LEGAL REVIEW NOTE

Bill No.: HB 644

LC#: LC 2233, To Legal Review Copy, as of February 10, 2025

Short Title: Allow a county to employ a property appraiser for property tax purposes

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Date: February 25, 2025

CONFORMITY WITH STATE AND FEDERAL CONSTITUTIONS

As required pursuant to section 5-11-112(1)(c), MCA, it is the Legislative Services Division's statutory responsibility to conduct "legal review of draft bills". The comments noted below regarding conformity with state and federal constitutions are provided to assist the Legislature in making its own determination as to the constitutionality of the bill. The comments are based on an analysis of jurisdictionally relevant state and federal constitutional law as applied to the bill. The comments are not written for the purpose of influencing whether the bill should become law but are written to provide information relevant to the Legislature's consideration of this bill. The comments are not a formal legal opinion and are not a substitute for the judgment of the judiciary, which has the authority to determine the constitutionality of a law in the context of a specific case.

This review is intended to inform the bill draft requestor of potential constitutional conformity issues that may be raised by the bill as drafted. This review IS NOT dispositive of the issue of constitutional conformity and the general rule as repeatedly stated by the Montana Supreme Court is that an enactment of the Legislature is presumed to be constitutional unless it is proven beyond a reasonable doubt that the enactment is unconstitutional. See Alexander v. Bozeman Motors, Inc., 356 Mont. 439, 234 P.3d 880 (2010); Eklund v. Wheatland County, 351 Mont. 370, 212 P.3d 297 (2009); St. v. Pyette, 337 Mont. 265, 159 P.3d 232 (2007); and Elliott v. Dept. of Revenue, 334 Mont. 195, 146 P.3d 741 (2006).

Legal Reviewer Comments:

HB 644 may raise potential constitutional concerns associated with Article VIII, sections, of the Montana Constitution, which provides: “The state shall appraise, assess, and equalize the valuation of all property which is to be taxed in the manner provided by law.” The draft may also raise potential constitutional concerns associated with Article VIII, sections 4, of

the Montana Constitution, which provides: "All taxing jurisdictions shall use the assessed valuation of property established by the state."

In New Section 1 of HB 644, the state may delegate its authority to appraise property within a county for property tax purposes as follows:

> **Section 1. County property appraiser.** (1) With written permission from the department of a revenue, a county may employ a property appraiser who appraises property within the county for property tax purposes. The appraiser must be certified pursuant to 15-7-107 and must use the appraisal methods provided for in Title 15, chapter 7, part 1.
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> (2) An appraiser employed by a county shall provide property appraisals to the department of revenue by July 1. An appraisal provided to the department by a county must be used when certifying taxable values pursuant to 15-10-202.

Article VIII, section 3, mandates that the state shall appraise, assess, and equalize the valuation of all property. Additionally, Article VIII, section 4, mandates that valuation of property is established by the state. These provisions do not provide the state with authority to delegate its constitutional mandate to appraise property.

HB 644 contains a provision that allows the state to delegate its constitutional mandate to appraise property within a county for property tax purposes. Therefore, HB 644 may raise potential questions about whether this bill conforms with Article VIII, sections 3 and 4, of the Montana Constitution.

Requester Comments: