

FIRST REGULAR SESSION

HOUSE BILL NO. 170

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE FROELKER.

Pre-filed December 18, 2000, and 1000 copies ordered printed.

ANNE C. WALKER, Chief Clerk

0789L.011

AN ACT

To repeal section 139.031, RSMo 2000, relating to collection of property taxes, and to enact in lieu thereof one new section relating to the same subject.

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

Section A. Section 139.031, RSMo 2000, is repealed and one new section enacted in lieu thereof, to be known as section 139.031, to read as follows: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 taxes assessed against [him] **such taxpayer**, except taxes collected by the director of revenue of Missouri. Any such taxpayer desiring to pay any taxes under protest shall, at the time of paying such taxes, file with the collector a written statement setting forth the grounds on which [his] **such taxpayer's** protest is based. The statement shall include the true value in money claimed by the taxpayer if disputed.

2. Upon receiving payment of taxes under protest pursuant to subsection 1 of this section or upon receiving notice of an appeal pursuant to section 138.430, RSMo, the collector shall disburse to the proper official all portions of taxes not disputed by the taxpayer and shall impound in a separate fund all portions of such taxes which are in dispute. Except as provided in subsection 3 of this section, every taxpayer protesting the payment of taxes shall, within ninety days after filing [his] **such taxpayer's** protest, commence an action against the collector by filing a petition for the recovery of the amount protested in the circuit court of the county in which the collector maintains [his] **an** office. If any taxpayer so protesting [his] **such taxpayer's** taxes shall fail to commence an action in the circuit court for the recovery of the taxes protested within the time prescribed in this subsection, such protest shall become null and void and of no effect, and the collector shall then disburse to the proper official the taxes impounded, and any interest

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

17 earned thereon, as provided above in this subsection.

18 3. No action against the collector shall be commenced by any taxpayer who has, for the
19 tax year in issue, filed with the state tax commission a timely and proper appeal of the protested
20 taxes. Such taxpayer shall notify the collector of the appeal in the written statement required by
21 subsection 1 of this section. The taxes so protested shall be impounded in a separate fund and
22 the commission may order all or any part of such taxes refunded to the taxpayer, or may
23 authorize the collector to release and disburse all or any part of such taxes in its decision and
24 order issued pursuant to chapter 138, RSMo.

25 4. Trial of the action in the circuit court shall be in the manner prescribed for nonjury
26 civil proceedings, and, after determination of the issues, the court shall make such orders as may
27 be just and equitable to refund to the taxpayer all or any part of the taxes paid under protest,
28 together with any interest earned thereon, or to authorize the collector to release and disburse all
29 or any part of the impounded taxes, and any interest earned thereon, to the appropriate officials
30 of the taxing authorities. Either party to the proceedings may appeal the determination of the
31 circuit court.

32 5. All the county collectors of taxes, and the collector of taxes in any city not within a
33 county, shall, upon written application of a taxpayer, [refund any real or tangible personal
34 property tax mistakenly or erroneously paid in whole or in part to the collector, or shall] credit
35 against the taxpayer's tax liability in the following taxable year **and subsequent consecutive**
36 **taxable years until the credit is fully used** any real or personal property tax mistakenly or
37 erroneously levied against the taxpayer and collected in whole or in part by the collector, **or, if**
38 **the taxpayer has no tax liability to such collector in the immediately following taxable year,**
39 **refund any balance remaining on real or tangible personal property tax mistakenly or**
40 **erroneously paid in whole or in part to the collector.** Such application shall be filed within
41 [one year] **three years** after the tax is mistakenly or erroneously paid. The governing body, or
42 other appropriate body or official of the county or city not within a county, shall make available
43 to the collector funds necessary to make refunds [under] **pursuant to** this subsection by issuing
44 warrants **pro rata in the amount credited to each political subdivision** upon the fund to which
45 the mistaken or erroneous payment has been credited, or otherwise.

46 6. [No] A taxpayer shall receive any interest **at the rate required by section 32.065,**
47 **RSMo,** on any money paid in by [him] **such taxpayer** erroneously.

48 7. All protested taxes shall be invested by the collector in the same manner as assets
49 specified in section 30.260, RSMo, for investment of state moneys. A taxpayer who is entitled
50 to a refund of protested taxes shall also receive the interest earned on the investment thereof. If
51 the collector is ordered to release and disburse all or part of the taxes paid under protest to the
52 proper official, such taxes shall be disbursed along with the proportional amount of interest

53 earned on the investment of the taxes due the particular taxing authority.

54 8. On or before March first next following the delinquent date of taxes paid under
55 protest, the county collector shall notify any taxing authority of the taxes paid under protest
56 which would be received by such taxing authority if the funds were not the subject of a protest.
57 Any taxing authority may apply to the circuit court of the county or city not within a county in
58 which a collector has impounded protested taxes [under] **pursuant to** this section and, upon a
59 satisfactory showing that such taxing authority would receive such impounded tax funds if they
60 were not the subject of a protest and that such taxing authority has the financial ability and legal
61 capacity to repay such impounded tax funds in the event a decision ordering a refund to the
62 taxpayer is subsequently made, the circuit court shall order, pendente lite, the disbursal of all or
63 any part of such impounded tax funds to such taxing authority. The circuit court issuing an order
64 [under] **pursuant to** this subsection shall retain jurisdiction of such matter for further
65 proceedings, if any, to compel restitution of such tax funds to the taxpayer. In the event that any
66 protested tax funds refunded to a taxpayer were disbursed to a taxing authority [under] **pursuant**
67 **to** this subsection instead of being held and invested by the collector [under] **pursuant to**
68 subsection 7 of this section, such taxing authority shall pay the taxpayer entitled to the refund
69 of such protested taxes the same amount of interest, as determined by the circuit court having
70 jurisdiction in the matter, such protested taxes would have earned if they had been held and
71 invested by the collector.

72 9. No appeal filed shall stay any order of refund, but the decision filed by any court of
73 last review modifying the circuit court's or state tax commission's determination pertaining to
74 the amount of refund shall be binding on the parties, and the decision rendered shall be complied
75 with by the party affected by any modification within ninety days of the date of such decision.
76 No taxpayer shall receive any interest on any additional award of refund, and the collector shall
77 not receive any interest on any ordered return of refund in whole or in part.