

Overview of Mediation Options Available to Taxpayers  
For the Senate Joint Resolution No. 23 Study

Prepared for the Revenue and Transportation Interim Committee  
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The [Senate Joint Resolution No. 23](#) study of the taxpayer appeal process requests that the assigned interim committee "analyze the appropriateness and timeliness of formal mandatory or voluntary mediation processes as part of the taxpayer appeal process." The Department of Revenue (Department) has the authority to resolve disputes through mediation. In addition, the 2013 Legislature enacted new statutes providing for mediation for property valuation disputes. This report provides an overview of the options available to taxpayers.

Office of Dispute Resolution Requested Mediation

The Department may request mediation or grant a taxpayer request for mediation as part of the Department's general authority to administer tax laws in section [15-1-201](#).

In addition, section [15-1-211](#) requires the Department to have a uniform dispute review procedure. Issues arising from the administration of the property tax are not included in this procedure except for assessments of centrally assessed property. Subsection (2)(a) provides that those having a dispute with the Department "have the right to have the dispute resolved by appropriate means, including consideration of alternative dispute resolution procedures such as mediation."

Administrative Rule [42.2.618](#) outlines the mediation procedures used by the Department. The rule provides that "any matter in connection with a dispute may be pursued through mediation." Mediation can be requested at the initial conference conducted by the Office of Dispute Resolution (ODR) or even take place at that conference if the parties agree. The mediator must be agreed upon by both parties and can be an ODR hearings officer or someone outside of the Department. If an outside mediator is chosen, the taxpayer pays the costs for the mediator. If all issues are not resolved in the mediation, the parties prepare a stipulation identifying the issues resolved and the issues remaining. The remaining issues are then addressed at a hearing before a hearing examiner.

State Tax Appeal Board Requested Mediation

The 2013 Legislature enacted [Senate Bill No. 280](#), which allows property taxpayers to request mediation as a means of resolving valuation disputes. The bill included two new sections of law that are now codified as sections [15-1-212](#) and [15-1-213](#).

Centrally Assessed and Industrial Taxpayers Assessed Annually

Section [15-1-212](#) provides for mediation for centrally assessed and industrial properties assessed annually by the Department. This section of law was effective May 6, 2013. A centrally assessed taxpayer or an industrial taxpayer assessed annually may request mediation by including the request for mediation on the appeal filed with the State Tax Appeal Board or, if the appeal is already filed, with a separate motion to the State Tax Appeal Board. A \$100 fee must accompany the request and that fee is

deposited in the General Fund. The Department must participate when the taxpayer requests mediation.

Additional provisions require that the mediation be private, confidential, informal, and follow the process outlined in section [26-1-813](#). The section also specifies that the mediator is prohibited from conveying information between the parties unless the source party authorizes the conveyance of the information. Records of the mediation may not be disclosed to the public until the dispute is resolved, either through mediation or through the tax appeal process. The mediation may not be conducted by a public employee and must take place in a privately owned facility. The taxpayer and the Department share the costs of the mediator.

The section also provides a timeline for the mediation proceedings. The mediator must be selected and the mediation scheduled within 45 days of the request for mediation. Both parties may agree to waive this requirement. Also, a mediation may not proceed longer than 120 days unless the parties agree.

As of publication, no centrally assessed taxpayers or industrial property taxpayers assessed annually have requested mediation under this section by filing with the State Tax Appeal Board.

#### Other Property Taxpayers

Section [15-1-213](#) outlines the mediation process for other property taxpayers. This section of law will become effective on January 1, 2015.

The mediation process for other property taxpayers is identical to the one discussed above for centrally assessed and industrial property taxpayers except that other property taxpayers must first appeal to the county tax appeal board and receive the county board's final decision. As stated above, the State Tax Appeal Board is the entity that receives the request for mediation, and there is a \$100 filing fee.

Section [15-1-213](#) directly references the mediation procedures discussed above, which are contained in section [15-1-212](#)(2) through (6).