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68th Montana Legislature

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TO: Local Government Committee Members

FROM: Jaret Coles and Julie Johnson, Staff Attorneys

RE: Property Tax Litigation Update – Overview

DATE: November 1, 2023

Finalized Case:

Monforton v. Knudsen:

In *Monforton v. Knudsen*, [2023 MT 179](#), the Montana Supreme Court upheld the [Montana Attorney General's determination](#) that [Ballot Issue No. 2](#) was legally insufficient due to a violation of the separate-vote requirement in [Article XIV, section 11, of the Montana Constitution](#). Consequently, the Secretary of State is enjoined from approving petitions for circulation to the electorate for signature or otherwise submitting the measure for approval by the voters. This effectively ends further consideration of Ballot Issue No. 2.

The petitioner in the case was Matthew G. Monforton.

The respondent in the case was Montana Attorney General Austin Knudsen.

The *Amici* in the case was the Montana League of Cities and Towns, the Montana Association of Counties, the Montana Quality Education Coalition (MQEC), the Montana Federation of Public Employees, the Montana Association of Realtors, the Montana Bankers Association, the Montana Building Industry Association, and the Montana Chamber of Commerce.

Pending Cases:

Montana Association of Counties v. State of Montana:

In *Montana Association of Counties v. State of Montana*, OP 23-0635, (Filed October 26, 2023), MACO and two Montana county commissioners petitioned the Montana Supreme Court for original jurisdiction and for declaratory judgment. The Petitioners seek a declaration from the Montana Supreme Court that the mill banking provisions of 15-10-420(1)(b) do not apply to Statewide and Vo-Tech Mills. Alternatively, Petitioners submit that if mill banking provisions apply to Statewide and Vo-Tech Mills, the discretion to levy those mills rests with the county, not the state. The Petitioners also request the Supreme Court to assume original jurisdiction over these purely legal questions of law, citing the two cases currently pending in district court that raise the same questions of law (*State of Montana v. Missoula County*, and *Molnar v. Montana Department of Revenue*), as well as one case currently pending in the Montana Supreme Court (*MQEC v. Beaverhead Co.*). Finally, the Petitioners ask the Court to issue its ruling by March 15, 2024, to permit an orderly administration of the changes which may be required to tax bills as a result of the Court's ruling.

Montana Quality Education Coalition v. Beaverhead County:

In *Montana Quality Education Coalition v. Beaverhead County*, OP. 23-0592 (Filed Oct. 10, 2023), the MQEC is seeking a writ of mandate from the Montana Supreme Court that would require all 56 counties in the state to levy 95 mills in accordance with the Montana Department of Revenue's (DOR) calculation that was transmitted to the counties on September 11, 2023. The MQEC petition for issuance of a writ states that the issue is of statewide importance and that issuance "of a writ would preserve the constitutionally aligned K-12 BASE Aid school funding formula."

The legal question that is presented is whether the counties may reject the DOR's interpretation of section [15-10-420](#), MCA, and recalculate the state equalization mill levy amounts. On October 11, 2023, the Montana Supreme Court issued an order to the counties to prepare, file, and serve a written response to the petition for writ of mandate together with appropriate documentary exhibits within 30 days.

State of Montana v. Missoula County:

In *State of Montana v. Missoula County*, DV-32-2023-0000994-DK (Filed Oct. 2, 2023), the state, acting by and through the Department of Administration, filed an action for declaratory relief in the Fourth Judicial District under the Uniform Declaratory Judgments Act to "settle and to afford relief from uncertainty and insecurity with respect to rights, status, and other legal relations." See section [27-8-102](#), MCA. The request asks the Court to declare that the DOR's interpretation of section [15-10-420](#), MCA, is correct and that it is permissible to carry forward or bank mills under section [15-10-420\(1\)\(b\)](#), MCA. The request asks further that the Court declare that counties are

obligated to impose the number of mills calculated by the DOR. No further pleadings have been filed as of October 20, 2023.

Molnar v. Montana Department of Revenue:

In *Molnar v. Montana Department of Revenue*, DV-56-2023-0001050-TX (Filed Sept. 26, 2023), Plaintiff Brad Molnar filed a class action complaint in the Thirteenth Judicial District seeking a declaration that "Defendant DOR's calculation of the number of mills necessary to satisfy the State Mill Statutes is unlawful." The complaint alleges further that every similarly situated Montana property owner is entitled to a refund of taxes paid as a result of the calculations. No further pleadings have been filed as of October 20, 2023.