

HOUSE BILL NO. 636

INTRODUCED BY L. JONES, B. GILLESPIE

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING PROPERTY TAX LAWS RELATED TO PROTESTED  
5 TAXES; REQUIRING THAT A CENTRALLY ASSESSED OR INDUSTRIAL PROPERTY TAXPAYER WHO  
6 PROTESTS MORE THAN 40% OF TAXES SUBMIT A PORTION OF THOSE TAXES TO THE LOCAL  
7 GOVERNMENT FOR MITIGATION OF LOCAL GOVERNMENT FUNDING LOSSES IF THE FINAL ASSESSED  
8 VALUE IS 60% OR MORE OF THE ORIGINAL ASSESSED VALUE; PROVIDING FOR REIMBURSEMENT FROM  
9 THE GENERAL FUND TO LOCAL GOVERNMENTS FOR A PORTION OF PROTESTED TAXES IF THE FINAL  
10 ASSESSED VALUE IS LESS THAN 75% OF THE ORIGINAL ASSESSED VALUE; AMENDING SECTION  
11 15-1-402, MCA; AND PROVIDING AN APPLICABILITY DATE."

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

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15 **Section 1.** Section 15-1-402, MCA, is amended to read:

16 **"15-1-402. Payment of property taxes or fees under protest.** (1) (a) The person upon whom a  
17 property tax or fee is being imposed under this title may, before the property tax or fee becomes delinquent, pay  
18 under written protest that portion of the property tax or fee protested.

19 (b) The protested payment must:  
20 (i) be made to the officer designated and authorized to collect it;  
21 (ii) specify the grounds of protest; and  
22 (iii) not exceed the difference between the payment for the immediately preceding tax year and the  
23 amount owing in the tax year protested unless a different amount results from the specified grounds of protest,  
24 which may include but are not limited to changes in assessment due to reappraisal under 15-7-111.

25 (c) (i) If the protested property tax or fee is on property that is subject to central assessment pursuant to  
26 15-23-101 or industrial property that is assessed annually by the department, the person shall report to the  
27 department the grounds of the protest and the amount of the protested payment for each county in which a  
28 protested payment was made.

29 ~~(ii) If a taxpayer whose property is subject to central assessment pursuant to 15-23-101 or is industrial~~  
30 ~~property that is assessed annually by the department pays under protest more than 40% of the assessed taxes~~



1 ~~in any county, 2.5% of the protested taxes in that county must be deposited by the treasurer of the county or~~  
 2 ~~municipality to the credit of a special fund to be designated as a protest fund. The 2.5% deposited in the protest~~  
 3 ~~fund:~~

4 ~~—— (A) is refundable if the final determination of the assessed value is 60% of the original assessed value~~  
 5 ~~or less; and~~

6 ~~—— (B) may be used by a taxing jurisdiction affected by the payment of taxes under protest on property that~~  
 7 ~~is centrally assessed pursuant to 15-23-101 or on industrial property that is assessed annually by the department~~  
 8 ~~to mitigate the adverse effects of the amount of protested taxes on the taxing jurisdiction.~~

9 (II) IF SUBSECTION (1)(C)(III) APPLIES, THE TAXPAYER SHALL PAY TO THE COUNTY TREASURER, AFTER THE FINAL  
 10 DETERMINATION OF VALUE, 2.5% OF THE PROTESTED TAXES IN THE COUNTY. THE COUNTY TREASURER SHALL DEPOSIT  
 11 THE FUNDS TO THE CREDIT OF A SPECIAL FUND TO BE DESIGNATED AS A PROTEST FUND. THE FUNDS MAY BE USED TO  
 12 MITIGATE THE ADVERSE EFFECTS OF THE PROTESTED TAXES ON THE AFFECTED TAXING JURISDICTIONS.

13 (III) SUBSECTION (1)(C)(II) APPLIES TO A TAXPAYER WHOSE PROPERTY IS SUBJECT TO CENTRAL ASSESSMENT  
 14 PURSUANT TO 15-23-101 OR IS INDUSTRIAL PROPERTY THAT IS ASSESSED ANNUALLY BY THE DEPARTMENT IF:

15 (A) THE TAXPAYER PAYS UNDER PROTEST MORE THAN 40% OF ITS ASSESSED TAXES IN ANY COUNTY; AND

16 (B) THE FINAL DETERMINATION OF THE ASSESSED VALUE IS 60% OF THE ORIGINAL ASSESSED VALUE OR MORE.

17 (2) A person appealing a property tax or fee pursuant to Title 15, chapter 2 or 15, including a person  
 18 appealing a property tax or fee on property that is annually assessed by the department or subject to central  
 19 assessment pursuant to 15-23-101(1) or (2), shall pay the tax or fee under protest when due in order to receive  
 20 a refund. If the tax or fee is not paid under protest when due, the appeal or mediation may continue but a tax or  
 21 fee may not be refunded as a result of the appeal or mediation.

22 (3) If a protested property tax or fee is payable in installments, a subsequent installment portion  
 23 considered unlawful by the state tax appeal board need not be paid and an action or suit need not be commenced  
 24 to recover the subsequent installment. The determination of the action or suit commenced to recover the first  
 25 installment portion paid under protest determines the right of the party paying the subsequent installment to have  
 26 it or any part of it refunded to the party or the right of the taxing authority to collect a subsequent installment not  
 27 paid by the taxpayer plus interest from the date the subsequent installment was due.

28 (4) (a) Except as provided in subsection (4)(b), all property taxes and fees paid under protest to a county  
 29 or municipality must be deposited by the treasurer of the county or municipality to the credit of a special fund to  
 30 be designated as a protest fund and must be retained in the protest fund until the final determination of any action

1 or suit to recover the taxes and fees unless they are released at the request of the county, municipality, or other  
2 local taxing jurisdiction pursuant to subsection (5). This section does not prohibit the investment of the money  
3 of this fund in the state unified investment program or in any manner provided in Title 7, chapter 6. The provision  
4 creating the special protest fund does not apply to any payments made under protest directly to the state.

5 (b) (i) Property taxes that are levied by the state against property that is centrally assessed pursuant to  
6 15-23-101 and any protested taxes on industrial property that is annually assessed by the department in a school  
7 district that has elected to waive its right to protested taxes in a specific year pursuant to 15-1-409 must be  
8 remitted by the county treasurer to the department for deposit as provided in subsections (4)(b)(ii) through  
9 (4)(b)(iv).

10 (ii) The department shall deposit 50% of that portion of the funds levied for the university system pursuant  
11 to ~~15-10-108~~ 15-10-109 in the state special revenue fund to the credit of the university system, and the other 50%  
12 of the funds levied pursuant to ~~15-10-108~~ 15-10-109 must be deposited in a centrally assessed property tax state  
13 special revenue fund.

14 (iii) Fifty percent of the funds remaining after the deposit of university system funds must be deposited  
15 in the state general fund, and the other 50% must be deposited in a centrally assessed property tax state special  
16 revenue fund.

17 (iv) Fifty percent of the funds from a school district that has waived its right to protested taxes must be  
18 deposited in the state general fund, and the other 50% must be deposited in a school district property tax protest  
19 state special revenue fund.

20 (5) (a) Except as provided in subsections (5)(b) and (5)(c), the governing body of a taxing jurisdiction  
21 affected by the payment of taxes under protest in the second and subsequent years that a tax protest remains  
22 unresolved may demand that the treasurer of the county or municipality pay the requesting taxing jurisdiction all  
23 or a portion of the protest payments to which it is entitled, except the amount paid by the taxpayer in the first year  
24 of the protest. The decision in a previous year of a taxing jurisdiction to leave protested taxes in the protest fund  
25 does not preclude it from demanding in a subsequent year any or all of the payments to which it is entitled, except  
26 the first-year protest amount.

27 (b) The governing body of a taxing jurisdiction affected by the payment of taxes under protest on property  
28 that is centrally assessed pursuant to 15-23-101 or on industrial property that is assessed annually by the  
29 department in the first and subsequent years that a tax protest remains unresolved may demand that the  
30 treasurer of the county or municipality pay the requesting taxing jurisdiction all or a portion of the protest

1 payments to which it is entitled. The decision in a previous year of a taxing jurisdiction to leave protested taxes  
2 of centrally assessed property in the protest fund does not preclude it from demanding in a subsequent year any  
3 or all of the payments to which it is entitled.

4 (c) The provisions of subsection (5)(b) do not apply to a school district that has elected to waive its right  
5 to its portion of protested taxes on centrally assessed property and on industrial property that is assessed  
6 annually by the department for that specific year as provided in 15-1-409.

7 (6) (a) If action before the county tax appeal board, state tax appeal board, or district court is not  
8 commenced within the time specified or if the action is commenced and finally determined in favor of the  
9 department of revenue, county, municipality, or treasurer of the county or the municipality, the amount of the  
10 protested portions of the property tax or fee must be taken from the protest fund or the centrally assessed  
11 property tax state special revenue fund and deposited to the credit of the fund or funds to which the property tax  
12 belongs, less a pro rata deduction for the costs of administration of the protest fund and related expenses  
13 charged to the local government units.

14 (b) (i) If the action is finally determined adversely to the governmental entity levying the tax, then the  
15 treasurer of the municipality, county, or state entity levying the tax shall, upon receipt of a certified copy of the  
16 final judgment in the action and upon expiration of the time set forth for appeal of the final judgment, refund to  
17 the person in whose favor the judgment is rendered the amount of the protested portions of the property tax or  
18 fee that the person holding the judgment is entitled to recover, together with interest from the date of payment  
19 under protest. The department shall refund from the school district property tax protest state special revenue fund  
20 the protested portions of property taxes and interest to a taxpayer in a school district in which the school district  
21 has elected to waive its right to its portion of protested taxes for that specific year as provided in 15-1-409. If the  
22 amount available for the refund in the school district property tax protest state special revenue fund is insufficient  
23 to refund the property tax payments, the department shall pay the remainder of the refund from the state general  
24 fund.

25 (ii) The taxing jurisdiction shall pay interest at the rate of interest earned by the pooled investment fund  
26 provided for in 17-6-203 for the applicable period.

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

29 (d) (i) (A) If, after a final determination by the state tax appeal board or a court or after settlement of an  
30 appeal, the final assessed value of a property that is centrally assessed under 15-23-101 or an industrial property

1 that is annually assessed by the department is less than 75% of the department's original assessed value, the  
 2 governing body may demand that the state refund from the general fund the protested taxes equivalent to the  
 3 difference between the final determined assessed value and 75% of the original assessed value.

4 (B) For industrial property under subsection (6)(d)(i)(A) in which the school district has elected to waive  
 5 its right to its portion of protested taxes for that specific year, the department shall refund from the school district  
 6 property tax protest state special revenue fund the protested portions of property taxes and interest to a taxpayer.

7 (C) The provisions of subsection (6)(d)(i)(A) do not apply to protested taxes for which the taxpayer  
 8 protests the classification of the property.

9 ~~(d)~~ ~~(i)~~ (ii) If the protest action is decided adversely to a taxing jurisdiction and the amount retained in the  
 10 protest fund is insufficient to refund the tax payments and costs to which the taxpayer is entitled and for which  
 11 local government units are responsible, the treasurer shall bill and the taxing jurisdiction shall refund to the  
 12 treasurer that portion of the taxpayer refund, including tax payments and costs, for which the taxing jurisdiction  
 13 is proratably responsible. The treasurer is not responsible for the amount required to be refunded by the state  
 14 treasurer as provided in subsection (6)(b).

15 ~~(ii)~~ (iii) For an adverse protest action against the state for centrally assessed property, the department  
 16 shall refund from the centrally assessed property tax state special revenue fund the amount of protested taxes  
 17 and from the state general fund the amount of interest as required in subsection (6)(b). The amount refunded for  
 18 an adverse protested action from the centrally assessed property tax state special revenue fund may not exceed  
 19 the amount of protested taxes or fees required to be deposited for that action pursuant to subsections (4)(b)(ii)  
 20 and (4)(b)(iii) or, for taxes or fees protested prior to April 28, 2005, an equivalent amount of the money transferred  
 21 to the fund pursuant to section 3, Chapter 536, Laws of 2005. If the amount available for the adverse protested  
 22 action in the centrally assessed property tax state special revenue fund is insufficient to refund the tax payments  
 23 to which the taxpayer is entitled and for which the state is responsible, the department shall pay the remainder  
 24 of the refund proportionally from the state general fund and from money deposited in the state special revenue  
 25 fund levied pursuant to ~~15-10-108~~ 15-10-109.

26 (e) In satisfying the requirements of subsection (6)(d), the taxing jurisdiction, including the state, is  
 27 allowed not more than 1 year from the beginning of the fiscal year following a final resolution of the protest. The  
 28 taxpayer is entitled to interest on the unpaid balance at the rate referred to in subsection (6)(b) from the date of  
 29 payment under protest until the date of final resolution of the protest and at the combined rate of the federal  
 30 reserve discount rate quoted from the federal reserve bank in New York, New York, on the date of final resolution,

1 plus 4 percentage points, from the date of final resolution of the protest until refund is made.

2 (7) A taxing jurisdiction, except the state, may satisfy the requirements of this section by use of funds  
3 from one or more of the following sources:

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

5 (b) the general fund or any other funds legally available to the governing body; and

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

10 (8) If the department revises an assessment that results in a refund of taxes of \$5 or less, a refund is  
11 not owed."

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13 NEW SECTION. **Section 2. Applicability.** [This act] applies to protested taxes paid and appeals  
14 adjudicated after December 31, 2019.

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