

SENATE BILL NO. 379

INTRODUCED BY DOHERTY, TOOLE, ELLIOTT, TOWE, HARP

IN THE SENATE

FEBRUARY 12, 1993

INTRODUCED AND REFERRED TO COMMITTEE
ON TAXATION.

FIRST READING.

MARCH 11, 1993

COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

MARCH 12, 1993

PRINTING REPORT.

ON MOTION, CONSIDERATION PASSED
FOR THE DAY.

MARCH 13, 1993

ON MOTION, CONSIDERATION PASSED
UNTIL THE 59TH LEGISLATIVE DAY.

MARCH 16, 1993

SECOND READING, DO PASS.

MARCH 17, 1993

ENGROSSING REPORT.

THIRD READING, PASSED.
AYES, 48; NOES, 0.

TRANSMITTED TO HOUSE.

IN THE HOUSE

MARCH 18, 1993

INTRODUCED AND REFERRED TO COMMITTEE
ON TAXATION.

FIRST READING.

APRIL 6, 1993

ON MOTION, RULES SUSPENDED TO ALLOW 2ND
AND 3RD READING SAME LEGISLATIVE DAY.

APRIL 8, 1993

COMMITTEE RECOMMEND BILL BE
CONCURRED IN AS AMENDED. REPORT
ADOPTED.

APRIL 14, 1993

SECOND READING, CONCURRED IN.

THIRD READING, CONCURRED IN.
AYES, 86; NOES, 11.

RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

APRIL 16, 1993

SECOND READING, AMENDMENTS
CONCURRED IN.

APRIL 17, 1993

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *Senate* BILL NO. *379*
 2 INTRODUCED BY *Dusty Tool* *Cliff*
 3 *HARP*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT SIMPLIFYING TAX APPEAL
 5 PROCEDURES BEFORE THE STATE TAX APPEAL BOARD; AMENDING
 6 SECTIONS 15-1-402, 15-1-406, 15-1-408, 15-2-301, 15-2-302,
 7 15-2-303, 15-2-306, AND 15-15-101, MCA; AND REPEALING
 8 SECTIONS 15-2-307, 15-2-308, 15-2-309, AND 15-2-310, MCA."

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 property tax or license
 14 fee is being imposed may proceed--under--15-1-406--or--may,
 15 before the property tax or license fee becomes delinquent,
 16 pay under written protest that portion of the property tax
 17 or license fee protested. The protested payment must:

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

20 (b) specify the grounds of protest; and

21 (c) not exceed the difference between the payment for
 22 the immediately preceding tax year and the amount owing in
 23 the tax year protested unless a different amount results
 24 from the specified grounds of protest, which grounds may
 25 include but are not limited to changes in assessment due to

1 reappraisal under 15-7-111.

2 (2) After having exhausted the--administrative--appeals
 3 available under Title 15, chapters 2 and 15, a person or his
 4 legal--representative--may--bring--an--action--in--any--court--of
 5 competent--jurisdiction--against--the--officers--to--whom--said--tax
 6 or--license--fee--was--paid--or--against---the---county---or
 7 municipality--in--whose--behalf--the--same--was--collected--and--the
 8 department--of--revenue. A person appealing a property tax or
 9 fee pursuant to chapter 2 or 15 shall pay the tax or fee
 10 under protest when due as a condition of continuing the
 11 appeal before the county tax appeal board or the state tax
 12 appeal board.

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

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

22 (5)(3) If a protested property tax or license fee is
 23 payable in installments, a subsequent installment portion
 24 considered unlawful by the state tax appeal board need not
 25 be paid and no an action or suit need not be commenced to

1 recover the subsequent installment. The determination of the
 2 action or suit commenced to recover the first installment
 3 portion paid under protest determines the right of the party
 4 paying such the subsequent installment to have the--same it
 5 or any part thereof of it refunded to him the party or the
 6 right of the taxing authority to collect a subsequent
 7 installment not paid by the taxpayer plus interest from the
 8 date the subsequent installment was due.

9 ~~{6}(4)~~ All property taxes and license fees paid under
 10 protest to a county or municipality must be deposited by the
 11 treasurer of the county or municipality to the credit of a
 12 special fund to be designated as a protest fund and must be
 13 retained in the protest fund until the final determination
 14 of any action or suit to recover the--same the taxes and fees
 15 unless they are released at the request of the county,
 16 municipality, or other local taxing jurisdiction pursuant to
 17 subsection ~~{7} (5)~~. ~~Nothing-contained-herein-prohibits~~ This
 18 section does not prohibit the investment of the money of
 19 this fund in the state unified investment program or in any
 20 manner provided in Title 7, chapter 6. The provision
 21 creating the special protest fund does not apply to any
 22 payments made under protest directly to the state.

23 ~~{7}(5)~~ The governing board of a taxing jurisdiction
 24 affected by the payment of taxes under protest in the second
 25 and subsequent years that a tax protest remains unresolved

1 may demand that the treasurer of the county or municipality
 2 pay the requesting taxing jurisdiction all or a portion of
 3 the protest payments to which it is entitled, except the
 4 amount paid by the taxpayer in the first year of the
 5 protest. The decision in a previous year of a taxing
 6 jurisdiction to leave protested taxes in the protest fund
 7 does not preclude it from demanding in a subsequent year any
 8 or all of the payments to which it is entitled, except the
 9 first-year protest amount.

10 ~~{8}(6)~~ (a) If no action before the county tax appeal
 11 board, state tax appeal board, or district court is not
 12 commenced within the time herein specified or if such the
 13 action is commenced and finally determined in favor of the
 14 department of revenue, county, or municipality, or treasurer
 15 thereof of the county or the municipality, the amount of the
 16 protested portions of the property tax or license fee must
 17 be taken from the protest fund and deposited to the credit
 18 of the fund or funds to which the same property tax belongs,
 19 less a pro rata deduction for the costs of administration of
 20 the protest fund and related expenses charged the local
 21 government units.

22 (b) If such the action is finally determined adversely
 23 to the department of revenue, a county, or a municipality,
 24 or the treasurer thereof of a county or a municipality, then
 25 the treasurer shall, upon receiving a certified copy of the

final judgment in said the 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 the judgment is rendered the amount of such the protested portions of the property tax or license fee deposited in the protest fund, and not released pursuant to subsection (7) (5), as the person holding such the judgment is entitled to recover, together with interest thereon from the date of payment under protest, at the greater of:

(i) the rate of interest generated from the pooled investment fund provided for in 17-6-203 for the applicable period; or

(ii) 6% a year.

(c) If the amount retained in the protest fund is insufficient to pay all sums due the taxpayer, the treasurer shall apply the available amount first to tax repayment, then interest owed, and lastly to costs.

(d) If the protest action is decided adversely to a taxing jurisdiction and the amount retained in the protest fund is insufficient to refund the tax payments and costs to which the taxpayer is entitled and for which local government units are responsible, the treasurer shall bill and the taxing jurisdiction shall refund to the treasurer

that portion of the taxpayer refund, including tax payments and costs, for which the taxing jurisdiction is proratably responsible.

(e) In satisfying the requirements of subsection (8)(d), the taxing jurisdiction is allowed not more than 1 year from the beginning of the fiscal year following a final resolution of the protest. The taxpayer is entitled to interest on the unpaid balance at the greater of the rates referred to in subsections (8)(b)(i) and (8)(b)(ii) (6)(b)(ii) from the date of payment under protest until the date of final resolution of the protest and at the combined rate of the federal reserve discount rate quoted from the federal reserve bank in New York, New York, on the date of final resolution, plus four percentage points, from the date of final resolution of the protest until refund is made.

(9)(7) A taxing jurisdiction may satisfy the requirements of this section by use of funds from one or more of the following sources:

(a) imposition of a property tax to be collected by a special tax protest refund levy;

(b) the general fund, except that amount generated by the all-purpose mill levy, or any other funds legally available to the governing body; and

(c) proceeds from the sale of bonds issued by a county,

city, or school district for the purpose of deriving revenue for the repayment of tax protests lost by the taxing jurisdiction. The governing body of a county, city, or school district is hereby authorized to issue such the bonds pursuant to procedures established by law. The bonds may be issued without being submitted to an election. Property taxes may be levied to amortize the bonds."

Section 2. Section 15-1-406, MCA, is amended to read:

"15-1-406. ~~Alternative~~ ~~remedy~~ ~~declaratory~~ Declaratory judgment. (1) An aggrieved taxpayer ~~may, in lieu of proceeding under 15-1-402 or 15-1-211,~~ bring a declaratory judgment action in the district court seeking a declaration that:

(a) an administrative rule or method or procedure of assessment or imposition of tax adopted or used by the department of revenue is illegal or improper; or

(b) a tax levied authorized by the state or one of its subdivisions was illegally or unlawfully imposed or exceeded the taxing authority of the entity imposing the tax.

(2) The action must be brought within 90 days of the imposition-of-the-tax date the tax bill for any portion of the challenged tax is first mailed to the taxpayer or, in the case of an assessment covered by the uniform tax review procedure set forth in 15-1-211, within 90 days of the date of the department director's final decision. The court shall

consolidate all actions brought under subsection (1) which that challenge the same tax levy. The decision of the court ~~shall apply~~ applies to all similarly situated taxpayers except those taxpayers who are excluded under 15-1-407.

(3) The taxes that are being challenged under this section must be paid when due as a condition of continuing the action. Property taxes may be paid under protest as provided in 15-1-402.

(4) The remedy authorized by this section may not be used to challenge the:

(a) market value of property under a property tax unless the challenge is to the legality of a particular methodology that is being applied to similarly situated taxpayers; or

(b) legality of a tax other than a property tax, inheritance tax, or estate tax unless the review pursuant to 15-1-211 has been completed.

(5) The remedy authorized by this section is the exclusive method of obtaining a declaratory judgment concerning a tax authorized by the state or one of its subdivisions. The remedy authorized by this section supersedes the Uniform Declaratory Judgments Act established in Title 27, chapter 8. This section does not affect actions for declaratory judgments under 2-4-506."

Section 3. Section 15-1-408, MCA, is amended to read:

"15-1-408. Alternative remedy -- judgment. If the district court determines that the tax was illegally or unlawfully imposed or exceeded the taxing authority of the entity imposing the tax, the judgment may direct:

(1) that the revenue collected under the illegal tax be directly refunded to the taxpayers who have paid the illegal tax and who have not been excluded from the action;

(2) that the revenue collected under the illegal tax be used to reduce a similar levy in the ensuing tax year; or

(3) that the assessment be changed for the taxpayer or taxpayers who brought the action as well as for all similarly situated taxpayers; or

(4) such any other remedy as the court considers appropriate."

Section 4. Section 15-2-301, MCA, is amended to read:

"15-2-301. Appeal of county tax appeal board decisions.

(1) The county tax appeal board shall mail a copy of its decision to the taxpayer and to the property assessment division of the department of revenue. Any person or the department on behalf of the state or any municipal corporation aggrieved by the action of the county tax appeal board may appeal to the state board by filing with the state tax appeal board a notice of appeal within 30 calendar days after the receipt of the decision of the county board. The notice must specify the action complained of and the reasons

assigned for the complaint. Notice of acceptance of an appeal must be given to the county tax appeal board by the state tax appeal board. The state board shall set the appeal for hearing either in its office in the capital or the county seat as the board considers advisable to facilitate the performance of its duties or to accommodate parties in interest. The board shall give to the appellant and to the respondent at least 15 calendar days' notice of the time and place of the hearing.

(2) At the time of giving notice of acceptance of an appeal, the state board may require the county board to certify to it the minutes of the proceedings resulting in the action and all testimony taken in connection with its proceedings. The state board may, in its discretion, determine the appeal on the 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 appeal to one of its members or to a designated hearing officer. The board member or hearing officer may exercise all the powers of the board in conducting a hearing and shall, as soon as possible after the hearing, report the proceedings, together with a transcript or a tape recording of the hearing, to the board. The state board shall determine the appeal on the record.

(3) On all hearings at county seats throughout the state, the state board or the member or hearing officer designated to conduct a hearing may employ the local court reporter or other competent stenographer to take and transcribe the testimony received. The cost of taking and transcribing testimony may be paid out of the general appropriation for the board.

(4) In connection with any appeal under this section, the state board is not bound by common law and statutory rules of evidence or rules of discovery and may affirm, reverse, or modify any decision. ~~The decision of the state tax appeal board is final and binding upon all interested parties unless reversed or modified by judicial review.~~ To the extent this section is in conflict with the Montana Administrative Procedure Act, this section supersedes that act. The state tax appeal board may not amend or repeal any administrative rule of the department. The state tax appeal board shall give an administrative rule full effect unless the board finds a rule arbitrary, capricious, or otherwise unlawful.

(5) The decision of the state tax appeal board is final and binding upon all interested parties unless reversed or modified by judicial review. Proceedings for judicial review of a decision of the state tax appeal board under this section are subject to the provisions of 15-2-303 and the

Montana Administrative Procedure Act to the extent that it does not conflict with 15-2-303."

Section 5. Section 15-2-302, MCA, is amended to read:

"15-2-302. Direct appeal from department decision to state tax appeal board -- hearing. (1) A person may appeal to the state tax appeal board any final action of the department of revenue involving:

(a) property centrally assessed under chapter 23 of this title;

(b) classification of property as new industrial property;

(c) any other tax (other than the property tax) imposed under this title; or

(d) any other matter in which such the appeal is provided by law.

(2) The appeal is made by filing a complaint with the board within 30 days following receipt of notice of the department action. The complaint shall must set forth the grounds for relief and nature of relief demanded. The board shall immediately transmit a copy of the complaint to the department.

(3) The department shall file with the board an answer within 30 days following filing of a complaint and at such that time mail a copy to the complainant. The answer shall must set forth the department's response to each ground for

and type of relief demanded in the complaint.

(4) The board shall thereafter hear the parties in accordance with the contested case provisions of the Montana Administrative Procedure Act.

(5) The decision of the state tax appeal board is final and binding upon all interested parties unless reversed or modified by judicial review. Proceedings for judicial review of a decision of the state tax appeal board under this section are subject to the provisions of 15-2-303 and the Montana Administrative Procedure Act to the extent that it does not conflict with 15-2-303."

Section 6. Section 15-2-303, MCA, is amended to read:

"15-2-303. Judicial review of-contested-cases. (1) Any party to an appeal before the state tax appeal board who is aggrieved by a final decision in--a--contested--case is entitled to judicial review under this part.

(2) Proceedings for review ~~shall~~ must be instituted by filing a petition in district court in the county wherein in which the taxable property or some portion thereof of it is located (except the taxpayer may, ~~at his~~ has the option, to file in the district court of the first judicial district). ~~and--serving--a--copy--of--the--petition--on--the--department--of--revenue--or--taxpayer~~ A petition for judicial review must be filed within 60 days after service of the final decision of the state tax appeal board or, if a rehearing is requested,

within 60 days after service of the final decision thereon. Copies of the petition must be promptly served on all parties of record. The department of revenue shall promptly notify the state tax appeal board, in writing, of any judicial review, but failure to do so ~~shall have no~~ has no effect on the judicial review. The department of revenue shall, on request, submit to the state tax appeal board a copy of all pleadings and documents.

(3) If the judicial review involves a taxpayer who is seeking a refund of taxes paid under protest, the appealing party shall provide a copy of the petition to the treasurer of the county in which the taxable property or some portion of it is located, but failure to do so has no effect on the judicial review.

~~(3)(4)~~ (4) Notwithstanding ~~any other provision, proceedings~~ Proceedings for review of a decision by the state tax appeal board by a company under the jurisdiction of the public service commission ~~shall~~ must be instituted in the district court of the first judicial district.

~~(4)(5)~~ (5) Notwithstanding the provisions of 2-4-704(1), the court may, for good cause shown, permit additional evidence to be introduced."

Section 7. Section 15-2-306, MCA, is amended to read:

"15-2-306. Board may order refund. (1) In any appeal before the state tax appeal board when a taxpayer has paid

1 property taxes or license fees under written protest and the
 2 taxes or license fees are held by the treasurer of a unit of
 3 local government in a protest fund, the state tax appeal
 4 board shall enter judgment, exclusive of costs, if the board
 5 finds that the property taxes or license fees should be
 6 refunded.

7 (2) The state tax appeal board's judgment issued
 8 pursuant to subsection (1) shall must be held in abeyance:

9 (a) until the time period for appeal specified--in
 10 15-1-402(4) has passed; or

11 (b) if the final decision of the state tax appeal board
 12 has been appealed in accordance with 15-2-303."

13 **Section 8.** Section 15-15-101, MCA, is amended to read:

14 "15-15-101. County tax appeal board -- meetings and
 15 compensation. (1) The board of county commissioners of each
 16 county shall appoint a three-member county tax appeal board,
 17 with the members to serve staggered terms of 3 years each.
 18 The members of each county tax appeal board shall be
 19 residents of the county in which they serve. They shall
 20 receive compensation of \$45 a day and travel expenses, as
 21 provided for in 2-18-501 through 2-18-503, as amended, only
 22 when the county tax appeal board is in session to hear
 23 taxpayers' appeals from property tax assessments or when
 24 they are attending meetings called by the state tax appeal
 25 board. Travel expenses and compensation shall must be paid

1 from the appropriation to the state tax appeal board. Office
 2 space and equipment for the county tax appeal boards shall
 3 must be furnished by the county. All other incidental
 4 expenses shall must be paid from the appropriation of the
 5 state tax appeal board.

6 (2) The county tax appeal board shall hold an
 7 organizational meeting each year on the date of its first
 8 scheduled hearing, immediately before conducting the
 9 business for which the hearing was otherwise scheduled. It
 10 must continue in session from time to time to hear protests
 11 concerning assessments made by the department of revenue
 12 until the business of hearing protests is disposed of, but,
 13 except as provided in 15-2-201, not later than 60 days after
 14 the department of revenue or its agent:

15 (a) has mailed notice of classification and appraisal
 16 to all property owners and purchasers under contracts for
 17 deed as required in 15-7-102; and

18 (b) has notified the county tax appeal board that
 19 classification and appraisal notices have been mailed to all
 20 property owners and purchasers under contracts for deed.

21 (3) In connection with any such an appeal, the county
 22 tax appeal board may change any assessment or fix the
 23 assessment at some other level. The county clerk shall
 24 publish a notice to taxpayers, giving the time the county
 25 tax appeal board will meet to hear protests concerning

1 assessments and the latest date the county tax appeal board
2 may take applications for such the hearings. The notice
3 shall must be published in a newspaper if any is printed in
4 the county or, if none, then in such the manner as that the
5 board ~~may-direct~~ directs. The notice shall must be published
6 at least 7 days prior to the first meeting of the county tax
7 appeal board.

8 (4) Challenges to a department of revenue rule
9 governing the assessment of property or to an assessment
10 procedure shall apply only to the taxpayer bringing the
11 challenge and may not apply to all similarly situated
12 taxpayers unless an action is brought in the district court
13 as provided in ~~15-2-307-through-15-2-310~~ 15-1-406."

14 NEW SECTION. Section 9. Repealer. Sections 15-2-307,
15 15-2-308, 15-2-309, and 15-2-310, MCA, are repealed.

-End-

APPROVED BY COMMITTEE
ON TAXATION

SENATE BILL NO. 379

INTRODUCED BY DOHERTY, TOOLE, ELLIOTT, TOWE, HARP

A BILL FOR AN ACT ENTITLED: "AN ACT SIMPLIFYING TAX APPEAL PROCEDURES BEFORE THE STATE TAX APPEAL BOARD; AMENDING SECTIONS 15-1-402, 15-1-406, 15-1-408, 15-2-301, 15-2-302, 15-2-303, 15-2-306, AND 15-15-101, MCA; AND REPEALING SECTIONS 15-2-307, 15-2-308, 15-2-309, AND 15-2-310, MCA."

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 property tax or license fee is being imposed UNDER THIS TITLE may proceed--under 15-1-406--or--may, before the property tax or license fee becomes delinquent, pay under written protest that portion of the property tax or license fee protested. The protested payment must:

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

(b) specify the grounds of protest; and

(c) not exceed the difference between the payment for the immediately preceding tax year and the amount owing in the tax year protested unless a different amount results from the specified grounds of protest, which grounds may

include but are not limited to changes in assessment due to reappraisal under 15-7-111.

(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. A person appealing a property tax or fee pursuant to chapter 2 or 15 shall pay the tax or fee under protest when due as--a-condition-of-continuing-the appeal-before-the-county-tax-appeal-board-or-the--state--tax appeal-board~~ IN ORDER TO RECEIVE A REFUND. IF THE TAX OR FEE IS NOT PAID UNDER PROTEST WHEN DUE, THE APPEAL MAY CONTINUE BUT A TAX OR FEE MAY NOT BE REFUNDED AS A RESULT OF THE APPEAL.

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

1 †5†(3) If a protested property tax or license fee is
 2 payable in installments, a subsequent installment portion
 3 considered unlawful by the state tax appeal board need not
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 5 recover the subsequent installment. The determination of the
 6 action or suit commenced to recover the first installment
 7 portion paid under protest determines the right of the party
 8 paying such the subsequent installment to have the-same it
 9 or any part thereof of it refunded to him the party or the
 10 right of the taxing authority to collect a subsequent
 11 installment not paid by the taxpayer plus interest from the
 12 date the subsequent installment was due.

13 †6†(4) All property taxes and license fees paid under
 14 protest to a county or municipality must be deposited by the
 15 treasurer of the county or municipality to the credit of a
 16 special fund to be designated as a protest fund and must be
 17 retained in the protest fund until the final determination
 18 of any action or suit to recover the-same the taxes and fees
 19 unless they are released at the request of the county,
 20 municipality, or other local taxing jurisdiction pursuant to
 21 subsection †7† (5). Nothing-contained-herein-prohibits This
 22 section does not prohibit the investment of the money of
 23 this fund in the state unified investment program or in any
 24 manner provided in Title 7, chapter 6. The provision
 25 creating the special protest fund does not apply to any

1 payments made under protest directly to the state.

2 †7†(5) The governing board of a taxing jurisdiction
 3 affected by the payment of taxes under protest in the second
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 5 may demand that the treasurer of the county or municipality
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 15 board, state tax appeal board, or district court is not
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 18 department of revenue, county, or municipality, or treasurer
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 22 of the fund or funds to which the same property tax belongs,
 23 less a pro rata deduction for the costs of administration of
 24 the protest fund and related expenses charged the local
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(b) If such the action is finally determined adversely to the department of revenue, a county, or a municipality, or the treasurer thereof of a county or a municipality, then the treasurer shall, upon receiving a certified copy of the final judgment in said the 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 the judgment is rendered the amount of such the protested portions of the property tax or license fee deposited in the protest fund, and not released pursuant to subsection ~~(7)~~ (5), as the person holding such the judgment is entitled to recover, together with interest thereon from the date of payment under protest, at the greater of:

(i) the rate of interest generated from the pooled investment fund provided for in 17-6-203 for the applicable period; or

(ii) 6% a year.

(c) If the amount retained in the protest fund is insufficient to pay all sums due the taxpayer, the treasurer shall apply the available amount first to tax repayment, then interest owed, and lastly to costs.

(d) If the protest action is decided adversely to a taxing jurisdiction and the amount retained in the protest

fund is insufficient to refund the tax payments and costs to which the taxpayer is entitled and for which local government units are responsible, the treasurer shall bill and the taxing jurisdiction shall refund to the treasurer that portion of the taxpayer refund, including tax payments and costs, for which the taxing jurisdiction is proratably responsible.

(e) In satisfying the requirements of subsection ~~(8)(d)~~ (6)(d), the taxing jurisdiction is allowed not more than 1 year from the beginning of the fiscal year following a final resolution of the protest. The taxpayer is entitled to interest on the unpaid balance at the greater of the rates referred to in subsections ~~(8)(b)(i)~~ (6)(b)(i) and ~~(8)(b)(ii)~~ (6)(b)(ii) from the date of payment under protest until the date of final resolution of the protest and at the combined rate of the federal reserve discount rate quoted from the federal reserve bank in New York, New York, on the date of final resolution, plus four percentage points, from the date of final resolution of the protest until refund is made.

~~(9)(7)~~ A taxing jurisdiction may satisfy the requirements of this section by use of funds from one or more of the following sources:

(a) imposition of a property tax to be collected by a special tax protest refund levy;

(b) the general fund, except that amount generated by the all-purpose mill levy, or any other funds legally available to the governing body; and

(c) proceeds from the sale of bonds issued by a county, city, or school district for the purpose of deriving revenue for the repayment of tax protests lost by the taxing jurisdiction. The governing body of a county, city, or school district is hereby authorized to issue such the bonds pursuant to procedures established by law. The bonds may be issued without being submitted to an election. Property taxes may be levied to amortize the bonds."

Section 2. Section 15-1-406, MCA, is amended to read:

"15-1-406. ~~Alternative---~~remedy-----declaratory Declaratory judgment. (1) An aggrieved taxpayer may, ~~in lieu of---proceeding---under---15-1-402---or---15-1-211,~~ bring a declaratory judgment action in the district court seeking a declaration that:

(a) an administrative rule or method or procedure of assessment or imposition of tax adopted or used by the department of revenue is illegal or improper; or

(b) a tax levied authorized by the state or one of its subdivisions was illegally or unlawfully imposed or exceeded the taxing authority of the entity imposing the tax.

(2) The action must be brought within 90 days of the ~~imposition--of--the--tax~~ date THE NOTICE OF the tax DUE biii

~~for any portion of the challenged tax is first mailed~~ WAS SENT to the taxpayer or, in the case of an assessment covered by the uniform tax review procedure set forth in 15-1-211, within 90 days of the date of the department director's final decision. The court shall consolidate all actions brought under subsection (1) ~~which that~~ challenge the same tax levy. The decision of the court ~~shall--apply~~ applies to all similarly situated taxpayers except those taxpayers who are excluded under 15-1-407.

(3) The taxes that are being challenged under this section must be paid when due as a condition of continuing the action. Property taxes may be paid under protest as provided in 15-1-402.

(4) The remedy authorized by this section may not be used to challenge the:

(a) market value of property under a property tax unless the challenge is to the legality of a particular methodology that is being applied to similarly situated taxpayers; or

(b) legality of a tax other than a property tax, inheritance tax, or estate tax unless the review pursuant to 15-1-211 has been completed.

(5) The remedy authorized by this section is the exclusive method of obtaining a declaratory judgment concerning a tax authorized by the state or one of its

subdivisions. The remedy authorized by this section supersedes the Uniform Declaratory Judgments Act established in Title 27, chapter 8. This section does not affect actions for declaratory judgments under 2-4-506."

Section 3. Section 15-1-408, MCA, is amended to read:

"15-1-408. Alternative remedy -- judgment. If the district court determines that the tax was illegally or unlawfully imposed or exceeded the taxing authority of the entity imposing the tax, the judgment may direct:

(1) that the revenue collected under the illegal tax be directly refunded to the taxpayers who have paid the illegal tax and who have not been excluded from the action;

(2) that the revenue collected under the illegal tax be used to reduce a similar levy in the ensuing tax year; or

(3) that the assessment be changed for the taxpayer or taxpayers who brought the action as well as for all similarly situated taxpayers; or

(4) such any other remedy as the court considers appropriate."

Section 4. Section 15-2-301, MCA, is amended to read:

"15-2-301. Appeal of county tax appeal board decisions.

(1) The county tax appeal board shall mail a copy of its decision to the taxpayer and to the property assessment division of the department of revenue. Any person or the department on behalf of the state or any municipal

corporation aggrieved by the action of the county tax appeal board may appeal to the state board by filing with the state tax appeal board a notice of appeal within 30 calendar days after the receipt of the decision of the county board. The notice must specify the action complained of and the reasons assigned for the complaint. Notice of acceptance of an appeal must be given to the county tax appeal board by the state tax appeal board. The state board shall set the appeal for hearing either in its office in the capital or the county seat as the board considers advisable to facilitate the performance of its duties or to accommodate parties in interest. The board shall give to the appellant and to the respondent at least 15 calendar days' notice of the time and place of the hearing.

(2) At the time of giving notice of acceptance of an appeal, the state board may require the county board to certify to it the minutes of the proceedings resulting in the action and all testimony taken in connection with its proceedings. The state board may, in its discretion, determine the appeal on the 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 appeal to one of its members or to a designated hearing officer. The board member or

1 hearing officer may exercise all the powers of the board in
 2 conducting a hearing and shall, as soon as possible after
 3 the hearing, report the proceedings, together with a
 4 transcript or a tape recording of the hearing, to the board.
 5 The state board shall determine the appeal on the record.

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

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

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 4 of a decision of the state tax appeal board under this
 5 section are subject to the provisions of 15-2-303 and the
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 7 does not conflict with 15-2-303."

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9 "15-2-302. Direct appeal from department decision to
 10 state tax appeal board -- hearing. (1) A person may appeal
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 12 department of revenue involving:

13 (a) property centrally assessed under chapter 23 of
 14 this title;

15 (b) classification of property as new industrial
 16 property;

17 (c) any other tax (other than the property tax) imposed
 18 under this title; or

19 (d) any other matter in which such the appeal is
 20 provided by law.

21 (2) The appeal is made by filing a complaint with the
 22 board within 30 days following receipt of notice of the
 23 department action. The complaint ~~shall~~ must set forth the
 24 grounds for relief and nature of relief demanded. The board
 25 shall immediately transmit a copy of the complaint to the

department.

(3) The department shall file with the board an answer within 30 days following filing of a complaint and at such that time mail a copy to the complainant. The answer shall must set forth the department's response to each ground for and type of relief demanded in the complaint.

(4) The board shall thereafter hear the parties in accordance with the contested case provisions of the Montana Administrative Procedure Act.

(5) The decision of the state tax appeal board is final and binding upon all interested parties unless reversed or modified by judicial review. Proceedings for judicial review of a decision of the state tax appeal board under this section are subject to the provisions of 15-2-303 and the Montana Administrative Procedure Act to the extent that it does not conflict with 15-2-303.

Section 6. Section 15-2-303, MCA, is amended to read:

"15-2-303. Judicial review of-contested-cases. (1) Any party to an appeal before the state tax appeal board who is aggrieved by a final decision in--a--contested--case is entitled to judicial review under this part.

(2) Proceedings for review shall must be instituted by filing a petition in district court in the county wherein in which the taxable property or some portion thereof of it is located (except the taxpayer may, at-his has the option, to

file in the district court of the first judicial district). and-serving-a-copy-of-the--petition--on--the--department--of revenue--or--taxpayer A petition for judicial review must be filed within 60 days after service of the final decision of the state tax appeal board or, if a rehearing is requested, within 60 days after service of the final decision thereon. Copies of the petition must be promptly served on all parties of record. The department of revenue shall promptly notify the state tax appeal board, in writing, of any judicial review, but failure to do so shall-have-no has no effect on the judicial review. The department of revenue shall, on request, submit to the state tax appeal board a copy of all pleadings and documents.

(3) If the judicial review involves a taxpayer who is seeking a refund of taxes paid under protest, the appealing party shall provide a copy of the petition to the treasurer of the county in which the taxable property or some portion of it is located, but failure to do so has no effect on the judicial review.

(3)(4) Notwithstanding-any-other-provision, proceedings Proceedings for review of a decision by the state tax appeal board by a company under the jurisdiction of the public service commission shall must be instituted in the district court of the first judicial district.

(4)(5) Notwithstanding the provisions of 2-4-704(1),

the court may, for good cause shown, permit additional evidence to be introduced."

Section 7. Section 15-2-306, MCA, is amended to read:

"15-2-306. Board may order refund. (1) In any appeal before the state tax appeal board when a taxpayer has paid property taxes or license fees under written protest and the taxes or license fees are held by the treasurer of a unit of local government in a protest fund, the state tax appeal board shall enter judgment, exclusive of costs, if the board finds that the property taxes or license fees should be refunded.

(2) The state tax appeal board's judgment issued pursuant to subsection (1) shall must be held in abeyance:

(a) until the time period for appeal ~~specified in 15-1-402(4)~~ has passed; or

(b) if the final decision of the state tax appeal board has been appealed in accordance with 15-2-303."

Section 8. Section 15-15-101, MCA, is amended to read:

"15-15-101. County tax appeal board -- meetings and compensation. (1) The board of county commissioners of each county shall appoint a three-member county tax appeal board, with the members to serve staggered terms of 3 years each. The members of each county tax appeal board shall be residents of the county in which they serve. They shall receive compensation of \$45 a day and travel expenses, as

provided for in 2-18-501 through 2-18-503, ~~as amended~~, only when the county tax appeal board is in session to hear taxpayers' appeals from property tax assessments or when they are attending meetings called by the state tax appeal board. Travel expenses and compensation shall must be paid from the appropriation to the state tax appeal board. Office space and equipment for the county tax appeal boards shall must be furnished by the county. All other incidental expenses shall must be paid from the appropriation of the state tax appeal board.

(2) The county tax appeal board shall hold an organizational meeting each year on the date of its first scheduled hearing, immediately before conducting the business for which the hearing was otherwise scheduled. It must continue in session from time to time to hear protests concerning assessments made by the department of revenue until the business of hearing protests is disposed of, but, except as provided in 15-2-201, not later than 60 days after the department of revenue or its agent:

(a) has mailed notice of classification and appraisal to all property owners and purchasers under contracts for deed as required in 15-7-102; and

(b) has notified the county tax appeal board that classification and appraisal notices have been mailed to all property owners and purchasers under contracts for deed.

(3) In connection with ~~any-such~~ an appeal, the county tax appeal board may change any assessment or fix the assessment at some other level. The county clerk shall publish a notice to taxpayers, giving the time the county tax appeal board will meet to hear protests concerning assessments and the latest date the county tax appeal board may take applications for ~~such~~ the hearings. The notice ~~shall~~ must be published in a newspaper if any is printed in the county or, if none, then in ~~such~~ the manner ~~as that~~ the COUNTY TAX APPEAL board ~~may-direct~~ directs. The notice ~~shall~~ must be published at least 7 days prior to the first meeting of the county tax appeal board.

(4) Challenges to a department of revenue rule governing the assessment of property or to an assessment procedure ~~shall~~ apply only to the taxpayer bringing the challenge and may not apply to all similarly situated taxpayers unless an action is brought in the district court as provided in ~~15-2-307-through-15-2-310~~ 15-1-406."

NEW SECTION. **Section 9. Repealer.** Sections 15-2-307, 15-2-308, 15-2-309, and 15-2-310, MCA, are repealed.

-End-

SENATE BILL NO. 379

INTRODUCED BY DOHERTY, TOOLE, ELLIOTT, TOWE, HARP

A BILL FOR AN ACT ENTITLED: "AN ACT SIMPLIFYING TAX APPEAL PROCEDURES BEFORE THE STATE TAX APPEAL BOARD; AMENDING SECTIONS 15-1-402, 15-1-406, 15-1-408, 15-2-301, 15-2-302, 15-2-303, 15-2-306, AND 15-15-101, MCA; AND REPEALING SECTIONS 15-2-307, 15-2-308, 15-2-309, AND 15-2-310, MCA."

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 property tax or license fee is being imposed UNDER THIS TITLE may proceed--under 15-1-406--or--may, before the property tax or license fee becomes delinquent, pay under written protest that portion of the property tax or license fee protested. The protested payment must:

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

(b) specify the grounds of protest; and

(c) not exceed the difference between the payment for the immediately preceding tax year and the amount owing in the tax year protested unless a different amount results from the specified grounds of protest, which grounds may

include but are not limited to changes in assessment due to reappraisal under 15-7-111.

(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. A person appealing a property tax or fee pursuant to chapter 2 or 15 shall pay the tax or fee under protest when due as--a-condition-of-continuing-the appeal-before-the-county-tax-appeal-board-or-the-state-tax appeal-board IN ORDER TO RECEIVE A REFUND. IF THE TAX OR FEE IS NOT PAID UNDER PROTEST WHEN DUE, THE APPEAL MAY CONTINUE BUT A TAX OR FEE MAY NOT BE REFUNDED AS A RESULT OF THE APPEAL.

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

1 †5†(3) If a protested property tax or license fee is
 2 payable in installments, a subsequent installment portion
 3 considered unlawful by the state tax appeal board need not
 4 be paid and no an action or suit need not be commenced to
 5 recover the subsequent installment. The determination of the
 6 action or suit commenced to recover the first installment
 7 portion paid under protest determines the right of the party
 8 paying such the subsequent installment to have the same it
 9 or any part thereof of it refunded to him the party or the
 10 right of the taxing authority to collect a subsequent
 11 installment not paid by the taxpayer plus interest from the
 12 date the subsequent installment was due.

13 †6†(4) All property taxes and license fees paid under
 14 protest to a county or municipality must be deposited by the
 15 treasurer of the county or municipality to the credit of a
 16 special fund to be designated as a protest fund and must be
 17 retained in the protest fund until the final determination
 18 of any action or suit to recover the same the taxes and fees
 19 unless they are released at the request of the county,
 20 municipality, or other local taxing jurisdiction pursuant to
 21 subsection †7† (5). Nothing contained herein prohibits This
 22 section does not prohibit the investment of the money of
 23 this fund in the state unified investment program or in any
 24 manner provided in Title 7, chapter 6. The provision
 25 creating the special protest fund does not apply to any

1 payments made under protest directly to the state.

2 †7†(5) The governing board of a taxing jurisdiction
 3 affected by the payment of taxes under protest in the second
 4 and subsequent years that a tax protest remains unresolved
 5 may demand that the treasurer of the county or municipality
 6 pay the requesting taxing jurisdiction all or a portion of
 7 the protest payments to which it is entitled, except the
 8 amount paid by the taxpayer in the first year of the
 9 protest. The decision in a previous year of a taxing
 10 jurisdiction to leave protested taxes in the protest fund
 11 does not preclude it from demanding in a subsequent year any
 12 or all of the payments to which it is entitled, except the
 13 first-year protest amount.

14 †8†(6) (a) If no action before the county tax appeal
 15 board, state tax appeal board, or district court is not
 16 commenced within the time herein specified or if such the
 17 action is commenced and finally determined in favor of the
 18 department of revenue, county, or municipality, or treasurer
 19 thereof of the county or the municipality, the amount of the
 20 protested portions of the property tax or license fee must
 21 be taken from the protest fund and deposited to the credit
 22 of the fund or funds to which the same property tax belongs,
 23 less a pro rata deduction for the costs of administration of
 24 the protest fund and related expenses charged the local
 25 government units.

(b) If such the action is finally determined adversely to the department of revenue, a county, or a municipality, or the treasurer thereof of a county or a municipality, then the treasurer shall, upon receiving a certified copy of the final judgment in said the 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 the judgment is rendered the amount of such the protested portions of the property tax or license fee deposited in the protest fund, and not released pursuant to subsection ~~(7)~~ (5), as the person holding such the judgment is entitled to recover, together with interest thereon from the date of payment under protest, at the greater of:

(i) the rate of interest generated from the pooled investment fund provided for in 17-6-203 for the applicable period; or

(ii) 6% a year.

(c) If the amount retained in the protest fund is insufficient to pay all sums due the taxpayer, the treasurer shall apply the available amount first to tax repayment, then interest owed, and lastly to costs.

(d) If the protest action is decided adversely to a taxing jurisdiction and the amount retained in the protest

fund is insufficient to refund the tax payments and costs to which the taxpayer is entitled and for which local government units are responsible, the treasurer shall bill and the taxing jurisdiction shall refund to the treasurer that portion of the taxpayer refund, including tax payments and costs, for which the taxing jurisdiction is proratably responsible.

(e) In satisfying the requirements of subsection ~~(8)(d)~~ (6)(d), the taxing jurisdiction is allowed not more than 1 year from the beginning of the fiscal year following a final resolution of the protest. The taxpayer is entitled to interest on the unpaid balance at the greater of the rates referred to in subsections ~~(8)(b)(i)~~ (6)(b)(i) and ~~(8)(b)(ii)~~ (6)(b)(ii) from the date of payment under protest until the date of final resolution of the protest and at the combined rate of the federal reserve discount rate quoted from the federal reserve bank in New York, New York, on the date of final resolution, plus four percentage points, from the date of final resolution of the protest until refund is made.

~~(9)(7)~~ A taxing jurisdiction may satisfy the requirements of this section by use of funds from one or more of the following sources:

(a) imposition of a property tax to be collected by a special tax protest refund levy;

(b) the general fund, except that amount generated by the all-purpose mill levy, or any other funds legally available to the governing body; and

(c) proceeds from the sale of bonds issued by a county, city, or school district for the purpose of deriving revenue for the repayment of tax protests lost by the taxing jurisdiction. The governing body of a county, city, or school district is hereby authorized to issue such the bonds pursuant to procedures established by law. The bonds may be issued without being submitted to an election. Property taxes may be levied to amortize the bonds."

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"15-2-306. Board may order refund. (1) In any appeal before the state tax appeal board when a taxpayer has paid property taxes or license fees under written protest and the taxes or license fees are held by the treasurer of a unit of local government in a protest fund, the state tax appeal board shall enter judgment, exclusive of costs, if the board finds that the property taxes or license fees should be refunded.

(2) The state tax appeal board's judgment issued pursuant to subsection (1) ~~shall~~ must be held in abeyance:

(a) until the time period for appeal ~~specified in 15-1-402(4)~~ has passed; or

(b) if the final decision of the state tax appeal board has been appealed in accordance with 15-2-303."

Section 8. Section 15-15-101, MCA, is amended to read:

"15-15-101. County tax appeal board -- meetings and compensation. (1) The board of county commissioners of each county shall appoint a three-member county tax appeal board, with the members to serve staggered terms of 3 years each. The members of each county tax appeal board shall be residents of the county in which they serve. They shall receive compensation of \$45 a day and travel expenses, as

provided for in 2-18-501 through 2-18-503, as-amended, only when the county tax appeal board is in session to hear taxpayers' appeals from property tax assessments or when they are attending meetings called by the state tax appeal board. Travel expenses and compensation ~~shall~~ must be paid from the appropriation to the state tax appeal board. Office space and equipment for the county tax appeal boards ~~shall~~ must be furnished by the county. All other incidental expenses ~~shall~~ must be paid from the appropriation of the state tax appeal board.

(2) The county tax appeal board shall hold an organizational meeting each year on the date of its first scheduled hearing, immediately before conducting the business for which the hearing was otherwise scheduled. It must continue in session from time to time to hear protests concerning assessments made by the department of revenue until the business of hearing protests is disposed of, but, except as provided in 15-2-201, not later than 60 days after the department of revenue or its agent:

(a) has mailed notice of classification and appraisal to all property owners and purchasers under contracts for deed as required in 15-7-102; and

(b) has notified the county tax appeal board that classification and appraisal notices have been mailed to all property owners and purchasers under contracts for deed.

1 (3) In connection with ~~any-such an~~ appeal, the county
 2 tax appeal board may change any assessment or fix the
 3 assessment at some other level. The county clerk shall
 4 publish a notice to taxpayers, giving the time the county
 5 tax appeal board will meet to hear protests concerning
 6 assessments and the latest date the county tax appeal board
 7 may take applications for ~~such the~~ hearings. The notice
 8 ~~shall~~ must be published in a newspaper if any is printed in
 9 the county or, if none, then in ~~such the manner as that~~ the
 10 COUNTY TAX APPEAL board ~~may-direct~~ directs. The notice ~~shall~~
 11 must be published at least 7 days prior to the first meeting
 12 of the county tax appeal board.

13 (4) Challenges to a department of revenue rule
 14 governing the assessment of property or to an assessment
 15 procedure ~~shall~~ apply only to the taxpayer bringing the
 16 challenge and may not apply to all similarly situated
 17 taxpayers unless an action is brought in the district court
 18 as provided in ~~15-2-307-through-15-2-310~~ 15-1-406."

19 NEW SECTION. Section 9. Repealer. Sections 15-2-307,
 20 15-2-308, 15-2-309, and 15-2-310, MCA, are repealed.

-End-

HOUSE STANDING COMMITTEE REPORT

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Mr. Speaker: We, the committee on Taxation report that Senate Bill 379 (third reading copy -- blue) be concurred in as amended.

Signed: Bob Gilbert
Bob Gilbert, Chair

Carried by: Rep. Elliott

And, that such amendments read:

1. Title, line 7.
Following: "15-2-306,"
Insert: "15-7-102,"

2. Page 15.
Following: line 17
Insert: "Section 8. Section 15-7-102, MCA, is amended to read:
"15-7-102. Notice of classification and appraisal to owners
-- appeals. (1) It ~~shall be~~ is the duty of the department of
revenue, through its agent as specified in subsection (2), to
cause to be mailed to each owner and purchaser under contract for
deed a notice of the classification of the land owned or being
purchased ~~by him~~ and the appraisal of the improvements on the
land only if one or more of the following changes pertaining to
the land or improvements have been made since the last notice:
(a) change in ownership;
(b) change in classification;
(c) change in valuation; or
(d) addition or subtraction of personal property affixed to
the land.

(2)(a) The county assessor shall assign each assessment to
the correct owner or purchaser under contract for deed and mail
the notice of classification and appraisal on a standardized
form, adopted by the department, containing sufficient
information in a comprehensible manner designed to fully inform
the taxpayer as to the classification and appraisal of ~~his~~ the
property and of changes over the prior tax year.

(b) The notice must advise the taxpayer that in order to be
eligible for a refund of taxes from an appeal of the
classification or appraisal, the taxpayer is required to pay the
taxes under protest as provided in 15-1-402.

(3) If the owner of any land and improvements is
dissatisfied with the appraisal as it reflects the market value
of the property as determined by the department or with the
classification of his land or improvements, ~~he~~ the owner may
submit ~~his~~ an objection in writing to the department's agent. In
an objection to the appraisal of the property, the department may
consider the actual selling price of the property, independent
appraisals of the property, and other relevant information
presented by the taxpayer as evidence of the market value of the
property. The department shall give reasonable notice to the
taxpayer of the time and place of hearing and hear any testimony
or other evidence that the taxpayer may desire to produce at that
time and afford the opportunity to other interested persons to
produce evidence at the hearing. After the hearing, the
department shall determine the true and correct appraisal and
classification of the land or improvements and notify the
taxpayer of its determination. In the notification, the
department ~~must~~ shall state its reasons for revising the
classification or appraisal. When the proper appraisal and
classification have been determined, the land ~~shall~~ must be
classified and the improvements appraised in the manner ordered
by the department.

(4) Whether a hearing as provided in subsection (3) is held
or not, the department or its agent may not adjust an appraisal
or classification upon taxpayer's objection unless:

(a) the taxpayer has submitted ~~his~~ an objection in writing;
and

(b) the department or its agent has stated its reason in
writing for making the adjustment.

(5) A taxpayer's written objection to a classification or
appraisal and the department's notification to the taxpayer of
its determination and the reason for that determination are
public records. Each county appraiser shall make the records
available for inspection during regular office hours.

(6) If any property owner feels aggrieved at the
classification and/or the appraisal made by the department, ~~he~~
~~shall have~~ the owner has the right to appeal to the county tax
appeal board and then to the state tax appeal board, whose
findings ~~shall be~~ are final subject to the right of review in the
courts. The property owner may appeal the base valuation and the
classification determination. A county tax appeal board or the
state tax appeal board may consider the actual selling price of
the property, independent appraisals of the property, and other
relevant information presented by the taxpayer as evidence of the
market value of the property. If the county tax appeal board or

Committee Vote:
Yes 18, No 2.

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the state tax appeal board determines that an adjustment should be made, the department shall adjust the base value of the property in accordance with the board's order.""
Renumber: subsequent sections

-END-

SENATE BILL NO. 379

INTRODUCED BY DOHERTY, TOOLE, ELLIOTT, TOWE, HARP

A BILL FOR AN ACT ENTITLED: "AN ACT SIMPLIFYING TAX APPEAL PROCEDURES BEFORE THE STATE TAX APPEAL BOARD; AMENDING SECTIONS 15-1-402, 15-1-406, 15-1-408, 15-2-301, 15-2-302, 15-2-303, 15-2-306, 15-7-102, AND 15-15-101, MCA; AND REPEALING SECTIONS 15-2-307, 15-2-308, 15-2-309, AND 15-2-310, MCA."

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 property tax or license fee is being imposed UNDER THIS TITLE may proceed-under-15-1-406-or-may, before the property tax or license fee becomes delinquent, pay under written protest that portion of the property tax or license fee protested. The protested payment must:

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

(b) specify the grounds of protest; and

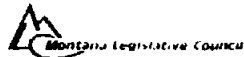
(c) not exceed the difference between the payment for the immediately preceding tax year and the amount owing in the tax year protested unless a different amount results

from the specified grounds of protest, which grounds may include but are not limited to changes in assessment due to reappraisal under 15-7-111.

(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. A person appealing a property tax or fee pursuant to chapter 2 or 15 shall pay the tax or fee under protest when due as a condition of continuing the appeal before the county tax appeal board or the state tax appeal board IN ORDER TO RECEIVE A REFUND. IF THE TAX OR FEE IS NOT PAID UNDER PROTEST WHEN DUE, THE APPEAL MAY CONTINUE BUT A TAX OR FEE MAY NOT BE REFUNDED AS A RESULT OF THE APPEAL.~~

~~{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}--An action instituted to recover any such portions of tax or license fee paid under protest must be commenced and summons timely served within 60 days after the date of~~



~~the final decision of the state tax appeal board.~~

{5}(3) If a protested property tax or license fee is payable in installments, a subsequent installment portion considered unlawful by the state tax appeal board need not be paid and no an action or suit need not be commenced to recover the subsequent installment. The determination of the action or suit commenced to recover the first installment portion paid under protest determines the right of the party paying such the subsequent installment to have the--same it or any part thereof of it refunded to him the party 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}(4) All property taxes and license fees paid under protest to a county or municipality must 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 must be retained in the protest fund until the final determination of any action or suit to recover the same the taxes and fees unless they are released at the request of the county, municipality, or other local taxing jurisdiction pursuant to subsection {7}(5). Nothing contained herein prohibits This section does not prohibit the investment of the money of this fund in the state unified investment program or in any manner provided in Title 7, chapter 6. The provision

creating the special protest fund does not apply to any payments made under protest directly to the state.

{7}(5) The governing board of a taxing jurisdiction affected by the payment of taxes under protest in the second and subsequent years that a tax protest remains unresolved may demand that the treasurer of the county or municipality pay the requesting taxing jurisdiction all or a portion of the protest payments to which it is entitled, except the amount paid by the taxpayer in the first year of the protest. The decision in a previous year of a taxing jurisdiction to leave protested taxes in the protest fund does not preclude it from demanding in a subsequent year any or all of the payments to which it is entitled, except the first-year protest amount.

{8}(6) (a) If no action before the county tax appeal board, state tax appeal board, or district court is not commenced within the time herein specified or if such the action is commenced and finally determined in favor of the department of revenue, county, or municipality, or treasurer thereof of the county or the municipality, the amount of the protested portions of the property tax or license fee must be taken from the protest fund and deposited to the credit of the fund or funds to which the same property tax belongs, less a pro rata deduction for the costs of administration of the protest fund and related expenses charged the local

government units.

(b) If such the action is finally determined adversely to the department of revenue, a county, or a municipality, or the treasurer thereof of a county or a municipality, then the treasurer shall, upon receiving a certified copy of the final judgment in said the 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 the judgment is rendered the amount of such the protested portions of the property tax or license fee deposited in the protest fund, and not released pursuant to subsection {7} (5), as the person holding such the judgment is entitled to recover, together with interest thereon from the date of payment under protest, at the greater of:

(i) the rate of interest generated from the pooled investment fund provided for in 17-6-203 for the applicable period; or

(ii) 6% a year.

(c) If the amount retained in the protest fund is insufficient to pay all sums due the taxpayer, the treasurer shall apply the available amount first to tax repayment, then interest owed, and lastly to costs.

(d) If the protest action is decided adversely to a

taxing jurisdiction and the amount retained in the protest fund is insufficient to refund the tax payments and costs to which the taxpayer is entitled and for which local government units are responsible, the treasurer shall bill and the taxing jurisdiction shall refund to the treasurer that portion of the taxpayer refund, including tax payments and costs, for which the taxing jurisdiction is proratably responsible.

(e) In satisfying the requirements of subsection {8}{d} (6){d}, the taxing jurisdiction is allowed not more than 1 year from the beginning of the fiscal year following a final resolution of the protest. The taxpayer is entitled to interest on the unpaid balance at the greater of the rates referred to in subsections {8}{b}{i} (6){b}{i} and {8}{b}{ii} (6){b}{ii} from the date of payment under protest until the date of final resolution of the protest and at the combined rate of the federal reserve discount rate quoted from the federal reserve bank in New York, New York, on the date of final resolution, plus four percentage points, from the date of final resolution of the protest until refund is made.

{9}(7) A taxing jurisdiction may satisfy the requirements of this section by use of funds from one or more of the following sources:

(a) imposition of a property tax to be collected by a

1 special tax protest refund levy;

2 (b) the general fund, except that amount generated by
3 the all-purpose mill levy, or any other funds legally
4 available to the governing body; and

5 (c) proceeds from the sale of bonds issued by a county,
6 city, or school district for the purpose of deriving revenue
7 for the repayment of tax protests lost by the taxing
8 jurisdiction. The governing body of a county, city, or
9 school district is hereby authorized to issue such the bonds
10 pursuant to procedures established by law. The bonds may be
11 issued without being submitted to an election. Property
12 taxes may be levied to amortize the bonds."

13 **Section 2.** Section 15-1-406, MCA, is amended to read:

14 "15-1-406. ~~Alternative-----remedy-----declaratory~~
15 Declaratory judgment. (1) An aggrieved taxpayer may, ~~in lieu~~
16 ~~of--proceeding--under--15-1-402---or---15-1-211~~, bring a
17 declaratory judgment action in the district court seeking a
18 declaration that:

19 (a) an administrative rule or method or procedure of
20 assessment or imposition of tax adopted or used by the
21 department of revenue is illegal or improper; or

22 (b) a tax levied authorized by the state or one of its
23 subdivisions was illegally or unlawfully imposed or exceeded
24 the taxing authority of the entity imposing the tax.

25 (2) The action must be brought within 90 days of the

1 ~~imposition-of-the-tax date~~ THE NOTICE OF the tax DUE bill
2 ~~for--any--portion--of-the-challenged-tax-is-first-mailed~~ WAS
3 SENT to the taxpayer or, in the case of an assessment
4 covered by the uniform tax review procedure set forth in
5 15-1-211, within 90 days of the date of the department
6 director's final decision. The court shall consolidate all
7 actions brought under subsection (1) ~~which that~~ challenge
8 the same tax levy. The decision of the court ~~shall apply~~
9 applies to all similarly situated taxpayers except those
10 taxpayers who are excluded under 15-1-407.

11 (3) The taxes that are being challenged under this
12 section must be paid when due as a condition of continuing
13 the action. Property taxes may be paid under protest as
14 provided in 15-1-402.

15 (4) The remedy authorized by this section may not be
16 used to challenge the:

17 (a) market value of property under a property tax
18 unless the challenge is to the legality of a particular
19 methodology that is being applied to similarly situated
20 taxpayers; or

21 (b) legality of a tax other than a property tax,
22 inheritance tax, or estate tax unless the review pursuant to
23 15-1-211 has been completed.

24 (5) The remedy authorized by this section is the
25 exclusive method of obtaining a declaratory judgment

concerning a tax authorized by the state or one of its subdivisions. The remedy authorized by this section supersedes the Uniform Declaratory Judgments Act established in Title 27, chapter 8. This section does not affect actions for declaratory judgments under 2-4-506."

Section 3. Section 15-1-408, MCA, is amended to read:

"15-1-408. Alternative remedy -- judgment. If the district court determines that the tax was illegally or unlawfully imposed or exceeded the taxing authority of the entity imposing the tax, the judgment may direct:

(1) that the revenue collected under the illegal tax be directly refunded to the taxpayers who have paid the illegal tax and who have not been excluded from the action;

(2) that the revenue collected under the illegal tax be used to reduce a similar levy in the ensuing tax year; or

(3) that the assessment be changed for the taxpayer or taxpayers who brought the action as well as for all similarly situated taxpayers; or

(4) such any other remedy as the court considers appropriate."

Section 4. Section 15-2-301, MCA, is amended to read:

"15-2-301. Appeal of county tax appeal board decisions.

(1) The county tax appeal board shall mail a copy of its decision to the taxpayer and to the property assessment division of the department of revenue. Any person or the

department on behalf of the state or any municipal corporation aggrieved by the action of the county tax appeal board may appeal to the state board by filing with the state tax appeal board a notice of appeal within 30 calendar days after the receipt of the decision of the county board. The notice must specify the action complained of and the reasons assigned for the complaint. Notice of acceptance of an appeal must be given to the county tax appeal board by the state tax appeal board. The state board shall set the appeal for hearing either in its office in the capital or the county seat as the board considers advisable to facilitate the performance of its duties or to accommodate parties in interest. The board shall give to the appellant and to the respondent at least 15 calendar days' notice of the time and place of the hearing.

(2) At the time of giving notice of acceptance of an appeal, the state board may require the county board to certify to it the minutes of the proceedings resulting in the action and all testimony taken in connection with its proceedings. The state board may, in its discretion, determine the appeal on the 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 appeal to one of its members

or to a designated hearing officer. The board member or hearing officer may exercise all the powers of the board in conducting a hearing and shall, as soon as possible after the hearing, report the proceedings, together with a transcript or a tape recording of the hearing, to the board. The state board shall determine the appeal on the record.

(3) On all hearings at county seats throughout the state, the state board or the member or hearing officer designated to conduct a hearing may employ the local court reporter or other competent stenographer to take and transcribe the testimony received. The cost of taking and transcribing testimony may be paid out of the general appropriation for the board.

(4) In connection with any appeal under this section, the state board is not bound by common law and statutory rules of evidence or rules of discovery and may affirm, reverse, or modify any decision. ~~The decision of the state tax appeal board is final and binding upon all interested parties unless reversed or modified by judicial review.~~ To the extent this section is in conflict with the Montana Administrative Procedure Act, this section supersedes that act. The state tax appeal board may not amend or repeal any administrative rule of the department. The state tax appeal board shall give an administrative rule full effect unless the board finds a rule arbitrary, capricious, or otherwise

unlawful.

(5) The decision of the state tax appeal board is final and binding upon all interested parties unless reversed or modified by judicial review. Proceedings for judicial review of a decision of the state tax appeal board under this section are subject to the provisions of 15-2-303 and the Montana Administrative Procedure Act to the extent that it does not conflict with 15-2-303.

Section 5. Section 15-2-302, MCA, is amended to read:

"15-2-302. Direct appeal from department decision to state tax appeal board -- hearing. (1) A person may appeal to the state tax appeal board any final action of the department of revenue involving:

(a) property centrally assessed under chapter 23 of this title;

(b) classification of property as new industrial property;

(c) any other tax (other than the property tax) imposed under this title; or

(d) any other matter in which such the appeal is provided by law.

(2) The appeal is made by filing a complaint with the board within 30 days following receipt of notice of the department action. The complaint ~~shall~~ must set forth the grounds for relief and nature of relief demanded. The board

shall immediately transmit a copy of the complaint to the department.

(3) The department shall file with the board an answer within 30 days following filing of a complaint and at such that time mail a copy to the complainant. The answer ~~shall~~ must set forth the department's response to each ground for and type of relief demanded in the complaint.

(4) The board shall thereafter hear the parties in accordance with the contested case provisions of the Montana Administrative Procedure Act.

(5) The decision of the state tax appeal board is final and binding upon all interested parties unless reversed or modified by judicial review. Proceedings for judicial review of a decision of the state tax appeal board under this section are subject to the provisions of 15-2-303 and the Montana Administrative Procedure Act to the extent that it does not conflict with 15-2-303."

Section 6. Section 15-2-303, MCA, is amended to read:

"15-2-303. Judicial review of-contested-cases. (1) Any party to an appeal before the state tax appeal board who is aggrieved by a final decision ~~in--a--contested--case~~ is entitled to judicial review under this part.

(2) Proceedings for review ~~shall~~ must be instituted by filing a petition in district court in the county ~~wherein~~ in which the taxable property or some portion thereof of it is

located (except the taxpayer ~~may--at--his~~ has the option to file in the district court of the first judicial district). ~~and--serving--a--copy--of--the--petition--on--the--department--of--revenue--or--taxpayer~~ A petition for judicial review must be filed within 60 days after service of the final decision of the state tax appeal board or, if a rehearing is requested, within 60 days after service of the final decision thereon. Copies of the petition must be promptly served on all parties of record. The department of revenue shall promptly notify the state tax appeal board, in writing, of any judicial review, but failure to do so ~~shall--have--no~~ has no effect on the judicial review. The department of revenue shall, on request, submit to the state tax appeal board a copy of all pleadings and documents.

(3) If the judicial review involves a taxpayer who is seeking a refund of taxes paid under protest, the appealing party shall provide a copy of the petition to the treasurer of the county in which the taxable property or some portion of it is located, but failure to do so has no effect on the judicial review.

~~(3)(4)~~ (4) Notwithstanding-any-other-provision, proceedings Proceedings for review of a decision by the state tax appeal board by a company under the jurisdiction of the public service commission ~~shall~~ must be instituted in the district court of the first judicial district.

1 ~~†4†~~(5) Notwithstanding the provisions of 2-4-704(1),
2 the court may, for good cause shown, permit additional
3 evidence to be introduced."

4 **Section 7.** Section 15-2-306, MCA, is amended to read:

5 "15-2-306. Board may order refund. (1) In any appeal
6 before the state tax appeal board when a taxpayer has paid
7 property taxes or license fees under written protest and the
8 taxes or license fees are held by the treasurer of a unit of
9 local government in a protest fund, the state tax appeal
10 board shall enter judgment, exclusive of costs, if the board
11 finds that the property taxes or license fees should be
12 refunded.

13 (2) The state tax appeal board's judgment issued
14 pursuant to subsection (1) shall must be held in abeyance:

15 (a) until the time period for appeal specified--in
16 15-1-402†4† has passed; or

17 (b) if the final decision of the state tax appeal board
18 has been appealed in accordance with 15-2-303."

19 **SECTION 8. SECTION 15-7-102, MCA, IS AMENDED TO READ:**

20 "15-7-102. Notice of classification and appraisal to
21 owners -- appeals. (1) It shall--be is the duty of the
22 department of revenue, through its agent as specified in
23 subsection (2), to cause to be mailed to each owner and
24 purchaser under contract for deed a notice of the
25 classification of the land owned or being purchased by--him

1 and the appraisal of the improvements on the land only if
2 one or more of the following changes pertaining to the land
3 or improvements have been made since the last notice:

4 (a) change in ownership;

5 (b) change in classification;

6 (c) change in valuation; or

7 (d) addition or subtraction of personal property
8 affixed to the land.

9 (2) (a) The county assessor shall assign each
10 assessment to the correct owner or purchaser under contract
11 for deed and mail the notice of classification and appraisal
12 on a standardized form, adopted by the department,
13 containing sufficient information in a comprehensible manner
14 designed to fully inform the taxpayer as to the
15 classification and appraisal of his the property and of
16 changes over the prior tax year.

17 (b) The notice must advise the taxpayer that in order
18 to be eligible for a refund of taxes from an appeal of the
19 classification or appraisal, the taxpayer is required to pay
20 the taxes under protest as provided in 15-1-402.

21 (3) If the owner of any land and improvements is
22 dissatisfied with the appraisal as it reflects the market
23 value of the property as determined by the department or
24 with the classification of his land or improvements, he the
25 owner may submit his an objection in writing to the

department's agent. In an objection to the appraisal of the property, the department may consider the actual selling price of the property, independent appraisals of the property, and other relevant information presented by the taxpayer as evidence of the market value of the property. The department shall give reasonable notice to the taxpayer of the time and place of hearing and hear any testimony or other evidence that the taxpayer may desire to produce at that time and afford the opportunity to other interested persons to produce evidence at the hearing. After the hearing, the department shall determine the true and correct appraisal and classification of the land or improvements and notify the taxpayer of its determination. In the notification, the department must shall state its reasons for revising the classification or appraisal. When the proper appraisal and classification have been determined, the land ~~shall~~ must be classified and the improvements appraised in the manner ordered by the department.

(4) Whether a hearing as provided in subsection (3) is held or not, the department or its agent may not adjust an appraisal or classification upon taxpayer's objection unless:

(a) the taxpayer has submitted his an objection in writing; and

(b) the department or its agent has stated its reason

in writing for making the adjustment.

(5) A taxpayer's written objection to a classification or appraisal and the department's notification to the taxpayer of its determination and the reason for that determination are public records. Each county appraiser shall make the records available for inspection during regular office hours.

(6) If any property owner feels aggrieved at the classification and/or the appraisal made by the department, ~~he shall--have~~ the owner has the right to appeal to the county tax appeal board and then to the state tax appeal board, whose findings ~~shall--be~~ are final subject to the right of review in the courts. The property owner may appeal the base valuation and the classification determination. A county tax appeal board or the state tax appeal board may consider the actual selling price of the property, independent appraisals of the property, and other relevant information presented by the taxpayer as evidence of the market value of the property. If the county tax appeal board or the state tax appeal board determines that an adjustment should be made, the department shall adjust the base value of the property in accordance with the board's order."

Section 9. Section 15-15-101, MCA, is amended to read:

"15-15-101. County tax appeal board -- meetings and compensation. (1) The board of county commissioners of each

1 county shall appoint a three-member county tax appeal board,
 2 with the members to serve staggered terms of 3 years each.
 3 The members of each county tax appeal board shall be
 4 residents of the county in which they serve. They shall
 5 receive compensation of \$45 a day and travel expenses, as
 6 provided for in 2-18-501 through 2-18-503, ~~as-amended~~, only
 7 when the county tax appeal board is in session to hear
 8 taxpayers' appeals from property tax assessments or when
 9 they are attending meetings called by the state tax appeal
 10 board. Travel expenses and compensation ~~shall~~ must be paid
 11 from the appropriation to the state tax appeal board. Office
 12 space and equipment for the county tax appeal boards ~~shall~~
 13 must be furnished by the county. All other incidental
 14 expenses ~~shall~~ must be paid from the appropriation of the
 15 state tax appeal board.

16 (2) The county tax appeal board shall hold an
 17 organizational meeting each year on the date of its first
 18 scheduled hearing, immediately before conducting the
 19 business for which the hearing was otherwise scheduled. It
 20 must continue in session from time to time to hear protests
 21 concerning assessments made by the department of revenue
 22 until the business of hearing protests is disposed of, but,
 23 except as provided in 15-2-201, not later than 60 days after
 24 the department of revenue or its agent:

25 (a) has mailed notice of classification and appraisal

1 to all property owners and purchasers under contracts for
 2 deed as required in 15-7-102; and

3 (b) has notified the county tax appeal board that
 4 classification and appraisal notices have been mailed to all
 5 property owners and purchasers under contracts for deed.

6 (3) In connection with ~~any-such an~~ an appeal, the county
 7 tax appeal board may change any assessment or fix the
 8 assessment at some other level. The county clerk shall
 9 publish a notice to taxpayers, giving the time the county
 10 tax appeal board will meet to hear protests concerning
 11 assessments and the latest date the county tax appeal board
 12 may take applications for ~~such~~ the hearings. The notice
 13 ~~shall~~ must be published in a newspaper if any is printed in
 14 the county or, if none, then in ~~such the~~ the manner ~~as that~~
 15 COUNTY TAX APPEAL board ~~may-direct~~ directs. The notice ~~shall~~
 16 must be published at least 7 days prior to the first meeting
 17 of the county tax appeal board.

18 (4) Challenges to a department of revenue rule
 19 governing the assessment of property or to an assessment
 20 procedure ~~shall~~ apply only to the taxpayer bringing the
 21 challenge and may not apply to all similarly situated
 22 taxpayers unless an action is brought in the district court
 23 as provided in ~~15-2-307-through-15-2-310~~ 15-1-406."

24 NEW SECTION. Section 10. Repealer. Sections 15-2-307,
 25 15-2-308, 15-2-309, and 15-2-310, MCA, are repealed.

-End-

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