

HOUSE BILL NO. 619

INTRODUCED BY D. ZOLNIKOV

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A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A DECISION OF THE STATE TAX APPEAL BOARD MAY NOT BE USED TO INCREASE THE TAX LIABILITY OF A TAXPAYER; AMENDING SECTIONS 15-2-301 AND 15-2-302, MCA; AND PROVIDING AN APPLICABILITY DATE."

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) (a) 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.

(b) 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 tax appeal board by filing with the state 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.

(c) Notice of acceptance of an appeal must be given to the county board by the state board.

(d) The state board shall set the appeal for hearing either in its office in the capital or at the county seat as the state board considers advisable to facilitate the performance of its duties or to accommodate parties in interest.

(e) The state 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) (a) 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.

(b) 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.

(c) For industrial property that is assessed annually by the department, the state board's review must



1 be de novo and conducted in accordance with the contested case provisions of the Montana Administrative
2 Procedure Act.

3 (d) For the purpose of expediting its work, the state board may refer any appeal to one of its members
4 or to a designated hearings officer. The board member or hearings officer may exercise all the powers of the state
5 board in conducting a hearing and shall, as soon as possible after the hearing, report the proceedings, together
6 with a transcript or a tape recording of the hearing, to the state board. The state board shall determine the appeal
7 on the record.

8 (3) The state tax appeal board ~~must~~ shall consider an independent appraisal provided by the taxpayer
9 if the appraisal meets standards set by the Montana board of real estate appraisers and the appraisal was
10 conducted within 6 months of the valuation date. If the state board does not use the appraisal provided by the
11 taxpayer in conducting the appeal, the state board ~~must~~ shall provide to the taxpayer the reason for not using the
12 appraisal.

13 (4) In every hearing at a county seat throughout the state, the state board or the member or hearings
14 officer designated to conduct a hearing may employ a competent person to electronically record the testimony
15 received. The cost of electronically recording testimony may be paid out of the general appropriation for the
16 board.

17 (5) Except as provided in subsection (2)(c) regarding industrial property, in connection with any appeal
18 under this section, the state board is not bound by common law and statutory rules of evidence or rules of
19 discovery and may affirm, reverse, or modify any decision. To the extent that this section is in conflict with the
20 Montana Administrative Procedure Act, this section supersedes that act. The state board may not amend or
21 repeal any administrative rule of the department. The state board shall give an administrative rule full effect unless
22 the state board finds a rule arbitrary, capricious, or otherwise unlawful.

23 (6) A decision of the state board may not be used to increase the tax liability of a taxpayer.

24 ~~(6)~~(7) The decision of the state board is final and binding upon all interested parties unless reversed or
25 modified by judicial review. Proceedings for judicial review of a decision of the state board under this section are
26 subject to the provisions of 15-2-303 and the Montana Administrative Procedure Act to the extent that it does not
27 conflict with 15-2-303.

28 ~~(7)~~(8) Sections 15-6-134 and 15-7-111 may not be construed to prevent the department from
29 implementing an order to change the valuation of property."
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