

CHAPTER NO. 611,

SENATE BILL NO. 220

INTRODUCED BY TURNAGE

BY REQUEST OF THE STATE TAX APPEAL BOARD

IN THE SENATE

January 24, 1979	Introduced and referred to Committee on Taxation.
January 25, 1979	Fiscal note requested.
January 31, 1979	Fiscal note returned.
February 12, 1979	Committee recommend bill do pass as amended. Report adopted.
February 13, 1979	Printed and placed on members' desks.
February 14, 1979	Second reading, do pass.
February 15, 1979	Considered correctly engrossed.
February 16, 1979	Third reading, passed. Transmitted to second house.

IN THE HOUSE

February 17, 1979	Introduced and referred to Committee on Taxation.
April 13, 1979	Committee recommend bill be concurred in. Report adopted.
April 16, 1979	Second reading, concurred in. Third reading, concurred in.

IN THE SENATE

April 17, 1979	Returned from second house. Concurred in. Sent to enrolling. Reported correctly enrolled.
----------------	---

1 *State* BILL NO. *230*
 2 INTRODUCED BY *Ternberg*
 3 BY REQUEST OF THE STATE TAX APPEAL BOARD
 4

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION
 6 15-2-301, MCA, PROVIDING THAT THE STATE TAX APPEAL BOARD MAY
 7 UTILIZE A HEARINGS OFFICER AND REQUIRING A RECORD OF A
 8 HEARING INSTEAD OF A TRANSCRIPT."
 9

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

11 Section 1. Section 15-2-301, MCA, is amended to read:
 12 "15-2-301. Appeal of county tax appeal board
 13 decisions. (1) Any person or the department of revenue in
 14 behalf of the state or any municipal corporation aggrieved
 15 by the action of any county tax appeal board may appeal to
 16 the state board by filing with the county tax appeal board a
 17 notice of appeal and a duplicate thereof with the state
 18 board within 20 calendar days after the receipt of the
 19 decision of the county board, which notice shall specify the
 20 action complained of and the reasons assigned for such
 21 complaint. The county tax appeal boards shall mail their
 22 decisions to the property assessment division of the
 23 department. Receipt, for purposes of appeal, by the
 24 department is when the county tax appeal board decision is
 25 received by the property assessment division of the

1 department. The state board shall set such appeal for
 2 hearing either in its office in the capital or such county
 3 seat as the board considers advisable to facilitate the
 4 performance of its duties or to accommodate parties in
 5 interest and shall give to the appellant and to the county
 6 board at least 15 calendar days' notice of the time and
 7 place of such hearing.

8 (2) At the time of giving such notice, the state board
 9 may require the county board to certify to it the minutes of
 10 the proceedings resulting in such action and all testimony
 11 taken in connection therewith. The state board may, in its
 12 discretion, determine the appeal on such record if all
 13 parties receive a copy of the transcript and are permitted
 14 to submit additional sworn statements, or the state board
 15 may hear further testimony. For the purpose of expediting
 16 its work, the state board may refer any such appeal to one
 17 of its members or to a hearings officer and the person so
 18 designated shall have and exercise all the powers of the
 19 board in conducting such hearings and shall, as soon as
 20 possible thereafter, report the proceedings, together with a
 21 ~~transcript--of--the--testimony--received~~ the record of the
 22 hearing, to the board and the state board shall determine
 23 such appeal on the record so made.

24 (3) On all hearings at county seats throughout the
 25 state, the state board or the member person designated to

1 conduct a hearing may employ the local court reporter or
2 other competent stenographer to take and transcribe the
3 testimony received and the cost thereof may be paid out of
4 the general appropriation for the board.

5 (4) In connection with any appeal under this section,
6 the state board shall not be bound by common law and
7 statutory rules of evidence or rules of discovery and may
8 affirm, reverse, or modify any decision. The decision of
9 the state tax appeal board shall be final and binding upon
10 all interested parties unless reversed or modified by
11 judicial review. To the extent this section is in conflict
12 with the Montana Administrative Procedure Act, this section
13 shall supersede that act. The state tax appeal board may not
14 amend or repeal any administrative rule of the department.
15 The state tax appeal board must give an administrative rule
16 full effect unless the board finds any such rule arbitrary,
17 capricious, or otherwise unlawful."

-End-

STATE OF MONTANA

REQUEST NO. 117-79

FISCAL NOTE

Form BD-15

In compliance with a written request received January 26, 19 79, there is hereby submitted a Fiscal Note for SB 220 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 provides that the State Tax Appeal Board may use hearing officers and requires a record of a hearing instead of a transcript when members of this Board hear singly instead of in a group.

ASSUMPTIONS:

1. The extremely heavy hearing load of this Board will continue, at least through fiscal 1980 and may carry over into fiscal 1981.
2. Hearing officers would be needed for 400 hearing hours and an additional 400 hours in preparing decisions. Attorneys to serve as hearing officers can be obtained for \$40 an hour.

FISCAL IMPACT:

Attorneys, 800 hours @ \$40 per hour	\$32,000
Hearing reporters, 400 hours @ \$10 per hour	4,000
Transcripts, 4,000 pages @ \$2.55 per page	10,200
Travel for hearing officers	<u>2,000</u>
Additional cost of proposed legislation per year	<u>\$48,200</u>

The additional cost must be funded from the State General Fund.

Richard L. Drayton

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1/31/79

Approved by Committee
on Taxation

SENATE BILL NO. 220

INTRODUCED BY TURNAGE

BY REQUEST OF THE STATE TAX APPEAL BOARD

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION
15-2-301, MCA, PROVIDING THAT THE STATE TAX APPEAL BOARD MAY
UTILIZE A HEARINGS OFFICER AND REQUIRING A RECORD OF A
HEARING INSTEAD OF A TRANSCRIPT UNDER CERTAIN CONDITIONS;
PROVIDING A PERIOD OF EFFECTIVENESS."

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

Section 1. Section 15-2-301, MCA, is amended to read:

"15-2-301. Appeal of county tax appeal board
decisions. (1) Any person or the department of revenue in
behalf of the state or any municipal corporation aggrieved
by the action of any county tax appeal board may appeal to
the state board by filing with the county tax appeal board a
notice of appeal and a duplicate thereof with the state
board within 20 calendar days after the receipt of the
decision of the county board, which notice shall specify the
action complained of and the reasons assigned for such
complaint. The county tax appeal boards shall mail their
decisions to the property assessment division of the
department. Receipt, for purposes of appeal, by the
department is when the county tax appeal board decision is

received by the property assessment division of the
department. The state board shall set such appeal for
hearing, either in its office in the capital or such county
seat as the board considers advisable to facilitate the
performance of its duties or to accommodate parties in
interest and shall give to the appellant and to the county
board at least 15 calendar days' notice of the time and
place of such hearing.

(2) (A) At the time of giving such notice, the state
board may require the county board to certify to it the
minutes of the proceedings resulting in such action and all
testimony taken in connection therewith. The state board
may, in its discretion, determine the appeal on such record
if all parties receive a copy of the transcript and are
permitted to submit additional sworn statements, or the
state board may hear further testimony. For the purpose of
expediting its work, the state board may refer any such
appeal to one of its members or to a hearings officer UNDER
THE CONDITIONS IMPOSED IN SUBSECTION (2)(B), and the person
so designated shall have and exercise all the powers of the
board in conducting such hearings and shall, as soon as
possible thereafter, report the proceedings, together with a
transcript--of--the--testimony--received the record of the
hearing, to the board and the state board shall determine
such appeal on the record so made.

1 ~~(B) THE BOARD MAY NOT EMPLOY A HEARINGS OFFICER~~
2 ~~UNLESS:~~

3 ~~(I) IT HAS OVER 500 APPEALS AWAITING HEARING; AND~~
4 ~~(II) THE HEARING OFFICER HAS LEGAL TRAINING OR~~
5 ~~EXPERIENCE IN TAX APPRAISAL, CLASSIFICATION, AND~~
6 ~~ADMINISTRATION.~~

7 (3) On all hearings at county seats throughout the
8 state, the state board or the member ~~person~~ designated to
9 conduct a hearing may employ the local court reporter or
10 other competent stenographer to take and transcribe the
11 testimony received and the cost thereof may be paid out of
12 the general appropriation for the board.

13 (4) In connection with any appeal under this section,
14 the state board shall not be bound by common law and
15 statutory rules of evidence or rules of discovery and may
16 affirm, reverse, or modify any decision. The decision of
17 the state tax appeal board shall be final and binding upon
18 all interested parties unless reversed or modified by
19 judicial review. To the extent this section is in conflict
20 with the Montana Administrative Procedure Act, this section
21 shall supersede that act. The state tax appeal board may not
22 amend or repeal any administrative rule of the department.
23 The state tax appeal board must give an administrative rule
24 full effect unless the board finds any such rule arbitrary,
25 capricious, or otherwise unlawful."

1 Section 2. Period of effectiveness. This act is
2 effective on passage and approval and remains in effect
3 through June 30, 1981.

-End-

1 SENATE BILL NO. 220

2 INTRODUCED BY TURNAGE

3 BY REQUEST OF THE STATE TAX APPEAL BOARD

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION
6 15-2-301, MCA, PROVIDING THAT THE STATE TAX APPEAL BOARD MAY
7 UTILIZE A HEARINGS OFFICER AND REQUIRING A RECORD OF A
8 HEARING INSTEAD OF A TRANSCRIPT UNDER CERTAIN CONDITIONS;
9 PROVIDING A PERIOD OF EFFECTIVENESS."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Section 15-2-301, MCA, is amended to read:

13 "15-2-301. Appeal of county tax appeal board
14 decisions. (1) Any person or the department of revenue in
15 behalf of the state or any municipal corporation aggrieved
16 by the action of any county tax appeal board may appeal to
17 the state board by filing with the county tax appeal board a
18 notice of appeal and a duplicate thereof with the state
19 board within 20 calendar days after the receipt of the
20 decision of the county board, which notice shall specify the
21 action complained of and the reasons assigned for such
22 complaint. The county tax appeal boards shall mail their
23 decisions to the property assessment division of the
24 department. Receipt, for purposes of appeal, by the
25 department is when the county tax appeal board decision is

1 received by the property assessment division of the
2 department. The state board shall set such appeal for
3 hearing either in its office in the capital or such county
4 seat as the board considers advisable to facilitate the
5 performance of its duties or to accommodate parties in
6 interest and shall give to the appellant and to the county
7 board at least 15 calendar days' notice of the time and
8 place of such hearing.

9 (2) (A) At the time of giving such notice, the state
10 board may require the county board to certify to it the
11 minutes of the proceedings resulting in such action and all
12 testimony taken in connection therewith. The state board
13 may, in its discretion, determine the appeal on such record
14 if all parties receive a copy of the transcript and are
15 permitted to submit additional sworn statements, or the
16 state board may hear further testimony. For the purpose of
17 expediting its work, the state board may refer any such
18 appeal to one of its members or to a hearings officer UNDER
19 THE CONDITIONS IMPOSED IN SUBSECTION (2)(B), and the person
20 so designated shall have and exercise all the powers of the
21 board in conducting such hearings and shall, as soon as
22 possible thereafter, report the proceedings, together with a
23 transcript--of--the--testimony--received the record of the
24 hearing, to the board and the state board shall determine
25 such appeal on the record so made.

1 (B) THE BOARD MAY NOT EMPLOY A HEARINGS OFFICER
 2 UNLESS:

3 (1) IT HAS OVER 500 APPEALS AWAITING HEARING; AND
 4 (1) THE HEARING OFFICER HAS LEGAL TRAINING OR
 5 EXPERIENCE IN TAX APPRAISAL, CLASSIFICATION, AND
 6 ADMINISTRATION.

7 (3) On all hearings at county seats throughout the
 8 state, the state board or the member ~~person~~ designated to
 9 conduct a hearing may employ the local court reporter or
 10 other competent stenographer to take and transcribe the
 11 testimony received and the cost thereof may be paid out of
 12 the general appropriation for the board.

13 (4) In connection with any appeal under this section,
 14 the state board shall not be bound by common law and
 15 statutory rules of evidence or rules of discovery and may
 16 affirm, reverse, or modify any decision. The decision of
 17 the state tax appeal board shall be final and binding upon
 18 all interested parties unless reversed or modified by
 19 judicial review. To the extent this section is in conflict
 20 with the Montana Administrative Procedure Act, this section
 21 shall supersede that act. The state tax appeal board may not
 22 amend or repeal any administrative rule of the department.
 23 The state tax appeal board must give an administrative rule
 24 full effect unless the board finds any such rule arbitrary,
 25 capricious, or otherwise unlawful."

1 Section 2. Period of effectiveness. This act is
 2 effective on passage and approval and remains in effect
 3 through June 30, 1981.

-End-

1 SENATE BILL NO. 220

2 INTRODUCED BY TURNAGE

3 BY REQUEST OF THE STATE TAX APPEAL BOARD

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION
6 15-2-301, MCA, PROVIDING THAT THE STATE TAX APPEAL BOARD MAY
7 UTILIZE A HEARINGS OFFICER AND REQUIRING A RECORD OF A
8 HEARING INSTEAD OF A TRANSCRIPT UNDER CERTAIN CONDITIONS;
9 PROVIDING A PERIOD OF EFFECTIVENESS."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Section 15-2-301, MCA, is amended to read:

13 "15-2-301. Appeal of county tax appeal board
14 decisions. (1) Any person or the department of revenue in
15 behalf of the state or any municipal corporation aggrieved
16 by the action of any county tax appeal board may appeal to
17 the state board by filing with the county tax appeal board a
18 notice of appeal and a duplicate thereof with the state
19 board within 20 calendar days after the receipt of the
20 decision of the county board, which notice shall specify the
21 action complained of and the reasons assigned for such
22 complaint. The county tax appeal boards shall mail their
23 decisions to the property assessment division of the
24 department. Receipt, for purposes of appeal, by the
25 department is when the county tax appeal board decision is

1 received by the property assessment division of the
2 department. The state board shall set such appeal for
3 hearing either in its office in the capital or such county
4 seat as the board considers advisable to facilitate the
5 performance of its duties or to accommodate parties in
6 interest and shall give to the appellant and to the county
7 board at least 15 calendar days' notice of the time and
8 place of such hearing.

9 (2) (A) At the time of giving such notice, the state
10 board may require the county board to certify to it the
11 minutes of the proceedings resulting in such action and all
12 testimony taken in connection therewith. The state board
13 may, in its discretion, determine the appeal on such record
14 if all parties receive a copy of the transcript and are
15 permitted to submit additional sworn statements, or the
16 state board may hear further testimony. For the purpose of
17 expediting its work, the state board may refer any such
18 appeal to one of its members or to a hearings officer UNDER
19 THE CONDITIONS IMPOSED IN SUBSECTION (2)(B), and the person
20 so designated shall have and exercise all the powers of the
21 board in conducting such hearings and shall, as soon as
22 possible thereafter, report the proceedings, together with a
23 transcript--of--the--testimony--received the record of the
24 hearing, to the board and the state board shall determine
25 such appeal on the record so made.

1 ~~(B) THE BOARD MAY NOT EMPLOY A HEARINGS OFFICER~~
2 ~~UNLESS:~~

3 ~~(I) IT HAS OVER 500 APPEALS AWAITING HEARING; AND~~
4 ~~(II) THE HEARING OFFICER HAS LEGAL TRAINING OR~~
5 ~~EXPERIENCE IN TAX APPRAISAL, CLASSIFICATION, AND~~
6 ~~ADMINISTRATION.~~

7 (3) On all hearings at county seats throughout the
8 state, the state board or the member ~~person~~ designated to
9 conduct a hearing may employ the local court reporter or
10 other competent stenographer to take and transcribe the
11 testimony received and the cost thereof may be paid out of
12 the general appropriation for the board.

13 (4) In connection with any appeal under this section,
14 the state board shall not be bound by common law and
15 statutory rules of evidence or rules of discovery and may
16 affirm, reverse, or modify any decision. The decision of
17 the state tax appeal board shall be final and binding upon
18 all interested parties unless reversed or modified by
19 judicial review. To the extent this section is in conflict
20 with the Montana Administrative Procedure Act, this section
21 shall supersede that act. The state tax appeal board may not
22 amend or repeal any administrative rule of the department.
23 The state tax appeal board must give an administrative rule
24 full effect unless the board finds any such rule arbitrary,
25 capricious, or otherwise unlawful."

1 ~~SECTION 2. PERIOD OF EFFECTIVENESS. THIS ACT IS~~
2 ~~EFFECTIVE ON PASSAGE AND APPROVAL AND REMAINS IN EFFECT~~
3 ~~THROUGH JUNE 30, 1981.~~

-End-