transcribed on request of any party. Unless otherwise provided by statute, the cost of the transcription must be paid by the requesting party.

History: En. Sec. 9, Ch. 2, Ex. L. 1971; R.C.M. 1947, 82-4209(5), (6); amd. Sec. 2, Ch. 347, L. 2005.

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2-15-201. Powers and duties of governor. (1) In addition to the duties prescribed by the constitution, the governor shall:

(a) supervise the official conduct of all executive and ministerial officers;
 (b) ensure that all offices are filled and that the duties of the offices are performed or, in default of the performance, apply a remedy that the law allows. If the remedy is imperfect, the governor shall acquaint the legislature with the issue at its next session.

(2) (a) The governor shall make the appointments and fill the vacancies as required by law. When a vacancy in a position on a council, board, commission, or committee has occurred or is expected to occur and must be filled by gubernatorial appointment, the governor shall have posted in a conspicuous place in the state capitol a notice:

(i) announcing the actual or anticipated vacancy in the position;
 (ii) describing the qualifications for the position, if any; and
 (iii) describing the procedure for applying for appointment to the position.

(b) A copy of the notice required under subsection (2)(a) must be sent to the lieutenant governor who may publish the notice in an appropriate publication.

(3) The governor is the sole official organ of communication between the government of this state and the government of any other state or of the United States.

(4) Whenever any suit or legal proceeding is pending against this state that may affect the title of this state to any property or that may result in any claim against the state, the governor may direct the attorney general to appear on behalf of the state and may employ additional counsel that the governor may judge expedient.

(5) The governor may require the attorney general or the county attorney of any county to inquire into the affairs or management of any corporation existing under the laws of this state.

(6) The governor may require the attorney general to aid the county attorney in the discharge of the county attorney's duties.

(7) The governor may offer rewards not exceeding \$1,000 each, payable out of the general fund, for the apprehension of any convict who has escaped from the state prison or any person who has committed or is charged with an offense punishable by death.

(8) The governor shall perform the duties respecting fugitives from justice that are prescribed by Title 46, chapter 30.

(9) The governor shall issue land warrants and patents, as prescribed in [77-2-342](#).

(10) The governor may require any officer or board to make special reports, upon demand, in writing.

(11) The governor shall discharge the duties of a member of the board of examiners, of a nonvoting ex officio member of the state board of education, and of a member of the board of land commissioners.

(12) The governor has the other powers and shall perform the other duties that are devolved upon the governor by this section or any other law of this state.

History: En. Sec. 370, Pol. C. 1895; re-en. Sec. 145, Rev. C. 1907; re-en. Sec. 124, R.C.M. 1921; Cal. Pol. C. Sec. 380; re-en. Sec. 124, R.C.M. 1935; amd. Sec. 94, Ch. 199, L. 1965; R.C.M. 1947, 82-1301; amd. Sec. 10, Ch. 184, L. 1979; amd. Sec. 10, Ch. 575, L. 1981; amd. Sec. 3, Ch. 125, L. 1983; amd. Sec. 1, Ch. 142, L. 1987; amd. Sec. 76, Ch. 61, L. 2007.

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2-4-623. Final orders -- notification -- availability. (1) (a) A final decision or order adverse to a party in a contested case must be in writing. A final decision must include findings of fact and conclusions of law, separately stated. Findings of fact, if set forth in statutory language, must be accompanied by a concise and explicit statement of the underlying facts supporting the findings. Except as provided in [75-2-213](#) and [75-20-223](#), a final decision must be issued within 90 days after a contested case is considered to be submitted for a final decision unless, for good cause shown, the period is extended for an additional time not to exceed 30 days.

(b) If an agency intends to issue a final written decision in a contested case that grants or denies relief and the relief that is granted or denied differs materially from a final agency decision that was orally announced on the record, the agency may not issue the final written decision without first providing notice to the parties and an opportunity to be heard before the agency.

(2) Findings of fact must be based exclusively on the evidence and on matters officially noticed.

(3) Each conclusion of law must be supported by authority or by a reasoned opinion.

(4) If, in accordance with agency rules, a party submitted proposed findings of fact, the decision must include a ruling upon each proposed finding.

(5) Parties must be notified by mail of any decision or order. Upon request, a copy of the decision or order must be delivered or mailed in a timely manner to each party and to each party's attorney of record.

(6) Each agency shall index and make available for public inspection all final decisions and orders, including declaratory rulings under [2-4-501](#). An agency decision or order is not valid or effective against any person or party, and it may not be invoked by the agency for any purpose until it has been made available for public inspection as required in this section. This provision is not applicable in favor of any person or party who has actual knowledge of the decision or order or when a state statute or federal statute or regulation prohibits public disclosure of the contents of a decision or order.

History: (1), (3) thru (6) En. Sec. 13, Ch. 2, Ex. L. 1971; amd. Sec. 15, Ch. 285, L. 1977; Sec. 82-4213, R.C.M. 1947; (2) En. Sec. 9, Ch. 2, Ex. L. 1971; Sec. 82-4209, R.C.M. 1947; R.C.M. 1947, 82-4209(7), 82-4213; amd. Sec. 3, Ch. 347, L. 2005; amd. Sec. 1, Ch. 571, L. 2005; amd. Sec. 2, Ch. 445, L. 2009.

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15-2-303. Judicial review. (1) Any party to an appeal before the state tax appeal board who is aggrieved by a final decision is entitled to judicial review under this part.

(2) Proceedings for review must be instituted by filing a petition in district court in the county in which the taxable property or some portion of it is located, except the taxpayer has the option to file in the district court of the first judicial district. A petition for judicial review must be filed within 60 days after service of the final decision of the state tax appeal board or, if a rehearing is requested, within 60 days after service of the final decision. Copies of the petition must be promptly served on all parties of record. The department of revenue shall promptly notify the state tax appeal board, in writing, of any judicial review, but failure to do so has no effect on the judicial review. The department of revenue shall, on request, submit to the state tax appeal board a copy of all pleadings and documents.

(3) If the judicial review involves a taxpayer who is seeking a refund of taxes paid under protest, the appealing party shall provide a copy of the petition to the treasurer of the county in which the taxable property or some portion of it is located, but failure to do so has no effect on the judicial review.

(4) Proceedings for review of a decision by the state tax appeal board by a company under the jurisdiction of the public service commission must be instituted in the district court of the first judicial district.

(5) Notwithstanding the provisions of 2-4-704(1), the court may, for good cause shown, permit additional evidence to be introduced.

History: En. 84-708.1 by Sec. 52(b), Ch. 405, L. 1973; amd. Sec. 2, Ch. 277, L. 1974; amd. Sec. 1, Ch. 346; amd. Sec. 1, Ch. 404, L. 1975; R.C.M. 1947, 84-709.1; amd. Sec. 1, Ch. 77, L. 1981; amd. Sec. 6, Ch. 501, L. 1981; amd. Sec. 6, Ch. 594, L. 1993.

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2-15-1015. State tax appeal board. There is a state tax appeal board as provided in Title 15, chapter 2.

History: En. by Code Commissioner, 1979.

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2-16-503. Notice of removal. Whenever an officer is removed, committed pursuant to 53-21-127, or convicted of a felony or offense involving moral turpitude or a violation of the officer's official duty or whenever the officer's election or appointment is declared void, the body, judge, or officer before whom the proceedings were conducted shall give notice of the proceedings to the officer authorized to fill the vacancy.

History: En. Sec. 1102, Pol. C. 1895; re-en. Sec. 421, Rev. C. 1907; re-en. Sec. 512, R.C.M. 1921; Cal. Pol. C. Sec. 997; re-en. Sec. 512, R.C.M. 1935; R.C.M. 1947, 59-603; amd. Sec. 27, Ch. 184, L. 1979; amd. Sec. 2, Ch. 490, L. 1997.

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

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

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

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

(iii) Fifty percent of the funds remaining after the deposit of university system funds must be

deposited in the state general fund, and the other 50% must be deposited in a centrally assessed property tax state special revenue fund.

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

(5) (a) Except as provided in subsections (5)(b) and (5)(c), the governing body of a taxing jurisdiction affected by the payment of taxes under protest in the second and subsequent years that a tax protest remains unresolved may demand that the treasurer of the county or municipality pay the requesting taxing jurisdiction all or a portion of the protest payments to which it is entitled, except the amount paid by the taxpayer in the first year of the protest. The decision in a previous year of a taxing jurisdiction to leave protested taxes in the protest fund does not preclude it from demanding in a subsequent year any or all of the payments to which it is entitled, except the first-year protest amount.

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

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

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

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

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

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

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

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

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

(7) A taxing jurisdiction, except the state, may satisfy the requirements of this section by use of funds from one or more of the following sources:

(a) imposition of a property tax to be collected by a special tax protest refund levy;
 (b) the general fund or any other funds legally available to the governing body; and
 (c) proceeds from the sale of bonds issued by a county, city, or school district for the purpose of deriving revenue for the repayment of tax protests lost by the taxing jurisdiction. The governing body of a county, city, or school district is authorized to issue the bonds pursuant to procedures established by law. The bonds may be issued without being submitted to an election. Property taxes may be levied to amortize the bonds.

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

History: En. 4024, Pol. C. 1895; amd. Sec. 1, Ch. 108, L. 1905; re-en. Sec. 2742, Rev. C. 1907; amd. Sec. 1, Ch. 135, L. 1909; re-en. Sec. 2269, R.C.M. 1921; amd. Sec. 1, Ch. 142, L. 1925; re-en. Sec. 2269, R.C.M. 1935; amd. Sec. 1, Ch. 204, L. 1955; amd. Sec. 151, Ch. 516, L. 1973; amd. Sec. 1, Ch. 348, L. 1977; amd. Sec. 1, Ch. 394, L. 1977; R.C.M. 1947, 84-4502; amd. Sec. 1, Ch. 281, L. 1979; amd. Sec. 1, Ch. 680, L. 1979; amd. Sec. 6, Ch. 463, L. 1981; amd. Sec. 4, Ch. 501, L. 1981; amd. Sec. 1, Ch. 26, Sp. L. June 1986; amd. Sec. 1, Ch. 213, L. 1989; amd. Sec. 1, Ch. 594, L. 1993; amd. Sec. 1, Ch. 448, L. 1999; amd. Sec. 80, Ch. 584, L. 1999; amd. Sec. 92, Ch. 574, L. 2001; amd. Sec. 1, Ch. 511, L. 2003; amd. Sec. 1, Ch. 536, L. 2005; amd. Sec. 2, Ch. 57, L. 2009; amd. Sec. 2, Ch. 344, L. 2009; amd. Sec. 1, Ch. 261, L. 2011; amd. Sec. 4, Ch. 419, L. 2013.

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15-2-101. State tax appeal board -- appointment of members -- term of office. There is a state tax appeal board composed of three members appointed by the governor for staggered terms with the advice and consent of the senate. However, a member appointed may serve until the next regular session of the legislature without the advice and consent of the senate. Each member shall hold office for a term of 6 years and until a successor shall be appointed and qualified. A vacancy must be filled by the governor subject to confirmation by the senate during the next legislative session. Succeeding appointments, except when made to fill a vacancy, must be made on or before January 31 during the session of the legislature preceding the commencement of the term for which the appointment is made.

History: En. Sec. 1, Ch. 3, L. 1923; re-en. Sec. 2122.1, R.C.M. 1935; amd. Sec. 50, Ch. 100, L. 1973; amd. Sec. 45, Ch. 405, L. 1973; R.C.M. 1947, 84-701; amd. Sec. 147, Ch. 56, L. 2009.

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15-2-102. Qualification and compensation. (1) To be appointed a member of the state tax appeal board, a person shall possess knowledge of the subject of taxation and skill in matters relating to taxation. A member may not hold any other state office or any office under the government of the United States or under the government of any other state. The person shall devote the entire time to the duties of the office and may not hold any other position of trust or profit or engage in any occupation or business interfering or inconsistent with the person's duties. The state tax appeal board is attached to the department of administration for administrative purposes only as provided in 2-15-121. However, the board may hire its own personnel, and 2-15-121(2)(d) does not apply.

(2) State tax appeal board members must be paid a salary within the pay band, defined in 2-18-101, determined by the department of administration as provided in subsection (3). State tax appeal board members must receive pay and pay adjustments consistent with those required by the legislature for state employees in 2-18-303 and 2-18-304. The member designated as presiding officer as provided for in 15-2-103 must receive an additional 5% in salary. All members of the board must receive travel expenses as provided for in 2-18-501 through 2-18-503 when away from the capital on official business.

(3) The department of administration shall determine the appropriate occupation and pay band for the state tax appeal board members in the same manner that it determines the occupation and pay band for employees in state government pursuant to Title 2, chapter 18.

(4) The governor shall set the salary of the state tax appeal board members within the pay band established by the department of administration.

History: En. Sec. 2, Ch. 3, L. 1923; re-en. Sec. 2122.2, R.C.M. 1935; amd. Sec. 1, Ch. 109, L. 1953; amd. Sec. 8, Ch. 225, L. 1963; amd. Sec. 13, Ch. 237, L. 1967; amd. Sec. 46, Ch. 405, L. 1973; amd. Sec. 26, Ch. 453, L. 1977; R.C.M. 1947, 84-702; amd. Sec. 1, Ch. 620, L. 1979; amd. Sec. 5, Ch. 605, L. 1981; amd. Sec. 4, Ch. 656, L. 1983; amd. Sec. 2, Ch. 236, L. 1985; amd. Sec. 5, Ch. 693, L. 1985; amd. Sec. 13, Ch. 660, L. 1989; amd. Sec. 15, Ch. 720, L. 1991; amd. Sec. 17, Ch. 455, L. 1995; amd. Sec. 9, Ch. 44, L. 2007; amd. Sec. 19, Ch. 81, L. 2007; amd. Sec. 8, Ch. 7, L. 2009.

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15-2-103. Organization, quorum, sessions. The members of the state tax appeal board shall, without delay, meet at the state capital, and the governor shall designate one of their members as presiding officer. A majority of the board constitutes a quorum. The board is in continuous session and must be open for the transaction of business every day except Saturdays, Sundays, and legal holidays; and the sessions of the board must stand and be considered to be adjourned from day to day without formal entry upon its records. The board may hold sessions or conduct hearings and investigations at other places than the capital when considered necessary to facilitate the performance of its duties or to accommodate parties in interest.

History: En. Sec. 3, L. 1923; re-en. Sec. 2122.3, R.C.M. 1935; amd. Sec. 47, Ch. 405, L. 1973; R.C.M. 1947, 84-703; amd. Sec. 148, Ch. 56, L. 2009.

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15-2-104. Employees -- expenses -- minutes -- rules. The state tax appeal board may appoint a secretary and employ other persons as experts, assistants, clerks, and stenographers as may be necessary to perform the duties that may be required of it. The total expenses of the board may not exceed, in the aggregate during any fiscal year, the amount appropriated for the board for all purposes by the legislature for that year. The secretary shall keep full and correct minutes of the transactions and proceedings of the board and may administer oaths and perform other duties as may be required. The board may adopt rules for the orderly and methodical performance of its duties as a tax appeal board and for conducting hearings and other proceedings before it.

History: En. Sec. 5, Ch. 3, L. 1923; re-en. Sec. 2122.5, R.C.M. 1935; amd. Sec. 1, Ch. 82, L. 1947; amd. Sec. 49, Ch. 405, L. 1973; R.C.M. 1947, 84-705; amd. Sec. 149, Ch. 56, L. 2009.

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15-2-105. Office, furnishings, and supplies. The board shall keep its office at the capital and shall be provided with suitable and necessary offices and office furniture, printing, supplies, stationery, books, periodicals, and financial and commercial reports.

History: En. Sec. 6, Ch. 3, L. 1923; re-en. Sec. 2122.6, R.C.M. 1935; amd. Sec. 50, Ch. 405, L. 1973; R.C.M. 1947, 84-706.

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15-2-106. Seal. The state tax appeal board shall have a seal and such seal shall have the following words engraved thereon, "Tax Appeal Board of the State of Montana". The board shall authenticate all of its orders, records, and proceedings with such seal, and the courts of this state shall take judicial notice of such seal.

History: En. Sec. 17, Ch. 3, L. 1923; re-en. Sec. 2122.17, R.C.M. 1935; amd. Sec. 60, Ch. 405, L. 1973; R.C.M. 1947, 84-717.

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15-15-101. County tax appeal board -- meetings and compensation. (1) The board of county commissioners of each county shall appoint a county tax appeal board, with a minimum of three members and with the members to serve staggered terms of 3 years each. The members of each county tax appeal board must be residents of the county in which they serve. The members receive compensation of \$45 a day and travel expenses, as provided for in 2-18-501 through 2-18-503, only when the county tax appeal board meets to hear taxpayers' appeals from property tax assessments or when they are attending meetings called by the state tax appeal board. Travel expenses and compensation must be paid from the appropriation to the state tax appeal board. Office space and equipment for the county tax appeal boards must be furnished by the county. All other incidental expenses must be paid from the appropriation of the state tax appeal board.

(2) The county tax appeal board shall hold an organizational meeting each year on the date of its first scheduled hearing, immediately before conducting the business for which the hearing was otherwise scheduled. At the organizational meeting, the members shall choose one member as the presiding officer of the board. The county tax appeal board shall continue in session from July 1 of the current tax year until December 31 of the current tax year to hear protests concerning assessments made by the department until the business of hearing protests is disposed of and, as provided in 15-2-201, may meet after December 31.

(3) In counties that have appointed more than three members to the county tax appeal board, only three members shall hear each appeal. The presiding officer shall select the three members hearing each appeal.

(4) In connection with an appeal, the county tax appeal board may change any assessment or fix the assessment at some other level. Upon notification by the county tax appeal board, the county clerk and recorder shall publish a notice to taxpayers, giving the time the county tax appeal board will be in session to hear scheduled protests concerning assessments and the latest date the county tax appeal board may take applications for the hearings. The notice must be published in a newspaper if any is printed in the county or, if none, then in the manner that the county tax appeal board directs. The notice must be published by May 15 of the current tax year.

(5) Challenges to a department rule governing the assessment of property or to an assessment procedure apply only to the taxpayer bringing the challenge and may not apply to all similarly situated taxpayers unless an action is brought in the district court as provided in 15-1-406.

History: Secs. 2113 to 2121 were enacted as Secs. 60 to 70, pp. 96 to 99, L. 1891, appearing as Secs. 3780 to 3790, Pol. C. 1895; re-en. Secs. 2572 to 2582, Rev. C. 1907; Sec. 2572, Rev. C. 1907; re-en. Sec. 2113, R.C.M. 1921; Cal. Pol. C. Sec. 3672; re-en. Sec. 2113, R.C.M. 1935; amd. Sec. 36, Ch. 405, L. 1973; amd. Sec. 1, Ch. 38, L. 1974; amd. Sec. 1, Ch. 285, L. 1975; amd. Sec. 1, Ch. 355, L. 1977; amd. Sec. 25, Ch. 453, L. 1977; R.C.M. 1947, 84-601; amd. Sec. 1, Ch. 630, L. 1979; amd. Sec. 2, Ch. 502, L. 1981; amd. Sec. 5, Ch. 526, L. 1981; amd. Sec. 1, Ch. 216, L. 1983; amd. Sec. 13, Ch. 526, L. 1983; amd. Sec. 1, Ch. 242, L. 1991; amd. Sec. 9, Ch. 594, L. 1993; amd. Sec. 76, Ch. 27, Sp. L. November 1993; amd. Sec. 2, Ch. 56, L. 1999; amd. Sec. 1, Ch. 197, L. 2011.

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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 or determination after review under [15-7-102\(3\)](#) 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.

History: Secs. 2113 to 2121 were enacted as Secs. 60 to 70, pp. 96 to 99, L. 1891, appearing as Secs. 3780 to 3790, Pol. C. 1895; re-en. Secs. 2572 to 2582, Rev. C. 1907; Sec. 2574, Rev. C. 1907; re-en. Sec. 2115, R.C.M. 1921; Cal. Pol. C. Sec. 3674; amd. Sec. 2, Ch. 187, L. 1933; re-en. Sec. 2115, R.C.M. 1935; amd. Sec. 1, Ch. 103, L. 1945; amd. Sec. 2, Ch. 196, L. 1957; amd. Sec. 38, Ch. 405, L. 1973; amd. Sec. 1, Ch. 360, L. 1975; amd. Sec. 3, Ch. 155, L. 1977; amd. Sec. 3, Ch. 355, L. 1977; R.C.M. 1947, 84-603; amd. Sec. 2, Ch. 630, L. 1979; amd. Sec. 4, Ch. 9, L. 1989; amd. Sec. 3, Ch. 227, L. 1993; amd. Sec. 77, Ch. 27, Sp. L. November 1993; amd. Sec. 1, Ch. 30, L. 1995; amd. Sec. 3, Ch. 56, L. 1999.

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15-15-103. Examination of applicant -- failure to hear application. (1) Before the county tax appeal board grants any application or makes any reduction applied for, it shall examine on oath the person or agent making the application with regard to the value of the property of the person. A reduction may not be made unless the applicant makes an application, as provided in 15-15-102, and attends the county tax appeal board hearing. An appeal of the board's decision may not be made to the state tax appeal board unless the person or the person's agent has exhausted the remedies available through the county tax appeal board. In order to exhaust the remedies, the person or the person's agent shall attend the county tax appeal board hearing. On written request by the person or the person's agent and on the written concurrence of the department, the county tax appeal board may waive the requirement that the person or the person's agent attend the hearing. The testimony of all witnesses at the hearing must be electronically recorded and preserved for 1 year. If the decision of the county tax appeal board is appealed, the record of the proceedings, including the electronic recording of all testimony, must be forwarded, together with all exhibits, to the state tax appeal board. The date of the hearing, the proceedings before the board, and the decision must be entered upon the minutes of the board, and the board shall notify the applicant of its decision by mail within 3 days. A copy of the minutes of the county tax appeal board must be transmitted to the state tax appeal board no later than 3 days after the board holds its final hearing of the year.

(2) (a) Except as provided in 15-15-201, if a county tax appeal board refuses or fails to hear a taxpayer's timely application for a reduction in valuation of property, the taxpayer's application is considered to be granted on the day following the board's final meeting for that year. The department shall enter the appraisal or classification sought in the application in the property tax record. An application is not automatically granted for the following appeals:

- (i) those listed in 15-2-302; and
- (ii) if a taxpayer's appeal from the department's determination of classification or appraisal made pursuant to 15-7-102 was not received in time, as provided for in 15-15-102, to be considered by the board during its current session.

(b) The county tax appeal board shall provide written notification of each application that was automatically granted pursuant to subsection (2)(a) to the department, the state tax appeal board, and any affected municipal corporation. The notice must include the name of the taxpayer and a description of the subject property.

History: Secs. 2113 to 2121 were enacted as Secs. 60 to 70, pp. 96 to 99, L. 1891, appearing as Secs. 3780 to 3790, Pol. C. 1895; re-en. Secs. 2572 to 2582, Rev. C. 1907; Sec. 2575, Rev. C. 1907; re-en. Sec. 2116, R.C.M. 1921; Cal. Pol. C. Sec. 3675; amd. Sec. 3, Ch. 187, L. 1933; re-en. Sec. 2116, R.C.M. 1935; amd. Sec. 3, Ch. 196, L. 1957; amd. Sec. 39, Ch. 405, L. 1973; amd. Sec. 2, Ch. 38, L. 1974; amd. Sec. 4, Ch. 355, L. 1977; R.C.M. 1947, 84-604; amd. Sec. 3, Ch. 630, L. 1979; (2)En. Sec. 4, Ch. 630, L. 1979; amd. Sec. 3, Ch. 471, L. 1987; amd. Sec. 4, Ch. 227, L. 1993; amd. Sec. 2, Ch. 15, Sp. L. November 1993; amd. Sec. 78, Ch. 27, Sp. L. November 1993; amd. Sec. 2, Ch. 134, L. 1997; amd. Sec. 4, Ch. 56, L. 1999; amd. Sec. 4, Ch. 85, L. 1999; amd. Sec. 1, Ch. 533, L. 2005.

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15-15-104. Appeal to state tax appeal board. (1) If the appearance provisions of 15-15-103(1) have been complied with, a person or the department, on behalf of the state, or any municipal corporation aggrieved by the action of any county tax appeal board may appeal to the state board under 15-2-301.

(2) If an appeal has been automatically granted by a county tax appeal board pursuant to 15-15-103(2), the department, on behalf of the state, or any municipal corporation aggrieved by the action may appeal to the state tax appeal board under 15-2-301. The time for filing an appeal commences on receipt by the department of the written notification required by 15-15-103(2)(b).

History: Ap. p. Sec. 9, Ch. 3, L. 1923; re-en. Sec. 2122.9, R.C.M. 1935; amd. Sec. 1, Ch. 33, L. 1939; amd. Sec. 54, Ch. 405, L. 1973; amd. Sec. 4, Ch. 38, L. 1974; amd. Sec. 1, Ch. 277, L. 1974; amd. Sec. 1, Ch. 155, L. 1977; amd. Sec. 1, Ch. 249, L. 1977; Sec. 84-709, R.C.M. 1947; Ap. p. by Code Commissioner, 1979; R.C.M. 1947, 84-709(part); amd. Sec. 3, Ch. 15, Sp. L. November 1993; amd. Sec. 2, Ch. 533, L. 2005.

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15-2-301. Appeal of county tax appeal board decisions. (1) The county tax appeal board shall mail a copy of its decision to the taxpayer and to the property assessment division of the department of revenue. If the appearance provisions of [15-15-103](#) have been complied with, a person or the department on behalf of the state or any municipal corporation aggrieved by the action of the county tax appeal board may appeal to the state board by filing with the state tax appeal board a notice of appeal within 30 calendar days after the receipt of the decision of the county board. The notice must specify the action complained of and the reasons assigned for the complaint. Notice of acceptance of an appeal must be given to the county tax appeal board by the state tax appeal board. The state board shall set the appeal for hearing either in its office in the capital or the county seat as the board considers advisable to facilitate the performance of its duties or to accommodate parties in interest. The board shall give to the appellant and to the respondent at least 15 calendar days' notice of the time and place of the hearing.

(2) At the time of giving notice of acceptance of an appeal, the state board may require the county board to certify to it the minutes of the proceedings resulting in the action and all testimony taken in connection with its proceedings. The state board may, in its discretion, determine the appeal on the record if all parties receive a copy of the transcript and are permitted to submit additional sworn statements, or the state board may hear further testimony. For the purpose of expediting its work, the state board may refer any appeal to one of its members or to a designated hearings officer. The board member or hearings officer may exercise all the powers of the board in conducting a hearing and shall, as soon as possible after the hearing, report the proceedings, together with a transcript or a tape recording of the hearing, to the board. The state board shall determine the appeal on the record.

(3) On all hearings at county seats throughout the state, the state board or the member or hearings officer designated to conduct a hearing may employ a competent person to electronically record the testimony received. The cost of electronically recording testimony may be paid out of the general appropriation for the board.

(4) In connection with any appeal under this section, the state board is not bound by common law and statutory rules of evidence or rules of discovery and may affirm, reverse, or modify any decision. To the extent that this section is in conflict with the Montana Administrative Procedure Act, this section supersedes that act. The state tax appeal board may not amend or repeal any administrative rule of the department. The state tax appeal board shall give an administrative rule full effect unless the board finds a rule arbitrary, capricious, or otherwise unlawful.

(5) The decision of the state tax appeal board is final and binding upon all interested parties unless reversed or modified by judicial review. Proceedings for judicial review of a decision of the state tax appeal board under this section are subject to the provisions of [15-2-303](#) and the Montana Administrative Procedure Act to the extent that it does not conflict with [15-2-303](#).

(6) Sections [15-6-134](#) and [15-7-111](#) may not be construed to prevent the department from implementing an order to change the valuation of property.

History: En. Sec. 9, Ch. 3, L. 1923; re-en. Sec. 2122.9, R.C.M. 1935; amd. Sec. 1, Ch. 33, L. 1939; amd. Sec. 54, Ch. 405, L. 1973; amd. Sec. 4, Ch. 38, L. 1974; amd. Sec. 1, Ch. 277, L. 1974; amd. Sec. 1, Ch. 155, L. 1977; amd. Sec. 1, Ch. 249, L. 1977; R.C.M. 1947, 84-709; amd. Sec. 1, Ch. 611, L. 1979; amd. Secs. 1, 2, Ch. 471, L. 1987; amd. Sec. 1, Ch. 247, L. 1991; amd. Sec. 4, Ch. 594, L. 1993; amd. Sec. 1, Ch. 15, Sp. L. November 1993; amd. Sec. 1, Ch. 134, L. 1997; amd. Sec. 81, Ch. 584, L. 1999.

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15-2-306. Board may order refund. (1) In any appeal before the state tax appeal board when a taxpayer has paid property taxes or fees under written protest and the taxes or fees are held by the treasurer of a unit of local government in a protest fund, the state tax appeal board shall enter judgment, exclusive of costs, if the board finds that the property taxes or fees should be refunded.

(2) The state tax appeal board's judgment issued pursuant to subsection (1) must be held in abeyance:

(a) until the time period for appeal has passed; or

(b) if the final decision of the state tax appeal board has been appealed in accordance with [15-2-303](#).

History: En. Sec. 2, Ch. 501, L. 1981; amd. Sec. 7, Ch. 594, L. 1993.

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15-7-102. Notice of classification and appraisal to owners -- appeals. (1) (a) Except as provided in 15-7-138, the department shall mail to each owner or purchaser under contract for deed a notice of the classification of the land owned or being purchased and the appraisal of the improvements on the land only if one or more of the following changes pertaining to the land or improvements have been made since the last notice:

- (i) change in ownership;
- (ii) change in classification;
- (iii) except as provided in subsection (1)(b), change in valuation; or
- (iv) addition or subtraction of personal property affixed to the land.

(b) After the first year, the department is not required to mail the notice provided for in subsection (1)(a)(iii) if the change in valuation is the result of an annual incremental change in valuation caused by the phasing in of a reappraisal under 15-7-111 or the application of the exemptions under 15-6-222 or caused by an incremental change in the tax rate.

(c) The notice must include the following for the taxpayer's informational purposes:

(i) a notice of the availability of all the property tax assistance programs available to property taxpayers, including the property tax assistance program under 15-6-134, the extended property tax assistance program under 15-6-193, the disabled or deceased veterans' residence exemption under 15-6-211, and the residential property tax credit for the elderly under 15-30-2337 through 15-30-2341;

- (ii) the total amount of mills levied against the property in the prior year; and
- (iii) a statement that the notice is not a tax bill.

(d) When the department uses an appraisal method that values land and improvements as a unit, including the comparable sales method for residential condominiums or the income method for commercial property, the notice must contain a combined appraised value of land and improvements.

(e) Any misinformation provided in the information required by subsection (1)(c) does not affect the validity of the notice and may not be used as a basis for a challenge of the legality of the notice.

(2) (a) Except as provided in subsection (2)(c), the department shall assign each assessment to the correct owner or purchaser under contract for deed and mail the notice of classification and appraisal on a standardized form, adopted by the department, containing sufficient information in a comprehensible manner designed to fully inform the taxpayer as to the classification and appraisal of the property and of changes over the prior tax year.

(b) The notice must advise the taxpayer that in order to be eligible for a refund of taxes from an appeal of the classification or appraisal, the taxpayer is required to pay the taxes under protest as provided in 15-1-402.

(c) The department is not required to mail the notice of classification and appraisal to a new owner or purchaser under contract for deed unless the department has received the transfer certificate from the clerk and recorder as provided in 15-7-304 and has processed the certificate before the notices required by subsection (2)(a) are mailed. The department shall notify the county tax appeal board of the date of the mailing.

(3) (a) If the owner of any land and improvements is dissatisfied with the appraisal as it reflects the market value of the property as determined by the department or with the classification of the land or improvements, the owner may request an assessment review by submitting an objection in writing to the department on forms provided by the department for that purpose. For property other than class three property described in 15-6-133, class four property described in 15-6-134, and class ten property

described in 15-6-143, the objection must be submitted within 30 days after receiving the notice of classification and appraisal from the department. For class three property described in 15-6-133, class four property described in 15-6-134, and class ten property described in 15-6-143, the objection may be made at any time but only once each valuation cycle.

(b) For properties valued using sales price or the capitalization of net income method as an indication of value, the form must include a provision that the objector agrees to confidentiality requirements for receipt of comparable sales data from information received from realty transfer certificates under 15-7-308. Within 4 weeks of submitting an objection, if the objection relates to residential and commercial property, the department shall provide the objector by posted mail or e-mail, unless the objector waives receiving the information, with:

- (i) data from comparable sales used by the department to value the property;
- (ii) the methodology and sources of data used by the department in the valuation of the property; and
- (iii) if the department uses a blend of evaluations developed from various sources, the reasons that the methodology was used.

(c) For properties valued using the capitalization of net income method as one approximation of market value, notice must be provided that the taxpayer will be given a form to acknowledge confidentiality requirements for the receipt of all aggregate model output that the department used in the valuation model for the property.

(d) The review must be conducted informally and is not subject to the contested case procedures of the Montana Administrative Procedure Act. As a part of the review, the department may consider the actual selling price of the property, independent appraisals of the property, and other relevant information presented by the taxpayer in support of the taxpayer's opinion as to the market value of the property. The department shall give reasonable notice to the taxpayer of the time and place of the review.

(e) After the review, the department shall determine the correct appraisal and classification of the land or improvements and notify the taxpayer of its determination. The department may not determine an appraised value that is higher than the value that was the subject of the objection unless the reason for an increase was the result of a physical change in the property or caused by an error in the description of the property that is kept by the department and used for calculating the appraised value. In the notification, the department shall state its reasons for revising the classification or appraisal. When the proper appraisal and classification have been determined, the land must be classified and the improvements appraised in the manner ordered by the department.

(4) Whether a review as provided in subsection (3) is held or not, the department may not adjust an appraisal or classification upon the taxpayer's objection unless:

- (a) the taxpayer has submitted an objection in writing; and
- (b) the department has stated its reason in writing for making the adjustment.

(5) A taxpayer's written objection to a classification or appraisal and the department's notification to the taxpayer of its determination and the reason for that determination are public records. The department shall make the records available for inspection during regular office hours.

(6) If any property owner feels aggrieved by the classification or appraisal made by the department after the review provided for in subsection (3), the property owner has the right to first appeal to the county tax appeal board and then to the state tax appeal board, whose findings are final subject to the right of review in the courts. The appeal to the county tax appeal board must be filed within 30 days after notice of the department's determination is mailed to the taxpayer. A county tax appeal board or the state tax appeal board may consider the actual selling price of the property, independent appraisals of the property, and other relevant information presented by the taxpayer as evidence of the market value of the property. If the county tax appeal board or the state tax appeal board determines that an adjustment should be made, the department shall adjust the base value of the property in accordance with the board's order.

History: En. Sec. 5, Ch. 191, L. 1957; amd. Sec. 17, Ch. 405, L. 1973; R.C.M. 1947, 84-429.11; amd. Sec. 3, Ch. 710, L.

1979; amd. Sec. 1, Ch. 105, L. 1983; amd. Sec. 11, Ch. 526, L. 1983; amd. Sec. 3, Ch. 29, Sp. L. June 1986; amd. Sec. 2, Ch. 613, L. 1987; amd. Sec. 1, Ch. 9, L. 1989; amd. Sec. 1, Ch. 636, L. 1989; amd. Secs. 1, 7, Ch. 680, L. 1991; amd. Sec. 2, Ch. 227, L. 1993; amd. Sec. 8, Ch. 594, L. 1993; amd. Sec. 39, Ch. 27, Sp. L. November 1993; amd. Sec. 2, Ch. 30, L. 1995; amd. Sec. 10, Ch. 574, L. 1995; amd. Sec. 2, Ch. 414, L. 1997; amd. Sec. 3, Ch. 463, L. 1997; amd. Sec. 1, Ch. 56, L. 1999; amd. Sec. 85, Ch. 584, L. 1999; amd. Sec. 3, Ch. 444, L. 2001; amd. Sec. 20, Ch. 114, L. 2003; amd. Sec. 13, Ch. 532, L. 2005; amd. Sec. 4, Ch. 584, L. 2005; amd. Sec. 6, Ch. 483, L. 2009; amd. Sec. 2, Ch. 356, L. 2011; amd. Sec. 1, Ch. 399, L. 2011.

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15-7-102. Notice of classification and appraisal to owners -- appeals. (1) (a) Except as provided in 15-7-138, the department shall mail to each owner or purchaser under contract for deed a notice of the classification of the land owned or being purchased and the appraisal of the improvements on the land only if one or more of the following changes pertaining to the land or improvements have been made since the last notice:

- (i) change in ownership;
- (ii) change in classification;
- (iii) except as provided in subsection (1)(b), change in valuation; or
- (iv) addition or subtraction of personal property affixed to the land.

(b) After the first year, the department is not required to mail the notice provided for in subsection (1)(a)(iii) if the change in valuation is the result of an annual incremental change in valuation caused by the phasing in of a reappraisal under 15-7-111 or the application of the exemptions under 15-6-222 or caused by an incremental change in the tax rate.

(c) The notice must include the following for the taxpayer's informational purposes:

(i) a notice of the availability of all the property tax assistance programs available to property taxpayers, including the property tax assistance program under 15-6-134, the extended property tax assistance program under 15-6-193, the disabled or deceased veterans' residence exemption under 15-6-211, and the residential property tax credit for the elderly under 15-30-2337 through 15-30-2341;

(ii) the total amount of mills levied against the property in the prior year; and

(iii) a statement that the notice is not a tax bill.

(d) When the department uses an appraisal method that values land and improvements as a unit, including the comparable sales method for residential condominiums or the income method for commercial property, the notice must contain a combined appraised value of land and improvements.

(e) Any misinformation provided in the information required by subsection (1)(c) does not affect the validity of the notice and may not be used as a basis for a challenge of the legality of the notice.

(2) (a) Except as provided in subsection (2)(c), the department shall assign each assessment to the correct owner or purchaser under contract for deed and mail the notice of classification and appraisal on a standardized form, adopted by the department, containing sufficient information in a comprehensible manner designed to fully inform the taxpayer as to the classification and appraisal of the property and of changes over the prior tax year.

(b) The notice must advise the taxpayer that in order to be eligible for a refund of taxes from an appeal of the classification or appraisal, the taxpayer is required to pay the taxes under protest as provided in 15-1-402.

(c) The department is not required to mail the notice of classification and appraisal to a new owner or purchaser under contract for deed unless the department has received the transfer certificate from the clerk and recorder as provided in 15-7-304 and has processed the certificate before the notices required by subsection (2)(a) are mailed. The department shall notify the county tax appeal board of the date of the mailing.

(3) (a) If the owner of any land and improvements is dissatisfied with the appraisal as it reflects the market value of the property as determined by the department or with the classification of the land or improvements, the owner may request an assessment review by submitting an objection in writing to the department on forms provided by the department for that purpose. For property other than class three property described in 15-6-133, class four property described in 15-6-134, and class ten property

described in 15-6-143, the objection must be submitted within 30 days after receiving the notice of classification and appraisal from the department. For class three property described in 15-6-133, class four property described in 15-6-134, and class ten property described in 15-6-143, the objection may be made at any time but only once each valuation cycle.

(b) For properties valued using sales price or the capitalization of net income method as an indication of value, the form must include a provision that the objector agrees to confidentiality requirements for receipt of comparable sales data from information received from realty transfer certificates under 15-7-308. Within 4 weeks of submitting an objection, if the objection relates to residential and commercial property, the department shall provide the objector by posted mail or e-mail, unless the objector waives receiving the information, with:

(i) data from comparable sales used by the department to value the property;

(ii) the methodology and sources of data used by the department in the valuation of the property; and

(iii) if the department uses a blend of evaluations developed from various sources, the reasons that the methodology was used.

(c) For properties valued using the capitalization of net income method as one approximation of market value, notice must be provided that the taxpayer will be given a form to acknowledge confidentiality requirements for the receipt of all aggregate model output that the department used in the valuation model for the property.

(d) The review must be conducted informally and is not subject to the contested case procedures of the Montana Administrative Procedure Act. As a part of the review, the department may consider the actual selling price of the property, independent appraisals of the property, and other relevant information presented by the taxpayer in support of the taxpayer's opinion as to the market value of the property. The department shall give reasonable notice to the taxpayer of the time and place of the review.

(e) After the review, the department shall determine the correct appraisal and classification of the land or improvements and notify the taxpayer of its determination. The department may not determine an appraised value that is higher than the value that was the subject of the objection unless the reason for an increase was the result of a physical change in the property or caused by an error in the description of the property that is kept by the department and used for calculating the appraised value. In the notification, the department shall state its reasons for revising the classification or appraisal. When the proper appraisal and classification have been determined, the land must be classified and the improvements appraised in the manner ordered by the department.

(4) Whether a review as provided in subsection (3) is held or not, the department may not adjust an appraisal or classification upon the taxpayer's objection unless:

(a) the taxpayer has submitted an objection in writing; and

(b) the department has stated its reason in writing for making the adjustment.

(5) A taxpayer's written objection to a classification or appraisal and the department's notification to the taxpayer of its determination and the reason for that determination are public records. The department shall make the records available for inspection during regular office hours.

(6) If any property owner feels aggrieved by the classification or appraisal made by the department after the review provided for in subsection (3), the property owner has the right to first appeal to the county tax appeal board and then to the state tax appeal board, whose findings are final subject to the right of review in the courts. The appeal to the county tax appeal board must be filed within 30 days after notice of the department's determination is mailed to the taxpayer. A county tax appeal board or the state tax appeal board may consider the actual selling price of the property, independent appraisals of the property, and other relevant information presented by the taxpayer as evidence of the market value of the property. If the county tax appeal board or the state tax appeal board determines that an adjustment should be made, the department shall adjust the base value of the property in accordance with the board's order.

History: En. Sec. 5, Ch. 191, L. 1957; amd. Sec. 17, Ch. 405, L. 1973; R.C.M. 1947, 84-429.11; amd. Sec. 3, Ch. 710, L.

1979; amd. Sec. 1, Ch. 105, L. 1983; amd. Sec. 11, Ch. 526, L. 1983; amd. Sec. 3, Ch. 29, Sp. L. June 1986; amd. Sec. 2, Ch. 613, L. 1987; amd. Sec. 1, Ch. 9, L. 1989; amd. Sec. 1, Ch. 636, L. 1989; amd. Secs. 1, 7, Ch. 680, L. 1991; amd. Sec. 2, Ch. 227, L. 1993; amd. Sec. 8, Ch. 594, L. 1993; amd. Sec. 39, Ch. 27, Sp. L. November 1993; amd. Sec. 2, Ch. 30, L. 1995; amd. Sec. 10, Ch. 574, L. 1995; amd. Sec. 2, Ch. 414, L. 1997; amd. Sec. 3, Ch. 463, L. 1997; amd. Sec. 1, Ch. 56, L. 1999; amd. Sec. 85, Ch. 584, L. 1999; amd. Sec. 3, Ch. 444, L. 2001; amd. Sec. 20, Ch. 114, L. 2003; amd. Sec. 13, Ch. 532, L. 2005; amd. Sec. 4, Ch. 584, L. 2005; amd. Sec. 6, Ch. 483, L. 2009; amd. Sec. 2, Ch. 356, L. 2011; amd. Sec. 1, Ch. 399, L. 2011.

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