

No. 809, A.]

[Published August 14, 1953.

## CHAPTER 602

AN ACT to create 85.95 and 194.51 of the statutes, relating to suits against the state for the recovery of taxes and fees paid under protest.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. 85.95 of the statutes is created to read:

85.95 SUIT TO RECOVER PROTESTED TAX AND FEES. No suit shall be maintained in any court to restrain or delay the collection or payment of the taxes levied or the fees imposed or exacted in this chapter. The aggrieved taxpayer shall pay the tax or fee as and when due, and, if paid under protest, may at any time within 90 days from the date of such payment, sue the state in an action at law to recover the tax or fee so paid. If it is finally determined that said tax or fee, or any part thereof, was wrongfully collected for any reason, it shall be the duty of the director of budget and accounts to issue a warrant on the state treasurer for the amount of such tax or fee so adjudged to have been wrongfully collected, and the treasurer shall pay the same out of the highway fund. A separate suit need not be filed for each separate payment made by any taxpayer, but a recovery may be had in one suit for as many payments as may have been made within any 90-day period preceding the commencement of such an action. Such suits shall be commenced as provided in s. 285.01.

SECTION 2. 194.51 of the statutes is created to read:

194.51 SUIT TO RECOVER PROTESTED TAX. No suit shall be maintained in any court to restrain or delay the collection or payment of the taxes levied in this chapter. The aggrieved taxpayer shall pay the tax as and when due, and, if paid under protest, may at any time within 90 days from the date of such payment, sue the state in an action at law to recover the tax so paid. If it is finally determined that said tax, or any part thereof, was wrongfully collected for any reason, it shall be the duty of the director of budget and accounts to issue a warrant on the state treasurer for the amount of such tax so adjudged to have been wrongfully collected, and the treasurer shall pay the same out of the highway fund. A separate suit need not be filed for each separate payment made by any taxpayer, but a recovery may be had in one suit for as many payments as may have been made within any 90-day period preceding the commencement of such an action. Such suits shall be commenced as provided in s. 285.01. In the event the judgment in *Hillside Transit Co., Inc. v. Larson*, Commissioner, now pending in the Wisconsin supreme court shall be affirmed, all taxes paid under this chapter for any period commencing April 1, 1953 shall be refunded to the taxpayers claiming same out of the highway fund in the same manner as provided in s. 20.06 (2).

Approved July 21, 1953.

---