

SENATE BILL NO. 157

INTRODUCED BY JERGESON

IN THE SENATE

JANUARY 14, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON LOCAL GOVERNMENT.
	FIRST READING.
FEBRUARY 12, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 13, 1993	PRINTING REPORT.
	SECOND READING, DO PASS.
FEBRUARY 15, 1993	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 49; NOES, 0.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 23, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON LOCAL GOVERNMENT.
	FIRST READING.
MARCH 26, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
	POSTED ON CONSENT CALENDAR.
MARCH 27, 1993	CONSENT CALENDAR, QUESTIONS AND ANSWERS.
MARCH 30, 1993	THIRD READING, CONCURRED IN. AYES, 96; NOES, 4.
MARCH 31, 1993	RETURNED TO SENATE.

IN THE SENATE

MARCH 31, 1993	RECEIVED FROM HOUSE.
	SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 Senate BILL NO. 157
2 INTRODUCED BY Jerguson
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING THE
5 REQUIREMENT THAT A MUNICIPALITY PAY DELINQUENT TAXES AND
6 COSTS ON PROPERTY LOCATED WITHIN THE MUNICIPALITY IN ORDER
7 TO HAVE THE COUNTY ASSIGN THE PROPERTY TO THE MUNICIPALITY
8 AFTER THE COUNTY HAS RECEIVED THE PROPERTY PURSUANT TO A TAX
9 SALE; AND AMENDING SECTIONS 15-17-214, 15-17-317, 15-17-318,
10 AND 15-17-323, MCA."

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

13 **Section 1.** Section 15-17-214, MCA, is amended to read:

14 "15-17-214. County as purchaser -- assignment. (1) If
15 no person pays the delinquent taxes, including penalties,
16 interest, and costs, on the first day of the tax sale, the
17 county is considered to be the purchaser.

18 (2) (a) After the 21st day following the first day of
19 the tax sale, the county treasurer shall identify and list
20 all property that was sold at the tax sale. He The treasurer
21 shall also record that the county is the purchaser of all
22 property remaining unsold and upon which the taxes remain
23 delinquent.

24 (b) The record of the property in which the county is
25 listed as the purchaser may be made by the treasurer by a

1 separate tax sale certificate of each property or by
2 reference to the property as recorded in the list required
3 under 15-16-301.

4 (3) A property tax lien of the county in any property
5 acquired by the county under subsection (1) must be assigned
6 by the county treasurer to a municipality, as provided in
7 15-17-323, or to any person upon the that person's payment
8 of all delinquent taxes, including penalties, interest, and
9 costs specified in 15-17-323."

10 **Section 2.** Section 15-17-317, MCA, is amended to read:

11 "15-17-317. Municipality as purchaser receiver of
12 property. Whenever property that is located within a
13 municipality has been struck off to the county at a tax sale
14 under 15-17-214, is subject to the lien of delinquent
15 special assessments, and has not been assigned under
16 15-17-214 or 15-17-323, at the request of the municipality,
17 the county treasurer shall assign all of the rights of the
18 county acquired therein at the sale to the municipality upon
19 payment-of-any-delinquent-taxes-(excluding-assessments)-and
20 costs---without---penalty---or---interest. The duplicate
21 certificate of sale assignment must be delivered to the
22 treasurer of the municipality and filed by him the municipal
23 treasurer in his the municipal treasurer's office. No A
24 charge may not be made for the duplicate certificate when
25 the municipality is the purchaser assignee, and in such that

case, the county treasurer shall make an entry "sold assigned to the municipality" on the assessment book opposite the tax, and he must be credited with the delinquent amount thereof in the settlement. Property sold assigned to the municipality must be held in trust by the municipality for the improvement fund into which the delinquent special assessments are payable."

Section 3. Section 15-17-318, MCA, is amended to read:

"15-17-318. **Assignment of municipality's interest.** (1)

At any time after a parcel of land has been acquired by a municipality, as provided in 15-17-317, and has not been redeemed, the treasurer of the municipality shall assign all the rights of the municipality in the property to any person who pays:

(a) the purchase price paid by the municipality to the county any delinquent taxes and costs, including interest;

(b) the delinquent assessments;

(c) interest on the purchase price and delinquent assessments at the rate of 5/6 of 1% a month; and

(d) penalties and costs as provided by law.

(2) The treasurer of the municipality shall execute to such the person a certificate of sale for the parcel, which may be in substantially the form provided in 15-17-212 for the assignment of the interests of the county. If the certificate of sale becomes lost or accidentally destroyed

by the assignee, the treasurer of the municipality shall issue a duplicate certificate to the assignee after the assignee delivers to the treasurer evidence satisfactory to him the treasurer, including an affidavit of the assignee, that the certificate has been lost or destroyed.

(3) An assignment by a municipality under this section discharges the trust created under 15-17-317. The municipality may also discharge the trust created under 15-17-317 by paying into the improvement fund the amount of the delinquent assessments and interest accrued thereon on the assessments."

Section 4. Section 15-17-323, MCA, is amended to read:

"15-17-323. **Assignment of rights -- form.** (1) Any tax sale certificate or other official record in which the county is listed as the purchaser must be assigned by the county treasurer to any person who pays to the county the amount of the delinquent taxes, including penalties, interest, and costs, accruing from the date of delinquency or to a municipality as provided in 15-17-317.

(2) The assignment made under subsection (1) must be in the form of an assignment certificate in substantially the following form:

I,, the treasurer of County, state of Montana, hereby certify that a tax sale for tax year 19.., in the county of, was held on

1 (date), for the purpose of liquidating delinquent
 2 assessments, and I further certify that a property tax lien
 3 for delinquent taxes in the following property
 4 (insert property description) was offered for sale and that
 5 there was no purchaser of the property tax lien.
 6 Accordingly, the county was listed as the purchaser as
 7 required by 15-17-214, MCA. As of the date of this
 8 certificate, the delinquency, including penalties, interest,
 9 and costs amounting to \$....., has not been liquidated
 10 by the person to whom the property was assessed, nor has the
 11 delinquency been otherwise redeemed.

12 There having been no liquidation of the delinquency or
 13 other redemption, I hereby assign all rights, title, and
 14 interest of the county of, state of Montana,
 15 acquired in such the property by virtue of the sale to
 16 (name and address of assignee) to proceed to
 17 obtain a tax deed to the property or receive payment in case
 18 of redemption as provided by law.

19 Witness my hand and official seal of office this
 20 day of, 19...

21 County Treasurer

22 County

23 (3) An assignment made by a purchaser other than the
 24 county, by an assignee of the county, or by a previous
 25 assignee may be made for any consideration whatsoever. An

1 assignment ~~so--made~~ is legal and binding only upon filing
 2 with the county treasurer a statement that the purchaser's
 3 or other assignee's interest in the property has been
 4 assigned. The statement must contain:

5 (a) the name and address of the new assignee;

6 (b) the name and address of the original purchaser of
 7 the tax sale certificate;

8 (c) the name and address of each previous assignee, if
 9 any;

10 (d) a description of the property upon which the
 11 property tax lien was issued, ~~which description must contain~~
 12 that contains the same information as contained in the tax
 13 sale certificate or assignment certificate, as appropriate;

14 (e) the signature of the party, ~~be it whether~~ whether purchaser
 15 or assignee, making the assignment;

16 (f) the signature of the new assignee; and

17 (g) the date on which the statement was signed.

18 (4) If the certificate described in subsection (1) or
 19 the statement described in subsection (3) is lost or
 20 destroyed, the county treasurer shall, upon adequate proof
 21 and signed affidavit by the assignee that loss or
 22 destruction has occurred, issue a duplicate certificate to
 23 the assignee.

24 (5) The provisions of this section apply to any sale of
 25 land for which a treasurer's deed was not issued on or

LC 0711/01

1 before March 5, 1917, or for which a tax deed was not issued
2 on or before April 23, 1987, and the holder of any
3 certificate described in subsection (1) has the same rights,
4 powers, and privileges with regard to securing a deed as any
5 purchaser of land at a tax sale may now have."

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0157, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act eliminating the requirement that a municipality pay delinquent taxes and costs on property located within the municipality in order to have the county assign the property to the municipality after the county has received the property pursuant to a tax sale.

FISCAL IMPACT: None.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Minimal local impact. The bill allows municipalities to take an assignment on certain city properties (those having delinquent special assessments) without first paying delinquent taxes. Intent appears to be to give municipalities the ability to resell tax assignments or subsequently tax deeded property at a price which is reflective of current real estate market conditions.

Only a few cities currently take assignments on their own property from the county. Those that do take such assignments do so on a selective basis.

The bill would result in the deferred receipt of all or prorated portion of taxes receivable by the state, counties, school districts, and special taxing jurisdictions. However, the amounts involved would be small. No fiscal impact to municipalities, since under current law they merely receive back from the county their share of taxes paid on assignment.

David Lewis 1-19-93
DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Greg Jergeson 1/20/93
GREG JERGESON, PRIMARY SPONSOR DATE

Fiscal Note for SB0157, as introduced

SB 157

APPROVED BY COMM.
ON LOCAL GOVERNMENT

SENATE BILL NO. 157

INTRODUCED BY JERGESON

A BILL FOR AN ACT ENTITLED: "AN ACT ~~ELIMINATING--THE~~
~~REQUIREMENT--THAT--A--MUNICIPALITY--PAY--DELINQUENT--TAXES--AND~~
~~COSTS--ON--PROPERTY--LOCATED--WITHIN--THE--MUNICIPALITY--IN--ORDER~~
~~TO--HAVE--THE~~ ALLOWING A COUNTY TO ASSIGN THE PROPERTY WITHIN
A MUNICIPALITY TO THE MUNICIPALITY AFTER THE COUNTY HAS
RECEIVED THE PROPERTY PURSUANT TO A TAX SALE; AND AMENDING
~~SECTIONS--15-17-2147--15-17-3177--15-17-3187--AND--15-17-323~~
SECTION 7-8-2301, MCA."

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

(Refer to Introduced Bill)

Strike everything after the enacting clause and

insert:

Section 1. Section 7-8-2301, MCA, is amended to read:

"7-8-2301. Auction-sale Disposal of county tax-deed
land. (1) Whenever the county acquires land by tax deed, it
is the duty of the board of county commissioners, within 6
months after acquiring title, to:

(a) make and enter an order for sale of the lands at
public auction at the front door of the courthouse; or

(b) donate the land to a municipality, as provided in
subsection (6), if the land is within the incorporated

boundaries of the municipality.

(2) A sale may not be made for a price less than the
fair market value of the land, as determined and fixed by
the board prior to making the order of sale. In determining
fair market value, the board shall subtract the amount of
outstanding assessments that are a lien on the land from the
unencumbered value of the land, but the minimum sale price
for a parcel of land may not be less than \$10.

(3) If no bids are received at a sale of tax-deed land,
the board shall order another auction sale of the land under
this part within 6 months and may, if required by the
circumstances, redetermine the fair market value of the land
under subsection (2). In the period of time between the
auction conducted under subsection (1), in which there were
no qualifying bids for the property, and an auction held
pursuant to this subsection, the board may sell the land by
negotiated sale at a price that is not less than the fair
market value that was fixed for the original auction under
subsection (1).

(4) If no bid is received at the sale conducted under
subsection (3), the board may dispose of the land as
provided in 7-8-2218.

(5) Notwithstanding the amount of the fair market value
fixed by the board prior to the auction, if the successful
sale bidder is the delinquent taxpayer or his the taxpayer's

1 successor in interest, his the taxpayer's agent, or a member
2 of his the taxpayer's immediate family, the purchase price
3 may not be less than the amount necessary to pay, in full,
4 all county costs of conducting the sale, delinquent taxes,
5 assessments, and all interest and penalties.

6 (6) A board of county commissioners may, upon
7 expiration of the redemption period provided for in
8 15-18-111, donate the land to a municipality with the
9 consent of the municipality."

-End-

SENATE BILL NO. 157

INTRODUCED BY JERGESON

A BILL FOR AN ACT ENTITLED: "AN ACT ~~ELIMINATING--THE REQUIREMENT--THAT--A--MUNICIPALITY--PAY--DELINQUENT--TAXES--AND COSTS--ON--PROPERTY--LOCATED--WITHIN--THE--MUNICIPALITY--IN--ORDER TO--HAVE--THE~~ ALLOWING A COUNTY TO ASSIGN THE PROPERTY WITHIN A MUNICIPALITY TO THE MUNICIPALITY AFTER THE COUNTY HAS RECEIVED THE PROPERTY PURSUANT TO A TAX SALE; AND AMENDING SECTIONS--15-17-214,--15-17-317,--15-17-318,--AND--15-17-323 SECTION 7-8-2301, MCA."

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

(Refer to Introduced Bill)

Strike everything after the enacting clause and

insert:

Section 1. Section 7-8-2301, MCA, is amended to read:

"7-8-2301. Auction-sale Disposal of county tax-deed land. (1) Whenever the county acquires land by tax deed, it is the duty of the board of county commissioners, within 6 months after acquiring title, to:

(a) make and enter an order for sale of the lands at public auction at the front door of the courthouse; or

(b) donate the land to a municipality, as provided in subsection (6), if the land is within the incorporated

boundaries of the municipality.

(2) A sale may not be made for a price less than the fair market value of the land, as determined and fixed by the board prior to making the order of sale. In determining fair market value, the board shall subtract the amount of outstanding assessments that are a lien on the land from the unencumbered value of the land, but the minimum sale price for a parcel of land may not be less than \$10.

(3) If no bids are received at a sale of tax-deed land, the board shall order another auction sale of the land under this part within 6 months and may, if required by the circumstances, redetermine the fair market value of the land under subsection (2). In the period of time between the auction conducted under subsection (1), in which there were no qualifying bids for the property, and an auction held pursuant to this subsection, the board may sell the land by negotiated sale at a price that is not less than the fair market value that was fixed for the original auction under subsection (1).

(4) If no bid is received at the sale conducted under subsection (3), the board may dispose of the land as provided in 7-8-2218.

(5) Notwithstanding the amount of the fair market value fixed by the board prior to the auction, if the successful sale bidder is the delinquent taxpayer or his the taxpayer's

1 successor in interest, his the taxpayer's agent, or a member
2 of his the taxpayer's immediate family, the purchase price
3 may not be less than the amount necessary to pay, in full,
4 all county costs of conducting the sale, delinquent taxes,
5 assessments, and all interest and penalties.

6 (6) A board of county commissioners may, upon
7 expiration of the redemption period provided for in
8 15-18-111, donate the land to a municipality with the
9 consent of the municipality."

-End-

SENATE BILL NO. 157

INTRODUCED BY JERGSON

A BILL FOR AN ACT ENTITLED: "AN ACT ~~ELIMINATING--THE~~
~~REQUIREMENT--THAT--A--MUNICIPALITY--PAY--DELINQUENT--TAXES--AND~~
~~COSTS--ON--PROPERTY--LOCATED--WITHIN--THE--MUNICIPALITY--IN--ORDER~~
~~TO--HAVE--THE~~ ALLOWING A COUNTY TO ASSIGN THE PROPERTY WITHIN
A MUNICIPALITY TO THE MUNICIPALITY AFTER THE COUNTY HAS
 RECEIVED THE PROPERTY PURSUANT TO A TAX SALE; AND AMENDING
~~SECTIONS--15-17-214,--15-17-317,--15-17-318,--AND--15-17-323~~
SECTION 7-8-2301, MCA."

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

(Refer to Introduced Bill)

Strike everything after the enacting clause and

insert:

Section 1. Section 7-8-2301, MCA, is amended to read:

"7-8-2301. Auction-sale Disposal of county tax-deed
 land. (1) Whenever the county acquires land by tax deed, it
 is the duty of the board of county commissioners, within 6
 months after acquiring title, to:

(a) make and enter an order for sale of the lands at
 public auction at the front door of the courthouse; or

(b) donate the land to a municipality, as provided in
subsection (6), if the land is within the incorporated

boundaries of the municipality.

(2) A sale may not be made for a price less than the
 fair market value of the land, as determined and fixed by
 the board prior to making the order of sale. In determining
 fair market value, the board shall subtract the amount of
 outstanding assessments that are a lien on the land from the
 unencumbered value of the land, but the minimum sale price
 for a parcel of land may not be less than \$10.

(3) If no bids are received at a sale of tax-deed land,
 the board shall order another auction sale of the land under
 this part within 6 months and may, if required by the
 circumstances, redetermine the fair market value of the land
 under subsection (2). In the period of time between the
 auction conducted under subsection (1), in which there were
 no qualifying bids for the property, and an auction held
 pursuant to this subsection, the board may sell the land by
 negotiated sale at a price that is not less than the fair
 market value that was fixed for the original auction under
 subsection (1).

(4) If no bid is received at the sale conducted under
 subsection (3), the board may dispose of the land as
 provided in 7-8-2218.

(5) Notwithstanding the amount of the fair market value
 fixed by the board prior to the auction, if the successful
 sale bidder is the delinquent taxpayer or his the taxpayer's

1 successor in interest, his the taxpayer's agent, or a member
2 of his the taxpayer's immediate family, the purchase price
3 may not be less than the amount necessary to pay, in full,
4 all county costs of conducting the sale, delinquent taxes,
5 assessments, and all interest and penalties.

6 (6) A board of county commissioners may, upon
7 expiration of the redemption period provided for in
8 15-18-111, donate the land to a municipality with the
9 consent of the municipality."

-End-