

HOUSE BILL NO. 36

INTRODUCED BY PETERSON  
BY REQUEST OF THE STATE TAX APPEAL BOARD

IN THE HOUSE

NOVEMBER 30, 1993

INTRODUCED AND REFERRED TO COMMITTEE  
ON TAXATION.

FIRST READING.

DECEMBER 8, 1993

COMMITTEE RECOMMEND BILL  
DO PASS AS AMENDED. REPORT ADOPTED.

PRINTING REPORT.

DECEMBER 9, 1993

SECOND READING, DO PASS.

ENCROSSING REPORT.

THIRD READING, PASSED.  
AYES, 95; NOES, 3.

TRANSMITTED TO SENATE.

IN THE SENATE

DECEMBER 10, 1993

INTRODUCED AND REFERRED TO COMMITTEE  
ON TAXATION.

FIRST READING.

DECEMBER 15, 1993

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

DECEMBER 16, 1993

THIRD READING, CONCURRED IN.  
AYES, 49; NOES, 0.

RETURNED TO HOUSE WITH AMENDMENTS.

## IN THE HOUSE

DECEMBER 17, 1993

RECEIVED FROM SENATE.

SECOND READING, AMENDMENTS  
CONCURRED IN.

### THIRD READING, AMENDMENTS

CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 House BILL NO. 36  
2 INTRODUCED BY Peterson  
3 BY REQUEST OF THE STATE TAX APPEAL BOARD  
4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING A PERSON  
6 APPEAR TO BEFORE THE COUNTY TAX APPEAL BOARD BEFORE AN  
7 APPEAL MAY BE MADE TO THE STATE TAX APPEAL BOARD; AMENDING  
8 SECTIONS 15-2-301, 15-15-103, AND 15-15-104, MCA; AND  
9 PROVIDING AN APPLICABILITY DATE AND AN EFFECTIVE DATE."  
10  
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
12 **Section 1.** Section 15-2-301, MCA, is amended to read:  
13 **"15-2-301. Appeal of county tax appeal board decisions.**  
14 (1) The county tax appeal board shall mail a copy of its  
15 decision to the taxpayer and to the property assessment  
16 division of the department of revenue. Any If the appearance  
17 provisions of 15-15-103 have been complied with, a person or  
18 the department on behalf of the state or any municipal  
19 corporation aggrieved by the action of the county tax appeal  
20 board may appeal to the state board by filing with the state  
21 tax appeal board a notice of appeal within 30 calendar days  
22 after the receipt of the decision of the county board. The  
23 notice must specify the action complained of and the reasons  
24 assigned for the complaint. Notice of acceptance of an  
25 appeal must be given to the county tax appeal board by the

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4 the performance of its duties or to accommodate parties in  
5 interest. The board shall give to the appellant and to the  
6 respondent at least 15 calendar days' notice of the time and  
7 place of the hearing.

8 (2) At the time of giving notice of acceptance of an  
9 appeal, the state board may require the county board to  
10 certify to it the minutes of the proceedings resulting in  
11 the action and all testimony taken in connection with its  
12 proceedings. The state board may, in its discretion,  
13 determine the appeal on the record if all parties receive a  
14 copy of the transcript and are permitted to submit  
15 additional sworn statements, or the state board may hear  
16 further testimony. For the purpose of expediting its work,  
17 the state board may refer any appeal to one of its members  
18 or to a designated hearing officer. The board member or  
19 hearing officer may exercise all the powers of the board in  
20 conducting a hearing and shall, as soon as possible after  
21 the hearing, report the proceedings, together with a  
22 transcript or a tape recording of the hearing, to the board.  
23 The state board shall determine the appeal on the record.

24 (3) On all hearings at county seats throughout the  
25 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. 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 2.** Section 15-15-103, MCA, is amended to read:

"15-15-103. **Examination of applicant -- failure to hear application.** (1) Before the county tax appeal board grants

any application or makes any reduction applied for, it must shall examine on oath the person or agent making the application, touching the value of the property of each person. No A reduction must may not be made unless such the person or agent makes an application, as provided in 15-15-102, and attends and answers all questions pertinent to the inquiry. An appeal of the board's decision may not be made to the state tax appeal board unless the person or the person's agent has attended the hearing and answered all questions pertinent to the inquiry. The testimony of all witnesses upon--such at the hearing must be taken in shorthand, or taken by stenotype, or electronically recorded and preserved for 1 year. If the decision of the county tax appeal board is appealed, all testimony must be transcribed or otherwise reduced to writing and forwarded, together with all exhibits, to the state tax appeal board. The date of the hearing, the proceedings before the board, and the decision must be entered upon the minutes of the board, and the board shall notify the applicant of its decision by mail within 3 days thereafter. A copy of the minutes of the county tax appeal board must be transmitted to the state tax appeal board no later than 3 days after the board holds its final hearing of the year.

(2) If a county tax appeal board refuses or fails to hear a taxpayer's timely application for a reduction in

1 valuation of property, the taxpayer's application is  
2 considered to be granted on the day following the board's  
3 final meeting for that year. The county treasurer shall  
4 enter the appraisal or classification sought in the  
5 application in the assessment book. An application is not  
6 automatically granted for the following appeals:

7 (a) those listed in 15-2-302; and

8 (b) if a taxpayer's appeal from the department's  
9 determination of classification or appraisal made pursuant  
10 to 15-7-102 was not received in time, as provided for in  
11 15-15-102, to be considered by the board during its current  
12 60-day session."

13 **Section 3.** Section 15-15-104, MCA, is amended to read:

14 "15-15-104. Appeal to state tax appeal board. Any If  
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16 with, a person or the department of revenue in on behalf of  
17 the state or any municipal corporation aggrieved by the  
18 action of any county tax appeal board may appeal to the  
19 state board under 15-2-301."

20 NEW SECTION. **Section 4. Applicability.** [This act]  
21 applies to all property tax appeals on or after January 1,  
22 1994.

23 NEW SECTION. **Section 5. Effective date.** [This act] is  
24 effective January 1, 1994.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0036, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

The proposed legislation is intended to strengthen and clarify the requirement that a taxpayer, who has filed an appeal of property values at the county level, cannot appeal the local board decision if an appearance was not made at the county level hearing.

ASSUMPTIONS:

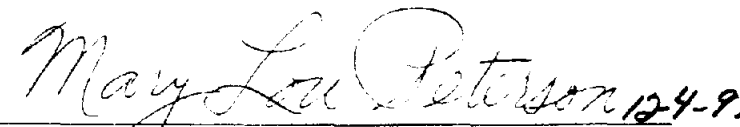
1. The cost per appeal of an appeal filed and heard by a local board varies from \$30 to \$85.
2. The cost per appeal is estimated as high as \$435 once it has reached the state level.
3. The costs involved in holding a hearing at the local level will be incurred whether or not the taxpayer is present for a scheduled hearing.
4. The representative of the Department of Revenue and their associated costs will be incurred whether or not the taxpayer is present for a scheduled hearing at the local level.
5. History indicates that 15% to 20% of the appeals acted on by the local boards proceed to the state level.
6. Recent history indicates that 100% of the appeals filed, where the taxpayer has no intention of appearing at the local level, are coming to the state level.
7. Solving the issue at the lowest level is the most cost effective, both in terms of money and transactional costs.

FISCAL IMPACT:

There is potential for minor general fund savings for the State Tax Appeal Board. The amount of potential savings is inestimable since there is no ability to predict the number of cases that would have been heard at the state level that would, with passage of HB 36, now be heard and resolved at the local level. There is further potential for minor general fund savings for the Department of Revenue insofar as the department will expend less staff time responding to appeals at the state level.

 12-3

DAVID LEWIS, BUDGET DIRECTOR      DATE  
Office of Budget and Program Planning

 12-4-9

MARY LOU PETERSON, PRIMARY SPONSOR      DATE  
Fiscal Note for HB0036, as introduced

HB 36

APPROVED BY COMMITTEE  
ON TAXATION

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(3) On all hearings at county seats throughout the  
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24 "15-15-103. Examination of applicant -- failure to hear  
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**NEW SECTION. Section 4. Applicability.** [This act]

applies to all property tax appeals on or after January 1, 1994.

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**NEW SECTION. Section 4. Applicability.** [This act] applies to all property tax appeals on or after January 1, 1994.

**NEW SECTION. Section 5. Effective date.** [This act] is effective January 1, 1994.

-End-

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
December 15, 1993

MR. PRESIDENT:

We, your committee on Taxation having had under consideration House Bill No. 36 (third reading copy -- blue), respectfully report that House Bill No. 36 be amended as follows and as so amended be concurred in.

Signed:   
Senator Mike Halligan, Chair

That such amendments read:

1. Title, line 6.

Following: "BOARD"

Insert: ", UNLESS THE REQUIREMENT TO APPEAR IS WAIVED BY THE BOARD OR THE DEPARTMENT OF REVENUE,"

2. Page 4, line 9.

Strike: "attended" through "all" on line 9.

Insert: "exhausted the remedies available through the county tax appeal board. In order to exhaust the remedies, the person or the person's agent shall attend the county tax appeal board hearing or otherwise be available to answer"

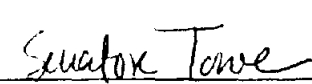
3. Page 4, line 10.

Following: "inquiry."

Insert: "The department of revenue or the county tax appeal board may waive the requirement that the person or the person's agent attend the hearing."

-END-

mr Amd. Coord.  
SB Sec. of Senate

  
Senator Carrying Bill

HB 36  
SENATE

SENATE COMMITTEE OF THE WHOLE AMENDMENT

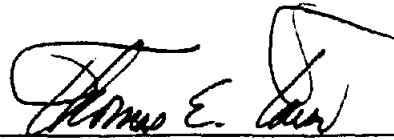
December 16, 1993 2:44 pm

Mr. Chairman: I move to amend House Bill No. 36 (third reading copy -- blue).

ADOPT

REJECT

Signed: \_\_\_\_\_



Senator Thomas Towe

That such amendments read:

Amend Senate Committee on Taxation amendment dated December 15, 1993, as follows:

Amendment No. 1

Strike: "OR THE DEPARTMENT OF REVENUE"

Amendment No. 2

Strike: "or otherwise be available to answer"

Amendment No. 3

Strike: "The department of revenue or"

Insert: "On written request by the person or the person's agent  
and on the written concurrence of the department of  
revenue,"

AND THAT HOUSE BILL NO. 36, THIRD READING COPY, BE FURTHER  
AMENDED AS FOLLOWS:

1. Page 4, lines 6 and 7.

Following: "attends"

Strike: "and" on line 6 through "inquiry" on line 7

Insert: "the county tax appeal board hearing"

2. Page 4, line 10.

Strike: "questions" through "inquiry"

-END-

HB 36

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(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 2.** Section 15-15-103, MCA, is amended to read:

**"15-15-103. Examination of applicant -- failure to hear application.** (1) Before the county tax appeal board grants any application or makes any reduction applied for, it must shall examine on oath the person or agent making the application, touching the value of the property of each person. No A reduction must may not be made unless such the person or agent makes an application, as provided in 15-15-102, and attends ~~and-answers-all-questions--pertinent to--the--inquiry~~ THE COUNTY TAX APPEAL BOARD HEARING. An appeal of the board's decision may not be made to the state tax appeal board unless the person or the person's agent has attended-the-hearing-and-answered-all EXHAUSTED THE REMEDIES AVAILABLE THROUGH THE COUNTY TAX APPEAL BOARD. IN ORDER TO EXHAUST THE REMEDIES, THE PERSON OR THE PERSON'S AGENT SHALL ATTEND THE COUNTY TAX APPEAL BOARD HEARING ~~OR--OTHERWISE--BE AVAILABLE--TO-ANSWER~~ questions-pertinent-to-the-inquiry. THE DEPARTMENT-OF-REVENUE-OR ON WRITTEN REQUEST BY THE PERSON OR THE PERSON'S AGENT AND ON THE WRITTEN CONCURRENCE OF THE DEPARTMENT OF REVENUE, THE COUNTY TAX APPEAL BOARD MAY WAIVE THE REQUIREMENT THAT THE PERSON OR THE PERSON'S AGENT ATTEND THE HEARING. The testimony of all witnesses ~~upon-such~~ at the hearing must be taken in shorthand, or taken by stenotype, or electronically recorded and preserved for 1 year. If the decision of the county tax appeal board is appealed, all testimony must be transcribed or otherwise reduced to



1 writing and forwarded, together with all exhibits, to the  
 2 state tax appeal board. The date of the hearing, the  
 3 proceedings before the board, and the decision must be  
 4 entered upon the minutes of the board, and the board shall  
 5 notify the applicant of its decision by mail within 3 days  
 6 thereafter. A copy of the minutes of the county tax appeal  
 7 board must be transmitted to the state tax appeal board no  
 8 later than 3 days after the board holds its final hearing of  
 9 the year.

10 (2) If a county tax appeal board refuses or fails to  
 11 hear a taxpayer's timely application for a reduction in  
 12 valuation of property, the taxpayer's application is  
 13 considered to be granted on the day following the board's  
 14 final meeting for that year. The county treasurer shall  
 15 enter the appraisal or classification sought in the  
 16 application in the assessment book. An application is not  
 17 automatically granted for the following appeals:

18 (a) those listed in 15-2-302; and

19 (b) if a taxpayer's appeal from the department's  
 20 determination of classification or appraisal made pursuant  
 21 to 15-7-102 was not received in time, as provided for in  
 22 15-15-102, to be considered by the board during its current  
 23 60-day session."

24 **Section 3.** Section 15-15-104, MCA, is amended to read:

25 "15-15-104. Appeal to state tax appeal board. Any If

1 the appearance provisions of 15-15-103 have been complied  
 2 with, a person or the department of revenue ~~in~~ on behalf of  
 3 the state or any municipal corporation aggrieved by the  
 4 action of any county tax appeal board may appeal to the  
 5 state board under 15-2-301."

6 **NEW SECTION. Section 4. Applicability.** [This act]  
 7 applies to all property tax appeals on or after January 1,  
 8 1994.

9 **NEW SECTION. Section 5. Effective date.** [This act] is  
 10 effective January 1, 1994.

-End-