

FIRST REGULAR SESSION

SENATE BILL NO. 300

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR EIGEL.

Read 1st time January 24, 2019, and ordered printed.

ADRIANE D. CROUSE, Secretary.

1602S.01I

AN ACT

To repeal section 139.031, RSMo, and to enact in lieu thereof one new section relating to protested taxes.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 139.031, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 139.031, to read as follows:

139.031. 1. Any taxpayer may protest all or any part of any current taxes
2 assessed against the taxpayer, except taxes collected by the director of revenue
3 of Missouri. Any such taxpayer desiring to pay any current taxes under protest
4 or while paying taxes based upon a disputed assessment shall, at the time of
5 paying such taxes, make full payment of the current tax bill before the
6 delinquency date and file with the collector a written statement setting forth the
7 grounds on which the protest is based. The statement shall include the true
8 value in money claimed by the taxpayer if disputed. An appeal before the state
9 tax commission shall not be dismissed on the grounds that a taxpayer failed to
10 file a written statement when paying taxes based upon a disputed assessment.

11 2. Upon receiving payment of current taxes under protest pursuant to
12 subsection 1 of this section or upon receiving from the state tax commission or the
13 circuit court notice of an appeal from the state tax commission or the circuit court
14 pursuant to section 138.430, along with full payment of the current tax bill before
15 the delinquency date, the collector shall disburse to the proper official all portions
16 of taxes not protested or not disputed by the taxpayer and shall impound in a
17 separate fund all portions of such taxes which are protested or in dispute. Every
18 taxpayer protesting the payment of current taxes under subsection 1 of this
19 section shall, within ninety days after filing his protest, commence an action

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

20 against the collector by filing a petition for the recovery of the amount protested
21 in the circuit court of the county in which the collector maintains his office. If
22 any taxpayer so protesting his taxes under subsection 1 of this section shall fail
23 to commence an action in the circuit court for the recovery of the taxes protested
24 within the time prescribed in this subsection, such protest shall become null and
25 void and of no effect, and the collector shall then disburse to the proper official
26 the taxes impounded, and any interest earned thereon, as provided above in this
27 subsection.

28 3. No action against the collector shall be commenced by any taxpayer
29 who has, effective for the current tax year, filed with the state tax commission or
30 the circuit court a timely and proper appeal of the assessment of the taxpayer's
31 property. The portion of taxes in dispute from an appeal of an assessment shall
32 be impounded in a separate fund and the commission in its decision and order
33 issued pursuant to chapter 138 or the circuit court in its judgment may order all
34 or any part of such taxes refunded to the taxpayer, or may authorize the collector
35 to release and disburse all or any part of such taxes.

36 4. Trial of the action for recovery of taxes protested under subsection 1 of
37 this section in the circuit court shall be in the manner prescribed for nonjury civil
38 proceedings, and, after determination of the issues, the court shall make such
39 orders as may be just and equitable to refund to the taxpayer all or any part of
40 the current taxes paid under protest, together with any interest earned thereon,
41 or to authorize the collector to release and disburse all or any part of the
42 impounded taxes, and any interest earned thereon, to the appropriate officials of
43 the taxing authorities. Either party to the proceedings may appeal the
44 determination of the circuit court.

45 5. All the county collectors of taxes, and the collector of taxes in any city
46 not within a county, shall, upon written application of a taxpayer, refund or credit
47 against the taxpayer's tax liability in the following taxable year and subsequent
48 consecutive taxable years until the taxpayer has received credit in full for any
49 real or personal property tax mistakenly or erroneously levied against the
50 taxpayer and collected in whole or in part by the collector. Such application shall
51 be filed within three years after the tax is mistakenly or erroneously paid. The
52 governing body, or other appropriate body or official of the county or city not
53 within a county, shall make available to the collector funds necessary to make
54 refunds under this subsection by issuing warrants upon the fund to which the
55 mistaken or erroneous payment has been credited, or otherwise.

56 6. No taxpayer shall receive any interest on any money paid in by the
57 taxpayer erroneously.

58 7. All protested taxes impounded under protest under subsection 1 of this
59 section and all disputed taxes impounded under notice as required by section
60 138.430 shall be invested by the collector in the same manner as assets specified
61 in section 30.260 for investment of state moneys. A taxpayer who is entitled to
62 a refund of protested or disputed taxes shall also receive the interest earned on
63 the investment thereof. If the collector is ordered to release and disburse all or
64 part of the taxes paid under protest or dispute to the proper official, such taxes
65 shall be disbursed along with the proportional amount of interest earned on the
66 investment of the taxes due the particular taxing authority.

67 8. Any taxing authority may request to be notified by the county collector
68 of current taxes paid under protest. Such request shall be in writing and
69 submitted on or before February first next following the delinquent date of
70 current taxes paid under protest or disputed, and the county collector shall
71 provide such information on or before March first of the same year to the
72 requesting taxing authority of the taxes paid under protest and disputed taxes
73 which would be received by such taxing authority if the funds were not the
74 subject of a protest or dispute. Any taxing authority may apply to the circuit
75 court of the county or city not within a county in which a collector has impounded
76 protested or disputed taxes under this section and, upon a satisfactory showing
77 that such taxing authority would receive such impounded tax funds if they were
78 not the subject of a protest or dispute and that such taxing authority has the
79 financial ability and legal capacity to repay such impounded tax funds in the
80 event a decision ordering a refund to the taxpayer is subsequently made, the
81 circuit court shall order, pendente lite, the disbursal of all or any part of such
82 impounded tax funds to such taxing authority. The circuit court issuing an order
83 under this subsection shall retain jurisdiction of such matter for further
84 proceedings, if any, to compel restitution of such tax funds to the taxpayer. In
85 the event that any protested or disputed tax funds refunded to a taxpayer were
86 disbursed to a taxing authority under this subsection instead of being held and
87 invested by the collector under subsection 7 of this section, [such taxing authority
88 shall pay the taxpayer entitled to the refund of such protested or disputed taxes
89 the same amount of interest, as determined by the circuit court having
90 jurisdiction in the matter, such protested or disputed taxes would have earned if
91 they had been held and invested by the collector] **the taxpayer shall be**

92 entitled to interest on all refunded tax funds at the rate determined
93 under section 32.068 and published by the director of revenue. The
94 taxpayer is expressly authorized to seek an order enforcing the
95 provisions of this subsection against the collector and any taxing
96 authorities which received the protested funds being refunded in either
97 the circuit court that originally ordered the distribution of the
98 protested funds or, in the event that the tax appeal that resulted in the
99 refund was heard and determined by the state tax commission, from the
100 state tax commission.

101 9. No appeal filed from the circuit court's or state tax commission's
102 determination pertaining to the amount of refund shall stay any order of refund,
103 but the decision filed by any court of last review modifying that determination
104 shall be binding on the parties, and the decision rendered shall be complied with
105 by the party affected by any modification within ninety days of the date of such
106 decision. No taxpayer shall receive any interest on any additional award of
107 refund, and the collector shall not receive any interest on any ordered return of
108 refund in whole or in part.

Bill ✓

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