

As Amended by House Committee

Session of 2010

HOUSE BILL No. 2578

By Committee on Taxation

1-28

10 AN ACT concerning property taxation; relating to refunds of taxes paid
11 ~~under protest~~; loans to counties by pooled money investment board,
12 terms **and limitations**; amending K.S.A. 2009 Supp. **75-4209 and**
13 **79-2005** and repealing the existing ~~section~~ **sections**.

14

15 *Be it enacted by the Legislature of the State of Kansas:*

16 Section 1. K.S.A. 2009 Supp. 79-2005 is hereby amended to read as
17 follows: 79-2005. (a) Any taxpayer, before protesting the payment of such
18 taxpayer's taxes, shall be required, either at the time of paying such taxes,
19 or, if the whole or part of the taxes are paid prior to December 20, no
20 later than December 20, or, with respect to taxes paid in whole or in part
21 in an amount equal to at least 1/2 of such taxes on or before December
22 20 by an escrow or tax service agent, no later than January 31 of the next
23 year, to file a written statement with the county treasurer, on forms ap-
24 proved by the state court of tax appeals and provided by the county trea-
25 surer, clearly stating the grounds on which the whole or any part of such
26 taxes are protested and citing any law, statute or facts on which such
27 taxpayer relies in protesting the whole or any part of such taxes. When
28 the grounds of such protest is an assessment of taxes made pursuant to
29 K.S.A. 79-332a and 79-1427a, and amendments thereto, the county trea-
30 surer may not distribute the taxes paid under protest until such time as
31 the appeal is final. When the grounds of such protest is that the valuation
32 or assessment of the property upon which the taxes are levied is illegal
33 or void, the county treasurer shall forward a copy of the written statement
34 of protest to the county appraiser who shall within 15 days of the receipt
35 thereof, schedule an informal meeting with the taxpayer or such tax-
36 payer's agent or attorney with reference to the property in question. The
37 county appraiser shall review the appraisal of the taxpayer's property with
38 the taxpayer or such taxpayer's agent or attorney and may change the
39 valuation of the taxpayer's property, if in the county appraiser's opinion
40 a change in the valuation of the taxpayer's property is required to assure
41 that the taxpayer's property is valued according to law, and shall, within
42 15 business days thereof, notify the taxpayer in the event the valuation of
43 the taxpayer's property is changed, in writing of the results of the meeting.

1 In the event the valuation of the taxpayer's property is changed and such
2 change requires a refund of taxes and interest thereon, the county trea-
3 surer shall process the refund in the manner provided by subsection (l).
4 (b) No protest appealing the valuation or assessment of property shall
5 be filed pertaining to any year's valuation or assessment when an appeal
6 of such valuation or assessment was commenced pursuant to K.S.A. 79-
7 1448, and amendments thereto, nor shall the second half payment of taxes
8 be protested when the first half payment of taxes has been protested.
9 Notwithstanding the foregoing, this provision shall not prevent any sub-
10 sequent owner from protesting taxes levied for the year in which such
11 property was acquired, nor shall it prevent any taxpayer from protesting
12 taxes when the valuation or assessment of such taxpayer's property has
13 been changed pursuant to an order of the director of property valuation.
14 (c) A protest shall not be necessary to protect the right to a refund
15 of taxes in the event a refund is required because the final resolution of
16 an appeal commenced pursuant to K.S.A. 79-1448, and amendments
17 thereto, occurs after the final date prescribed for the protest of taxes.
18 (d) If the grounds of such protest shall be that the valuation or as-
19 sessment of the property upon which the taxes so protested are levied is
20 illegal or void, such statement shall further state the exact amount of
21 valuation or assessment which the taxpayer admits to be valid and the
22 exact portion of such taxes which is being protested.
23 (e) If the grounds of such protest shall be that any tax levy, or any
24 part thereof, is illegal, such statement shall further state the exact portion
25 of such tax which is being protested.
26 (f) Upon the filing of a written statement of protest, the grounds of
27 which shall be that any tax levied, or any part thereof, is illegal, the county
28 treasurer shall mail a copy of such written statement of protest to the
29 state court of tax appeals and the governing body of the taxing district
30 making the levy being protested.
31 (g) Within 30 days after notification of the results of the informal
32 meeting with the county appraiser pursuant to subsection (a), the pro-
33 testing taxpayer may, if aggrieved by the results of the informal meeting
34 with the county appraiser, appeal such results to the state court of tax
35 appeals.
36 (h) After examination of the copy of the written statement of protest
37 and a copy of the written notification of the results of the informal meet-
38 ing with the county appraiser in cases where the grounds of such protest
39 is that the valuation or assessment of the property upon which the taxes
40 are levied is illegal or void, the court shall conduct a hearing in accordance
41 with the provisions of the Kansas administrative procedure act, unless
42 waived by the interested parties in writing. If the grounds of such protest
43 is that the valuation or assessment of the property is illegal or void the

1 court shall notify the county appraiser thereof.

2 (i) In the event of a hearing, the same shall be originally set not later
3 than 90 days after the filing of the copy of the written statement of protest
4 and a copy, when applicable, of the written notification of the results of
5 the informal meeting with the county appraiser with the court. With re-
6 gard to any matter properly submitted to the court relating to the deter-
7 mination of valuation of residential property or real property used for
8 commercial and industrial purposes for taxation purposes, it shall be the
9 duty of the county appraiser to initiate the production of evidence to
10 demonstrate, by a preponderance of the evidence, the validity and cor-
11 rectness of such determination except that no such duty shall accrue to
12 the county or district appraiser with regard to leased commercial and
13 industrial property unless the property owner has furnished to the county
14 or district appraiser a complete income and expense statement for the
15 property for the three years next preceding the year of appeal. No pre-
16 sumption shall exist in favor of the county appraiser with respect to the
17 validity and correctness of such determination. In all instances where the
18 court sets a request for hearing and requires the representation of the
19 county by its attorney or counselor at such hearing, the county shall be
20 represented by its county attorney or counselor.

21 (j) When a determination is made as to the merits of the tax protest,
22 the court shall render and serve its order thereon. The county treasurer
23 shall notify all affected taxing districts of the amount by which tax reve-
24 nues will be reduced as a result of a refund.

25 (k) If a protesting taxpayer fails to file a copy of the written statement
26 of protest and a copy, when applicable, of the written notification of the
27 results of the informal meeting with the county appraiser with the court
28 within the time limit prescribed, such protest shall become null and void
29 and of no effect whatsoever.

30 (l) (1) In the event the court orders that a refund be made pursuant
31 to this section or the provisions of K.S.A. 79-1609, and amendments
32 thereto, or a court of competent jurisdiction orders that a refund be made,
33 and no appeal is taken from such order, or in the event a change in
34 valuation which results in a refund pursuant to subsection (a), the county
35 treasurer shall, as soon thereafter as reasonably practicable, refund to the
36 taxpayer such protested taxes and, with respect to protests or appeals
37 commenced after the effective date of this act, interest computed at the
38 rate prescribed by K.S.A. 79-2968, and amendments thereto, minus two
39 percentage points, per annum from the date of payment of such taxes
40 from tax moneys collected but not distributed. Upon making such refund,
41 the county treasurer shall charge the fund or funds having received such
42 protested taxes, except that, with respect to that portion of any such re-
43 fund attributable to interest the county treasurer shall charge the county

1 general fund. In the event that the state court of tax appeals or a court
2 of competent jurisdiction finds that any time delay in making its decision
3 is unreasonable and is attributable to the taxpayer, it may order that no
4 interest or only a portion thereof be added to such refund of taxes.

5 (2) No interest shall be allowed pursuant to paragraph (1) in any case
6 where the tax paid under protest was inclusive of delinquent taxes.

7 (m) Whenever, by reason of the refund of taxes previously received
8 or the reduction of taxes levied but not received as a result of decreases
9 in assessed valuation, it will be impossible to pay for imperative functions
10 for the current budget year, the governing body of the taxing district
11 affected may issue no-fund warrants in the amount necessary. Such war-
12 rants shall conform to the requirements prescribed by K.S.A. 79-2940,
13 and amendments thereto, except they shall not bear the notation required
14 by such section and may be issued without the approval of the state court
15 of tax appeals. The governing body of such taxing district shall make a tax
16 levy at the time fixed for the certification of tax levies to the county clerk
17 next following the issuance of such warrants sufficient to pay such war-
18 rants and the interest thereon. All such tax levies shall be in addition to
19 all other levies authorized by law.

20 (n) *Whenever a taxpayer* **appeals to the court of tax appeals pur-**
21 **suant to the provisions of K.S.A. 79-1609, and amendments**
22 **thereto, or pays taxes under protest related to one property whereby the**
23 *assessed valuation of such property exceeds 5% of the total county as-*
24 *essed valuation of all property located within such county and the tax-*
25 *payer receives a refund of such taxes paid under protest* **or a refund**
26 **made pursuant to the provisions of K.S.A. 79-1609, and amend-**
27 **ments thereto, the county treasurer may request the pooled money in-**
28 *vestment board to make a loan to such county as provided in this section.*
29 *The pooled money investment board is authorized and directed to loan to*
30 *such county sufficient funds to enable the county to refund such taxes*
31 ~~*paid under protest*~~ *to the taxpayer. The pooled money investment board*
32 *is authorized and directed to use any moneys in the operating accounts,*
33 *investment accounts or other investments of the state of Kansas to provide*
34 *the funds for such loan. ~~Such loan shall be a zero interest loan~~ Each loan*
35 **shall bear interest at a rate equal to the net earnings rate of the**
36 **pooled money investment portfolio at the time of the making of**
37 **such loan. The total aggregate amount of loans under this program**
38 **shall not exceed \$50,000,000 of unencumbered funds pursuant to**
39 **article 42 of chapter 75 of the Kansas Statutes Annotated, and**
40 **amendments thereto. Such loan shall not be deemed to be an indebt-**
41 *edness or debt of the state of Kansas within the meaning of section 6 of*
42 *article 11 of the constitution of the state of Kansas. Upon certification to*
43 *the pooled money investment board by the county treasurer of the amount*

1 of each loan authorized pursuant to this subsection, the pooled money
 2 investment board shall transfer each such amount certified by the county
 3 treasurer from the state bank account or accounts prescribed in this sub-
 4 section to the county treasurer who shall deposit such amount in the
 5 county treasury. Any such loan authorized pursuant to this subsection
 6 shall be repaid within ~~five~~ **four** years. The county shall make not more
 7 than ~~five~~ **four** equal annual tax levies at the time fixed for the certification
 8 of tax levies to the county clerk following the making of such loan sufficient
 9 to pay such loan within the time period required under such loan. All
 10 such tax levies shall be in addition to all other levies authorized by law.

11 (o) The county treasurer shall disburse to the proper funds all por-
 12 tions of taxes paid under protest and shall maintain a record of all portions
 13 of such taxes which are so protested and shall notify the governing body
 14 of the taxing district levying such taxes thereof and the director of ac-
 15 counts and reports if any tax protested was levied by the state.

16 ~~(p)~~ (p) This statute shall not apply to the valuation and assessment of
 17 property assessed by the director of property valuation and it shall not be
 18 necessary for any owner of state assessed property, who has an appeal
 19 pending before the state court of tax appeals, to protest the payment of
 20 taxes under this statute solely for the purpose of protecting the right to
 21 a refund of taxes paid under protest should that owner be successful in
 22 that appeal.

23 ~~Sec. 2. K.S.A. 2009 Supp. 75-2005 is hereby repealed.~~

24 **Sec. 2. K.S.A. 2009 Supp. 75-4209 is hereby amended to read**
 25 **as follows: 75-4209. (a) The director of investments may invest and**
 26 **reinvest state moneys eligible for investment which are not in-**
 27 **vested in accordance with K.S.A. 75-4237, and amendments**
 28 **thereto, in the following investments:**

29 (1) **Direct obligations of, or obligations that are insured as to**
 30 **principal and interest by, the United States of America or any**
 31 **agency thereof and obligations and securities of the United States**
 32 **sponsored enterprises which under federal law may be accepted**
 33 **as security for public funds, on and after the effective date of this**
 34 **act moneys available for investment under this subsection shall not**
 35 **be invested in mortgage-backed securities of such enterprises and**
 36 **of the government national mortgage association, except that any**
 37 **such mortgage-backed securities held prior to the effective date**
 38 **of this act may be held to maturity;**

39 (2) **repurchase agreements with a bank or a primary govern-**
 40 **ment securities dealer which reports to the market reports division**
 41 **of the federal reserve bank of New York for direct obligations of,**
 42 **or obligations that are insured as to principal and interest by, the**
 43 **United States government or any agency thereof and obligations**

- 1 and securities of United States government sponsored enterprises
2 which under federal law may be accepted as security for public
3 funds;
- 4 (3) commercial paper that does not exceed 270 days to matur-
5 ity and which has received one of the two highest commercial pa-
6 per credit ratings by a nationally recognized investment rating
7 firm; and
- 8 (4) corporate bonds which have received one of the two highest
9 ratings by a nationally recognized investment rating firm.
- 10 (b) When moneys are available for deposit or investments, the
11 director of investments may invest in SKILL act projects and bonds
12 pursuant to K.S.A. 74-8920, and amendments thereto, and in state
13 agency bonds and bond projects.
- 14 (c) When moneys are available for deposits or investments, the
15 director of investments may invest in preferred stock of Kansas
16 venture capital, inc., under terms and conditions prescribed by
17 K.S.A. 74-8203, and amendments thereto, but such investments
18 shall not in the aggregate exceed a total amount of \$10,000,000.
- 19 (d) When moneys are available for deposits or investments, the
20 director of investments may invest in loans pursuant to legislative
21 mandates, except that not more than the ~~lesser~~ *greater* of 10% or
22 \$140,000,000 of the state moneys shall be invested.
- 23 (e) Interest on investment accounts in banks is to be paid at
24 maturity, but not less than annually.
- 25 (f) Investments made by the director of investments under the
26 provisions of this section shall be made with judgment and care,
27 under circumstances then prevailing, which persons of prudence,
28 discretion and intelligence exercise in the management of their
29 own affairs, not for speculation, but for investment, considering
30 the probable safety of their capital as well as the probable income
31 to be derived.
- 32 (g) Investments under subsection (a) or (b) or under K.S.A. 75-
33 4237, and amendments thereto, shall be for a period not to exceed
34 four years, except that linked deposits authorized under the pro-
35 visions of K.S.A. 2-3703 through 2-3707, and amendments thereto,
36 shall not exceed a period of 10 years; agricultural production loan
37 deposits authorized under the provisions of K.S.A. 2009 Supp. 75-
38 4268 through 75-4274, and amendments thereto, shall not exceed
39 a period of eight years and housing loan deposits authorized under
40 K.S.A. 2009 Supp. 75-4276 through 75-4282, and amendments
41 thereto, shall not exceed a period of five years.
- 42 (h) Investments in securities under paragraph (1) of subsection
43 (a) shall be limited to securities which do not have any more in-

1 interest rate risk than do direct United States government obliga-
2 tions of similar maturities. For purposes of this subsection, “inter-
3 est rate risk” means market value changes due to changes in
4 current interest rates.

5 (i) The director of investments shall not invest state moneys
6 eligible for investment under subsection (a), in the municipal in-
7 vestment pool fund, created under K.S.A. 12-1677a, and amend-
8 ments thereto.

9 (j) The director of investments shall not invest moneys in the
10 pooled money investment portfolio in derivatives. As used in this
11 subsection, “derivatives” means a financial contract whose value
12 depends on the value of an underlying asset or index of asset
13 values.

14 (k) Moneys and investments in the pooled money investment
15 portfolio shall be invested and reinvested by the director of in-
16 vestments in accordance with investment policies developed, ap-
17 proved, published and updated on an annual basis by the board.
18 Such investment policies shall include at a minimum guidelines
19 which identify credit standards, eligible instruments, allowable
20 maturity ranges, methods for valuing the portfolio, calculating
21 earnings and yields and limits on portfolio concentration for each
22 type of investment. Any changes in such investment policies shall
23 be approved by the pooled money investment board. Such invest-
24 ment policies may specify the contents of reports, methods of cred-
25 iting funds and accounts and other operating procedures.

26 (l) The board shall adopt rules and regulations to establish an
27 overall percentage limitation on the investment of moneys in in-
28 vestments authorized under paragraph (3) of subsection (a), and
29 within such authorized investment, the board shall establish a per-
30 centage limitation on the investment in any single business entity.

31 **Sec. 3. K.S.A. 2009 Supp. 75-4209 and 79-2005 are hereby**
32 **repealed.**

33 **Sec. ~~3~~ 4.** This act shall take effect and be in force from and after its
34 publication in the statute book.