SENATE BILL NO. 126

INTRODUCED BY K. REGIER

A BILL FOR AN ACT ENTITLED: “AN ACT REVISING PROPERTY VALUATION APPEALS LAWS FOR RESIDENTIAL PROPERTY; PROVIDING THAT CERTAIN INDEPENDENT APPRAISALS PRESUME TO PROVIDE THE PROPERTY VALUE UNLESS THE DEPARTMENT OF REVENUE PROVIDES EVIDENCE OF ANOTHER VALUE; AMENDING SECTION 15-2-301, 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 be de novo and conducted in accordance with the contested case provisions of the Montana Administrative Procedure Act.

(d) 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 state 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 state board. The state board shall determine the appeal on the record.

(3) <u>(a)</u> ~~The~~ <u>Except as provided in subsection (3)(b), the</u> state tax appeal board ~~must~~ <u>shall</u> consider an independent appraisal provided by the taxpayer if the appraisal meets standards set by the Montana board of real estate appraisers and the appraisal was conducted within 6 months of the valuation date. If the state board does not use the appraisal provided by the taxpayer in conducting the appeal, the state board ~~must~~ <u>shall</u> provide to the taxpayer the reason for not using the appraisal.

<u>(b) If the appeal is an appeal of the valuation of residential property that has been owned by the taxpayer for at least 5 consecutive years, the state board shall consider an independent appraisal provided by the taxpayer if the appraisal meets standards set by the Montana board of real estate appraisers and uses values obtained within the timeframe provided for in subsection (3)(a). The appraisal that is provided by the taxpayer is presumed to establish assessed value in the state board proceeding unless the department provides sufficient evidence to rebut the presumption of correctness, including another independent appraisal or other compelling valuation evidence. The state board shall address the taxpayer's independent appraisal and the department's valuation evidence in the decision.</u>

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

(5) Except as provided in subsection (2)(c) regarding industrial property, 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 that this section is in conflict with the Montana Administrative Procedure Act, this section supersedes that act. The state board may not amend or repeal any administrative rule of the department. The state board shall give an administrative rule full effect unless the state board finds a rule arbitrary, capricious, or otherwise unlawful.

(6) The decision of the state 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 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.

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

NEW SECTION. **Section 2. Applicability.** [This act] applies to appeals filed on or after [the effective date of this act].

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