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House BILL NO. 441

INTRODUCED BY Bankhead

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING ELECTRONIC RECORDING OF CERTAIN TAX APPEAL PROCEEDINGS TO SUFFICE AS A RECORD OF THOSE PROCEEDINGS; AND AMENDING SECTIONS 15-2-301 AND 15-15-103, MCA."

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

**Section 1.** 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. If the appearance provisions of 15-15-103 have been complied with, a 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 hearings officer. The board member or hearings 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.

1           (3) On all hearings at county seats throughout the state, the state board or the member or hearings  
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3 ~~stenographer~~ person to take and transcribe electronically record the testimony received. The cost of ~~taking~~  
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8 the extent that this section is in conflict with the Montana Administrative Procedure Act, this section  
9 supersedes that act. The state tax appeal board may not amend or repeal any administrative rule of the  
10 department. The state tax appeal board shall give an administrative rule full effect unless the board finds  
11 a rule arbitrary, capricious, or otherwise unlawful.

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

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

18           "**15-15-103. Examination of applicant -- failure to hear application.** (1) Before the county tax  
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14 board during its current 60-day session."

15 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0441, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:


A bill allowing electronic recording of certain tax appeal proceedings to suffice as a record of those proceedings.

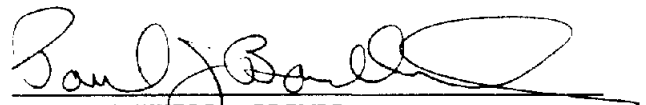
ASSUMPTIONS:

1. The State Tax Appeals Board (STAB) has been using and receiving electronic recordings of hearings from counties for a number of years. The language in the bill simply brings the law up to the actual practice.
2. Because the STAB and counties currently possess recording devices, no equipment cost would be associated with the bill.

FISCAL IMPACT:

Passage of HB 441 will have no fiscal impact on the state.

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

  
PAUL BANKHEAD, PRIMARY SPONSOR      DATE

Fiscal Note for HB0441, as introduced

**HB 441**

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22 appeal board hearing. An appeal of the board's decision may not be made to the state tax appeal board  
23 unless the person or the person's agent has exhausted the remedies available through the county tax appeal  
24 board. In order to exhaust the remedies, the person or the person's agent shall attend the county tax appeal  
25 board hearing. On written request by the person or the person's agent and on the written concurrence of  
26 the department of revenue, the county tax appeal board may waive the requirement that the person or the  
27 person's agent attend the hearing. The testimony of all witnesses at the hearing must be ~~taken in~~  
28 ~~shorthand, taken by stenotype, or~~ electronically recorded and preserved for 1 year. If the decision of the  
29 county tax appeal board is appealed, ~~all testimony must be transcribed or otherwise reduced to writing and~~  
30 forwarded the record of the proceedings, including the electronic recording of all testimony, must be

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

6 (2) If a county tax appeal board refuses or fails to hear a taxpayer's timely application for a  
7 reduction in valuation of property, the taxpayer's application is considered to be granted on the day  
8 following the board's final meeting for that year. The department shall enter the appraisal or classification  
9 sought in the application in the property tax record. An application is not automatically granted for the  
10 following appeals:

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

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

15

16 NEW SECTION. SECTION 3. EFFECTIVE DATE. [THIS ACT] IS EFFECTIVE ON PASSAGE AND  
17 APPROVAL.

18

-END-