SENATE BILL 438

IN THE SENATE

February 10, 1979	Introduced and referred to Committee on Taxation.
February 13, 1979	Fiscal note requested.
February 19, 1979	Fiscal note returned.
March 17, 1979	Committee recommend bill, do not pass.

Senate BILL NO. 438

INTRODUCED BY R. Smith Hafferman Thiessen Ryan Boylan Conover Thomas Towe

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE LOCAL GOVERNMENT FINANCE BY FREEZING THE APPRAISED VALUE OF MOST LAND AND IMPROVEMENTS AT THEIR VALUE AS SHOWN ON TAX ROLLS ON JANUARY 1, 1977; REPEALING THE REQUIREMENT THAT PROPERTY BE REAPPRAISED; DEFINING MARKET VALUE FOR MOST LAND AND IMPROVEMENTS; ALLOWING LOCAL GOVERNING BODIES TO EXCEED STATUTORY MILL LEVIES IN CERTAIN CASES; AMENDING SECTIONS 7-6-2501, 7-6-4452, 15-6-112, 15-6-116, 15-6-119, 15-7-101, 15-7-103, AND 15-8-111, MCA; AND REPEALING SECTIONS 15-7-111 THROUGH 15-7-114, 15-7-121, AND 15-7-122, MCA."

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

Section 1. Section 15-6-112, MCA, is amended to read:

"15-6-112. Class eleven property -- description -- taxable percentage. (1) Class eleven property includes:

(a) all land except agricultural land meeting the qualification of 15-7-202;

(b) all improvements except those included in classes fifteen and eighteen;

(c) all trailers affixed to land owned, leased, or under contract for purchase by the trailer owner; and

(d) all mobile homes except:

(i) those held by a distributor or dealer of mobile homes as part of his stock-in-trade; and

(ii) those included in class fifteen.

(2) Class eleven property is taxed at 12% of its market value ~~or--so--much--of--12%--as-is-determined-under 15-7-121,-whichever-is-less.~~"

Section 2. Section 15-6-116, MCA, is amended to read:

"15-6-116. Class fifteen property -- description -- taxable percentage. (1) Class fifteen property includes so much of the market value of any improvement on real property, a trailer affixed to land, or mobile home and appurtenant land not exceeding 5 acres as does not exceed $35,000, when such dwelling and land are owned or under contract for deed and are actually occupied for at least 10 months per year as the primary residential dwelling of:

(a) a widow or widower 62 years of age or older who qualifies under the income limitations of (c) of this subsection;

(b) a widow or widower of any age with dependent children who qualifies under the income limitations of (c) of this subsection; or

(c) a recipient or recipients of retirement or disability benefits whose total income from all sources is not more than $7,000 for a single person or $8,000 for a married couple.

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(2) (a) A person applying for classification of property under this class must make an affidavit to the department of revenue on a form provided by the department without cost as to:

(i) his income, if applicable;

(ii) his retirement benefits, if applicable;

(iii) his marital status, if applicable;

(iv) the fact that he maintains the land and improvements as his primary residential dwellings; and

(v) such other information as is relevant to the applicant's eligibility.

(b) This application must be made before March 1 of the year after the applicant becomes eligible under this classification.

(c) For the purpose of the affidavit required for classification of property under this class, it shall be sufficient if the applicant signs a statement swearing to or affirming the correctness of the information supplied, whether or not the statement is signed before a person authorized to administer oaths, and mails the application and statement to the department of revenue. This signed statement shall be treated as a statement under oath or equivalent affirmation for the purposes of 45-7-202, relating to the criminal offense of false swearing.

(3) Class fifteen property is taxed at 6% of its

market value ~~or--so--much--of--6%--as--is-determined-under 15-7-121,-whichever-is-less.~~"

Section 3. Section 15-6-119, MCA, is amended to read:

"15-6-119. Class eighteen property -- description -- taxable percentage. (1) Class eighteen property includes:

(a) a dwelling house and the lot on which it is erected, owned and occupied by a resident of the state who:

(i) has been honorably discharged from active service in any branch of the armed services; and

(ii) is rated 100% disabled due to a service-connected disability by the United States veterans' administration or its successor. In the event of the veteran's death, the dwelling house and the lot on which it is erected shall remain in this class as long as the surviving spouse remains unmarried and the owner and occupant of the property.

(b) all property used and owned by cooperative rural electrical and cooperative rural telephone associations as provided in (2)(a) of this section;

(c) air pollution control equipment as defined in this section; and

(d) new industrial property as defined in this section.

(2) (a) The property of all cooperative rural electrical and cooperative rural telephone associations organized under the laws of Montana is included in this

class, except that when less than 95% of the electricity consumers or telephone users within the incorporated limits of a city or town are served by the cooperative organization, the property is included in class eighteen.

(b) "Air pollution control equipment" means facilities, machinery, or equipment, attached or unattached to real property, utilized to reduce, eliminate, control, or prevent air pollution. The department of health and environmental sciences determines if such utilization is being made.

(c) "New industrial property" means any new industrial plant, including land, buildings, machinery, and fixtures, except mobile machinery, which is used by a new industry during the first 3 years of its operation. The property may not have been assessed prior to July 1, 1961, within the state of Montana.

(i) New industrial property is limited to industries that:

(A) manufacture, mill, mine, produce, process, or fabricate materials;

(B) do similar work, employing capital and labor, in which materials unserviceable in their natural state are extracted, processed, or made fit for use or are substantially altered or treated so as to create commercial products or materials; or

(C) engage in the mechanical or chemical transformation of materials or substances into new products in the manner defined as manufacturing in the 1972 Standard Industrial Classification Manual prepared by the United States office of management and budget.

(ii) New industrial property does not include:

(A) property used by retail or wholesale merchants, commercial services of any type, agriculture, trades, or professions;

(B) a plant that will create adverse impact on existing state, county, or municipal services; or

(C) property used or employed in any industrial plant that has been in operation in this state for 3 years or longer.

(d) "New industry" means any person, corporation, firm, partnership, association, or other group that establishes a new plant or plants in Montana for the operation of a new industrial endeavor, as distinguished from a mere expansion, reorganization, or merger of an existing industry or industries.

(3) The department of revenue shall promulgate rules for the determination of what constitutes an adverse impact, taking into consideration the number of people to be employed and the size of the community in which the location is contemplated. Any person, firm, or other group seeking to

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qualify its property for inclusion in this class shall make application to the department in such a manner and form as the department requires. Once the department has made an initial determination that the industrial facility qualifies as new industrial property, the department shall then, upon proper notice, hold a hearing to determine if the new industrial classification should be retained by the property. The local taxing authority may appear at the hearing and may waive its objection to retention of this classification if the industry agrees to the prepayment of taxes sufficient to satisfy tax requirements created by the location and construction of the facility during the construction period. When a prepayment of taxes is required, the maximum amount of prepayment shall be the amount of tax the industry would have paid without the application of the class seven percentage to such property.

(4) If a major new industrial facility qualifies under class eighteen, the reduction of its yearly payment of property taxes for reimbursement of its prepaid taxes as provided for in 15-16-201 does not begin until the class eighteen qualification expires.

(5) Class eighteen property shall be taxed at 2.3% of its market value ~~or,--in--the-case-of-property-classified under-(1)(a)--of--this--section,--so--much--of--2.0%--as--is determined-under-15-7-121,-whichever-is-less.~~"

Section 4. Section 15-7-101, MCA, is amended to read:

"15-7-101. Classification and appraisal -- duties of the department of revenue. (1) It is the duty of the department of revenue to accomplish the following:

(a) the classification of all taxable lands;

(b) the appraisal of all taxable city and town lots;

(c) the appraisal of all taxable rural and urban improvements.

(2) A record thereof must be kept upon such maps, plats, and forms and entered in such books of record as may be prescribed by the department. Such maps, plats, forms, and books of record shall be official records of the state. A certified copy of all such records as may be desired shall be furnished to the department.

(3) It shall be the duty of the department to maintain current the classification of all taxable lands and appraisal of city and town lots and rural and urban improvements, except as provided ~~for--herein~~ in subsection (4).

(4) Assessors may not reappraise land and improvements in existence on [the effective date of this act] unless there is a substantial change in their physical characteristics or use."

Section 5. Section 15-7-103, MCA, is amended to read:

"15-7-103. Classification and appraisal -- general and uniform methods. (1) It is the duty of the department of revenue to implement the provisions of 15-7-101 through 15-7-103 by providing:

~~(a) for a general and uniform method of classifying lands in the state for the purpose of securing an equitable and uniform basis of assessment of said lands for taxation purposes;~~

~~(b)~~(a) for a general and uniform method of appraising city and town lots created after January 1, 1977;

~~(c)~~(b) for a general and uniform method of appraising rural and urban improvements built after January 1, 1977;

~~(d)~~(c) for a general and uniform method of appraising timberlands.

(2) All lands shall be classified according to their use or uses and graded within each class according to soil and productive capacity. In such classification work, use shall be made of soil surveys and maps and all other pertinent available information.

(3) All lands must be classified by 40-acre tracts or fractional lots.

(4) All agricultural lands must be classified and appraised as agricultural lands without regard to the best and highest value use of adjacent or neighboring lands.

(5) The appraised value of land and improvements shown on the assessment rolls on January 1, 1977, shall be

reentered on assessment rolls as their appraised value and remain on the tax rolls until a substantial change in their physical characteristics or use causes a reappraisal of the property.

(6) Land and improvements required to be reappraised as provided in subsection (4) and improvements built after January 1, 1977, shall be appraised on their market value at the time the department or its agent appraises the property."

Section 6. Section 15-8-111, MCA, is amended to read:

"15-8-111. Assessment — market value standard — exceptions. (1) All taxable property must be assessed at 100% of its market value except as provided in subsection (5) of this section ~~and in 15-7-111 through 15-7-114~~.

(2) Market value is the value at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts. The market value of land and improvements, except those listed in 15-7-103(5), is their appraised value as shown on the tax assessment rolls on January 1, 1977.

(3) The department of revenue or its agents may not adopt a lower or different standard of value from market value in making the official assessment and appraisal of the value of property in class one and classes seven through

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eighteen. For purposes of taxation, assessed value is the same as appraised value.

(4) The taxable value for all property in class one and classes seven through eighteen is the percentage of market value established for each class of property in 15-6-102 and 15-6-108 through 15-6-119.

(5) The assessed value of properties in 15-6-103 through 15-6-107 and 15-6-120 is as follows:

(a) Property in 15-6-106, under class five, is assessed at 100% of book value by the method established in 15-6-106 and the sections cited therein.

(b) Properties in 15-6-103, under class two, are assessed at 100% of the annual net proceeds after deducting the expenses specified and allowed by 15-23-503.

(c) Properties in 15-6-104, 15-6-105, and 15-6-120, under classes three, four, and nineteen are assessed at 100% of the annual gross proceeds.

(d) Properties in 15-6-107, under class six, are assessed at 100% of the productive capacity of the lands when valued for agricultural purposes. All lands that meet the qualifications of 15-7-202 are valued as agricultural lands for tax purposes.

(6) Land and the improvements thereon are separately assessed when any of the following conditions occur:

(a) ownership of the improvements is different from

ownership of the land;

(b) the taxpayer makes a written request; or

(c) the land is outside an incorporated city or town.

(7) The taxable value of all property in classes two through six is the percentage of assessed value established in 15-6-103 through 15-6-107 for each class of property."

Section 7. Section 7-6-2501, MCA, is amended to read:

"7-6-2501. Authorization for county mill levy -- authority to exceed. (1) The board of county commissioners has jurisdiction and power, under such limitations and reservations as are prescribed by law, to levy such tax annually on the taxable property of the county for county purposes as may be necessary to defray the current expenses thereof, including the salaries otherwise unprovided for, not exceeding 27 mills on each dollar of the taxable valuation for any one year for counties of the fourth, fifth, sixth, and seventh classes and 25 mills on each dollar of the taxable valuation for any one year for counties of the first, second, and third classes and to levy such taxes as are required to be levied by special or local statutes.

(2) The board of county commissioners may levy mills in excess of the mills allowed in subsection (1) if the levy would raise an insufficient amount to:

(a) pay county employees' salaries; or

(b) fund programs or costs created by state or federal law enacted after [the effective date of this act]."

Section 8. Section 7-6-4452, MCA, is amended to read:

"7-6-4452. Maximum all-purpose mill levy -- authority to exceed. (1) Except as provided elsewhere, the cities and towns of the state of Montana may make an all-purpose annual levy upon the taxable value of all the property in the cities and towns subject to taxation for municipal purposes in lieu of the multiple levies now authorized by statute. The total of the all-purpose levy may not exceed 65 mills on the dollar.

(2) The governing body may levy mills in excess of the mills allowed in subsection (1) if the levy would raise an insufficient amount to:

(a) pay county employees' salaries; or

(b) fund programs or costs created by state or federal law enacted after [the effective date of this act]."

Section 9. Repealer. Sections 15-7-111 through 15-7-114, 15-7-121, and 15-7-122, MCA, are repealed.

-End-

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STATE OF MONTANA

REQUEST NO. 324-79

FISCAL NOTE

Form BD-15

In compliance with a written request received February 13, 19 79, there is hereby submitted a Fiscal Note for Senate Bill 438 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

This proposed bill revises local government finance by freezing the appraised value of most land and improvements at their value as shown on tax rolls on January 1, 1977; repealing the requirement that property be reappraised; defining market value for most land and improvements; allowing local governing bodies to exceed statutory mill levies in certain cases.

FISCAL IMPACT

It is somewhat difficult to quantify the fiscal impact of this proposal. There will be no impact in FY 80 because of the effective date. In FY 81 several things will happen. There will be a possibility of increased costs to local assessors' offices because all the property tax rolls will have to be changed back to January 1, 1977 values. In the long run there could, however, be savings. There would no longer be appraisal cycles so some appraisers would be unnecessary. All new property and property that changes must still be appraised.

From a revenue standpoint there will be some shifts among counties in the school equalization program. Cities and counties should have no troubles raising revenues because the statuatory mill levy limits are, in effect, eased. Some special funds with limits that are near the limit currently may run into trouble when the values are taken back to 1977 values.

TECHNICAL NOTE

In section 8, paragraph 2 (a), line 15, page 13, should change "county" to "city or town" in order to be consistent with the rest of the section.

(Prepared by the Department of Revenue)

Richard L. [illegible] for

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 4/17/79