



Revenue Interim Committee

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68th Montana Legislature

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TO: Committee Members

FROM: Jaret Coles, Staff Attorney

RE: Property Tax Litigation Update

DATE: January 9, 2024

Montana Association of Counties v. State of Montana:

The Supreme Court issued an Opinion on November 22, 2023, in *Montana Association of Counties v. State of Montana*, [2023 MT 225](#), in favor of the State. In this case, MACO and two Montana county commissioners had petitioned the Montana Supreme Court for original jurisdiction and for 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 argued that if mill banking provisions apply to Statewide and Vo-Tech Mills, the discretion to levy those mills rests with the counties, not the State.

In its Opinion, the Supreme Court granted the request for original jurisdiction and ruled that under [15-10-420\(1\)\(a\)](#) and (b), the Department of Revenue (DOR) constitutes a "governmental entity" and therefore has authority to carry over statewide mill calculations. The Supreme Court reasoned that if the Legislature did not want to give carry forward authority to the DOR, the statute would have used the term "local governments" instead. In addition, the Supreme Court noted that it generally defers to a state agency when the interpretation of a statute by that agency has not been challenged for a "considerable length of time," and in this case, the DOR had banked mills on a number of occasions since 2001. Accordingly, the Supreme Court ordered "the counties to levy statewide mills pursuant to the DOR's calculations for the current and future tax years."

Montana Quality Education Coalition v. Beaverhead County:

In *Montana Quality Education Coalition v. Beaverhead County*, OP. 23-0592 (Filed Oct. 10, 2023), the MQEC was 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. On December 21, 2023, the Montana Supreme Court dismissed the case based on the ruling in *Montana Association of Counties v. State of Montana*, [2023 MT 225](#), which addressed the relief sought by MQEC.

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 asked the Court to declare that the DOR's interpretation of section [15-10-420](#), MCA, was correct and that it is permissible to carry forward or bank mills under section [15-10-420\(1\)\(b\)](#), MCA. The request asked further that the Court declare that counties are obligated to impose the number of mills calculated by the DOR. On November 29, 2023, the Court ordered a dismissal of the case.

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 alleged further that every similarly situated Montana property owner is entitled to a refund of taxes paid as a result of the calculations. On December 18, 2023, the Plaintiff filed a Notice of Dismissal, and the case was closed.