

**Unofficial Draft Copy**

As of: October 9, 2014 (9:34am)

LC0254

\*\*\*\* Bill No. \*\*\*\*

Introduced By \*\*\*\*\*

By Request of the \*\*\*\*\*

A Bill for an Act entitled: "An Act allowing certain industrial property taxpayers to appeal to the state tax appeal board or the county tax appeal board; providing that the state tax appeal board's review of industrial property appeals must be de novo; clarifying appeals that must be made to the state tax appeal board; and amending sections 15-2-301, 15-2-302, and 15-15-103, MCA."

Be it enacted by the Legislature of the State of Montana:

**Section 1.** Section 15-2-301, MCA, is amended to read:

**"15-2-301. Appeal of county tax appeal board decisions. (1)**

(a) 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.

(b) 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 tax appeal 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.

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(c) Notice of acceptance of an appeal must be given to the county ~~tax appeal~~ board by the state ~~tax appeal~~ board.

(d) The state board shall set the appeal for hearing either in its office in the capital or at the county seat as the state board considers advisable to facilitate the performance of its duties or to accommodate parties in interest.

(e) The state 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) (a) 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.

(b) 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.

(c) For industrial property that is assessed annually by the department, the state board's review must be de novo and conducted in accordance with the contested case provisions of the Montana Administrative Procedure Act.

(d) 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 state 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 state board. The state board shall determine the appeal on the record.

(3) ~~On all hearings at county seats~~ In every hearing at a county seat 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~~ Except as provided in subsection (2)(c) regarding industrial property, 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 state 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."

{Internal References to 15-2-301:  
15-15-104x 15-15-104x }

**Section 2.** Section 15-2-302, MCA, is amended to read:

**"15-2-302. Direct appeal from department decision to state tax appeal board -- hearing.** (1) ~~A person may appeal to the state tax appeal board a final decision of the department of revenue involving:~~ (a) An appeal of a final decision of the department of revenue involving one of the matters provided for in subsection (1)(b) must be made to the state tax appeal board.

(b) Final decisions of the department for which appeals are provided in subsection (1)(a) are final decisions involving:

~~(a)~~(i) property centrally assessed under chapter 23;

~~(b)~~(ii) classification of property as new industrial property;

~~(c)~~(iii) any other tax, other than the property tax, imposed under this title; or

~~(d)~~(iv) any other matter in which the appeal is provided by law.

(2) A person may appeal the department's annual assessment of an industrial property to the state board as provided in this section or to the county tax appeal board for the county in which the property is located as provided in Title 15, chapter 15, part 1.

~~(2)~~(3) The appeal is made by filing a complaint with the

state board within 30 days following receipt of notice of the department's final decision. The complaint must set forth the grounds for relief and the nature of relief demanded. The state board shall immediately transmit a copy of the complaint to the department.

(3)(4) The department shall file with the state board an answer within 30 days following filing of a complaint.

(4)(5) The state board shall conduct the appeal in accordance with the contested case provisions of the Montana Administrative Procedure Act.

(5)(6) 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."

{Internal References to 15-2-302:

15-1-212x      15-1-213x      15-15-103a      16-11-149x }

**Section 3.** Section 15-15-103, MCA, is amended to read:

**"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

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15-15-102, and attends the county ~~tax appeal~~ board hearing. An appeal of the county 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 county board, and the decision must be entered upon the minutes of the county board, and the county 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 county 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 county board's final meeting for that year. The department shall enter the appraisal or classification sought in

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the application in the property tax record. An application is not automatically granted for the following appeals:

(i) those listed in 15-2-302(1); 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 county 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."

{*Internal References to 15-15-103:*

15-2-301x          15-15-104x          15-15-104x          15-15-104x }

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