

1 *Senate* BILL NO. *93*  
 2 INTRODUCED BY *Turnage Star, Markon Norman*  
 3 *Monning, McAfee, Brown, Watt, Nealy*

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE TAX APPEALS  
 5 PROCEDURES BY PROVIDING FOR THE RECEPTION OF ADDITIONAL  
 6 EVIDENCE ON JUDICIAL REVIEW, THE ASSESSMENT OF COSTS ON  
 7 CERTAIN APPEALS, AND INTERLOCUTORY ADJUDICATIONS; AMENDING  
 8 SECTION 84-709.1, R.C.M. 1947."

9  
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
 11 Section 1. Section 84-709.1, R.C.M. 1947, is amended  
 12 to read as follows:

13 "84-709.1. Judicial review of contested cases. (1) Any  
 14 party to an appeal before the state tax appeal board who is  
 15 aggrieved by a final decision in a contested case is  
 16 entitled to judicial review under this act.

17 (2) Proceedings for review shall be instituted by  
 18 filing a petition in district court, and serving a copy  
 19 thereof on the state tax appeal board, within thirty (30)  
 20 days after service of the final decision of the state tax  
 21 appeal board, or if a rehearing is requested within thirty  
 22 (30) days after the decision thereon. All parties to the  
 23 appeal shall cause to be served on the state tax appeal  
 24 board, a copy of all pleadings and documents they shall file  
 25 in such proceeding.

INTRODUCED BILL

1 (3) Notwithstanding the provisions of section 82-4216,  
 2 subsection (6), the court may, for good cause shown, permit  
 3 additional evidence to be introduced.

4 (4) The court shall assess the costs on appeal  
 5 incurred by a taxpayer who prevailed before the board,  
 6 against the department of revenue or other governmental  
 7 taxing entity which takes the appeal, in any case in which  
 8 the court affirms the decision of the state tax appeals  
 9 board. Costs allowed under this subsection include  
 10 reasonable attorney's fees and other actual and necessary  
 11 expenses."

12 Section 2. There is a new R.C.M. section numbered  
 13 84-709.2 that reads as follows:

14 84-709.2. Petition for interlocutory adjudication.  
 15 After a proceeding has commenced before a county tax appeals  
 16 board, or the state tax appeals board, but before arguments  
 17 have been heard, the parties to the proceeding may petition  
 18 a district court to make an interlocutory adjudication as  
 19 provided under section 84-709.3. A petition for such  
 20 adjudication shall be signed by each party to the  
 21 proceeding. One party shall be designated as the petitioner  
 22 and every other party shall be designated a respondent. The  
 23 court may in its discretion grant such a petition if it  
 24 appears that the issues presented involve the interpretation  
 25 of a constitutional provision, statute or regulation and do

SB93

1 not require the hearing of evidence to be resolved, and that  
2 the controversy would be more expeditiously resolved by such  
3 adjudication.

4 Section 3. There is a new R.C.M. section numbered  
5 84-709.3 that reads as follows:

6 84-709.3. Jurisdiction to make interlocutory  
7 adjudication. A district court may make an interlocutory  
8 adjudication of an issue pending in a county or state tax  
9 appeals board if that issue involves only the interpretation  
10 of a constitutional provision, statute or regulation and  
11 does not require the hearing of evidence. Appeals from the  
12 ruling of the court may be appealed as in other civil  
13 actions.

-End-

Approved by Committee  
on Taxation

SENATE BILL NO. 93

INTRODUCED BY TURNAGE, TOWE, MATHERS, NORMAN, MANNING,  
MCOMBER, BROWN, WATT, HEALY

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE TAX APPEALS  
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SECTION 84-709.1, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 84-709.1, R.C.M. 1947, is amended  
to read as follows:

"84-709.1. Judicial review of contested cases. (1) Any  
party to an appeal before the state tax appeal board who is  
aggrieved by a final decision in a contested case is  
entitled to judicial review under this act.

(2) Proceedings for review shall be instituted by  
filing a petition in district court, and serving a copy  
thereof on the state tax appeal board, within thirty (30)  
days after service of the final decision of the state tax  
appeal board, or if a rehearing is requested within thirty  
(30) days after the decision thereon. All parties to the  
appeal shall cause to be served on the state tax appeal  
board a copy of all pleadings and documents they shall file

in such proceeding.

(3) Notwithstanding the provisions of section 82-4216,  
subsection (6), the court may, for good cause shown, permit  
additional evidence to be introduced.

(4) The court shall assess the costs on appeal  
incurred by a taxpayer who prevailed before the board  
against the department of revenue or other governmental  
taxing entity which takes the appeal in any case in which  
the court affirms the decision of the state tax appeals  
board. Costs allowed under this subsection include  
reasonable attorney's fees and other actual and necessary  
expenses."

Section 2. There is a new R.C.M. section numbered  
84-709.2 that reads as follows:

84-709.2. Petition for interlocutory adjudication.  
After a proceeding has commenced before a county tax appeals  
board, or the state tax appeals board, but before arguments  
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a district court to make an interlocutory adjudication as  
provided under section 84-709.3. A petition for such  
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and every other party shall be designated a respondent. The  
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5 ~~(4) The court shall assess the costs on appeal~~  
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-End-

COMMITTEE ON JUDICIARY AMENDMENTS TO SENATE BILL NO. 93.

Be amended in the third reading bill as follows:

1. Amend title, page 1, lines 7 and 8.  
Following: "REVIEW"  
Strike: ", THE ASSESSMENT OF COSTS ON CERTAIN APPEALS, AND  
INTERLOCUTORY ADJUDICATIONS"

AS SO AMENDED

BE CONCURRED IN

SENATE BILL NO. 93

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