

Lon J. Dale, Esq.
Rachel H. Parkin, Esq.
MILODRAGOVICH, DALE
& STEINBRENNER, P.C.
620 High Park Way
PO Box 4947
Missoula, Montana 59806-4947
Telephone: (406) 728-1455
Fax No: (406) 549-7077
lon@bigskylawyers.com
rparkin@bigskylawyers.com

Dylan McFarland
KNIGHT NICASTRO MACKAY, LLC
283 W. Front Street, Suite 203
Missoula, Montana 59802
Telephone: (406) 206-5747
Fax No: (816) 396-6233
mcfarland@knightnicastro.com
Attorneys for Plaintiffs

MONTANA ELEVENTH JUDICIAL DISTRICT COURT, FLATHEAD COUNTY

WILLIAM M. SOLEM, ELLEN G. SOLEM and JOHN DOES I-V, Plaintiffs, vs. MONTANA DEPARTMENT OF REVENUE, a department of the State of Montana, Defendant.	Cause No. DV-10-073 (D) Hon. Dan Wilson PLAINTIFFS' MOTION TO AMEND THE CLASS DEFINITION AND MOTION FOR PARTIAL SUMMARY JUDGMENT AND BRIEF IN SUPPORT
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COMES NOW, the Plaintiffs, by and through undersigned counsel of record, pursuant to Mont. R. Civ. P. 23(c)(1)(C) and 56(a), and moves this Court for an order amending the certified class definition and finding, as a matter of law, that Mont. Code Ann. § 15-1-407(2)(a) is an unconstitutional limitation on a plaintiff's right to participate in a class action lawsuit. Plaintiffs respectfully submit this Motion to Amend The Class Definition and Motion for Partial Summary

Judgment Finding § 15-1-407(2)(a) Unconstitutional along with the following Brief in Support.

The Defendant has been contacted, and objects to this motion.

I. INTRODUCTION

Following a four-day trial on liability, this Court found the Montana Department of Revenue's ("DOR") 2009 base lot model used in appraising the lakefront properties in Neighborhood 800 for the tax years 2009 through 2014 was an improper and illegal. However, while the improper and illegal methodology used by the DOR was used on *all* Neighborhood 800 properties, only those Neighborhood 800 property owners who paid their taxes under protest are included in the current certified class definition.

Pursuant to Mont. R. Civ. P. 23, class amendment is both timely and appropriate at this juncture of the litigation. The Plaintiffs request this Court amend the class definition to include all landowners in Neighborhood 800 who paid property taxes at any time under the 2009 base lot model, which would include tax years 2009 through 2014, regardless of whether such property taxes were paid under protest. Mont. Code Ann. § 15-1-407(2)(a) codifies payment of taxes under protest as a prerequisite to class membership challenging the methodology of a tax assessment. However, § 15-1-407(a) is unconstitutional and unenforceable as a matter of law, and therefore does not stand as a bar to amending the class definition in this case, particularly where, as here, the class representative has satisfied any payment under protest requirement.

Section 15-1-407(2)(a) is an unconstitutional violation of the Equal Protection rights guaranteed by the Fourteenth Amendment of the United States Constitution and Article II, Section 4 of the 1972 Montana Constitution, and of the substantive and procedural Due Process rights guaranteed by the Fifth and Fourteenth Amendments of the United States Constitution and Article II, Section 17 of the 1972 Montana Constitution. Additionally, enactment of this portion

of the statute limiting class membership was an impermissible action on the part of the Montana Legislature, as it invades the powers reserved to the Montana Supreme Court and thus violates the separation of powers doctrine established by Article II, Section 1 of the 1972 Montana Constitution. Accordingly, the Plaintiffs request this Court enter partial summary judgment finding that, as a matter of law, § 15-1-407(2)(a) is unconstitutional and unenforceable.

I. FACTUAL AND PROCEDURAL BACKGROUND

This case has a long history, dating back to 2009 when Plaintiffs William and Ellen Solem received their 2009 Property Tax Assessment Notice for lake-front property they own on Flathead Lake. (*Findings of Fact, Conclusions of Law, and Order*, Dkt. 128, ¶ 1; Pl.'s Trial Ex. 3). For the prior six-year appraisal period, which used an appraisal date of January 1, 2002, the DOR had assessed the land value of the Solem's property at \$229,500. (Pl.'s Trial Ex. 17). The Solems' 2009 Property Tax Assessment Notice indicated a new appraised land value of \$1,233,050, as of the July 1, 2008 appraisal date. *Id.* The DOR's 2009 assessment increased the Solems' appraised land value by over a million dollars, an increase of 437% over the previous appraisal cycle of six years earlier.

The Solems, like many other property owners on Flathead Lake, recognized the economic conditions of a recession and housing collapse in 2007 were inconsistent with the significant increases in the appraised values of the lakefront real property determined by the DOR, and believed that their land was grossly overvalued. (Test. William Solem, Trial Tr. at 76:17-77:21). Accordingly, on September 29, 2009, the Solems filed an AB-26 Request for Informal Review with the DOR, disputing the increased appraisal value of their lakefront property. (Test. William Solem, Trial Tr. at 77:22-24; Pl.'s Trial Ex. 20-64).

Learning that their experience was not unique, and that many other lakefront properties also suffered from remarkably large increases in appraised values of waterfront property, the Solems concluded there must be a flaw in the DOR's method of calculating the land value of property, which resulted in the artificially high appraisal values experienced by lakefront property owners across Flathead Lake. (Test. William Solem, Trial Tr. at 36:6-87:12, 93:14-9; 142:5-23). Accordingly, the Solems elected to pay their 2009 taxes under protest and utilize the statutory process under Mont. Code Ann. § 15-1-406 for filing suit in the district court to challenge the DOR's method or procedure of assessment as illegal or improper. (Test. William Solem, Trial Tr. at 90:3-91:14).

The Solems learned that the DOR had appraised the market value of the Flathead Lake lakefront properties "using a method under which waterfront footage is assessed at a certain flat rate per foot for the first 100 feet of waterfront and a certain flat rate for each additional waterfront foot thereafter." (Dkt. 128, ¶ 3). It was undisputed that the DOR "applied the same assessment method to all similarly situated owners of waterfront real property in neighborhoods around Flathead Lake, Whitefish Lake, and other lakes in DOR's Region 1." *Id.*, ¶ 4. Accordingly, based on the DOR's modeling which included breaking down Flathead Lake into specific neighborhood areas, the Solems were able to certify their claims as a class action.

In an April 29, 2016 Order Granting Plaintiff's Motion To Certify Class, this Court certified the class, and defined the class as "all lakefront property owners in Neighborhood 800 who have timely paid under protest any portion of their property taxes since the last assessment cycle beginning in 2009." (Dkt. 56 at 8). In its Order, the Court reasoned that:

Plaintiffs satisfy the commonality requirement of Rule 23(a)(2), M.R. Civ. P. because the question of law or fact common to the class is whether DOR's methodology values lakefront property in Neighborhood 800 according to its market value. DOR applied the same assessment methodology for all lakefront

property owners in Neighborhood 800, so a resolution of the class' common contention will apply to all class members. No individual determinations regarding who is a member of the class will be necessary.

The Court also bifurcated this case (Dkt. No. 79), and on March 11, 2019, the matter proceeded to trial for the purposes of determining liability.

Following a four-day trial, on October 15, 2019, this Court issued its Findings of Fact, Conclusions of Law, and Order, determining that the Plaintiffs “have met their burden of showing, on behalf of themselves and the members of the class, that the DOR, by adopting and imposing its 2009 base lot model in Neighborhood 800, employed a non-uniform method of appraisal, failed to value similar properties in a like manner, and failed to appraise the subject properties in a manner that is fair to all taxpayers.” (Dkt. 128, ¶ 75). The Court further found that “by adopting and imposing its 2009 base lot model in Neighborhood 800, [the DOR] has violated and abridged both the Equal Protection rights guaranteed by the Fourteenth Amendment of the United States Constitution and Article II, Section 4 of the 1972 Montana Constitution, and the Due Process Rights guaranteed by the Fifth and Fourteenth Amendments of the United States Constitution and Article II, Section 17 of the 1972 Montana Constitution.” (Dkt. 128, ¶ 76).

Based on the Court's findings, an expansion of the certified class is necessary. It is an undisputed fact that the DOR applied its flawed 2009 base lot model to *all* of the properties in Neighborhood 800, not just those properties that paid their taxes under protest. Accordingly, *all* of the landowners with property in Neighborhood 800 had their constitutionally protected rights violated and abridged by the unfair and non-uniform appraisal of property values for taxation purposes. The certified class definition should be expanded to include all landowners in Neighborhood 800 who paid property taxes at any time under the 2009 base lot model, which

would include tax years 2009 through 2014, regardless of whether such property taxes were paid under protest.

II. MOTION TO AMEND THE CERTIFIED CLASS DEFINITION

A. Legal Standard

Class action certification orders “are not frozen once made” and “the District Court maintains discretion to alter the class definition as the case proceeds.” *Rolan v. New W. Health Servs.*, 2013 MT 220, ¶ 15, 371 Mont. 228, 307 P.3d 291 (quoting *Amgen Inc. v. Conn. Ret. Plans & Trust Funds*, 586 U.S. 458, 133 S.Ct. 1184, 1202 n. 9 (2013) (“Rule 23 empowers district courts to ‘alter or amend’ class-certification orders based on the circumstances developing as the case unfolds”)). A district court “has broad authority in assessing the manageability of a class action and, under M.R. Civ. P. 23(c)(1)(C), maintains discretion to modify the class definition at any time until final judgment.” *Rolan*, ¶ 15. In exercising its broad discretion in the class context, the district court “may consider any factor that the parties offer or the court deems appropriate to consider.” *Id.* (quoting *Blanton v. Dept. of Pub. Health and Hum. Servs.*, 2011 MT 110, ¶ 38, 360 Mont. 396, 255 P.3d 1229); *see also* Mont. R. Civ. P. 23(c)(1)(C) (“An order that grants or denies class certification may be altered or amended before final judgment”).

The present case proceeded to trial on liability, but damages have yet to be determined and no final judgment has issued. Accordingly, amendment of the class definition is timely, and well within the broad discretion of this Court. Because this Court may consider any factor offered by the parties that it deems appropriate, the Court may consider the evidence entered at trial during the liability phase in exercising its broad discretion to amend the class. The evidence presented at trial showing that the DOR’s illegal and unfair method of assessment was applied to

all landowners in Neighborhood 800, and not just those who paid under protest, expansion of the certified class at this time is timely, appropriate, and necessary. The class definition should be amended to include all landowners in Neighborhood 800 who paid property taxes at any time under the 2009 base lot model, which would include tax years 2009 through 2014, regardless of whether such property taxes were paid under protest.

B. Modification Of The Class Does Not Affect The Class’s Qualification Under Mont. R. Civ. P. 23(a)(1-4) Or Under Mont. R. Civ. P. 23(b)(2).

Mont. R. Civ. P. 23(a) governs whether a class may be certified and sets forth four prerequisites necessary to sustain a class action:

- (1) The class is so numerous that joinder of all members is impracticable;
- (2) There are questions of law or fact common to the class;
- (3) The claims or defenses of the representative parties are typical of the claims or defenses of the class; and
- (4) The representative parties will fairly and adequately protect the interests of the class.

Chipman v. Northwest Healthcare Corp., 2012 MT 242, ¶ 43, 366 Mont. 450, 288 P.3d 193. In its Order Granting Plaintiff’s Motion to Certify Class, this Court found that “[t]he Solems and the proposed class satisfy all four prerequisites of Rule 23(a), M.R.Civ.P.” (Dkt. 56, ¶ 21).

Amendment of the class to include all lakefront property owners in Neighborhood 800 who paid property taxes at any time under the 2009 base lot model, which would include tax years 2009 through 2014, regardless of whether such property taxes were paid under protest, will not affect the class’s qualification under Mont. R. Civ. P. 23(a)(1-4).

First, modification of the class to include all lakefront property owners in Neighborhood 800, instead of just those that filed under protest, would increase the size of the class from just

under 200 members to approximately 500 members, more than doubling the class. Thus the numerosity requirement will remain satisfied.

Second, there is no dispute that the 2009 base lot model was applied in the appraisal and assessment of *all* Neighborhood 800 properties, not just to the landowners paying under protest. Accordingly, the Court's determination that the DOR's assessment methodology for Neighborhood 800 was improper and illegal affects all Neighborhood 800 property owners who paid property taxes between 2009 and 2014 under that model, regardless of whether they paid under protest. Amending the class would not change the common question of law, and the commonality question will remain satisfied.

Third, the typicality requirement also remains satisfied upon amendment of the class because the enlarged class's claims all stem from the practice and course of conduct of the DOR based on its waterfront assessment methodology. The Solems' claims, as class representatives, are based upon the same theory of liability as all other property owners in Neighborhood 800 who paid property taxes. The DOR appraised all Neighborhood 800 properties in the same manner, and is liable to all Neighborhood 800 property owners for the damages caused by its improper and illegal appraisal methodology. Moreover, the damages of all Neighborhood 800 property owners are calculated in precisely the same fashion – by calculating the difference between their property taxes as paid for each of the six years (2009 through 2014) using the 2009 base lot model, and their property taxes as calculated for each of the six years (2009 through 2014) at the undisputed 2002 appraisal rate.

Finally, class counsel has already been approved, and will not change upon amendment of the class. Plaintiffs' current attorneys, Lon Dale, Dylan McFarland, and Rachel Parkin, are all

experienced litigators and, thus, are qualified, competent, and able to continue pursuing this litigation with an enlarged class.

Additionally, after satisfying the four elements of Rule 23(a), Plaintiffs must also show that they satisfy one of the three types of class actions described under Mont. R. Civ. P. 23(b). In this case, the Court certified the case under Rule 23(b)(2), which qualifies a class action if the party opposing the class generally acted on grounds that apply to the entire class such that a common question presented for declaratory and injunctive relief will have a single answer that will affect all class members. *Diaz v. Blue Cross Blue Shield of Montana*, 2011 MT 322, ¶ 48, 363 Mont. 151, 267 P.3d 756.

In its Order Granting Plaintiff's Motion to Certify Class, this Court found that "Plaintiffs satisfy the requirements for the action to be maintained pursuant to Rule 23(b)(2), M.R.Civ.P. because the evidence before the Court demonstrates that DOR has applied the same assessment methodology to all lakefront property owners in Neighborhood 800. The question of whether this assessment methodology overvalues lakefront property in Neighborhood 800 will thus apply to the entire class." (Dkt. 56, ¶ 24). Again, amendment of the class to include all property owners in Neighborhood 800 who paid property taxes at any time under the 2009 base lot model, which would include tax years 2009 through 2014, regardless of whether such property taxes were paid under protest, will not affect the class's qualification under Mont. R. Civ. P. 23(b). The Court has already determined as a matter of law that the DOR applied the same assessment methodology to *all* property owners in Neighborhood 800 and thus the Court's rulings impact *all* such property owners, regardless of whether they paid under protest.

Because the requirements of Rule 23(a)(1-4) and 23(b) will remain satisfied upon the amendment of the class, amendment is appropriate. Indeed, the only bar to amendment is the

pay under protest prerequisite to class membership included in § 15-1-407(2)(a). However, as set forth in the motion for partial summary judgment below, this statute is unconstitutional on its face, and therefore unenforceable. Amendment of the class definition, and enlargement of the class membership, to include *all* Neighborhood 800 landowners, regardless of whether they paid under protest, is not only appropriate, it is necessary to ensure a fair and equitable outcome to all taxpayers impacted by the DOR's improper and illegal methodology.

III. MOTION FOR PARTIAL SUMMARY JUDGMENT FINDING MONT. CODE ANN. § 15-1-407(2)(a) UNCONSTITUTIONAL

A. Legal Standard

The purpose of summary judgment is to “encourage judicial economy by eliminating unnecessary trials” when genuine issues of material fact do not exist. *Walker v. St. Paul Fire & Marine Ins. Co.*, 241 Mont. 256, 258, 785 P.2d 1157, 1159 (1980). Summary judgment is proper when there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. *Cecil v. Cardinal Drilling Co.*, 244 Mont. 405, 409, 797 P.2d 232, 234 (1990). The moving party has the initial burden of establishing the absence of genuine issues of material fact; if that burden is met, the burden shifts to the nonmoving party to establish genuine issues of material fact exist based on the evidence. *Hughes v. Lynch*, 2007 MT 177, ¶¶ 7-8, 338 Mont. 214, 164 P.3d 913.

B. To The Extent Mont. Code Ann. § 15-1-407(2)(a) Requires Payment Under Protest As A Prerequisite To Class Membership, It Is Unconstitutional.

Montana Code Annotated § 15-1-406 provides, in pertinent part, that “[a]n aggrieved taxpayer may bring a declaratory judgment action in the district court seeking a declaration that...[a] method or procedure of assessment or imposition of tax adopted or used by the department is illegal or improper...” This statute further requires that “[t]he taxes that are being

challenged under this section must be paid under protest when due as a condition of continuing the action.” There is no dispute that the Solems properly brought the present cause of action under this statute, or that they have paid their taxes under protest every year since 2009. (Dkt. 128, ¶¶ 8, 49). The Solems, as class representatives, have undisputedly satisfied the requirements of § 15-1-406.

Similarly, § 15-1-407(2)(a) provides, in pertinent part, that in bringing such a declaratory judgment action, a party may elect to use “the procedures available under the Montana Rules of Civil Procedure for bringing a class action, Title 25, chapter 20, rule 23. This includes the requirement that to be a member of the class, a taxpayer must be similarly situated to the representative class member *and must have paid the tax under protest* as provided in 15-1-406(3). (Emphasis added). Based on this language, the Court’s class certification order certifies the class as “all lakefront property owners in Neighborhood 800 who have timely paid under protest any portion of their property taxes since the last assessment cycle beginning in 2009.” Dkt. 56 at 8. However, the limitation of the class to those who have “timely paid under protest” unfairly leaves out those lakefront property owners in Neighborhood 800 who did *not* pay under protest, because they had no knowledge that the method utilized to calculate their property values was illegal an improper, but who were nevertheless subjected to the same illegal and improper methodology as the class members.

This Court has already found that the that “the DOR, by adopting and imposing its 2009 base lot model in Neighborhood 800, employed a non-uniform method of appraisal, failed to value similar properties in a like manner, and failed to appraise the subject properties in a manner that is fair to all taxpayers.” (Dkt. 128, ¶ 75). The DOR’s illegal and improper methodology for valuing the Neighborhood 800 properties results in “a disparate treatment of

taxpayers during the process of mass appraisal process [that] is manifestly unfair.” (Dkt. 128, ¶ 65). The fact that some property owners did not pay their taxes under protest does not lessen the manifest unfairness they experienced based on the DOR’s flawed methodology.

The limitation of class membership in § 15-1-407(2)(a) to those similarly situated persons who have “paid the tax under protest” is an unconstitutional violation of the Equal Protection rights guaranteed by the Fourteenth Amendment of the United States Constitution and Article II, Section 4 of the 1972 Montana Constitution, and of the substantive and procedural Due Process Rights guaranteed by the Fifth and Fourteenth Amendments of the United States Constitution and Article II, Section 17 of the 1972 Montana Constitution. Additionally, this portion of the statute limiting class membership was an impermissible action on the part of the Montana Legislature, as it invades the powers reserved to the Montana Supreme Court and violates the separation of powers doctrine established by Article II, Section 1 of the 1972 Montana Constitution. Because the language of § 15-1-407(2)(a) limiting class membership to those persons who have paid under protest is unconstitutional, it is unenforceable, and this Court should permit amendment of the class to include *all* landowners in Neighborhood 800, and not just those who have paid under protest.

1. Mont. Code Ann. § 15-1-407(2)(a) Violates Taxpayers’ Equal Protection Rights.

The Montana Supreme Court analyzes equal protection challenges under the following framework:

Under the Fourteenth Amendment to the United States Constitution, and Article II, Section 4, of the Montana Constitution, no person shall be denied equal protection of the laws. “The basic rule of equal protection is that persons similarly situated with respect to a legitimate governmental purpose of the law must receive like treatment.” (Internal citation omitted). When analyzing an equal protection claim, the Court follows a three-step process: (1) identify the classes involved and determine if they are similarly situated; (2) determine the

appropriate level of scrutiny to apply to the challenged legislation; and (3) apply the appropriate level of scrutiny to the challenged statute. *Goble v. Montana State Fund*, 2014 MT 99, ¶ 28, 374 Mont. 453, 325 P.3d 1211. A statute may violate equal protection either “on its face” or “as applied.” “To violate equal protection ‘on its face’ means that ‘the law by its own terms classifies persons for different treatment.’” *Roosevelt v. Montana Dep’t of Revenue*, 1999 MT 30, ¶ 46, 293 Mont. 240, 975 P.2d 295.

a. The Classes Involved Are Similarly Situated.

With respect to step one of the equal protection analysis, the Montana Supreme Court has found “two groups are similarly situated if they are equivalent in all relevant respects other than the factor constituting the alleged discrimination.” *Goble*, ¶ 29 (finding similarly situated classes under step one where “[b]oth classes are composed of workers who otherwise qualify for disability benefits under § 703, but one class (of which Gerber/Goble are members) is denied those benefits based on the sole distinguishing factor of incarceration.”). “The goal of identifying a similarly situated class is to isolate the factor allegedly subject to impermissible discrimination.” *Id.*

Applying step one, § 15-1-407(2)(a)’s pay under protest requirement creates two classifications on its face, as it explicitly identifies two classes: those who are similarly situated to the class representative and who paid under protest, and those who are similarly situated to the class representative and who did not pay under protest. Thus, the statute is explicit that these two classes are “similarly situated” and yet still treats these classes differently by eliminating the right to participate in class actions for one of the classes.

The two classes here are similarly situated to the Solems in every way but one – they all own lakefront property in Neighborhood 800, their lakefront properties were all taxed for the 2009 through 2014 years based on a valuation reached using the DOR’s illegal and improper

2009 base lot model, and they were all subject to the manifestly unfair results of the application of the illegal and improper 2009 base lot model. However, only those who paid under protest are permitted to be class-action members, while those who did not pay under protest are denied the recovery available for the DOR's illegal actions.

b. Strict Scrutiny Applies.

Step two in the equal protection analysis requires the court to determine the appropriate level of scrutiny to be applied. Strict scrutiny is appropriate where a fundamental right is implicated. The Montana Supreme Court has found that fundamental rights are those “either found in the Declaration of Rights or is a right ‘without which other constitutionally guaranteed rights would have little meaning.’” *Wadsworth v. State*, 275 Mont. 287, 299, 911 P.2d 1165, 1171–72 (1996) (quoting *Butte Community Union, v. Lewis*, 219 Mont. 426, 430, 712 P.2d 1309, 1311–13 (1986)).

By eliminating some taxpayers' ability to participate in class actions, § 15-1-407(2)(a) violates the taxpayers' fundamental right to legal redress pursuant to Mont. Const. Art. II § 16, since class action participation is necessary to give this right meaning. *See e.g. Meech v. Hillhaven West, Inc.*, 238 Mont. 21, 26, 776 P.2d 488, 491 (1989) (holding that while Article II, § 16 of the Montana Constitution does not guarantee a right to a specific remedy, it does guarantee a right of access to courts to seek a remedy for wrongs recognized by common-law or statutory authority).

The U.S. Supreme Court has recognized that class actions are an important tool that enables those with limited means to exercise their Article II right to legal redress:

The aggregation of individual claims in the context of a classwide suit is an evolutionary response to the existence of injuries unremedied by the regulatory action of government. Where it is not economically feasible to obtain relief within the traditional framework of a multiplicity of small individual suits for damages,

aggrieved persons may be without any effective redress unless they may employ the class-action device.

Deposit Guar. Nat. Bank, Jackson, Miss. v. Roper, 445 U.S. 326, 339 (1980); *c.f. Morrow v. Monfric, Inc.*, 2015 MT 194, ¶ 14, 380 Mont. 58, 354 P.3d 558 (citing the above quoted text of *Roper* with approval to note “[w]e agree that without the availability of a class action, aggrieved persons may be without any effective redress; however, aggrieved persons who are able to join their claims in a single action are not without effective redress, despite their small claims or limited resources.”).

In the present case, as set forth in the concurrently filed Plaintiffs’ Motion for Partial Summary Judgment Regarding Damages, the appropriate measure of damages is the difference between their property taxes as paid for each of the six years (2009 through 2014) calculated using the 2009 base lot model, and their property taxes as calculated for each of the six years (2009 through 2014) at the prior 2002 appraisal rate. The values generated by this measure of damages are unlikely to justify the high cost of the litigation. This is a matter that has been pending for over ten years, and has involved numerous attorneys. While it would not be economically feasible for each of the affected landowners to pursue an individual remedy, the ability to join a class action does make it feasible to pursue their claims despite small damages or limited resources.

By eliminating the class action remedy for those taxpayers who did not pay their property taxes under protest, those who were illegally and improperly assessed but did not pay under protest because they were not aware of the illegal/unlawful assessment are left without any effective redress, which renders their Mont. Const. Art. II, § 16 right without meaning. Accordingly, strict scrutiny is the appropriate standard of review.

*c. Applying The Strict Scrutiny Standard Of Review, The Statute's
Disparate Treatment Of Taxpayers Does Not Pass Muster.*

The third and final step in the equal protection analysis requires the court to apply the appropriate level of scrutiny. Strict scrutiny places upon the government the burden of establishing a compelling state interest for its action which must be closely tailored to accomplishing that interest. *Wadsworth*, 275 Mont. at 302, 911 P.2d at 1174. In other words, the state must have a very good reason for to sustain the validity of an invasion of a fundamental right, and the challenged law must be “the least onerous path that can be taken to achieve the state objective.” *Id.*

As the legislative history makes clear, the payment under protest requirement in § 15-1-407(2)(a) (as well as the requirement in § 15-1-406(3)) was adopted in 1995 to prevent what occurred after *Montana Dep’t of Revenue v. Barron*, 245 Mont. 100, 799 P.2d 533 (1990). The *Barron* case permitted taxpayers who had not paid under protest to receive refunds after an appraisal methodology employed by the Department of Revenue was found to be illegal. *See* Legislative History, attached hereto as **Exhibit A**. Testimony from Montana State Senator Gary Aklestad, who sponsored the bill adding the pay under protest requirement, establishes that the addition “is an attempt to clarify the language [of the statute] to avoid situations like the Great Falls taxation problem [i.e. the *Barron* case] where individuals got paid a rebate when they hadn’t paid their taxes under protest.” Exh. A, *Senate Finance & Claims Committee Hearing on SB 393*, (Feb. 15, 1995) (Testimony of Senator Gary Aklestad). Testimony from proponent Larry Fasbender indicated the problem arising out of *Barron* “was that the settlement required that the refunds could not be paid by levying emergency mills to raise the money [to pay the refunds]. Consequently, the local government units had to use reserve funds to make the

payment.” Exh. A, *House Taxation Committee Hearing on SB 393* (Mar. 8, 1995) (Testimony of Proponent Larry Fasbender).

Echoing concerns identified in the Legislative History, § 15-1-402 explains the process of paying under protest, and establishes that when taxes are paid under protest, they are placed into a separate fund which can later be used to satisfy any final determinations requiring a tax refund. However, this statute also provides that “the governing body of a taxing jurisdiction affected by the payment of taxes under protest in the second and subsequent years that a tax protest remains unresolved may demand that the treasurer of the county or municipality pay the requesting taxing jurisdiction all or a portion of the protest payments to which it is entitled, except the amount paid by the taxpayer in the first year of the protest.” In the present case, the Plaintiffs seek to recover six years’ worth of tax overpayments, as the appraised values calculated using the 2009 base lot model were used for the tax years 2009 through 2014. Thus, it is unlikely that Flathead County has even a small portion of the amount to be refunded held in its protest fund, which frustrates the purpose of the protest requirement contained in § 15-1-407(2)(a).

The purpose of the pay under protest provision in 15-1-407(2)(a), particularly when viewed in light of its diminished effectiveness given the number of tax years at issue, pales in comparison to the fundamental rights it infringes upon. Taxpayers have a significant interest in ensuring they are fairly and lawfully taxed pursuant to Mont. Const. Art. VIII, § 3, and without the ability to participate in class actions they are effectively prevented from doing so due to the time and cost involved in bringing individual claims and the limited recovery available. Class litigation offers the only viable remedy for improper or illegal taxation for the vast majority of taxpayers.

Furthermore, given the complexity of appraisal methodology, the average taxpayer has no way of knowing they are being illegally/unlawfully taxed to put them on notice that they should pay under protest. In *Dept. of Rev. v. Jarrett*, the Montana Supreme Court explicitly recognized that the pay under protest procedure is only available when the taxpayer knows they are being illegally taxed. 216 Mont. 189, 192, 700 P.2d 985, 987 (1985) (“A taxpayer can only use this protest procedure if he is aware that his taxes may be incorrect at the time he pays them. A taxpayer who does not know he is being overtaxed will not pay his taxes under protest and cannot receive a refund under § 15–1–402, MCA.”).

In *Jarrett*, the taxpayer discovered an error in the appraisal value of his property for taxation purposes – the lot was not in a special improvement district as originally believed, and did not have access to sewer facilities. *Id.* at 191-192, 700 P.2d at 986. Because the taxpayer did not know of the error at the time he paid the taxes, he did not pay under protest and was denied relief under § 15–1–402, MCA. *Id.* at 192, 700 P.2d at 987. However, the Montana Supreme Court held that “[f]or the victim of an erroneous assessment, as in the case at hand, there *must* be another way to obtain a tax refund.” *Id.* (emphasis added). In the *Jarrett* case, the Montana Supreme Court looked to another statute, § 15-16-601, to provide a refund to the aggrieved taxpayer. Section 15-16-601 allowed a taxpayer to receive a refund “by order of the board of county commissioners” for taxes erroneously or illegally collected.

In the present case, however, this statute does not provide relief to the lakefront landowners in Neighborhood 800. This statute was repealed by the Legislature in 1993, and therefore no longer offers an alternative means of relief for taxpayers who did not know there was an error in their tax assessments and therefore did not file under protest. Indeed, despite that the Court has held that “[f]or the victim of an erroneous assessment, as in the case at hand, there

must be another way to obtain a tax refund” (*Jarrett*, 216 Mont. at 192, 700 P.2d at 987), by enacting § 15-1-407(2)(a) the Legislature has essentially eliminated *any* relief for class plaintiffs who were denied the opportunity to pay under protest because they did not know of the DOR’s illegal methodology.

By essentially eliminating the class action remedy for those who do not have the necessary information or expertise to recognize the illegality of DOR’s methodology, § 15-1-407(2)(a) effectively allows the government to collect illegal taxes with little fear of repercussion. While the government may have a valid interest in creating a fund to pay settlements and judgments, that right does not outweigh the people’s constitutional right to be fairly taxed and to have an effective means of petitioning for redress when that right is violated. The DOR cannot meet its burden of establishing a compelling state interest to justify § 15-1-407(2)(a)’s denial of a remedy to the class of persons who did not file under protest, while allowing a remedy for those that did, and cannot show that the statute is narrowly tailored to accomplish any such interest. As a matter of law, § 15-1-407(2)(a) is unconstitutional on its face as a violation of the Equal Protection rights guaranteed by the Fourteenth Amendment of the United States Constitution and Article II, Section 4 of the 1972 Montana Constitution.

2. Mont. Code Ann. § 15-1-407(2)(a) Violates Taxpayers’ Due Process Rights.

“Although there is considerable overlap between an equal protection analysis and a substantive due process analysis, ‘each Clause triggers a distinct inquiry’.” *Montana Cannabis Indus. Ass’n v. State*, 2016 MT 44, ¶ 19, 382 Mont. 256, 368 P.3d 1131 (quoting *Evitts v. Lucey*, 469 U.S. 387, 405 (1985)). Namely, “[e]qual protection ‘emphasizes disparity in treatment by a State between classes of individuals whose situations are arguably indistinguishable,’ while due process ‘emphasizes fairness between the State and the individual dealing with the State,

regardless of how other individuals in the same situation may be treated.” *Id.* The due process guarantee has both a procedural and a substantive component. *Walters v. Flathead Concrete Products, Inc.*, 2011 MT 45, ¶ 21, 359 Mont. 346, 249 P.3d 346. The Court has differentiated between procedural and substantive due process by explaining that “[t]he process requirement necessary to satisfy procedural due process comes into play only after a showing that a property or liberty interest exists” while “[s]ubstantive due process bars arbitrary governmental actions regardless of the procedures used to implement them and serves as a check on oppressive governmental action.” *Id.*

a. Mont. Code Ann. § 15-1-407(2)(a) Violates Taxpayers’ Substantive Due Process Rights.

A “substantive due process analysis requires a test of the reasonableness of a statute in relation to the State’s power to enact legislation.” *Goble*, ¶ 40. The State cannot use its power to take unreasonable, arbitrary, or capricious action against an individual; therefore, a statute enacted by the Legislature must be reasonably related to a permissible legislative objective in order to satisfy guarantees of substantive due process. *Id.* (citations omitted). The fundamental elements of a substantive due process claim are: “(1) whether the legislation in question is related to a legitimate governmental concern, and (2) whether the means chosen by the Legislature to accomplish its objective are reasonably related to the result sought to be attained.” *Montana Cannabis Indus. Ass’n*, ¶ 2.

First, § 15-1-407(2)(a) does seem to be related to a legitimate governmental concern. As the legislative history for the pay under protest requirement makes clear, the legislators that enacted this requirement were concerned with making sure that if a tax refund was required to be distributed to a large number of claimants, that there would be a designated fund from which to draw that refund.

However, the particular means chosen by the Legislature to accomplish this objective are not reasonably related to the result sought. By mandating the payment of taxes under protest as a prerequisite to membership in a class action challenging the legality of the DOR's methodology, the Legislature put the cart before the horse. As the *Jarrett* Court recognized, taxpayers can only pay under protest when the taxpayer knows they are being illegally taxed. 216 Mont. at 192, 700 P.2d at 987. And unlike in *Jarrett*, there is no alternative method of recovery for potential class members who did not pay under protest because they had no way of knowing that the method under which they were assessed was improper or illegal.

Moreover, the entire purpose of the pay under protest statute, as applied to class actions, is defeated by § 15-1-402, which provides that the taxes paid under protest need only be held in a protest fund for the first year they are paid under protest, and that all subsequent protest payments may be released to the taxing jurisdiction. This case involves six years of overpayments. If only one year worth of the protested payments are held in the protest fund, then the class recovery will already exceed the amounts held in the fund, and the purpose of § 15-1-407(2)(a) is frustrated. Instead of ensuring that there would be an adequate fund to pay out a class refund from, the Legislature ensured that an entire class of aggrieved taxpayers could not recover the monies that the DOR illegally collected from them. This is the very definition of an unreasonable, arbitrary, and capricious action against the taxpayer, and is a violation of substantive due process rights. As a matter of law, § 15-1-407(2)(a) is unconstitutional and unenforceable under the Fifth and Fourteenth Amendments of the United States Constitution and Article II, Section 17 of the 1972 Montana Constitution.

b. Mont. Code Ann. § 15-1-407(2)(a) Violates Taxpayers' Procedural Due Process Rights.

Procedural due process applies only when property or liberty interests are involved. *Dorwart v. Caraway*, 1998 MT 191, ¶ 68, 290 Mont. 196, 966 P.2d 1121, *overruled on other grounds by Trustees of Indiana University v. Buxbaum*, 2003 MT 97, 315 Mont. 210, 69 P.3d 663. “In order to establish a property interest in a benefit ... a person must show that he or she has a legitimate claim of entitlement to the benefit.” *Id.* In *Dorwart*, the Montana Supreme Court held that judgment debtors had a property interest not only in statutorily exempted property itself, but also in the right “to claim and benefit from those exemptions.” *Id.* ¶ 74.

At its most basic level, procedural due process requires that before a person may be deprived of life, liberty, or property, they must have “(1) notice, and (2) opportunity for a hearing appropriate to the nature of the case.” *Montanans for Justice v. State ex rel. McGrath*, 2006 MT 277, ¶ 30, 334 Mont. 237, 146 P.3d 759. The Montana Supreme Court analyzes procedural due process challenges under the following framework:

Specifically, procedural due process requires consideration of three distinct factors: “(1) the private interest that will be affected by the official action; (2) the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and (3) the government’s interest.”

Goble, ¶ 46 (applying the procedural due process test adopted by the U.S. Supreme Court in *Mathews v. Eldridge*, 424 U.S. 319, 334 (1976)); *see also Dorwart*, ¶ 76-103 (applying *Mathews* balancing test to hold “Montana’s post-judgment execution statutes violate state and federal constitutional guarantees of due process of law because they do not provide for notice to a judgment debtor of the seizure of the debtor’s property, of the availability of statutory exemptions from execution and where to locate additional information about them, and of the availability of procedures by which to claim exemptions from execution”).

i. Private Interests Involved.

Here, the property interest at issue is the taxpayer's right to recover an overpayment of taxes based upon the DOR's improper and illegal appraisal methodology via participation in a class action lawsuit. Article II, § 16 establishes a right of access to the courts for the purpose of seeking legal redress, and Mont. R. Civ. P. 23 establishes a right to seek such redress by participating in class action lawsuits when specifically identified prerequisites established in the rule are satisfied. However, § 15-1-407(2)(a) eliminates class action lawsuits, and with it a taxpayers' right of access to the courts and ability petition for return of illegally or unlawfully imposed taxes, unless the taxpayer has filed under protest.

In *Dorwart*, the Court found judgment debtor's had a property interest not only in the statutorily exempt property, but also the ability to claim the exemption such that, "he or she is entitled to claim the statutory exemption and that is the property interest which is protected by the right to due process." *Dorwart*, ¶ 74. As in *Dorwart*, the property interest implicated in the present case is not only taxpayers' right to a return of improperly or illegally assessed taxes, but also the right to participate in a class action lawsuit to petition for return of those improperly or illegally assessed taxes.

ii. Risk of Erroneous Deprivation and Value of Procedural Safeguards.

The procedural deficiency of § 15-1-407(2)(a) is its failure to require that taxpayers be provided with notice alerting them to the fact that if they fail to pay taxes under protest, then § 15-1-407(2)(a) prohibits them from participating in a class actions aimed at recovering an overpayment of taxes should the method of assessment be challenged as improper or illegal in the future. Minutes from the Montana House Taxation Committee's Executive Action on the bill which enacted the payment under protest requirement of § 15-1-406 and 407 record a warning

from Representative Fuchs that provision “would require that everyone send a letter with their tax payment saying they are filing a protest ‘just in case’ a class action is filed.” Exh. A, *House Taxation Committee Hearing on SB 393* (Mar. 10, 1995) (Comments of Rep. Fuchs). Thus, the Legislature recognized that this law would eliminate taxpayers’ right to participate in class actions unless they paid under protest, but neglected to require notice of this deprivation. For example, the tax bill issued to the Solems (and presumably every other property taxpayer) in 2009 provided:

Payments under protest must be in writing and comply with the provisions of state law. These laws can be found in Montana Code Annotated 15-1-402 and 15-1-406. Protest forms are available upon request at the Treasurer’s office or online at www.flathead.mt.gov/property_tax.

See Flathead County 2009 Real Estate Tax Bill, attached hereto as **Exhibit B**.

This is the only notice regarding protest provided. Not only did property tax bills not inform taxpayers that they would waive their right to Rule 23 class action participation if they didn’t pay under protest, the tax bills also failed to refer taxpayers to the Montana Code section which would have informed them of this waiver. Taxpayers were not provided adequate notice before they were deprived of their right to participate in future class actions. *Dorwart*, ¶ 93 (“In general, due process requires notice which, under the circumstances, is reasonably calculated to inform interested parties of the action and afford them an opportunity to present objections”). As a result, the risk of an erroneous deprivation of the right to participate in a class action should the assessed tax later be declared improper or illegal is high. Likewise, the additional procedural safeguard of providing such notice would have been valuable in decreasing the risk of taxpayers unintentionally waiving this right.

iii. Government's Interests.

As discussed in the Equal Protection section above, the State has an interest in maintaining a separate fund for the purposes of refunding tax payments when it is found to have improperly or illegally imposed taxes. However, providing notice that failure to pay under protest precludes future class participation would not significantly burden the State, since the additional procedural safeguard of adequate notice – or even *any* notice – would simply require the addition of a few lines of the tax bill's payment under protest explanation as quoted above. *Dorwart*, ¶ 99 (“Nor would the state’s fiscal and administrative burdens be significantly increased, since the notice of property seizures, availability of exemptions and procedures by which to claim exemptions would require only the printing of new, or revising of old, writ of execution forms”).

Weighing these factors, the taxpayers’ interest in retaining their right to recover improperly or illegally assessed taxes via participation in class action lawsuits substantially outweighs the burden that additional notice requirements would impose on the State. *Id.*, ¶ 101. The statute at issue in *Dorwart* was found to violate procedural due process as applied because it failed to require judgment debtors be notified of their right to claim statutory exemptions. Here, § 15-1-407(2)(a) violates procedural due process as applied because it fails to require that taxpayers be notified that their right to participate in class action lawsuits to recover improperly or illegally assessed taxes is statutorily eliminated unless they pay their taxes under protest. As a matter of law, § 15-1-407(2)(a) is unconstitutional and unenforceable under the Fifth and Fourteenth Amendments of the United States Constitution and Article II, Section 17 of the 1972 Montana Constitution.

3. Mont. Code Ann. § 15-1-407(2)(a) Violates The Separation Of Powers Doctrine.

The separation of powers provision, contained in the general government section of Article III, Section 1 of the 1972 Montana Constitution, provides:

The power of the government of this state is divided into three distinct branches—legislative, executive, and judicial. No person or persons charged with the exercise of power properly belonging to one branch shall exercise any power properly belonging to either of the others, except as in this constitution expressly directed or permitted.

The Montana Supreme Court has explained that “certain judicial functions require that the courts alone determine how those functions are to be exercised.” *Coate v. Omholt*, 203 Mont. 488, 493, 662 P.2d 591, 594 (1983) (holding that the separation of powers doctrine does not permit the Legislature to enact time limits and enforcement procedures for judicial decision making); *Jordan v. Andrus*, 26 Mont. 37, 66 P. 502, 502 (1901) (holding the separation of powers doctrine prevents the legislature from having the “power to regulate the physical form of the pleadings and instruments to be filed with the Supreme Court”).

The 1972 Montana Constitution also provides that the Montana Supreme Court “may make rules governing appellate procedure, practice and procedure for all other courts, admission to the bar and the conduct of its members. Rules of procedure shall be subject to disapproval by the legislature in either of the two sessions following promulgation.” Mont. Const. Art. VII, § 2. While the Constitution grants the Legislature the power to disapprove procedural rules, it does not grant the Legislature the power to write or amend procedural rules.

Montana Rule of Civil Procedure 23 is the procedural rule governing class actions in Montana. This rule sets for the prerequisites and procedures for certifying a class action, and has never been disapproved by the Legislature, as permitted by Mont. Const. Art. VII, § 2. The Legislature’s attempt to limit class actions under § 15-1-407(2)(a) is a procedural re-write of

Mont. R. Civ. P. 23, and is an inappropriate exercise of judicial power by the legislative branch. The Legislature's enactment of § 15-1-407(2)(a) is a legislative over-step that violates the separation of powers doctrine. As a matter of law, § 15-1-407(2)(a) is unconstitutional and unenforceable under Article III, Section 1 of the 1972 Montana Constitution.

IV. CONCLUSION

As damages have yet to be determined in this case and no final judgment has issued, amendment of the class is timely and well within the broad discretion of this Court. The class definition should be amended to include property owners in Neighborhood 800 who paid property taxes at any time under the 2009 base lot model, which would include tax years 2009 through 2014, regardless of whether such property taxes were paid under protest. As the requirements of Rule 23(a)(1-4) and 23(b) will remain satisfied upon the amendment of the class, amendment is appropriate.

Additionally, Plaintiffs request that this Court find, as a matter of law, that § 15-1-407(2)(a), which requires payment of taxes under protest as a prerequisite to membership in a class action, is an unconstitutional violation of the Equal Protection rights guaranteed by the Fourteenth Amendment of the United States Constitution and Article II, Section 4 of the 1972 Montana Constitution, and of the substantive and procedural Due Process Rights guaranteed by the Fifth and Fourteenth Amendments of the United States Constitution and Article II, Section 17 of the 1972 Montana Constitution. Additionally, the Court should find, as a matter of law, the portion of the statute limiting class membership was an impermissible action on the part of the Montana Legislature, as it invades the powers reserved to the Montana Supreme Court, and thus violates the separation of powers doctrine established by Article II, Section 1 of the 1972

Montana Constitution. The Plaintiffs respectfully request that this Court grant partial summary judgment finding that § 15-1-407(2)(a) is unconstitutional and unenforceable.

DATED this 17th day of July, 2020.

MILODRAGOVICH, DALE
& STEINBRENNER, P.C.
Attorneys for Plaintiffs

/s/ Rachel H. Parkin

KNIGHT NICASTRO
MACKAY, LLC
Attorneys for Plaintiffs

/s/ Dylan McFarland

18

MONTANA LEGISLATIVE HISTORY

Chapter 348 19 95

Bill H _____ S 393 Original bill & history / c

H. Committee on Taxation

Hearing Date(s) Mar 08 ✓ c

Mar 10 ✓ c

_____ c

_____ c

Date Out Mar 10 ✓ c

S. Committee on Finance & Claims

Hearing Date(s) Feb 15 ✓ c

_____ c

_____ c

_____ c

Feb 15 ✓ c

Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____

Report _____



3/25 REFERRED TO TAXATION
 3/31 HEARING
 4/04 Tabled in COMMITTEE
 DIED in COMMITTEE

SB 391 INTRODUCED BY GROSFIELD, ET AL.

**REQUIRE DEPARTMENT OF FISH, WILDLIFE, AND PARKS TO IDENTIFY
 CRITICAL LOW-WATER STREAM REACHES FOR THE FISHERY
 RESOURCE**

2/13	INTRODUCED		
2/13	FIRST READING		
2/13	REFERRED TO NATURAL RESOURCES		
2/14	FISCAL NOTE REQUESTED		
2/15	HEARING		
2/18	FISCAL NOTE RECEIVED		
2/18	FISCAL NOTE PRINTED		
2/20	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/21	2ND READING DO PASS MOTION FAILED	23	27
2/21	2ND READING INDEFINITELY POSTPONED	27	23

SB 392 INTRODUCED BY GAGE

**AUTHORIZE THE GOVERNOR OR A DESIGNEE TO PARTICIPATE IN THE
 PACIFIC NORTHWEST ECONOMIC REGION**

BY REQUEST OF SENATE BUSINESS & INDUSTRY COMMITTEE

2/14	INTRODUCED		
2/14	FIRST READING		
2/14	REFERRED TO STATE ADMINISTRATION		
2/17	HEARING		
2/17	COMMITTEE REPORT—BILL PASSED		
2/20	2ND READING PASSED	49	1
2/21	3RD READING PASSED	49	1
	TRANSMITTED TO HOUSE		
2/22	FIRST READING		
2/22	REFERRED TO BUSINESS & LABOR		
3/07	HEARING		
3/07	COMMITTEE REPORT—BILL CONCURRED		
3/08	2ND READING CONCURRED	88	10
3/09	3RD READING CONCURRED	89	9
	RETURNED TO SENATE		
3/11	SIGNED BY PRESIDENT		
3/11	SIGNED BY SPEAKER		
3/13	TRANSMITTED TO GOVERNOR		
3/14	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 141		
	EFFECTIVE DATE: 07/01/95		

SB 393 INTRODUCED BY AKLESTAD

**CLARIFY REQUIREMENTS FOR BRINGING A CLASS ACTION FOR TAX
 REFUNDS**

BY REQUEST OF SENATE FINANCE & CLAIMS COMMITTEE

2/13	INTRODUCED		
2/13	FIRST READING		
2/13	REFERRED TO FINANCE & CLAIMS		
2/15	HEARING		
2/15	COMMITTEE REPORT—BILL PASSED		
2/16	2ND READING PASSED	30	19
2/17	3RD READING PASSED	34	16

	TRANSMITTED TO HOUSE		
2/20	FIRST READING		
2/20	REFERRED TO TAXATION		
3/08	HEARING		
3/10	COMMITTEE REPORT—BILL CONCURRED		
3/30	2ND READING CONCURRED	79	17
3/31	3RD READING CONCURRED	77	21
	RETURNED TO SENATE		
4/04	SIGNED BY PRESIDENT		
4/05	SIGNED BY SPEAKER		
4/06	TRANSMITTED TO GOVERNOR		
4/10	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 348		
	EFFECTIVE DATE: 04/10/95		

SB 394 INTRODUCED BY DEVLIN, ET AL.
 INCLUDE GRAY WOLF IN DEFINITION OF PREDATORY ANIMAL FOR
 PURPOSES OF PREDATORY ANIMAL CONTROL IF GRAY WOLF IS
 REMOVED FROM LIST OF THREATENED OR ENDANGERED ANIMALS BY
 FEDERAL GOVERNMENT
 BY REQUEST OF THE SENATE AGRICULTURE, LIVESTOCK, AND
 IRRIGATION COMMITTEE

2/14	INTRODUCED		
2/14	FIRST READING		
2/14	REFERRED TO AGRICULTURE, LIVESTOCK & IRRIGATION		
2/17	HEARING		
2/17	COMMITTEE REPORT—BILL PASSED		
2/20	2ND READING PASSED	36	14
2/21	3RD READING PASSED	36	14
	TRANSMITTED TO HOUSE		
2/22	FIRST READING		
2/22	REFERRED TO AGRICULTURE, LIVESTOCK & IRRIGATION		
3/09	HEARING		
3/11	COMMITTEE REPORT—BILL CONCURRED		
3/13	2ND READING CONCURRED	86	14
3/14	3RD READING CONCURRED	82	17
	RETURNED TO SENATE		
3/16	SIGNED BY PRESIDENT		
3/18	SIGNED BY SPEAKER		
3/20	TRANSMITTED TO GOVERNOR		
3/24	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 244		
	EFFECTIVE DATE: WHEN THE GRAY WOLF IS REMOVED FROM THREATENED/ENDANGERED SPECIES LIST		

SB 395 INTRODUCED BY BARTLETT, ET AL.
 REVISE LAWS GOVERNING BOARD OF NURSING

2/14	INTRODUCED		
2/14	FIRST READING		
2/14	REFERRED TO PUBLIC HEALTH, WELFARE & SAFETY		
2/15	FISCAL NOTE REQUESTED		
2/18	HEARING		
2/18	FISCAL NOTE RECEIVED		
2/18	FISCAL NOTE PRINTED		
2/20	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/21	2ND READING PASSED AS AMENDED	50	0
2/22	3RD READING PASSED	50	0

SENATE BILL NO. **393**INTRODUCED BY PKLESTAD

BY REQUEST OF THE SENATE FINANCE AND CLAIMS COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE REQUIREMENTS FOR BRINGING A CLASS ACTION FOR TAX REFUNDS; CLARIFYING THAT A MEMBER OF THE CLASS MUST HAVE PAID THE TAX UNDER PROTEST; AMENDING SECTIONS 15-1-406 AND 15-1-407, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 15-1-406, MCA, is amended to read:

"15-1-406. Declaratory judgment. (1) An aggrieved taxpayer may bring a declaratory judgment action in the district court seeking a declaration that:

(a) an administrative rule or method or procedure of assessment or imposition of tax adopted or used by the department of revenue is illegal or improper; or

(b) a tax authorized by the state or one of its subdivisions was illegally or unlawfully imposed or exceeded the taxing authority of the entity imposing the tax.

(2) The action must be brought within 90 days of the date the notice of the tax due was sent to the taxpayer or, in the case of an assessment covered by the uniform tax review procedure set forth in 15-1-211, within 90 days of the date of the department director's final decision. The court shall consolidate all actions brought under subsection (1) that challenge the same tax. The decision of the court applies to all similarly situated taxpayers, except those taxpayers who are excluded under 15-1-407.

(3) The taxes that are being challenged under this section must be paid under protest when due as a condition of continuing the action. Property taxes ~~may be~~ are paid under protest as provided in 15-1-402. All other taxes administered by the department, except inheritance and estate taxes, are paid under protest by filing timely claims for refund and by following the uniform tax review procedures of 15-1-211. Inheritance and estate taxes are paid under protest by following the procedures set forth in Title 72.

(4) The remedy authorized by this section may not be used to challenge the:

1 (a) market value of property under a property tax unless the challenge is to the legality of a
2 particular methodology that is being applied to similarly situated taxpayers; or

3 (b) legality of a tax other than a property tax, inheritance tax, or estate tax unless the review
4 pursuant to 15-1-211 has been completed.

5 (5) The remedy authorized by this section is the exclusive method of obtaining a declaratory
6 judgment concerning a tax authorized by the state or one of its subdivisions. The remedy authorized by this
7 section supersedes the Uniform Declaratory Judgments Act established in Title 27, chapter 8. This section
8 does not affect actions for declaratory judgments under 2-4-506."

9
10 **Section 2.** Section 15-1-407, MCA, is amended to read:

11 **"15-1-407. Alternative remedy -- procedure.** (1) Except as provided in subsection (2), an action
12 pursuant to 15-1-406 is subject to the provisions of Title 27, chapter 8.

13 (2) In lieu of the requirement of 27-8-301, a party bringing an action under 15-1-406 may elect
14 to use:

15 (a) the procedures available under the Montana Rules of Civil Procedure for bringing a class action,
16 Title 25, chapter 20, rule 23. This includes the requirement that to be a member of the class, a taxpayer
17 must be similarly situated to the representative class member and must have paid the tax under protest as
18 provided in 15-1-406(3). ~~or~~

19 (b) the procedure provided for in subsection (3).

20 (3) (a) A party bringing an action under 15-1-406 may elect to give notice as provided in this
21 subsection. A party so electing ~~must~~ shall publish notice that an action has been brought. The notice must
22 be published at least once each week for 4 consecutive weeks in a newspaper of general circulation
23 published in the county where the action is commenced and in other counties within the jurisdiction of the
24 taxing authority. The notice ~~shall~~ must advise each similarly situated taxpayer that:

25 (i) the court will exclude ~~him~~ the taxpayer from the class if ~~he~~ the taxpayer so requests by a
26 specific date;

27 (ii) the judgment, whether favorable or not, will include all similarly situated taxpayers who do not
28 request to be excluded; and

29 (iii) any similarly situated taxpayer who does not request exclusion may, if ~~he~~ the taxpayer desires,
30 enter an appearance.

1 (b) The court shall exclude a taxpayer from an action brought pursuant to 15-1-406 if the person
2 bringing the action publishes notice as provided in subsection (3) of this section and the taxpayer requests
3 to be excluded by the date specified in the notice.

4 (c) An election to give notice under subsection (3) ~~of this section~~ does not prevent any party to
5 the action from serving process on other interested parties.

6 (d) This section governs alternative notice. This section does not alter the requirement under Rule
7 23, Montana Rules of Civil Procedure, that to be a member of the class, a taxpayer must have paid the tax
8 under protest as provided in 15-1-406(3).

9 (4) In a proceeding under 15-1-406 all issues ~~shall~~ must be tried by the court."

10
11 NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval.

12 -END-

SENATOR KEATING assumed the Chair so that SENATOR AKLESTAD could present SB 393.

HEARING ON SENATE BILL 393

Opening Statement by Sponsor:

SENATOR GARY AKLESTAD, Senate District 44, said SB 393 will clarify language that taxes would have to be paid under protest to be eligible to receive a rebate on taxes, if it is justifiable. SB 393 is an attempt to clarify the language to avoid situations like the Great Falls taxation problem where individuals got paid a rebate when they hadn't paid their taxes under protest.

Proponents' Testimony:

Larry Fasbender, Cascade County Coalition, said the only change made is a clarification of the law. This will require that a protest is filed and the protested taxes will go into an escrow fund and be available in any court cases that are settled. He concluded that this is an excellent piece of legislation to clarify the law.

Dave Woodgerd, Chief Legal Counsel for the Department of Revenue, indicated their support of SB 393 in protecting local governments and also benefitting taxpayers.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

SENATOR JENKINS asked if the original understanding of the law was that they had to protest before they were paid back.

Dave Woodgerd said the Department of Revenue was not sure what the law was as it was unclear.

SENATOR KEATING asked if some taxes paid, not under protest, are reclaimed at some later date.

Dave Woodgerd said there was some confusion as to whether or not under this particular alternative procedure there was a requirement that property taxes be paid under protest. Under all other procedures in order to get a refund of property taxes, you have to pay under protest. He said this particular one was left open and this bill clarifies that.

SENATOR KEATING questioned whether taxes paid under protest are set aside and the counties cannot use that money.

SENATE FINANCE & CLAIMS COMMITTEE

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Mr. Woodgerd said that was correct, they are set aside and earn interest; whoever prevails in the action gets the taxes and the interest the money has earned.

Closing by Sponsor:

SENATOR AKLESTAD said the bill is self-explanatory, adding that this type of legislation is needed to clarify the laws.

SENATOR AKLESTAD resumed the chair.

EXECUTIVE ACTION ON SENATE BILL 342

Motion/Vote: SENATOR WATERMAN MOVED THAT SB 342 BE REREFERRED TO THE SUBCOMMITTEE ON LONG RANGE PLANNING. Motion CARRIED.

EXECUTIVE ACTION ON SENATE BILL 369

Motion/Vote: SENATOR KEATING MOVED THAT SB 369 BE REREFERRED TO THE SUBCOMMITTEE ON LONG RANGE PLANNING. Motion CARRIED.

EXECUTIVE ACTION ON SENATE BILL 393

Motion/Vote: SENATOR JENKINS MOVED THAT SB 393 DO PASS. Motion CARRIED with SENATOR FRANKLIN opposed.

EXECUTIVE ACTION ON SENATE BILL 360

SENATOR AKLESTAD said the votes would remain open for all votes cast today to be fair to the other members.

Motion: SENATOR KEATING MOVED SB 360 DO PASS.

Discussion: SENATOR JERGESON said the problem with the program is that its potential has never been fully developed.

SENATOR JACOBSON said the problem with the program is that the money is being siphoned off for other things. If the money was going through grants to small businesses as a way for ranchers who are leaving their ranches to start another type of business, as the program was envisioned, she would be in full support. However, most of the money is going to the Department of Agriculture, the Department of Commerce and MSU for their laboratories. The problem is that it is not going where it was meant to go.

SENATOR FRANKLIN said the reason for the committee bill is to get a hearing and have interested parties come in and talk about the program.

MONTANA SENATE
1995 LEGISLATURE
FINANCE AND CLAIMS COMMITTEE

DATE _____

2/15795

ROLL CALL

[illegible]


SEN:1995
wp.rollcall.man

SENATE STANDING COMMITTEE REPORT

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February 15, 1995

MR. PRESIDENT:

We, your committee on Finance and Claims having had under consideration SB 393 (first reading copy -- white), respectfully report that SB 393 do pass.

Signed: 
Senator Gary Aklestad, Chair

DATE February 15, 1995

SENATE COMMITTEE ON Finance & Claims

BILLS BEING HEARD TODAY: SB 342 Senator Bartlett
SB 360 Senator Keating SB 369 Senator Christiaens
SB 393 Senator Klestad

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
Beth Baker	Dept of Justice	342	✓	
Lorna Frank	Farm Bureau	360		X
Randy Johnson	mt grain growers	360		X
Bill Verwal F	city of Helena	342	✓	
CANDACE Torgerson	Monte Cattlemen Women Assn.	360		X
Lee Boyer	Appt. Agr	360		
Larry Jacobson	Cascade City Coalition	393	✓	
Dave Woodgerd	Dept. of Revenue	393	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

HEARING ON SB 393

Opening Statement by Sponsor:

SEN. GARY AKLESTAD, Senate District 44, Galata, informed the Committee that SB 393 would take care of a situation that arose in a Montana city that resulted in a successful class action suit. Following the lawsuit, individuals who had not filed a protest of their taxes and were not a party to the lawsuit received refunds. The bill clarifies the requirements for bringing a class action suit for tax refunds and provides that a member of the class must have paid the tax under protest in order to receive a refund.

Proponents' Testimony:

Larry Fasbender, Cascade County Coalition, advised that the city, county and school districts were all obligated when the lawsuit was settled and had to find the money to pay the settlement. When a taxpayer files a protest, his tax money goes into a fund and when a settlement is made, funds can be withdrawn from that fund to settle the case. In this particular instance, a class action was filed and a number of people who had not filed a protest became members of the class (all taxpayers in Cascade County) and eventually were paid a refund. The problem that occurred was that the settlement required that the refunds could not be paid by levying emergency mills to raise the money. Consequently, the local government units had to use reserve funds to make the payment. It has become clear that there must be a readily available fund to make refunds. He said the legislation will make it clear that in the future, whenever a suit is filed that may become a class action suit, in order to maintain the members of the class, all of the members would have had to file their taxes under protest. The money would be placed into a fund to provide a source of revenue to make the settlement payment. By putting this legislation in place, the problem may not occur again.

Larry Allen, Attorney, Montana Department of Revenue (DOR), expressed support for SB 393. He said it would provide a uniform refund procedure for taxpayers.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

REP. ELLIOTT asked how a taxpayer would know that a class action suit would be filed because it could be filed after the deadline for protesting taxes. Mr. Fasbender said that was correct. The remedy in the law now does not require that and it creates a problem because the taxes were not set aside to create a fund from which to pay refunds. The standard used nationwide is that

the taxpayer must have filed a protest in order to be considered a member of the class. To follow up, REP. ELLIOTT said the taxpayer might not protest because he was not aware that the tax was improper. Mr. Fasbender said that in most cases the amount of money involved would not make it significant and doesn't change the fact that someone may get a refund and someone else may not. That is the situation under the law at the present time.

REP. STORY asked what happens to the money when a taxpayer pays under protest. Mr. Fasbender said it is held in a special account until the case is settled. REP. STORY asked if all tax money was held. Mr. Fasbender replied that it would only be the protested portion. REP. STORY asked how a determination was made of how much went into the fund. Mr. Fasbender said it was the amount protested, such as the increase over the previous year.

REP. WENNEMAR asked if this would lead to increased filings under protest. SEN. AKLESTAD said he did not believe it would. He said a class action was not the normal procedure.

REP. STORY said that he thought it would be possible that following a reevaluation, everyone would file under protest in the event there could be a class action. Mr. Allen said the taxpayer must file under protest in order to be a member of a class. He provided an example of how the process would work.

Closing Statement by Sponsor:

SEN. AKLESTAD said the DOR had requested the bill to make sure the intent of the statute is plain.

HEARING ON HB 506

Opening Statement by Sponsor:

REP. TOM NELSON, House District 11, Billings, opened the hearing on HB 506 which would impose a 5% surcharge on the base price of a rental vehicle in Montana and would be a reimbursement for the taxes and fees paid on the rental vehicle at the time of registration. A copy of Rep. Nelson's opening statement is attached. EXHIBIT 1.

Proponents' Testimony:

Steve Costley, President, Montana Car Rental Association, testified in support of the bill. An outline of his testimony is attached. EXHIBIT 2.

Jeff Taylor, Dollar Rent a Car, Missoula, rose in support of the bill. A copy of his testimony is attached. EXHIBIT 3.

HOUSE OF REPRESENTATIVES

Taxation

ROLL CALL

DATE March 8, 1995

NAME	PRESENT	ABSENT	EXCUSED
Rep. Chase Hibbard, Chairman	✓		
Rep. Marian Hanson, Vice Chairman, Majority	✓		
Rep. Bob Ream, Vice Chairman, Minority	✓		
Rep. Peggy Arnott	✓		
Rep. John Bohlinger	✓		
Rep. Jim Elliott	✓		
Rep. Daniel Fuchs	✓		
Rep. Hal Harper	✓		
Rep. Rick Jore	✓		
Rep. Judy Rice Murdock	✓		
Rep. Tom Nelson	✓		
Rep. Scott Orr	✓		
Rep. Bob Raney	✓		
Rep. Sam Rose	✓		
Rep. Bill Ryan	✓		
Rep. Roger Somerville	✓		
Rep. Robert Story	✓		
Rep. Emily Swanson	✓		
Rep. Jack Wells	✓		
Rep. Ken Wennemar	✓		

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Location _____ COMMITTEE _____ BILL NO. SB 393
 DATE 3/8/95 SPONSOR(S) Sen. Aklestad

PLEASE PRINT

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Larry Tasbender	Cascade Coalition			✓

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

EXECUTIVE ACTION ON SB 393Motion:

REP. ELLIOTT MOVED THAT SB 393 BE CONCURRED IN.

Discussion:

REP. ELLIOTT said the proposal seemed fair. If a person is going to join a class action suit, the person should have filed a protest along with paying the tax.

REP. FUCHS said the bill would require that everyone send a letter with their tax payment saying they are filing a protest "just in case" a class action is filed.

REP. WENNEMAR said the bill establishes a procedure and he would support the bill. The bill would close a loophole.

REP. ELLIOTT said the reasons the bill was brought forward was to clarify who could be a member of a class action suit and brings all taxpayers into conformity, and it provides that protested taxes are deposited in an escrow account to be used in the event the protester wins and settlements would not have to be made from the general fund of the taxing jurisdiction.

REP. REAM commented that someone had remarked that in the Great Falls case that prompted this legislation, the only person who came out well was the attorney who was paid \$673,000.

Vote:

On a voice vote, the be concurred in motion passed, 15 - 5.

EXECUTIVE ACTION ON HB 586

CHAIRMAN HIBBARD asked if there were any objections to executive action on HB 586 heard earlier in the meeting. There were no objections.

Motion:

REP. BOHLINGER MOVED THAT HB 586 DO PASS.

Discussion:

REP. BOHLINGER said Rep. Wyatt had brought forth an idea that needs exploration. There are serious questions about what is fair and he did not think the entire list she had suggested should be tax exempt but there should be discussion.

HOUSE OF REPRESENTATIVES

Taxation

ROLL CALL

DATE March 10, 1995

NAME	PRESENT	ABSENT	EXCUSED
Rep. Chase Hibbard, Chairman	✓		
Rep. Marian Hanson, Vice Chairman, Majority	✓		
Rep. Bob Ream, Vice Chairman, Minority	✓		
Rep. Peggy Arnott	✓		
Rep. John Bohlinger	✓		
Rep. Jim Elliott	✓		
Rep. Daniel Fuchs	✓		
Rep. Hal Harper	✓		
Rep. Rick Jore	✓		
Rep. Judy Rice Murdock	✓		
Rep. Tom Nelson			✓
Rep. Scott Orr			✓
Rep. Bob Raney	✓		
Rep. Sam Rose	✓		
Rep. Bill Ryan	✓		
Rep. Roger Somerville	✓		
Rep. Robert Story	✓		
Rep. Emily Swanson			✓
Rep. Jack Wells	✓		
Rep. Ken Wennemar	✓		



HOUSE STANDING COMMITTEE REPORT

March 10, 1995

Page 1 of 1

Mr. Speaker: We, the committee on Taxation report that Senate Bill 393 (third reading copy -- blue) be concurred in.

Signed: _____

A handwritten signature in cursive script, reading "Chase Hibbard", is written over a horizontal line.

Chase Hibbard, Chair

Carried by: Rep. Sommerville

Committee Vote:
Yes 15, No 5.

561403SC.Hbk



FLATHEAD COUNTY 2009 REAL ESTATE TAX BILL

Adele Krantz, Treasurer

Mailing Address: 800 S Main Kalispell, MT 59901

Physical Address: 935 1st Ave W Kalispell MT 59901 (Blue Building)
(406) 758-5680 www.flathead.mt.gov/property_tax



WILLIAM M & ELLEN G SOLEM
PO BOX 248
CHINOOK MT 59523-0248

28578 84
1/1



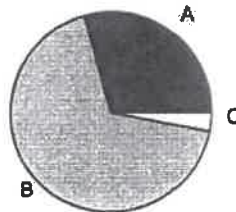
ASSESSOR NUMBER: 0534651
TAX BILL NUMBER: 200923697
SCHOOL DISTRICT: 29
GEO CODE: 07370506405010000

Property Location:
435 CAROLINE POINT RD
LAKESIDE MT 59922

Property Description:

06 26 20 WHIPPS PT CAROLINE VIL STS LOT 22 06 28 20 WHIPPS PT
CAROLINE VIL STS AMD L 21, 20, 1 LOT PT OF 20 &

Parties with ownership interest:
Owner of Record.....SOLEM, WILLIAM M & ELLEN G



Type of Property	Taxable Market Value	Taxable Value
Real Estate	250,709	7,345.77
Improvements	187,463	5,492.66
Totals	438,172	12,838.43

Description	Percentage	Amount
A = County Functions	29.54%	1904.28
B = Education	67.44%	4346.70
C = Other	3.01%	194.19

SUMMARY OF TAXES, LEVIES & FEES

COUNTY	.070460	904.60	SHERIFF	.029200	374.88
CO PERM MED LEVY	.005000	64.19	NOXIOUS WEEDS	.000450	5.78
COUNTYWIDE MOSQUITO	.000500	6.42	911 GENER OBLIG BOND	.001920	24.65
ROAD	.020830	267.42	COUNTY PLANNING	.001800	23.11
BOARD OF HEALTH	.005590	71.77	COUNTY LAND FILL		161.46
STATE - UNIVERSITY	.006000	77.03	SUB-TOTAL - Taxes For County Functions...	.135750	1904.28
STATE - SCHOOL AID	.040000	513.54	GENERAL SCHOOLS	.101030	1297.07
FLATHEAD HIGH SCHOOL	.092380	1186.01	FLAT VAL COM COLLEGE	.015270	196.04
FVCC PERMIS MED LEVY	.000420	5.39	SOMERS ELEMENTARY 29	.083470	1071.62
SOIL & WATER CONSERV	.001580	20.29	SUB-TOTAL - Taxes For Education.....	.338570	4346.70
STATE FORESTER		42.68	SOMERS FIRE	.009832	126.22
			BLACKTAIL TV		5.00
			SUB-TOTAL - Other Taxes And Fees.....	.011412	194.19
Total Mills Levied	.485732		Total Taxes and Fees		6445.17

1st Installment due 11/30/09 = 3222.59
2nd Installment due 05/31/10 = 3222.58

Tax paid receipts will be mailed only if a self-addressed stamped envelope is enclosed.
To pay/view taxes online, go to www.flathead.mt.gov/property_tax. A 3% fee will be charged on all credit/debit card payments.
Payments made or postmarked after the due date must include 2% penalty & monthly interest of 5/6 of 1% (0.008333)
Any delinquent amount due must be verified by contacting the Treasurer's Office at (406) 758-5680 prior to payment.

Keep upper portion for your records

Return this stub with 2nd half payment. Payment must be hand delivered or postmarked by

MAY 31, 2010

Make checks payable to **FLATHEAD COUNTY TREASURER**

ASSESSOR NUMBER: 0534651

Please include your tax bill number on your check

TAXBILL NUMBER: 200923697

DO NOT PAY THIS IF YOU HAVE AN ESCROW ACCOUNT (if you are unsure, contact your lender)

If your address has changed, please make corrections below.

WILLIAM M & ELLEN G SOLEM
PO BOX 248
CHINOOK MT 59523-0248

Tax
Penalty & Interest
Total

3222.58



DELINQUENT TAXES – Once a full year becomes delinquent, you must pay the year in full. If more than one year is delinquent, you must pay the most current year first, followed by the oldest year.

EFFECT OF FAILURE TO RECEIVE NOTICE - If you do not receive a tax notice on property, this does not excuse the late charge and the interest for non-payment.

EXTENDED DUE DATES – If the date on which taxes are due falls on a holiday or Saturday, taxes may be paid without penalty or interest on or before 5 pm of the next business day, in accordance with MCA 1-1-307

OWNERSHIP INTEREST - Tax notice must be issued in the name of the owner of record as the property stood on January 1 of the taxing year. Therefore, properties that changed hands, were re-recorded, split or subdivided during the current year will not be reflected until the next year.

PAYMENT PROCESSING – Please allow at least 2 weeks for mailed payments to be processed if paying close to the due date.

PAYING UNDER PROTEST – Payments under protest must be in writing and comply with the provisions of state law. These laws can be found in Montana Code Annotated 15-1-402 and 15-1-406. Protest forms are available upon request at the Treasurer's office or online at www.flathead.mt.gov/property_tax.

PROPERTY VALUATION - Property valuation staff may be visiting your property to conduct an on-site review for property tax purposes. You or your agent may want to be present. If you wish to make an appointment, contact the local Department of Revenue Office – Assessors division, at (406) 758-5700.

RETURNED CHECK FEE – A \$20 fee is charged on all returned checks and payment may be cancelled. Each account is then subject to applicable interest, penalty, costs and foreclosure action.

TAX ASSISTANCE – If you are low income, elderly, a disabled veteran or surviving spouse of a deceased disabled veteran or have had a large increase in your property taxes due to reappraisal; you may qualify for tax assistance. For more information go to <http://mt.gov/revenue/forindividuals/property/relieftpt.asp> or contact the Department of Revenue at 406-758-5700.

TAXBILL TIME TABLE – 1ST installment due by November 30th 2009 covers January 1 – June 30 of 2009. 2ND installment due May 31st 2010 covers July 1 - December 31 of 2009. Both installments may be paid by the 1st installment due date.

INFORMATION & ASSISTANCE

INQUIRIES:

Address Changes: Plat Room – 758-5510
Ownership Changes: Plat Room – 758-5510
Property Assessment/Appraisal – 758-5700
Property Tax Assistance: Dept of Revenue – 758-5700
Exemptions: Department of Revenue – 758-5700
School Taxes – Superintendent of Schools – 758-5720
County Land Fill – 758-5910

WATER & SEWER DISTRICTS:

Big Mountain Sewer- 892-2622
Bigfork Water & Sewer – 837-4566
Coram Water & Sewer – 387-5648
Evergreen Water & Sewer – 257-5861
Flathead County Water Dist. #8 – 862-1316
Hungry Horse Water & Sewer – 837-4133
Lakeside Water & Sewer – 844-3881
Somers Water & Sewer – 837-4133
Martin City Water & Sewer – 387-4026
Ranch Water & Sewer – 890-2331
Whitefish City Sewer & Water – 863-4900

CITY ASSESSMENTS:

Kalispell – 758-7700
Columbia Falls – 892-4391
Whitefish – 863-2400

TV DISTRICTS:

Blacktail TV – 249-3251
Desert Mountain TV – 387-5230
Swan Hill TV – 751-5155

FIRE DISTRICTS:

Badrock Rural Fire – PO Box 1964 Columbia Falls
Bigfork Fire – 837-4590
Big Mountain Fire – 862-4057
Blankenship Rural Fire – 387-4299
Columbia Falls Rural Fire – 892-5149
Coram/West Glacier Fire – 387-5590
County Fire – Office of Emergency Services – 758-5560
Creston Fire – 257-8316
Evergreen Fire – 752-4636
Ferndale Fire – 837-5124
Hungry Horse Fire - 387-4096
Marion Fire – 858-2337
Martin City Fire – 387-4026
Olney Rural Fire – 881-2220
Smith Valley Fire – 752-3548
Somers Fire – 253-9828
South Kalispell Fire – 257-4274
West Valley Fire – 257-5535
Whitefish Fire Service Area – 862-4672
Forester Fees – Dept. of State Lands – 406-542-4300

Payments made after the due date must include penalty and interest. Call 406-758-5680 for correct amount.

Mail payment to:

ADELE KRANTZ
FLATHEAD COUNTY TREASURER
800 SOUTH MAIN
KALISPELL MT 59901

Bring payment to:

BLUE BUILDING
PROPERTY TAX DEPARTMENT
935 1ST AVE W
KALISPELL MT 59901

Pay online by e-check/credit/debit
www.flathead.mt.gov/property_tax

Phone 406-758-5680
Fax – 406-758-5864

CERTIFICATE OF SERVICE

I, Rachel Hendershot Parkin, hereby certify that I have served true and accurate copies of the foregoing Motion - Motion to the following on 07-17-2020:

Dylan McFarland (Attorney)
283 W. Front Street
Suite 203
Missoula MT 59802-4328
Representing: William M Solem
Service Method: eService

Stefan T. Wall (Attorney)
P.O. Box 1713
Helena MT 59624
Representing: Montana Department of Revenue
Service Method: eService

Nicholas James Gochis (Attorney)
125 North Roberts Street
P.O. Box 7701
Helena MT 59604-7701
Representing: Montana Department of Revenue
Service Method: eService

Electronically signed by Crystal F. Montgomery-Kaler on behalf of Rachel Hendershot Parkin
Dated: 07-17-2020