

SENATE BILL NO. 599

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR GREGORY (15).

2152S.01H

KRISTINA MARTIN, Secretary

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Section A. Sections 138.060, 138.434, and 139.031, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 137.132, 138.060, 138.434, and 139.031, to read as follows:

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

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

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

2. The level of assessment of all real property in subclass (1) or subclass (3), as provided in section 137.115, shall be uniform and equal throughout each

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

18 subclass. If the common level of assessment in either
19 subclass is lower than the individual level of assessment of
20 any parcel in the same subclass, the individual level of
21 assessment of such parcel shall be lowered to the common
22 level of assessment for the subclass upon appeal by the
23 property owner to the local board of equalization, state tax
24 commission, or circuit court.

25 3. When determining the individual level of assessment
26 of a parcel of real property, the lesser of the assessor's
27 appraised value, as verified pursuant to section 137.245, or
28 the appraised value set by the local board of equalization
29 shall be presumed to be the actual true value in money for
30 such real property, absent substantial and persuasive
31 evidence establishing a lower true value in money.

138.060. 1. The county board of equalization shall,
2 in a summary way, determine all appeals from the valuation
3 of property made by the assessor, and shall correct and
4 adjust the assessment accordingly. There shall be no
5 presumption that the assessor's valuation is correct. In
6 any county with a charter form of government with a
7 population greater than two hundred eighty thousand
8 inhabitants but less than two hundred eighty-five thousand
9 inhabitants, in any county with a charter form of government
10 with greater than one million inhabitants, in any city not
11 within a county, and in any other county for any property
12 whose assessed valuation increased at least fifteen percent
13 from the previous assessment unless the increase is due to
14 new construction or improvement, the assessor shall have the
15 burden to prove that the assessor's valuation does not
16 exceed the true market value of the subject property. In
17 such county or city, in the event a physical inspection of
18 the subject property is required by subsection 10 of section

19 137.115, the assessor shall have the burden to establish the
20 manner in which the physical inspection was performed and
21 shall have the burden to prove that the physical inspection
22 was performed in accordance with section 137.115. In such
23 county or city, in the event the assessor fails to provide
24 sufficient evidence to establish that the physical
25 inspection was performed in accordance with section 137.115,
26 the property owner shall prevail on the appeal as a matter
27 of law, **and the assessor's increased assessed valuation**
28 **shall be void in its entirety, and the previous assessed**
29 **valuation shall be applied to the property in place of the**
30 **increased assessed valuation.** At any hearing before the
31 state tax commission or a court of competent jurisdiction of
32 an appeal of assessment from a first class charter county or
33 a city not within a county, the assessor shall not advocate
34 nor present evidence advocating a valuation higher than that
35 value finally determined by the assessor or the value
36 determined by the board of equalization, whichever is
37 higher, for that assessment period.

38 2. The county clerk shall keep an accurate record of
39 the proceedings and orders of the board, and the assessor
40 shall correct all erroneous assessments, and the clerk shall
41 adjust the tax book according to the orders of such board
42 and the orders of the state tax commission, except that in
43 adding or deducting such percent to each tract or parcel of
44 real estate as required by such board or state tax
45 commission, he shall add or deduct in each case any
46 fractional sum of less than fifty cents, so that the value
47 of any separate tract shall contain no fractions of a dollar.

138.434. **In** any first class charter county or a city
2 not within a county [may require by ordinance or charter the
3 reimbursement to], a taxpayer [for the amount of just and

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

139.031. 1. Any taxpayer may protest all or any part
2 of any current taxes assessed against the taxpayer, except
3 taxes collected by the director of revenue of Missouri. Any
4 such taxpayer desiring to pay any current taxes under
5 protest or while paying taxes based upon a disputed
6 assessment shall**[, at the time of paying such taxes,]** make
7 full payment of the current tax bill before the delinquency
8 date and file with the collector **before the delinquency date**

9 a written statement setting forth the grounds on which the
10 protest is based. The statement shall include the true
11 value in money claimed by the taxpayer if disputed. An
12 appeal before the state tax commission shall not be
13 dismissed on the grounds that a taxpayer failed to file a
14 written statement when paying taxes based upon a disputed
15 assessment.

16 2. Upon receiving [payment of current taxes under]
17 **written notice of** protest under subsection 1 of this section
18 or upon receiving from the state tax commission or the
19 circuit court notice of an appeal from the state tax
20 commission or the circuit court under section 138.430,
21 [along with] **and** full payment of the current tax bill before
22 the delinquency date, the collector shall disburse to the
23 proper official all portions of taxes not protested or not
24 disputed by the taxpayer and shall impound in a separate
25 fund all portions of such taxes which are protested or in
26 dispute. Every taxpayer protesting the payment of current
27 taxes under subsection 1 of this section shall, within
28 ninety days after filing his protest, commence an action
29 against the collector by filing a petition for the recovery
30 of the amount protested in the circuit court of the county
31 in which the collector maintains his office. If any
32 taxpayer so protesting his taxes under subsection 1 of this
33 section shall fail to commence an action in the circuit
34 court for the recovery of the taxes protested within the
35 time prescribed in this subsection, such protest shall
36 become null and void and of no effect, and the collector
37 shall then disburse to the proper official the taxes
38 impounded, and any interest earned thereon, as provided
39 above in this subsection.

40 3. No action against the collector shall be commenced
41 by any taxpayer who has, effective for the current tax year,
42 filed with the state tax commission or the circuit court a
43 timely and proper appeal of the assessment of the taxpayer's
44 property. The portion of taxes in dispute from an appeal of
45 an assessment shall be impounded in a separate fund and the
46 commission in its decision and order issued under chapter
47 138 or the circuit court in its judgment may order all or
48 any part of such taxes refunded to the taxpayer, or may
49 authorize the collector to release and disburse all or any
50 part of such taxes.

51 4. Trial of the action for recovery of taxes protested
52 under subsection 1 of this section in the circuit court
53 shall be in the manner prescribed for nonjury civil
54 proceedings, and, after determination of the issues, the
55 court shall make such orders as may be just and equitable to
56 refund to the taxpayer all or any part of the current taxes
57 paid under protest, together with any interest earned
58 thereon, or to authorize the collector to release and
59 disburse all or any part of the impounded taxes, and any
60 interest earned thereon, to the appropriate officials of the
61 taxing authorities. Either party to the proceedings may
62 appeal the determination of the circuit court.

63 5. All the county collectors of taxes, and the
64 collector of taxes in any city not within a county, shall,
65 upon written application of a taxpayer, refund or credit
66 against the taxpayer's tax liability in the following
67 taxable year and subsequent consecutive taxable years until
68 the taxpayer has received credit in full for any real or
69 personal property tax mistakenly or erroneously levied
70 against the taxpayer and collected in whole or in part by
71 the collector. Such application shall be filed within three

72 years after the tax is mistakenly or erroneously paid. The
73 governing body, or other appropriate body or official of the
74 county or city not within a county, shall make available to
75 the collector funds necessary to make refunds under this
76 subsection by issuing warrants upon the fund to which the
77 mistaken or erroneous payment has been credited, or
78 otherwise.

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

81 7. All protested taxes impounded under protest under
82 subsection 1 of this section and all disputed taxes
83 impounded under notice as required by section 138.430 shall
84 be invested by the collector in the same manner as assets
85 specified in section 30.260 for investment of state moneys.
86 A taxpayer who is entitled to a refund of protested or
87 disputed taxes shall also receive the interest earned on the
88 investment thereof. If the collector is ordered to release
89 and disburse all or part of the taxes paid under protest or
90 dispute to the proper official, such taxes shall be
91 disbursed along with the proportional amount of interest
92 earned on the investment of the taxes due the particular
93 taxing authority.

94 8. Any taxing authority may request to be notified by
95 the county collector of current taxes paid under protest.
96 Such request shall be in writing and submitted on or before
97 February first next following the delinquent date of current
98 taxes paid under protest or disputed, and the county
99 collector shall provide such information on or before March
100 first of the same year to the requesting taxing authority of
101 the taxes paid under protest and disputed taxes which would
102 be received by such taxing authority if the funds were not
103 the subject of a protest or dispute. Any taxing authority

104 may apply to the circuit court of the county or city not
105 within a county in which a collector has impounded protested
106 or disputed taxes under this section and, upon a
107 satisfactory showing that such taxing authority would
108 receive such impounded tax funds if they were not the
109 subject of a protest or dispute and that such taxing
110 authority has the financial ability and legal capacity to
111 repay such impounded tax funds in the event a decision
112 ordering a refund to the taxpayer is subsequently made, the
113 circuit court shall order, pendente lite, the disbursal of
114 all or any part of such impounded tax funds to such taxing
115 authority. The circuit court issuing an order under this
116 subsection shall retain jurisdiction of such matter for
117 further proceedings, if any, to compel restitution of such
118 tax funds to the taxpayer. In the event that any protested
119 or disputed tax funds refunded to a taxpayer were disbursed
120 to a taxing authority under this subsection instead of being
121 held and invested by the collector under subsection 7 of
122 this section, the taxpayer shall be entitled to interest on
123 all refunded tax funds, **from the date that the disputed**
124 **taxes were distributed to a taxing authority through the**
125 **date of the refund,** at the [annual rate] **rates** calculated by
126 the state treasurer and applied by the director of revenue
127 under section 32.068. This measure of interest shall only
128 apply to protested or disputed tax funds actually
129 distributed to a taxing authority pursuant to this
130 subsection. In the event of a refund of protested or
131 disputed tax funds which remain impounded by the collector,
132 the taxpayer shall instead be entitled to the interest
133 actually earned on those refunded impounded tax funds under
134 subsection 7 of this section. Any sovereign or official
135 immunity otherwise applicable to the taxing authorities is

136 hereby waived for all purposes related to this subsection,
137 and the taxpayer is expressly authorized to seek an order
138 enforcing this provision from the circuit court that
139 originally ordered the distribution of the protested or
140 disputed funds, or directly from the state tax commission,
141 if the tax appeal that resulted in the refund was heard and
142 determined by the state tax commission.

143 9. No appeal filed from the circuit court's or state
144 tax commission's determination pertaining to the amount of
145 refund shall stay any order of refund, but the decision
146 filed by any court of last review modifying that
147 determination shall be binding on the parties, and the
148 decision rendered shall be complied with by the party
149 affected by any modification within ninety days of the date
150 of such decision. No taxpayer shall receive any interest on
151 any additional award of refund, and the collector shall not
152 receive any interest on any ordered return of refund in
153 whole or in part. **In the event that a taxpayer is entitled**
154 **to a refund, the collector shall issue the refund to the**
155 **taxpayer within thirty days of the date that the circuit**
156 **court's or state tax commission's determination establishing**
157 **the amount of the refund becomes final, and if the collector**
158 **does not issue the refund within thirty days, the taxpayer**
159 **shall be entitled to interest on the refund at the rate**
160 **established by the director of revenue under section 32.065**
161 **for the period of time after the expiration of the thirty**
162 **days and until the refund is issued, in addition to all**
163 **other interest due to the taxpayer under this section.**

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