

SENATE BILL 1282

By Bunch

AN ACT to amend Tennessee Code Annotated, Title 67,
Chapter 1, Part 18 and Title 67, Chapter 1, Part 9,
relative to taxpayer remedies for disputed taxes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Sections 67-1-908 and 67-1-909, are amended by deleting these sections in their entirety and by substituting instead the following language:

67-1-908. The procedures set out in this part shall be the exclusive jurisdiction and sole means of challenging the validity, constitutionality, applicability, or amount of any tax or the liability therefor, except for taxes collected or administered by the commissioner of revenue under title 67, part 18, and any unemployment insurance tax collected or administered by the commissioner of labor and workforce development. In addition to the state taxes to which it applies, this part shall apply to all county and municipal taxes. No court shall issue any declaratory judgment, restraining order, injunction, stay, supersedeas, prohibition, or other writ or process whatsoever to construe any tax law or to prevent, hinder, or delay the collection of any tax to which this part applies. In all instances in which any person shall claim that a tax is invalid, unconstitutional, inapplicable, incorrect in amount, or has been or is being improperly assessed or collected, the person so complaining shall pay the tax under protest and follow the procedures set out in this part.

SECTION 2. Tennessee Code Annotated, Section 67-1-901, is amended by deleting subsection (b) in its entirety, and further by deleting the words "where not otherwise provided"

and by deleting the words “the state” in subsection (a) and by substituting instead the language “the state or any other governmental entity”.

SECTION 3. Tennessee Code Annotated, Section 67-1-902, is amended by deleting the section in its entirety and by substituting instead the following language:

Upon the person’s making such payment, the officer or collector shall pay such revenue into the treasury of the collecting entity.

SECTION 4. Tennessee Code Annotated, Section 67-1-903(a), is amended by adding the words “in chancery court” after the word “sue”.

SECTION 5. Tennessee Code Annotated, Section 67-1-903, is amended by deleting subsection (b) in its entirety.

SECTION 6. Tennessee Code Annotated, Section 67-1-904(a), is amended by deleting the words “to the state” and by substituting instead the language “to the state or to the appropriate governmental entity” and by deleting the language “and thereupon the commissioner of finance and administration shall issue a warrant for the refund, which shall be paid in preference to other claims on the state treasury.” and by substituting instead the language “and thereupon the commissioner of finance and administration for the state, or the appropriate tax collection official of the county or municipality, shall issue a warrant for the refund, which shall be paid in preference to other claims made on the treasury of such governmental entity.”.

SECTION 7. Tennessee Code Annotated, Section 67-1-904, is further amended by deleting subsections (b) and (c) in their entirety.

SECTION 8. Tennessee Code Annotated, Section 67-1-905, is amended by deleting the section in its entirety.

SECTION 9. Tennessee Code Annotated, Section 67-1-910, is amended by deleting the words “any officer of the state” and by substituting instead the words “any officer of a

governmental entity” and by deleting the language “revenue of the state” and by substituting instead the language “revenue of the governmental entity”.

SECTION 10. Tennessee Code Annotated, Section 67-1-911(b), is amended by deleting the language “In order to carry out the legislative intent that all of such sections, which now apply to the recovery of state taxes erroneously paid, be conformed to apply also to the recovery of taxes erroneously paid to municipalities, the following provisions are added:” and by substituting instead the language “With regard to the recovery of taxes erroneously paid to municipalities, the following provisions apply:”. Section 67-1-911(b) is further amended in subdivision (2) by deleting the language “thirty (30) days” and by substituting instead the language “six (6) months”.

SECTION 11. Tennessee Code Annotated, Title 67, Chapter 1, Part 9, is amended by adding the following language as a new, appropriately designated section:

67-1-9___. Title 67, chapter 1, part 18, and not those set forth in this part, shall apply to all taxes collected or administered by the commissioner of revenue.

SECTION 12. Tennessee Code Annotated, Section 67-1-1807, is amended by deleting the section in its entirety and by substituting instead the following language:

(a) All taxes collected or administered by the commissioner of revenue shall be governed by the laws regarding suits challenging assessments or seeking refunds as set out in this part. The procedures set out in this part shall be the sole means of challenging the validity, constitutionality, applicability, or amount of any such tax or the liability therefor. No court shall issue any declaratory judgment, restraining order, injunction, stay, supersedeas, prohibition, or other writ or process whatsoever to construe any such tax law or to prevent, hinder, or delay the collection of any tax to which this part applies. In all instances in which any person shall claim that a tax is invalid, unconstitutional, inapplicable, incorrect in amount, or has been or is being

improperly administered, assessed, or collected, the person so complaining shall follow the procedures for challenging an assessment or seeking a refund as set out in this part.

(b) It shall not be a condition precedent for suit challenging or seeking the recovery of taxes collected or administered by the commissioner of revenue that such taxes be paid under protest, involuntarily, or under duress.

SECTION 13. This act shall take effect upon becoming a law, the public welfare requiring it.