

CHAPTER 62.

[H. B. 165.]

ACTIONS TO RECOVER ILLEGAL TAXES.

AN ACT relating to taxes; requiring the same to be paid under protest when claimed to be illegal, excessive or void; prohibiting the institution of court actions to restrain or enjoin the collection thereof or the sale of property for non-payment thereof; providing a time limit within which court actions may be brought and the venue of court actions to recover the same; providing and creating a fund for the payment of judgments entered for recovery thereof; repealing Section 7, Chapter 18, Laws of 1925, and declaring that this act shall take effect immediately.

Be it enacted by the Legislature of the State of Washington:

SECTION 1. Injunctions and restraining orders shall not be issued or granted to restrain the collection of any tax or any part thereof, or the sale of any property for the non-payment of any tax or part thereof, except in the following cases:

Injunctions
prohibited.

(1) Where the law under which the tax is imposed is void; and

(2) Where the property upon which the tax is imposed is exempt from taxation.

SEC. 2. In all cases of the levy of taxes for public revenue which are deemed unlawful or excessive by the person, firm or corporation whose property is taxed, or from whom such tax is demanded or enforced, such person, firm or corporation may pay such tax or any part thereof deemed unlawful, under written protest setting forth all of the grounds upon which such tax is claimed to be unlawful or excessive; and thereupon the person, firm or corporation so paying, or his or its legal representatives or assigns, may bring an action in the superior court against the state, county or municipality by whose officers the same was collected, to recover such tax, or any portion thereof, so paid under pro-

Taxes paid
under
protest.

test: *Provided*, That this act shall not be deemed to enlarge the grounds upon which taxes may now be recovered: *And provided further*, That no claim need be presented to the state or county or municipality, or any of their respective officers, for the return of such protested tax as a condition precedent to the institution of such action.

Claim.

Judgment for recovery.

SEC. 3. In case it be determined in such action that said tax, or any portion thereof, so paid under protest, was unlawfully collected, judgment for recovery thereof and lawful interest thereon from date of payment, together with costs of suit, shall be entered in favor of plaintiff. In case the action is against a county and the judgment shall become final, the amount of such judgment, including legal interest and costs where allowed, shall be paid out of the treasury of such county by the county treasurer upon warrants drawn by the county auditor against a fund in said treasury hereby created to be known and designated as the county tax refund fund. Such warrants shall be so issued upon the filing with the county auditor and the county treasurer of duly authenticated copies of such judgment, and shall be paid by the county treasurer out of any moneys on hand in said fund. If no funds are available in such county tax refund fund for the payment of such warrants, then such warrants shall bear interest in such cases and shall be callable under such conditions as are provided by law for county warrants, and such interest, if any, shall also be paid out of said fund.

Warrants for payment.

County tax refund fund.

Tax levy for tax refund fund.

SEC. 4. Annually, at the time required by law for the levying of taxes for county purposes, the proper county officers required by law to make and enter such tax levies shall make and enter a tax levy or levies for said county tax refund fund as follows:

(1) A levy upon all of the taxable property within the county for the amount of all taxes collected

by the county for county and/or state purposes held illegal and recoverable by such judgments rendered against the county within the preceding twelve months, including legal interest and a proper share of the costs, where allowed, together with the additional amounts hereinafter provided for;

(2) A levy upon all of the taxable property of each taxing district within the county for the amount of all taxes collected by the county for the purposes of such taxing district, and which have been held illegal and recoverable by such judgments rendered against the county within the preceding twelve months, including legal interest and a proper share of the costs, where allowed.

The aforesaid levy or levies shall also include a proper share of the interest paid out of the county tax refund fund during said twelve months upon warrants issued against said fund in payment of such judgments, legal interests and costs, plus an additional amount not to exceed ten per centum of the total of the preceding items required to be included in such levy or levies as such levying officers shall deem necessary to meet the obligations of said fund, taking into consideration the probable portions of such taxes that will not be collected or collectible during the year in which they are due and payable, and also any unobligated cash on hand in said fund.

SEC. 5. The action for the recovery of taxes so paid under protest shall be brought in the superior court of the county wherein the tax was collected: *Provided*, That where the property against which the tax is levied consists of the operating property of a railroad company, telegraph company or other public service company whose operating property is located in more than one county and is assessed as a unit by any state board or state officer or officers, the complaining taxpayer may institute such action in the superior court of any one of the counties in

Actions to
recover
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Railroads,
telegraph
and public
service com-
panies.

Parties.

which such tax is payable, and may join as parties defendant in said action all of the counties to which the tax or taxes levied upon such operating property were paid or are payable, and may recover in one action from each of the county defendants the amount of the tax, or any portion thereof, so paid under protest, and adjudged to have been unlawfully collected, together with legal interest thereon from date of payment, and costs of suit.

Limitation of actions.

SEC. 6. No action instituted pursuant to this act or otherwise to recover any tax assessed or levied prior to the passage of this act shall be brought subsequent to January 30th, 1932. No action instituted pursuant to this act or otherwise to recover any tax levied or assessed subsequent to the passage of this act shall be commenced after the 30th day of the next succeeding January following the date when said tax is payable.

Actions prohibited.

SEC. 7. Except as permitted by this act, no action shall ever be brought attacking the validity of any tax, or any portion of any tax: *Provided, however,* That this section shall not be construed as depriving the defendants in any tax foreclosure proceeding of any valid defense allowed by law to the tax sought to be foreclosed therein.

Repeals § 7, ch. 18, Laws of 1925.

SEC. 8. That section 7, chapter 18, of the Laws of 1925 be, and the same is hereby repealed.

Invalidity of part not to affect balance.

SEC. 9. If any section or part of a section of this act be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of the act as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SEC. 10. This act is necessary for the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House March 7, 1931.

Passed the Senate March 10, 1931.

Approved by the Governor March 18, 1931.