

SECOND REGULAR SESSION

HOUSE BILL NO. 2445

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE MCMULLEN.

5211H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 138.060, 138.434, and 139.031, RSMo, and to enact in lieu thereof four new sections relating to property taxes.

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

Section A. Sections 138.060, 138.434, and 139.031, RSMo, are repealed and four
2 new sections enacted in lieu thereof, to be known as sections 137.132, 138.060, 138.434, and
3 139.031, to read as follows:

**137.132. 1. For the purposes of this section, and in any appeal alleging a
2 violation thereof, the following terms shall mean:**

3 **(1) "Common level of assessment", the ratio of the total of the assessor's assessed
4 values for all real property in a subclass, as verified pursuant to section 137.245, to the
5 total of actual true values in money of the same real property, expressed as a percentage,
6 and measured by an assessment ratio study;**

7 **(2) "Individual level of assessment", the ratio of an assessor's assessed value for
8 an individual parcel of real property, as verified pursuant to section 137.245, to the
9 actual true value in money of such real property, expressed as a percentage.**

10 **2. The level of assessment of all real property in subclass (1) or subclass (3), as
11 provided in section 137.115, shall be uniform and equal throughout each subclass. If the
12 common level of assessment in either subclass is lower than the individual level of
13 assessment of any parcel in the same subclass, the individual level of assessment of such
14 parcel shall be lowered to the common level of assessment for the subclass upon appeal
15 by the property owner to the local board of equalization, state tax commission, or circuit
16 court.**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 **3. When determining the individual level of assessment of a parcel of real**
18 **property, the lesser of the assessor's appraised value, as verified pursuant to section**
19 **137.245, or the appraised value set by the local board of equalization shall be presumed**
20 **to be the actual true value in money for such real property, absent substantial and**
21 **persuasive evidence establishing a lower true value in money.**

138.060. 1. The county board of equalization shall, in a summary way, determine all
2 appeals from the valuation of property made by the assessor, and shall correct and adjust the
3 assessment accordingly. There shall be no presumption that the assessor's valuation is
4 correct. In any county with a charter form of government with a population greater than two
5 hundred eighty thousand inhabitants but less than two hundred eighty-five thousand
6 inhabitants, in any county with a charter form of government with greater than one million
7 inhabitants, in any city not within a county, and in any other county for any property whose
8 assessed valuation increased at least fifteen percent from the previous assessment unless the
9 increase is due to new construction or improvement, the assessor shall have the burden to
10 prove that the assessor's valuation does not exceed the true market value of the subject
11 property. In such county or city, in the event a physical inspection of the subject property is
12 required by subsection 10 of section 137.115, the assessor shall have the burden to establish
13 the manner in which the physical inspection was performed and shall have the burden to
14 prove that the physical inspection was performed in accordance with section 137.115. In such
15 county or city, in the event the assessor fails to provide sufficient evidence to establish that
16 the physical inspection was performed in accordance with section 137.115, the property
17 owner shall prevail on the appeal as a matter of law, **and the assessor's increased assessed**
18 **valuation shall be void in its entirety, and the previous assessed valuation shall be**
19 **applied to the property in place of the increased assessed valuation.** At any hearing
20 before the state tax commission or a court of competent jurisdiction of an appeal of
21 assessment from a first class charter county or a city not within a county, the assessor shall not
22 advocate nor present evidence advocating a valuation higher than that value finally
23 determined by the assessor or the value determined by the board of equalization, whichever is
24 higher, for that assessment period.

25 2. The county clerk shall keep an accurate record of the proceedings and orders of the
26 board, and the assessor shall correct all erroneous assessments, and the clerk shall adjust the
27 tax book according to the orders of such board and the orders of the state tax commission,
28 except that in adding or deducting such percent to each tract or parcel of real estate as
29 required by such board or state tax commission, he shall add or deduct in each case any
30 fractional sum of less than fifty cents, so that the value of any separate tract shall contain no
31 fractions of a dollar.

138.434. In any first class charter county or a city not within a county ~~[may require~~
2 ~~by ordinance or charter the reimbursement to]~~, a taxpayer ~~[for the amount of just and~~
3 ~~reasonable appraisal costs, attorney fees and court costs]~~ **shall be entitled to an award of all**
4 **attorney's fees and costs of litigation** resulting from an evidentiary hearing before the state
5 tax commission or a court of competent jurisdiction, **including but not limited to attorney's**
6 **fees, appraisal costs, witness fees, and court costs, whether paid directly by the taxpayer**
7 **or paid by an attorney, tax agent, or other third party**, if such appeal results in a final
8 decision reducing the appraised value of residential property by at least fifteen percent or the
9 appraised value of utility, industrial railroad and other subclass three property by at least
10 twenty-five percent from the appraised value determined by the board of equalization for that
11 tax year. The commission or court awarding such fees and costs shall consider the
12 reasonableness of the fees and costs within the context of the particular case. Such fees and
13 costs shall not exceed ~~[one]~~ **five** thousand dollars for a residential property appeal. Such fees
14 and costs for utility, industrial railroad or other subclass three property appeals shall not
15 exceed the lesser of ~~[four]~~ **five** thousand dollars or twenty-five percent of the tax savings
16 resulting from the appeal. The provisions of this section shall only apply to the first contested
17 year when cases are tried on a consolidated basis.

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

10 2. Upon receiving ~~[payment of current taxes under]~~ **written notice of** protest under
11 subsection 1 of this section or upon receiving from the state tax commission or the circuit
12 court notice of an appeal from the state tax commission or the circuit court under section
13 138.430, ~~[along with]~~ **and** full payment of the current tax bill before the delinquency date, the
14 collector shall disburse to the proper official all portions of taxes not protested or not disputed
15 by the taxpayer and shall impound in a separate fund all portions of such taxes which are
16 protested or in dispute. Every taxpayer protesting the payment of current taxes under
17 subsection 1 of this section shall, within ninety days after filing his protest, commence an
18 action against the collector by filing a petition for the recovery of the amount protested in the
19 circuit court of the county in which the collector maintains his office. If any taxpayer so
20 protesting his taxes under subsection 1 of this section shall fail to commence an action in the

21 circuit court for the recovery of the taxes protested within the time prescribed in this
22 subsection, such protest shall become null and void and of no effect, and the collector shall
23 then disburse to the proper official the taxes impounded, and any interest earned thereon, as
24 provided above in this subsection.

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

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

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

49 6. No taxpayer shall receive any interest on any money paid in by the taxpayer
50 erroneously.

51 7. All protested taxes impounded under protest under subsection 1 of this section and
52 all disputed taxes impounded under notice as required by section 138.430 shall be invested by
53 the collector in the same manner as assets specified in section 30.260 for investment of state
54 moneys. A taxpayer who is entitled to a refund of protested or disputed taxes shall also
55 receive the interest earned on the investment thereof. If the collector is ordered to release and
56 disburse all or part of the taxes paid under protest or dispute to the proper official, such taxes

57 shall be disbursed along with the proportional amount of interest earned on the investment of
58 the taxes due the particular taxing authority.

59 8. Any taxing authority may request to be notified by the county collector of current
60 taxes paid under protest. Such request shall be in writing and submitted on or before
61 February first next following the delinquent date of current taxes paid under protest or
62 disputed, and the county collector shall provide such information on or before March first of
63 the same year to the requesting taxing authority of the taxes paid under protest and disputed
64 taxes which would be received by such taxing authority if the funds were not the subject of a
65 protest or dispute. Any taxing authority may apply to the circuit court of the county or city
66 not within a county in which a collector has impounded protested or disputed taxes under this
67 section and, upon a satisfactory showing that such taxing authority would receive such
68 impounded tax funds if they were not the subject of a protest or dispute and that such taxing
69 authority has the financial ability and legal capacity to repay such impounded tax funds in the
70 event a decision ordering a refund to the taxpayer is subsequently made, the circuit court shall
71 order, pendente lite, the disbursement of all or any part of such impounded tax funds to such
72 taxing authority. The circuit court issuing an order under this subsection shall retain
73 jurisdiction of such matter for further proceedings, if any, to compel restitution of such tax
74 funds to the taxpayer. In the event that any protested or disputed tax funds refunded to a
75 taxpayer were disbursed to a taxing authority under this subsection instead of being held and
76 invested by the collector under subsection 7 of this section, the taxpayer shall be entitled to
77 interest on all refunded tax funds, **from the date that the disputed taxes were distributed to**
78 **a taxing authority through the date of the refund**, at the [~~annual rate~~] rates calculated by
79 the state treasurer and applied by the director of revenue under section 32.068. This measure
80 of interest shall only apply to protested or disputed tax funds actually distributed to a taxing
81 authority pursuant to this subsection. In the event of a refund of protested or disputed tax
82 funds which remain impounded by the collector, the taxpayer shall instead be entitled to the
83 interest actually earned on those refunded impounded tax funds under subsection 7 of this
84 section. Any sovereign or official immunity otherwise applicable to the taxing authorities is
85 hereby waived for all purposes related to this subsection, and the taxpayer is expressly
86 authorized to seek an order enforcing this provision from the circuit court that originally
87 ordered the distribution of the protested or disputed funds, or directly from the state tax
88 commission, if the tax appeal that resulted in the refund was heard and determined by the
89 state tax commission.

90 9. No appeal filed from the circuit court's or state tax commission's determination
91 pertaining to the amount of refund shall stay any order of refund, but the decision filed by any
92 court of last review modifying that determination shall be binding on the parties, and the
93 decision rendered shall be complied with by the party affected by any modification within

94 ninety days of the date of such decision. No taxpayer shall receive any interest on any
95 additional award of refund, and the collector shall not receive any interest on any ordered
96 return of refund in whole or in part. **In the event that a taxpayer is entitled to a refund, the**
97 **collector shall issue the refund to the taxpayer within thirty days of the date that the**
98 **circuit court's or state tax commission's determination establishing the amount of the**
99 **refund becomes final, and if the collector does not issue the refund within thirty days,**
100 **the taxpayer shall be entitled to interest on the refund at the rate established by the**
101 **director of revenue under section 32.065 for the period of time after the expiration of the**
102 **thirty days and until the refund is issued, in addition to all other interest due to the**
103 **taxpayer under this section.**

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