

SJR 23: MONTANA'S TAX APPEAL PROCESS  
Study Plan  
Adopted June 27, 2013

Prepared for the Revenue and Transportation Interim Committee  
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Introduction and Background

Senate Joint Resolution No. 23 (SJR 23) requests an interim study of Montana's tax appeal and hearing process and the options available for streamlining and improving the appeal process. Legislators ranked the study eighth out of the 17 study resolutions in the post-session poll of interim studies. In May 2013, the Legislative Council assigned the study to the Revenue and Transportation Interim Committee.

SJR 23 directs the interim committee to review the current local government and state tax appeal processes and analyze whether the current system should be maintained or whether there should be changes.

Taxpayer Appeal Process

Taxpayer appeals affect the ability of the state, local governments, and school districts to receive expected revenue. It is in the interest of the state to ensure that taxpayer appeals are fair, timely, efficient, and equitable.

Montana's independent taxpayer appeal process is constitutionally required and is handled by the county and state tax appeal boards. Property tax appeals, except for those involving centrally assessed property, are heard by county tax appeal boards but may be appealed to the State Tax Appeal Board or state courts. Appeals of other taxes originate with the State Tax Appeal Board and include appeals related to income taxes, corporate license taxes, centrally assessed property taxes, natural resource taxes, and applications for property tax exemption.

The Department of Revenue (DOR) has informal and formal review processes that are separate from the county and state tax appeal boards. Understanding these processes will be useful in gaining a full understanding of the appeal processes available to taxpayers. Some appeals heard by the county and state tax appeal boards also go through the DOR processes, while other appeals are made directly to the county or state tax appeal boards.

Mediation is also included in the resolution language as an area of interest. Some mediation is currently available as part of DOR's review processes. Senate Bill No. 280 (Ch. 419, L. 2013) makes mediation available for all property tax appeals for which the taxpayer requests mediation. The bill was effective for centrally assessed and large industrial properties assessed annually as of the date of passage and approval, which was May 7, 2013. Other property

taxpayers may request mediation beginning January 1, 2015. Discussion of DOR's past experience with mediation and how the agency plans to implement SB 280 will contribute to the Committee's understanding of the mediation process and determination of whether to recommend changes.

The study resolution also specifically requests consideration of the appeals process for centrally assessed and large industrial facility properties because tax appeal for these types of properties can be protracted and complicated and require specific expertise.

### Study Tasks

In order to complete a study of Montana's tax appeals and hearing process, the SJR 23 study resolution suggests that the Committee:

- review the current local government tax appeal process and state tax appeal process;
- analyze whether the current local government tax appeal process and state tax appeal process should be maintained;
- analyze whether there should be changes generally to the current local government tax appeal process and state tax appeal process to improve access and efficiency for taxpayer appeals;
- analyze the appropriateness and timeliness of formal mandatory or voluntary mediation processes as part of the taxpayer appeal process;
- analyze whether changes to the appeal process are necessary for appeal of centrally assessed properties and large industrial facility properties to ensure an efficient process that attempts to avoid costly and time-consuming appeals;
- determine whether to recommend an alternate process other than the current local government tax appeal process and state tax appeal process, including:
  - ▶ consideration of specific education, experience, and continuing education of state tax appeal board members;
  - ▶ implementation of a tax court system; and
  - ▶ implementation of a rotating district judge to handle direct appeals from centrally assessed and large industrial facility properties; and
- ensure that the resulting recommendations for tax appeal processes be in accordance with Article VIII, section 7, of the Montana Constitution.

### Study Resources

The State Tax Appeal Board and county tax appeal boards are a resource for information about the number and types of appeals filed with the county and state tax appeals boards, qualifications for board members, issues with the current process, and how other states structure their appeals processes.

Organizations representing taxpayers and certified public accountants, industry representatives, and the DOR will help identify areas for improvement and provide input about whether to suggest an alternate system.

The DOR can also provide information about the informal and formal appeals processes within the agency, current use of mediation, and the implementation of SB 280.

### Outline of Study Activities

1. Compile background information: October 2013. This stage includes several steps designed to provide the Committee with information about taxpayer appeals, including:
  - a. staff briefing paper summarizing state constitutional provisions, laws, and administrative rules governing the taxpayer appeal process;
  - b. presentation on appeals at the county and state tax appeal board levels;
  - c. Department of Revenue presentation on informal review process; and
  - d. overview of how other states structure the taxpayer appeals process.
  
2. Identify issues: December 2013 - February 2014. Study activities during this period will focus on identifying the issues of greatest importance to be addressed through further analysis or legislation. Activities will include:
  - a. presentations from stakeholders to identify possible areas for improvement;
    - i. appeals of centrally assessed and large industrial property values are specifically mentioned;
  - b. analysis of the current local government tax appeal process and state tax appeal process including whether access and efficiency could be improved and whether the overall system should be maintained;
  - c. consideration of whether formal mandatory or voluntary mediation should be part of the taxpayer appeal process;
    - i. discussion of implementation of SB 280.
  
3. Review and decide legislative options: May 2014 - September 2014. After compiling background information, identifying issues, and researching options, the Committee will decide whether to recommend an alternate process or to make changes to the current process. The Committee may develop findings and recommendations and request legislation. The resolution requests that the following be considered:
  - a. the experience and education requirements for members;
  - b. a tax court system; and
  - c. a rotating district judge to handle direct appeals from centrally assessed and large industrial facility properties.

### Summary of Senate Joint Resolution 23 Study Plan

| Study Activity   | Source                                      | Activity  | Meeting Date   | Committee Time    |
|--|---|---|----------------|-------------------|
| 1. Review the current local government tax appeal process and state tax appeal process   | Staff research, DOR, STAB                   | Staff materials, agency presentations, public comment             | October 2013   | 2 hours           |
| 2. Overview of other state taxpayer appeal processes   | Staff research                              | Staff materials, public comment                                   | October 2013   | 1 hour            |
| 3. Analyze whether the current local government tax appeal process and state tax appeal process should be maintained   | Stakeholder input, DOR, STAB, CTAB          | Panel discussion, public comment                                  | December 2013  | 4 hours           |
| 4. Analyze whether there should be general changes to the state tax appeal process   |   |   |                |                   |
| 5. Analyze whether there should be changes to the appeal process for centrally assessed and large industrial properties  | Stakeholder input                           | Centrally assessed and large industrial property panel discussion | February 2014  | 2 hours           |
| 6. Consider the appropriateness of formal mandatory or voluntary mediation, discuss implementation of SB 280   | Staff research, STAB, DOR stakeholder input | Staff materials, agency presentations, public comment             | February 2014  | 2 hours           |
| 7. Consider alternate processes, including education, experience, and continuing education of STAB members; tax court system; rotating district judge to handle direct appeals | Staff research, STAB, DOR stakeholder input | Staff materials, agency presentations, public comment             | May 2014       | 3 hours           |
| 8. Develop findings and recommendations for final report and, if desired, bill drafts for 2013 session.  | Committee members                           | Committee work session, stakeholder input, public comment         | July 2014      | 2 hours           |
| 9. Ensure resulting recommendations for tax appeals processes be in accordance with Article VIII, section 7, of the Montana Constitution                                       |   |   |                |                   |
| 10. Review any requested legislation and draft final report  | Staff, committee members                    | Committee work session, stakeholder input, public comment         | September 2014 | 1.5 hours         |
| <b>Total</b>   |   |   |                | <b>17.5 hours</b> |

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