

FINAL STATUS

SB 10 INTRODUCED BY TOWE, RANEY, ET AL.
REVISING PROPERTY TAX PROTEST PROCESS FOR CLASS 11
AND CLASS 15 PROPERTY

3/26 INTRODUCED

3/26 REFERRED TO TAXATION

3/27 HEARING

3/27 COMMITTEE REPORT-BILL PASS AS AMENDED

3/27 2ND READING PASS AS AMENDED 28 22

3/27 3RD READING PASS 29 21

TRANSMITTED TO HOUSE

3/27 REFERRED TO TAXATION

3/28 HEARING

3/29 TAKEN FROM COMMITTEE AS AMENDED

AND PLACED ON 2ND READING 50 46

3/29 2ND READING NOT CONCURRED AS AMENDED 52 48

BILL KILLED

REFER TO
TAXATION

1
2 INTRODUCTION BY *Senate* BILL NO. 10
3 *Yellowtail* *Ray* *Keenan* *Welding*
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING MONTANA'S
5 PROCEDURES FOR THE PAYMENT OF PROPERTY TAX UNDER PROTEST FOR
6 PROPERTY IN CLASS ELEVEN AND CLASS FIFTEEN; AMENDING SECTION
7 15-1-402, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND
8 AN APPLICABILITY DATE."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 15-1-402, MCA, is amended to read:

12 "15-1-402. Payment of taxes under protest -- action to
13 recover. (1) The person upon whom a tax or license fee is
14 being imposed may proceed under 15-1-406 or may, before the
15 tax or license fee becomes delinquent, pay under written
16 protest that portion of the tax or license fee protested.

17 The payment must:

18 (a) be made to the officer designated and authorized
19 to collect it; and

20 (b) specify the grounds of protest.

21 (2) After having exhausted the administrative appeals
22 available under Title 15, chapters 2 and 15, a person or his
23 legal representative may bring an action in any court of
24 competent jurisdiction against the officers to whom said tax
25 or license fee was paid or against the county or

1 municipality in whose behalf the same was collected and the
2 department of revenue.

3 (3) Both the officers to whom the tax or license fee
4 was paid or the county or municipality in whose behalf the
5 same was collected and the department of revenue must be
6 served with timely summons and complaint within the time
7 prescribed.

8 (4) Any action instituted to recover any such portions
9 of tax or license fee paid under protest shall be commenced
10 and summons timely served within 60 days after the date of
11 the final decision of the state tax appeal board.

12 (5) When any protested tax or license fee is payable
13 in installments, then any subsequent installment portion
14 considered unlawful by the state tax appeal board need not
15 be paid and no action or suit need be commenced to recover
16 the same, but the determination of the action or suit
17 commenced to recover the first installment portion paid
18 under protest shall determine the right of the party paying
19 such subsequent installment to have the same or any part
20 thereof refunded to him or the right of the taxing authority
21 to collect a subsequent installment not paid by the taxpayer
22 plus interest from the date the subsequent installment was
23 due.

24 (6) All Except as provided in subsection (8), all
25 portions of taxes and license fees paid under protest to a

1 county or municipality shall be deposited by the treasurer
2 of the county or municipality to the credit of a special
3 fund to be designated as a protest fund and shall be
4 invested in interest-bearing deposits in local banks or
5 savings and loan associations and retained in such protest
6 fund until the final determination of any action or suit to
7 recover the same.

8 (7) Nothing contained herein prohibits the investment
9 of the money ~~of this in a protest~~ fund in the state unified
10 investment program. The ~~provision~~ provisions creating the
11 special protest fund ~~does~~ funds do not apply to any payments
12 made under protest directly to the state.

13 (8) (a) Taxes paid under protest on property in class
14 eleven or class fifteen shall be deposited by the treasurer
15 of the county or municipality to the credit of a special
16 fund to be designated as a protest fund and shall be
17 invested in interest-bearing deposits in local banks or
18 savings and loan associations and retained in the protest
19 fund until the final determination of any action or suit to
20 recover the tax. The amount of class eleven or class fifteen
21 property taxes paid under protest is limited to the lesser
22 of:

23 (i) the amount of tax genuinely and reasonably
24 protested; or

25 (ii) one-half of the amount of tax billed.

1 (b) Tax paid under protest is only that portion of the
2 taxpayer's total tax bill which is genuinely contested.

3 (c) All money not deposited in the protest fund shall
4 be deposited to the credit of the fund or funds to which the
5 money belongs.

6 ~~(8)~~(9) (a) If no action is commenced within the time
7 herein specified or if such action is commenced and finally
8 determined in favor of the county or municipality or
9 treasurer thereof, the amount of the protested portions of
10 the tax or license fee shall be taken from the protest fund
11 and deposited to the credit of the fund or funds to which
12 the same property belongs.

13 (b) If such action is finally determined adversely to
14 a county or municipality or the treasurer thereof, then the
15 treasurer shall, upon receiving a certified copy of the
16 final judgment in said action from the state tax appeal
17 board, or from the district or supreme court, as
18 appropriate, if the final action of the state tax appeal
19 board is appealed in the time prescribed, refund to the
20 person in whose favor such judgment is rendered the amount
21 of such protested portions of the tax or license fee, with
22 costs of suit and interest at the rate currently paid on
23 short-term interest-bearing time deposits in banks in the
24 county or 5% a year, whichever is greater, from the date of
25 payment under protest. If such action was commenced for the

purpose of recovering the first installment portions of any such tax or license fee and any subsequent installment thereof has been paid under protest as herein provided, then the county treasurer shall, at the time of refunding the amount of such first installment required by such judgment, also refund such portion of any subsequent installment as the person holding such judgment is entitled to recover, together with interest thereon at the rate of 6% a year from the date of payment under protest.

(10) If insufficient funds exist in the protest fund to satisfy a judgment in favor of a taxpayer protesting an assessment or tax on class eleven or class fifteen property, the amount to be refunded in excess of the amount in the protest fund shall be paid by the taxing jurisdictions to which the money was originally distributed. A taxing jurisdiction, including a school district, required to pay a refund pursuant to this subsection may proceed under 2-9-316, 7-6-4122, 7-7-2202, 7-7-2221, 20-9-161, or 20-9-403."

NEW SECTION. Section 2. Extension of authority. Any existing authority of the department of revenue to make rules on the subject of the provisions of this act is extended to the provisions of this act.

NEW SECTION. Section 3. Effective date -- applicability. This act is effective on passage and approval

and applies to any appeal or tax paid under protest on class eleven or class fifteen property on or after the effective date of this act.

-End-

APPROVED BY COMMITTEE
ON TAXATION

SENATE BILL NO. 10

INTRODUCED BY TOWE, RANEY, KEENAN, WEEDING, YELLOWTAIL,
LANE, B. WILLIAMS, M. WILLIAMS, JANET MOORE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING MONTANA'S
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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-1-402, MCA, is amended to read:

"15-1-402. Payment of taxes under protest -- action to
recover. (1) The person upon whom a tax or license fee is
being imposed may proceed under 15-1-406 or may, before the
tax or license fee becomes delinquent, pay under written
protest that portion of the tax or license fee protested.

The payment must:

(a) be made to the officer designated and authorized
to collect it; and

(b) specify the grounds of protest.

(2) After having exhausted the administrative appeals
available under Title 15, chapters 2 and 15, a person or his
legal representative may bring an action in any court of
competent jurisdiction against the officers to whom said tax

or license fee was paid or against the county or
municipality in whose behalf the same was collected and the
department of revenue.

(3) Both the officers to whom the tax or license fee
was paid or the county or municipality in whose behalf the
same was collected and the department of revenue must be
served with timely summons and complaint within the time
prescribed.

(4) Any action instituted to recover any such portions
of tax or license fee paid under protest shall be commenced
and summons timely served within 60 days after the date of
the final decision of the state tax appeal board.

(5) When any protested tax or license fee is payable
in installments, then any subsequent installment portion
considered unlawful by the state tax appeal board need not
be paid and no action or suit need be commenced to recover
the same, but the determination of the action or suit
commenced to recover the first installment portion paid
under protest shall determine the right of the party paying
such subsequent installment to have the same or any part
thereof refunded to him or the right of the taxing authority
to collect a subsequent installment not paid by the taxpayer
plus interest from the date the subsequent installment was
due.

(6) All Except as provided in subsection (8), all

portions of taxes and license fees paid under protest to a county or municipality shall be deposited by the treasurer of the county or municipality to the credit of a special fund to be designated as a protest fund and shall be invested in interest-bearing deposits in local banks or savings and loan associations and retained in such protest fund until the final determination of any action or suit to recover the same.

(7) Nothing contained herein prohibits the investment of the money of ~~this in a protest~~ OF THIS fund in the state unified investment program. The ~~provision~~ provisions PROVISION creating the THE special protest fund ~~does funds~~ do FUND DOES not apply to any payments made under protest directly to the state.

(8) (a) Taxes--paid-under-protest-on-property-in-class eleven-or-class-fifteen-shall-be-deposited-by-the--treasurer of--the--county--or--municipality-to-the-credit-of-a-special fund-to-be--designated--as--a--protest--fund--and--shall-be invested--in--interest-bearing--deposits--in--local-banks-or savings-and-loan-associations-and-retained--in--the--protest fund--until-the-final-determination-of-any-action-or-suit-to recover--the--tax--The UNLESS THE BOARD OF COUNTY COMMISSIONERS DECIDES OTHERWISE, THE amount of class-eleven or-class-fifteen property taxes paid under DEPOSITED IN THE protest FUND is limited to the lesser of:

(i) the amount of tax genuinely and reasonably protested; or

(ii) one-half of the amount of tax billed.

(b)--Tax-paid-under-protest-is-only-that-portion-of-the taxpayer's-total-tax-bill-which-is-genuinely-contested.

(c)(B) All money not deposited in the protest fund shall be deposited to the credit of the fund or funds to which the money belongs.

(d)(9) (a) If no action is commenced within the time herein specified or if such action is commenced and finally determined in favor of the county or municipality or treasurer thereof, the amount of the protested portions of the tax or license fee shall be taken from the protest fund and deposited to the credit of the fund or funds to which the same property belongs.

(b) If such action is finally determined adversely to a county or municipality or the treasurer thereof, then the treasurer shall, upon receiving a certified copy of the final judgment in said action from the state tax appeal board, or from the district or supreme court, as appropriate, if the final action of the state tax appeal board is appealed in the time prescribed, refund to the person in whose favor such judgment is rendered the amount of such protested portions of the tax or license fee, with costs of suit and interest at the rate currently paid on

1 short-term interest-bearing time deposits in banks in the
 2 county or 5% a year, whichever is greater, from the date of
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 3 applicability. This act is effective on passage and approval
 4 and applies to any appeal or tax paid under protest on class
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 5 ~~eleven--or--class-fifteen-property~~ on or after the effective
 6 date of this act.

-End-

COMMITTEE OF THE WHOLE AMENDMENT

3/29/86
DATE

2:05 p.m.
TIME

MR. CHAIRMAN: I MOVE TO AMEND Senate Bill No. 10

3rd reading copy (blue) as follows:
Color

1. Page 4, following line 5.

Insert: "(6) At the time he pays his tax under protest, the taxpayer shall notify the board of county commissioners of the portion of the total tax billed that he reasonably expects to recover if he is successful and whether he wishes to request an amount in excess of 50% be deposited in the protest fund.

Renumber subsequent subsection.

ADOPT
REJECT

[Handwritten signature]

[Handwritten signature: Bob Raney]
Rep. Raney