



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB4599

Introduced 2/1/2012, by Rep. David Harris

SYNOPSIS AS INTRODUCED:

30 ILCS 230/2a

from Ch. 127, par. 172

Amends the State Officers and Employees Money Disposition Act. Provides that any interest earnings that are attributable to moneys in the protest fund must be deposited into the protest fund. Provides that, for moneys paid to the State under protest on and after July 1, 2013, any authorized payment from the protest fund shall bear prorated interest based upon the average monthly investable balance from the date of deposit through the date of disbursement from the protest fund. Provides that, on and after July 1, 2013, when the party paying under protest fails in the protest action, any interest earned and retained within the protest fund shall be transferred into the General Revenue Fund.

LRB097 18415 PJG 63641 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning finance.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The State Officers and Employees Money
5 Disposition Act is amended by changing Section 2a as follows:

6 (30 ILCS 230/2a) (from Ch. 127, par. 172)

7 Sec. 2a. Every officer, board, commission, commissioner,
8 department, institute, arm, or agency to whom or to which this
9 Act applies is to notify the State Treasurer as to money paid
10 to him, her, or it under protest as provided in Section 2a.1,
11 and the Treasurer is to place the money in a special fund to be
12 known as the protest fund. Beginning July 1, 2013, any interest
13 earnings that are attributable to moneys in the fund must be
14 deposited into the protest fund. At the expiration of 30 days
15 from the date of payment, the money is to be transferred from
16 the protest fund to the appropriate fund in which it would have
17 been placed had there been payment without protest unless the
18 party making that payment under protest has filed a complaint
19 and secured within that 30 days a temporary restraining order
20 or a preliminary injunction, restraining the making of that
21 transfer and unless, in addition, within that 30 days, a copy
22 of the temporary restraining order or preliminary injunction
23 has been served upon the State Treasurer and also upon the

1 officer, board, commission, commissioner, department,
2 institute, arm, or agency to whom or to which the payment under
3 protest was made, in which case the payment and such other
4 payments as are subsequently made under notice of protest, as
5 provided in Section 2a.1, by the same person, the transfer of
6 which payments is restrained by such temporary restraining
7 order or preliminary injunction, are to be held in the protest
8 fund until the final order or judgment of the court. The
9 judicial remedy herein provided, however, relates only to
10 questions which must be decided by the court in determining the
11 proper disposition of the moneys paid under protest. For moneys
12 paid under protest prior to July 1, 2013, any ~~Any~~ authorized
13 payment from the protest fund prior to July 1, 2013 shall bear
14 simple interest at a rate equal to the average of the weekly
15 rates at issuance on 13-week U.S. Treasury Bills from the date
16 of deposit into the protest fund to the date of disbursement
17 from the protest fund or, if payment is authorized on or after
18 July 1, 2013, shall bear simple interest at a rate equal to the
19 average of the weekly rates at issuance on 13-week U.S.
20 Treasury Bills from the date of deposit into the protest fund
21 through June 30, 2013 and shall bear prorated interest based
22 upon the average monthly investable balance for all dates
23 occurring on July 1, 2013 and through the date of disbursement
24 from the protest fund. For moneys paid under protest on July 1,
25 2013 and thereafter, any authorized payment from the protest
26 fund shall bear prorated interest based upon the average

1 monthly investable balance from the date of deposit through the
2 date of disbursement from the protest fund. In cases involving
3 temporary restraining orders or preliminary injunctions
4 entered March 10, 1982, or thereafter, pursuant to this
5 Section, when the party paying under protest fails in the
6 protest action the State Treasurer shall determine if any
7 moneys paid under protest were paid as a result of assessments
8 under the following provisions: the Municipal Retailers'
9 Occupation Tax Act, the Municipal Service Occupation Tax Act,
10 the Municipal Use Tax Act, the Municipal Automobile Renting
11 Occupation Tax Act, the Municipal Automobile Renting Use Tax
12 Act, Section 8-11-9 of the Illinois Municipal Code, the
13 Tourism, Conventions and Other Special Events Promotion Act of
14 1967, the County Automobile Renting Occupation Tax Act, the
15 County Automobile Renting Use Tax Act, Section 5-1034 of the
16 Counties Code, Section 5.01 of the Local Mass Transit District
17 Act, the Downstate Public Transportation Act, Section 4.03 of
18 the Regional Transportation Authority Act, subsections (c) and
19 (d) of Section 201 of the Illinois Income Tax Act, Section 2a.1
20 of the Messages Tax Act, Section 2a.1 of the Gas Revenue Tax
21 Act, Section 2a.1 of the Public Utilities Revenue Act, and the
22 Water Company Invested Capital Tax Act. Any such moneys paid
23 under protest through June 30, 2013 shall bear simple interest
24 at a rate equal to the average of the weekly rates at issuance
25 on 13-week U.S. Treasury Bills from the date of deposit into
26 the protest fund to the date of disbursement from the protest

1 fund. On July 1, 2013 and thereafter, any such moneys paid
2 under protest shall bear prorated interest based upon the
3 average monthly investable balance from the date of deposit
4 through the date of disbursement from the protest fund. On July
5 1, 2013 and thereafter, when the party paying under protest
6 fails in the protest action, any interest earned and retained
7 within the protest fund shall be transferred into the General
8 Revenue Fund by the State Treasurer except for moneys paid
9 under protest as a result of assessments under the following
10 provisions: the Municipal Retailers' Occupation Tax Act, the
11 Municipal Service Occupation Tax Act, the Municipal Use Tax
12 Act, the Municipal Automobile Renting Occupation Tax Act, the
13 Municipal Automobile Renting Use Tax Act, Section 8-11-9 of the
14 Illinois Municipal Code, the Tourism, Conventions and Other
15 Special Events Promotion Act of 1967, the County Automobile
16 Renting Occupation Tax Act, the County Automobile Renting Use
17 Tax Act, Section 5-1034 of the Counties Code, Section 5.01 of
18 the Local Mass Transit District Act, the Downstate Public
19 Transportation Act, Section 4.03 of the Regional
20 Transportation Authority Act, subsections (c) and (d) of
21 Section 201 of the Illinois Income Tax Act, Section 2a.1 of the
22 Messages Tax Act, Section 2a.1 of the Gas Revenue Tax Act,
23 Section 2a.1 of the Public Utilities Revenue Act, and the Water
24 Company Invested Capital Tax Act.

25 It is unlawful for the Clerk of a court, a bank or any
26 person other than the State Treasurer to be appointed as

1 trustee with respect to any purported payment under protest, or
2 otherwise to be authorized by a court to hold any purported
3 payment under protest, during the pendency of the litigation
4 involving such purported payment under protest, it being the
5 expressed intention of the General Assembly that no one is to
6 act as custodian of any such purported payment under protest
7 except the State Treasurer.

8 No payment under protest within the meaning of this Act has
9 been made unless paid to an officer, board, commission,
10 commissioner, department, institute, arm or agency brought
11 within this Act by Section 1 and unless made in the form
12 specified by Section 2a.1. No payment into court or to a
13 circuit clerk or other court-appointed trustee is a payment
14 under protest within the meaning of this Act.

15 (Source: P.A. 87-950.)