

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 60
92ND GENERAL ASSEMBLY

Reported from the Committee on Ways and Means, April 14, 2003, with recommendation that the Senate Committee Substitute do pass and be placed on the Consent Calendar.

0355S.03C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal section 139.031, RSMo, and to enact in lieu thereof one new section relating to refunds of tax payments mistakenly or erroneously made.

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Section A. Section 139.031, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 139.031, to read as follows: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] **the 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] **the** 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 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 office. If any taxpayer so protesting his 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 earned thereon, as provided above

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

19 in this subsection.

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

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

35 5. All the county collectors of taxes, and the collector of taxes in any city not
36 within a county, shall, upon written application of a taxpayer, refund [any real or
37 tangible personal property tax mistakenly or erroneously paid in whole or in part to the
38 collector,] or [shall] credit against the taxpayer's tax liability in the following taxable
39 year **and subsequent consecutive taxable years until the taxpayer has received**
40 **credit in full for**, any real or personal property tax mistakenly or erroneously levied
41 against the taxpayer and collected in whole or in part by the collector. Such application
42 shall be filed within [one year] **three years** after the tax is mistakenly or erroneously
43 paid. The governing body, or other appropriate body or official of the county or city not
44 within a county, shall make available to the collector funds necessary to make refunds
45 under this subsection by issuing warrants upon the fund to which the mistaken or
46 erroneous payment has been credited, or otherwise.

47 6. No taxpayer shall receive any interest on any money paid in by [him] **the**
48 **taxpayer** erroneously.

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

55 particular taxing authority.

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

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

T