

Background Report on Courts in Montana
For the Senate Joint Resolution No. 23 Study

Prepared for the Revenue and Transportation Interim Committee
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The Senate Joint Resolution No. 23 (SJR 23) study of the taxpayer appeal process requests consideration of alternative appeal processes. Familiarity with two of Montana's courts may be useful background as the committee becomes familiar with taxpayer appeal processes and considers areas for improving or streamlining these processes.

The purpose of this report is to provide the committee with background on the Workers' Compensation Court and the Water Court as examples of courts with jurisdiction over a specific area of law. The committee may wish to invite representatives of the Workers' Compensation Court and Water Court to present additional information about how the courts operate.

The following table provides basic information about the Workers' Compensation Court and the Water Court and compares and contrasts them with the State Tax Appeal Board.

	State Tax Appeal Board	Workers' Compensation Court	Water Court
Year Created	1979	1975	1979
Number of Members/Judges	3	1	5: the Chief Water Judge and four district court judges who work part time for the Water Court ¹
Administrative Allocation	Department of Administration	Department of Labor and Industry	Not administratively allocated
Appointment	By Governor with advice and consent of the Senate	By Governor from a list submitted by the Judicial Nomination Commission	By the Chief Justice of the Montana Supreme Court from a list submitted by the Judicial Nomination Commission
Term of Office	6 years	6 years	4 years
Qualifications	"knowledge of the subject of taxation and skill in matters related to taxation"	Same as a district court judge ²	Same as a district court judge

¹ Section 3-7-221 allows for appointment of an associate water judge but there is not currently an associate water judge.

² Article VII, section 9, of the Montana Constitution requires a district court judge to reside in Montana for 2 years before taking office and be admitted to the practice of law in Montana for at least 5 years before the election date.

	State Tax Appeal Board	Workers' Compensation Court	Water Court
Staff	2 administrative staff	2 law clerks, a clerk of court, 2 deputy clerks	10 Water Masters, a law clerk, a court administrator, a clerk of court, 5 deputy clerks
Location	Offices in Helena but may travel to other locations to hear cases as needed	Offices in Helena, holds week-long terms 4 times a year in Billings, Great Falls, Helena, Kalispell, and Missoula; may hold trials in other cities	Offices in Bozeman, hearings held in the basin subject to the objection ³
Original Jurisdiction	Appeals of county tax board decisions, appeals from DOR decisions related to taxes under Title 15, other matters as provided by law ⁴	Issues arising under Workers' Compensation Act and occupational disease laws, disputes involving independent contractor exemptions, enforcement of DLI investigatory powers	Determinations of existing water rights (water rights with pre-July 1, 1973, priority dates)
Appellate Jurisdiction	Department of Transportation decisions related to the gasoline and vehicle fuels taxes	Workers' Compensation matters over which Department of Labor and Industry has original jurisdiction	
Bound by Common Law	Yes, for all hearings except property tax hearings for property that is not centrally assessed	Yes	Yes
Rules of Evidence Apply	Yes, except for property tax hearings for property that is not centrally assessed and for appeals deemed informal under MAPA	Yes	Yes
Appeals Heard By	District Court	Supreme Court	Supreme Court
Additional information		Most cases are subject to mediation before a person can petition the Court.	Hearings are held by Water Masters, who issue a Master's Report that is reviewed and adopted by a Water Judge. Objections to the Water Master's report may result in a hearing before the Water Judge.

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³ The state is divided into 4 water districts, which are subdivided into 85 basins.

⁴ For a complete list, see "Background Report on the Taxpayer Appeal Process For the Senate Joint Resolution No. 23 Study," prepared by Megan Moore for the Revenue and Transportation Interim Committee, September 2013.