

*Senate* BILL NO. *145*

INTRODUCED BY

*Lockeem Brown*  
*Deanne Manly*

A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE PAYMENT BY THE DEPARTMENT OF REVENUE OF COURT COSTS AND ATTORNEY'S FEES TO TAXPAYERS WHO PREVAIL ON THE APPEAL OF A DECISION OF THE COUNTY TAX APPEAL BOARD, THE STATE TAX APPEAL BOARD, A DISTRICT COURT, OR THE MONTANA SUPREME COURT ON A MATTER INVOLVING ASSESSMENT, APPRAISAL, CLASSIFICATION, OR EQUALIZATION OF REAL PROPERTY TAXES."

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

Section 1. Payment of court costs and attorney's fees on appeal of department action. (1) A taxpayer who prevails on appeal to the next higher ruling body a decision of a county tax appeal board, the state tax appeal board, a district court, or the Montana supreme court on a matter involving appraisal, classification, or assessment of real property or equalization of taxes on real property by the department of revenue or its agents is entitled to court costs and attorney's fees, which costs and attorney's fees are to be paid by the department of revenue.

(2) A taxpayer prevails on appeal when a judgment includes a decrease in the percentage basis assigned, appraisal of, or assessment made of real property, a change

in classification of real property to that class sought by the taxpayer, or other changes which in the opinion of the body ruling are favorable to the taxpayer.

Section 2. Definition. For the purpose of this act, the term "taxpayer" means:

- (1) an individual;
- (2) a fiduciary or association; and
- (3) a corporation owning agricultural lands, which lands are the subject of the appeal.

-End-

INTRODUCED BILL

*SB 145*

STATE OF MONTANA

REQUEST NO. 112-77

FISCAL NOTE

Form BD-15

In compliance with a written request received January 20, 19 77, there is hereby submitted a Fiscal Note for Senate Bill 145 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION

This bill requires payment by the Department of Revenue of court costs and attorney's fees to taxpayers who prevail on the appeal of a decision of the county tax appeal board, the state tax appeal board, a district court, or the Montana supreme court on a matter involving assessment, appraisal, classification, or equalization of real property taxes.

ASSUMPTIONS

There will be no effect on state or local revenues or on local expenditures. It is impossible to estimate what level of state expenditures might be required because there is no way of anticipating how many taxpayers might be successful in achieving reversal of unfavorable decisions in the tax appeal process or of the amount of court costs and attorney fees which might be involved in each case.

It appears that, if new appraisals of real property are put into use on January 1, 1978, there exists a possibility that an increased number of cases will be submitted to the appeal process in FY 1979.

In order to give some perspective to this brief discussion the following information was obtained from the State Tax Appeal Board: In 1976 S.T.A.B. handled about 200 appeals from County Tax Appeal Boards, nearly 60 of these were from banks and were consolidated for hearing; over the last three years between fifteen and twenty S.T.A.B. decisions have been appealed to District Court; only four or five of these involved individuals, the remainder involved corporations. The appeal procedure is such that an individual can present his own case without the aid of an attorney. In the event an appeal is made to the State District Court or Supreme Court, attorney's fees are certain to be an item of expense to the taxpayer. However, their magnitude is dependent upon the amount of work which must be done to prepare the case as well as upon the particular attorney involved, so that no estimate can be made.

PREPARED BY DEPARTMENT OF REVENUE

*Richard L. Drury for*  
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-24-77

Approved by Committee  
on Taxation

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 2 INTRODUCED BY LOCKREM, BROWN, HIMSL,  
 3 LDWE, BOYLAN, MEHRENS, DEVINE, MANLEY  
 4  
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE PAYMENT BY  
 6 THE DEPARTMENT OF REVENUE OF COURT COSTS AND ATTORNEY'S FEES  
 7 TO CERTAIN TAXPAYERS WHO PREVAIL ON THE APPEAL OF A DECISION  
 8 OF THE COUNTY TAX APPEAL BOARD, THE STATE TAX APPEAL BOARD,  
 9 A DISTRICT COURT, OR THE MONTANA SUPREME COURT ON A MATTER  
 10 INVOLVING ASSESSMENT, APPRAISAL, CLASSIFICATION, OR  
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 18 district court, or the Montana supreme court on a matter  
 19 involving appraisal, classification, or assessment of  
 20 RESIDENTIAL real property or equalization of taxes on  
 21 RESIDENTIAL real property by the department of revenue or  
 22 its agents is entitled to court costs and attorney's fees,  
 23 which costs and attorney's fees are to be paid by the  
 24 department of revenue.  
 25 (2) A taxpayer prevails on appeal when a judgment

1 includes a decrease in the percentage basis assigned,  
 2 appraisal of, or assessment made of real property, a change  
 3 in classification of real property to that class sought by  
 4 the taxpayer, or other changes which in the opinion of the  
 5 body ruling are favorable to the taxpayer.  
 6 Section 2. ~~Definition~~ DEFINITIONS. For the purpose of  
 7 this act:  
 8 (1) the term "taxpayer" means: (i) an individual; AND  
 9 (ii) ~~a fiduciary or association and~~  
 10 (iii) ~~a corporation owning agricultural lands which~~  
 11 ~~lands are the subject of the appeal;~~  
 12 (2) THE TERM "RESIDENTIAL REAL PROPERTY" MEANS A  
 13 DWELLING OCCUPIED BY A TAXPAYER AS THE OWNER OF RECORD OR  
 14 OWNER UNDER CONTRACT FOR DEED AND USED BY THE TAXPAYER AS  
 15 HIS PRINCIPAL RESIDENCE.

-End-

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LOWE, BOYLAN, MEHRENS, DEVINE, MANLEY

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