

SECOND REGULAR SESSION

# HOUSE BILL NO. 2526

## 98TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE FITZWATER (144).

6435H.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

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

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*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Section A. Section 139.031, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 139.031, to read as follows: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 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 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 protest pursuant to 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 pursuant to section 138.430, along with 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] **equal to the tax at the last agreed assessment rate** and shall impound in a separate fund [all portions of such taxes which are protested or in dispute] **the difference between the current and last agreed assessment**. Every taxpayer protesting the payment of current taxes under subsection 1 of this

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.

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

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

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

40 5. All the county collectors of taxes, and the collector of taxes in any city not within a  
41 county, shall, upon written application of a taxpayer, refund or credit against the taxpayer's tax  
42 liability in the following taxable year and subsequent consecutive taxable years until the taxpayer  
43 has received credit in full for any real or personal property tax mistakenly or erroneously levied  
44 against the taxpayer and collected in whole or in part by the collector. Such application shall be  
45 filed within three years after the tax is mistakenly or erroneously paid. The governing body, or  
46 other appropriate body or official of the county or city not within a county, shall make available  
47 to the collector funds necessary to make refunds under this subsection by issuing warrants upon  
48 the fund to which the mistaken or erroneous 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 receive  
55 the interest earned on the investment thereof. If the collector is ordered to release and disburse  
56 all or part of the taxes paid under protest or dispute to the proper official, such taxes shall be  
57 disbursed along with the proportional amount of interest earned on the investment of the taxes  
58 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 February  
61 first next following the delinquent date of current taxes paid under protest or disputed, and the  
62 county collector shall provide such information on or before March first of the same year to the  
63 requesting taxing authority of the taxes paid under protest and disputed taxes which would be  
64 received by such taxing authority if the funds were not the subject of a protest or dispute. Any  
65 taxing authority may apply to the circuit court of the county or city not within a county in which  
66 a collector has impounded protested or disputed taxes under this section and, upon a satisfactory  
67 showing that such taxing authority would receive such impounded tax funds if they were not the  
68 subject of a protest or dispute and that such taxing authority has the financial ability and legal  
69 capacity to repay such impounded tax funds in the event a decision ordering a refund to the  
70 taxpayer is subsequently made, the circuit court shall order, pendente lite, the disbursement of all or  
71 any part of such impounded tax funds to such taxing authority. The circuit court issuing an order  
72 under this subsection shall retain jurisdiction of such matter for further proceedings, if any, to  
73 compel restitution of such tax funds to the taxpayer. In the event that any protested or disputed  
74 tax funds refunded to a taxpayer were disbursed to a taxing authority under this subsection  
75 instead of being held and invested by the collector under subsection 7 of this section, such taxing  
76 authority shall pay the taxpayer entitled to the refund of such protested or disputed taxes the  
77 same amount of interest, as determined by the circuit court having jurisdiction in the matter, such  
78 protested or disputed taxes would have earned if they had been held and invested by the  
79 collector.

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

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