

SECOND REGULAR SESSION

SENATE BILL NO. 1034

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR ROMINE.

Read 1st time February 8, 2016, and ordered printed.

ADRIANE D. CROUSE, Secretary.

6356S.011

AN ACT

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

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Section A. Section 139.031, RSMo, is repealed and one new section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] **equal to the tax at the**
17 **last agreed assessment rate** and shall impound in a separate fund [all
18 portions of such taxes which are protested or in dispute] **the difference**
19 **between the current and last agreed assessment.** Every taxpayer

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

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

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

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

48 5. All the county collectors of taxes, and the collector of taxes in any city
49 not within a county, shall, upon written application of a taxpayer, refund or credit
50 against the taxpayer's tax liability in the following taxable year and subsequent
51 consecutive taxable years until the taxpayer has received credit in full for any
52 real or personal property tax mistakenly or erroneously levied against the
53 taxpayer and collected in whole or in part by the collector. Such application shall
54 be filed within three years after the tax is mistakenly or erroneously paid. The
55 governing body, or other appropriate body or official of the county or city not

56 within a county, shall make available to the collector funds necessary to make
57 refunds under this subsection by issuing warrants upon the fund to which the
58 mistaken or erroneous payment has been credited, or otherwise.

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

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

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

92 the same amount of interest, as determined by the circuit court having
93 jurisdiction in the matter, such protested or disputed taxes would have earned if
94 they had been held and invested by the collector.

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

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Bill

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