

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for Senate Bill No. 2, Page 22, Section 137.115, Line 202, by inserting
2 after said section and line the following:
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4 "138.060. 1. The county board of equalization shall, in a summary way, determine all appeals from
5 the valuation of property made by the assessor, and shall correct and adjust the assessment accordingly.
6 There shall be no presumption that the assessor's valuation is correct. In any county with a charter form of
7 government with a population greater than two hundred eighty thousand inhabitants but less than two
8 hundred eighty-five thousand inhabitants, in any county with a charter form of government with greater than
9 one million inhabitants, in any city not within a county, and in any other county for any property whose
10 assessed valuation increased at least fifteen percent from the previous assessment unless the increase is due to
11 new construction or improvement, the assessor shall have the burden to prove that the assessor's valuation
12 does not exceed the true market value of the subject property. In such county or city, in the event a physical
13 inspection of the subject property is required by subsection 10 of section 137.115, the assessor shall have the
14 burden to establish the manner in which the physical inspection was performed and shall have the burden to
15 prove that the physical inspection was performed in accordance with section 137.115. In such county or city,
16 in the event the assessor fails to provide sufficient evidence to establish that the physical inspection was
17 performed in accordance with section 137.115, the property owner shall prevail on the appeal as a matter of
18 law, and the assessor's increased assessed valuation shall be void in its entirety, and the previous assessed
19 valuation shall be applied to the property in place of the increased assessed valuation. At any hearing before
20 the state tax commission or a court of competent jurisdiction of an appeal of assessment from a first class
21 charter county or a city not within a county, the assessor shall not advocate nor present evidence advocating a
22 valuation higher than that value finally determined by the assessor or the value determined by the board of
23 equalization, whichever is higher, for that assessment period.

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

Action Taken _____ Date _____

Further amend said bill, Page 24, Section 138.425, Line 52, by inserting after said section and line the following:

"138.434. In any first class charter county or a city not within a county ~~[may require by ordinance or charter the reimbursement to]~~, a taxpayer ~~[for the amount of just and reasonable appraisal costs, attorney fees and court costs]~~ shall be entitled to an award of all attorney's fees and costs of litigation resulting from an evidentiary hearing before the state tax commission or a court of competent jurisdiction, including, but not limited to, attorney's fees, appraisal costs, witness fees, and court costs, whether paid directly by the taxpayer or paid by an attorney, tax agent, or other third party, if such appeal results in a final decision reducing the appraised value of residential property by at least fifteen percent or the appraised value of utility, industrial railroad and other subclass three property by at least twenty-five percent from the appraised value determined by the board of equalization for that tax year. The commission or court awarding such fees and costs shall consider the reasonableness of the fees and costs within the context of the particular case. Such fees and costs shall not exceed ~~[one]~~ five thousand dollars for a residential property appeal. Such fees and costs for utility, industrial railroad or other subclass three property appeals shall not exceed the lesser of ~~[four]~~ five thousand dollars or twenty-five percent of the tax savings resulting from the appeal. The provisions of this section shall only apply to the first contested 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 against the taxpayer, except taxes collected by the director of revenue of Missouri. Any such taxpayer desiring to pay any current taxes under protest or while paying taxes based upon a disputed assessment shall~~[, at the time of paying such taxes,]~~ make full payment of the current tax bill before the delinquency date and file with the collector before the delinquency date a written statement setting forth the grounds on which the protest is based. The statement shall include the true value in money claimed by the taxpayer if disputed. An appeal before the state tax commission shall not be dismissed on the grounds that a taxpayer failed to file a written statement when paying taxes based upon a disputed assessment.

2. Upon receiving ~~[payment of current taxes under]~~ written notice of protest under subsection 1 of this section or upon receiving from the state tax commission or the circuit court notice of an appeal from the state tax commission or the circuit court under section 138.430, ~~[along with]~~ and full payment of the current tax bill before the delinquency date, the collector shall disburse to the proper official all portions of taxes not protested or not disputed by the taxpayer and shall impound in a separate fund all portions of such taxes which are protested or in dispute. Every taxpayer protesting the payment of current taxes under subsection 1 of this section 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 under subsection 1 of this section 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 in this subsection.

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

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

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

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

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

30 8. Any taxing authority may request to be notified by the county collector of current taxes paid under
31 protest. Such request shall be in writing and submitted on or before February first next following the
32 delinquent date of current taxes paid under protest or disputed, and the county collector shall provide such
33 information on or before March first of the same year to the requesting taxing authority of the taxes paid
34 under protest and disputed taxes which would be received by such taxing authority if the funds were not the
35 subject of a protest or dispute. Any taxing authority may apply to the circuit court of the county or city not
36 within a county in which a collector has impounded protested or disputed taxes under this section and, upon a
37 satisfactory showing that such taxing authority would receive such impounded tax funds if they were not the
38 subject of a protest or dispute and that such taxing authority has the financial ability and legal capacity to
39 repay such impounded tax funds in the event a decision ordering a refund to the taxpayer is subsequently

made, the circuit court shall order, pendente lite, the disbursal of all or any part of such impounded tax funds to such taxing authority. The circuit court issuing an order under this subsection shall retain jurisdiction of such matter for further proceedings, if any, to compel restitution of such tax funds to the taxpayer. In the event that any protested or disputed tax funds refunded to a taxpayer were disbursed to a taxing authority under this subsection instead of being held and invested by the collector under subsection 7 of this section, the taxpayer shall be entitled to interest on all refunded tax funds, from the date that the disputed taxes were distributed to a taxing authority through the date of the refund, at the ~~[annual rate]~~ rates calculated by the state treasurer and applied by the director of revenue under section 32.068. This measure of interest shall only apply to protested or disputed tax funds actually distributed to a taxing authority pursuant to this subsection. In the event of a refund of protested or disputed tax funds which remain impounded by the collector, the taxpayer shall instead be entitled to the interest actually earned on those refunded impounded tax funds under subsection 7 of this section. Any sovereign or official immunity otherwise applicable to the taxing authorities is hereby waived for all purposes related to this subsection, and the taxpayer is expressly authorized to seek an order enforcing this provision from the circuit court that originally ordered the distribution of the protested or disputed funds, or directly from the state tax commission, if the tax appeal that resulted in the refund was heard and determined by the state tax commission.

9. No appeal filed from the circuit court's or state tax commission's determination pertaining to the amount of refund shall stay any order of refund, but the decision filed by any court of last review modifying that determination shall be binding on the parties, and the decision rendered shall be complied with by the party affected by any modification within ninety days of the date of such decision. No taxpayer shall receive any interest on any additional award of refund, and the collector shall not receive any interest on any ordered return of refund in whole or in part. In the event that a taxpayer is entitled to a refund, the collector shall issue the refund to the taxpayer within thirty days of the date that the circuit court's or state tax commission's determination establishing the amount of the refund becomes final, and if the collector does not issue the refund within thirty days, the taxpayer shall be entitled to interest on the refund at the rate established by the director of revenue under section 32.065 for the period of time after the expiration of the thirty days and until the refund is issued, in addition to all other interest due to the taxpayer under this section."; and

Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.