

SENATE BILL NO. 335

INTRODUCED BY MAZUREK, CRIPPEN, DEVLIN, RAMIREZ

IN THE SENATE

FEBRUARY 13, 1987 INTRODUCED AND REFERRED TO COMMITTEE
ON TAXATION.

FEBRUARY 23, 1987 COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

FEBRUARY 24, 1987 PRINTING REPORT.

 SECOND READING, DO PASS.

FEBRUARY 25, 1987 ENGROSSING REPORT.

 THIRD READING, PASSED.
AYES, 50; NOES, 0.

 TRANSMITTED TO HOUSE.

IN THE HOUSE

MARCH 3, 1987 INTRODUCED AND REFERRED TO COMMITTEE
ON TAXATION.

APRIL 3, 1987 COMMITTEE RECOMMEND BILL BE
CONCURRED IN. REPORT ADOPTED.

APRIL 7, 1987 SECOND READING, CONCURRED IN.

APRIL 8, 1987 THIRD READING, CONCURRED IN.
AYES, 89; NOES, 1.

 RETURNED TO SENATE.

IN THE SENATE

APRIL 8, 1987 RECEIVED FROM HOUSE.

 SENT TO ENROLLING.

1 Senate BILL NO. 335
 2 INTRODUCED BY Reginald C. Berlin
 3 Ramirez
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR SPEEDY
 5 RESOLUTION OF QUESTIONS OF LAW AND PROCEDURE PRESENTED IN
 6 TAX CASES APPEALED TO THE STATE TAX APPEAL BOARD FROM COUNTY
 7 TAX APPEAL BOARDS OR THE DEPARTMENT OF REVENUE; AMENDING
 8 SECTION 15-2-304, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE
 9 DATE AND A RETROACTIVE APPLICABILITY DATE."

10
 11 WHEREAS, many questions arise in tax cases with respect
 12 to the validity of a constitutional provision, statute, or
 13 rule of the Department of Revenue or the State Tax Appeal
 14 Board prior to the time when the parties are ready for a
 15 hearing on the merits before the State Tax Appeal Board; and

16 WHEREAS, the section that allows for a petition for
 17 interlocutory adjudication of questions of law, section
 18 15-2-304, MCA, provides for determination of legal questions
 19 by the District Court only in the event that both parties to
 20 the controversy, namely the taxpayer and the Department of
 21 Revenue, agree, and experience has shown that such agreement
 22 is rarely achieved in practice; and

23 WHEREAS, failure to determine questions of law and
 24 procedure at an early date often compels the taxpayer to
 25 submit to a costly, lengthy, and avoidable procedure before

1 the State Tax Appeal Board, which also adds to the burden of
 2 cases pending before the State Tax Appeal Board, and early
 3 resolution of these issues might reduce the costs, save
 4 time, and reduce the burden on the State Tax Appeal Board.

5 THEREFORE, the Legislature of the State of Montana
 6 finds it appropriate to amend the procedure for petitions
 7 involving interlocutory adjudication of questions of law and
 8 procedure by the District Court to reduce the expense and
 9 delay suffered by taxpayers, increase economy, and clarify
 10 the procedures now existing for the resolution of tax
 11 disputes.

12
 13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 Section 1. Section 15-2-304, MCA, is amended to read:
 15 "15-2-304. Petition for interlocutory adjudication.
 16 (1) (a) At the time of filing an appeal before the state tax
 17 appeal board, the taxpayer, in an appeal from a
 18 determination of the department of revenue, or either the
 19 taxpayer or the department, in an appeal from a decision of
 20 a county tax appeal board, may file a petition for an
 21 interlocutory adjudication under 15-2-305. The petition may
 22 be filed with the district court:

- 23 (i) in the first judicial district;
- 24 (ii) in the county in which the taxable property is
- 25 located; or



1 (iii) in cases not involving property taxes, in the
 2 county where the taxpayer resides or has his principal place
 3 of business in the state.

4 (b) The petition must raise all questions involving
 5 the interpretation of a constitutional provision, a statute,
 6 or a rule that exist at the time of filing the appeal with
 7 the state tax appeal board.

8 (2) After a proceeding has commenced before the state
 9 tax appeal board but before arguments have been heard, the
 10 parties to the proceeding may petition a district court to
 11 make an interlocutory adjudication as provided under
 12 15-2-305. A petition for such adjudication shall be signed
 13 by each party to the proceeding.

14 (3) One in a petition under subsection (1) or (2), one
 15 party shall be designated as the petitioner, and every other
 16 party shall be designated a respondent. The court may in its
 17 discretion grant such a petition if it appears that the
 18 issues presented involve the interpretation of a
 19 constitutional provision, a statute, or regulation a rule
 20 and do not require the hearing of evidence to be resolved
 21 and that the controversy would be more expeditiously
 22 resolved by such adjudication."

23 NEW SECTION. Section 2. Effective date. This act is
 24 effective on passage and approval.

25 NEW SECTION. Section 3. Applicability. This act

1 applies retroactively, within the meaning of 1-2-109, to
 2 taxable years beginning after December 31, 1984.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

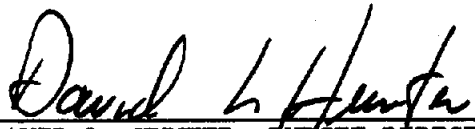
In compliance with a written request, there is hereby submitted a Fiscal Note for SB335, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:


An act to provide for speedy resolution of questions of law and procedure presented in tax cases appealed to the State Tax Appeal Board from county tax appeal boards or the Department of Revenue; amending Section 15-2-304, MCA; and providing an immediate effective date and a retroactive applicability date.

FISCAL IMPACT:

None.

 DATE 2/18/87

DAVID L. HUNTER, BUDGET DIRECTOR
Office of Budget and Program Planning

 DATE 2/21/87

JOE MAZUREK, PRIMARY SPONSOR

Fiscal Note for SB335, as introduced.

SB 335

APPROVED BY COMMITTEE
ON TAXATION

SENATE BILL NO. 335

INTRODUCED BY MAZUREK, CRIPPEN, DEVLIN, RAMIREZ

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR SPEEDY RESOLUTION OF QUESTIONS OF LAW AND PROCEDURE PRESENTED IN TAX CASES APPEALED TO THE STATE TAX APPEAL BOARD FROM COUNTY TAX APPEAL BOARDS OR THE DEPARTMENT OF REVENUE; AMENDING SECTION 15-2-304, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND ~~A-RETROACTIVE~~ AN APPLICABILITY DATE PROVISION."

WHEREAS, many questions arise in tax cases with respect to the validity of a constitutional provision, statute, or rule of the Department of Revenue or the State Tax Appeal Board prior to the time when the parties are ready for a hearing on the merits before the State Tax Appeal Board; and

WHEREAS, the section that allows for a petition for interlocutory adjudication of questions of law, section 15-2-304, MCA, provides for determination of legal questions by the District Court only in the event that both parties to the controversy, namely the taxpayer and the Department of Revenue, agree, and experience has shown that such agreement is rarely achieved in practice; and

WHEREAS, failure to determine questions of law and procedure at an early date often compels the taxpayer to submit to a costly, lengthy, and avoidable procedure before

the State Tax Appeal Board, which also adds to the burden of cases pending before the State Tax Appeal Board, and early resolution of these issues might reduce the costs, save time, and reduce the burden on the State Tax Appeal Board.

THEREFORE, the Legislature of the State of Montana finds it appropriate to amend the procedure for petitions involving interlocutory adjudication of questions of law and procedure by the District Court to reduce the expense and delay suffered by taxpayers, increase economy, and clarify the procedures now existing for the resolution of tax disputes.

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

Section 1. Section 15-2-304, MCA, is amended to read:

"15-2-304. Petition for interlocutory adjudication.

(1) (a) At--the--time-of-filing EITHER PARTY, WITHIN 30 DAYS OF THE FILING OF AN ANSWER TO an appeal before the state tax appeal board, ~~the--taxpayer,---in---an---appeal---from---a~~ ~~determination--of--the--department-of-revenue, or either the taxpayer or the department, in an appeal from a decision of a county tax appeal board,~~ may file a petition for an interlocutory adjudication under 15-2-305. The petition may be filed with the district court:

(i) in the first judicial district;(ii) in the county in which the taxable property is

1 located; or
 2 (iii) in cases not involving property taxes, in the
 3 county where the taxpayer resides or has his principal place
 4 of business in the state.

5 (b) The petition must raise all questions RAISED BY
 6 THE PLEADINGS involving the interpretation of a
 7 constitutional provision, a statute, or a rule that-exist-at
 8 the-time-of-filing WITHIN 30 DAYS OF FILING AN ANSWER TO the
 9 appeal with the state tax appeal board.

10 (2) After a proceeding has commenced before the state
 11 tax appeal board but before arguments have been heard, the
 12 parties to the proceeding may petition a district court to
 13 make an interlocutory adjudication as provided under
 14 15-2-305. A petition for such adjudication shall be signed
 15 by each party to the proceeding.

16 (3) One in a petition under subsection (1) or (2), one
 17 party shall be designated as the petitioner, and every other
 18 party shall be designated a respondent. The court may in its
 19 discretion grant such a petition if it appears that the
 20 issues presented involve the interpretation of a
 21 constitutional provision, a statute, or regulation a rule
 22 and do not require the hearing of evidence to be resolved
 23 and that the controversy would be more expeditiously
 24 resolved by such adjudication."

25 NEW SECTION. Section 2. Effective date. This act is

1 effective on passage and approval.

2 NEW SECTION. Section 3. Applicability TO PENDING
 3 ACTIONS -- NOTICE. This--act THE RIGHT TO PETITION FOR
 4 INTERLOCUTORY ADJUDICATION applies retroactively, within the
 5 meaning--of--1-2-109,--to--taxable--years--beginning--after
 6 December--31,--1984 TO ALL ACTIONS PENDING BEFORE THE STATE
 7 TAX APPEAL BOARD ON [THE EFFECTIVE DATE OF THIS ACT], WHERE
 8 THERE HAS BEEN NO PREVIOUS DISTRICT COURT ACTION. PETITIONS
 9 UNDER THIS SECTION MUST BE FILED WITHIN 90 DAYS AFTER NOTICE
 10 FROM THE STATE TAX APPEAL BOARD OF THE RIGHT TO PETITION.
 11 THE STATE TAX APPEAL BOARD SHALL GIVE NOTICE OF THE RIGHT TO
 12 PETITION FOR INTERLOCUTORY ADJUDICATION TO THE PARTIES IN
 13 PENDING CASES, AS SOON AS PRACTICABLE AFTER [THE EFFECTIVE
 14 DATE OF THIS ACT].

-End-

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11 WHEREAS, many questions arise in tax cases with respect
12 to the validity of a constitutional provision, statute, or
13 rule of the Department of Revenue or the State Tax Appeal
14 Board prior to the time when the parties are ready for a
15 hearing on the merits before the State Tax Appeal Board; and

16 WHEREAS, the section that allows for a petition for
17 interlocutory adjudication of questions of law, section
18 15-2-304, MCA, provides for determination of legal questions
19 by the District Court only in the event that both parties to
20 the controversy, namely the taxpayer and the Department of
21 Revenue, agree, and experience has shown that such agreement
22 is rarely achieved in practice; and

23 WHEREAS, failure to determine questions of law and
24 procedure at an early date often compels the taxpayer to
25 submit to a costly, lengthy, and avoidable procedure before

1 the State Tax Appeal Board, which also adds to the burden of
2 cases pending before the State Tax Appeal Board, and early
3 resolution of these issues might reduce the costs, save
4 time, and reduce the burden on the State Tax Appeal Board.

5 THEREFORE, the Legislature of the State of Montana
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18 appeal board, the--taxpayer,---in---an---appeal---from---a
19 determination--of--the--department--of--revenue,--or--either--the
20 taxpayer--or--the--department,--in--an--appeal--from--a--decision--of
21 a--county--tax--appeal--board, may file a petition for an
22 interlocutory adjudication under 15-2-305. The petition may
23 be filed with the district court:

24 (i) in the first judicial district;

25 (ii) in the county in which the taxable property is

1 located; or

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3 county where the taxpayer resides or has his principal place
4 of business in the state.

5 (b) The petition must raise all questions RAISED BY
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8 the time of filing WITHIN 30 DAYS OF FILING AN ANSWER TO the
9 appeal with the state tax appeal board.

10 (2) After a proceeding has commenced before the state
11 tax appeal board but before arguments have been heard, the
12 parties to the proceeding may petition a district court to
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