

## JUDGEMENTS AGAINST SCHOOL DISTRICTS

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**Senate Bill 442 as Enacted**  
**Public Act 184 of 2013**

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**Public Act 185 of 2013**

**Sponsor: Sen. Jim Marleau**  
**House Committee: Financial Liability Reform**  
**Senate Committee: Education**

**Complete to 3-1-16**

## A SUMMARY OF SENATE BILLS 442 AND 443 AS ENACTED

Senate Bill 442 would amend Section 1642 of the Revised School Code by making judgments for damages against school districts or intermediate districts unenforceable, and would prohibit collections from being imposed, except as noted in Section 6094, as amended in SB 443. It would also repeal Sections 1643 and 1644 of the Revised School Code, which lay out the certification and tax collection process but would no longer be relevant.

Senate Bill 443 would amend Section 6094 of the Revised Judicature Act to prohibit judgment levies for damages against school districts or intermediate districts which are paid with funds collected through local taxes levied under this section if any of the following conditions apply:

- The judgment enforces a contract for which the district or intermediate district was not authorized to enter under state law.
- The judgment enforces a contract that provides for payment to a person other than the state, a state public employee retirement system, or a state authority if both the district or intermediate district is subject to a consent agreement under PA 436 of 2012 and that consent agreement does not require the approval of the State Treasurer before the district or intermediate district certifies the judgment.
- The judgement enforces a contract that provides for payment in an amount greater than \$100,000 to a person other than the state, a state public employee retirement system, or a state authority, for which the district or intermediate district failed to make a payment within 90 days after the date required under the contract and either of the following:
  - The person entitled to payment failed to provide written notice to the district board and superintendent and the state treasurer of the district's failure to pay and the person's intent to stop providing services.
  - After sending a written notice as described above, the person failed to stop providing good or services at the earliest time allowable under the contract.

For reference, Section 6094 currently requires that after a judgment is obtained against a school district, the district must certify the judgment details to the township supervisor in which the district is located. If the treasurer fails to certify the judgment, the person for whom the judgment is in favor may file a certificate of the clerk of the court. Once the certificate of the court is received, the judgment, with interest from the date of the judgment, is assessed and collected on the taxable property of the district. It is collected and returned in the same manner as other district taxes. This process would no longer apply to school districts and intermediate districts, as described above.

In addition to excluding the above mentioned judgments against school districts, the bill would add references to intermediate districts; would add references to municipalities in addition to townships; and would add references to assessing officers in addition to supervisors.

### **FISCAL IMPACT:**

The bills would have no fiscal impact on the State because it would not shift the burden of the judgments from local taxpayers or districts to the State. However, the bills could have a fiscal impact for local school districts and intermediate districts. The bills could create savings for school districts, intermediate districts, and local taxpayers as they would no longer be responsible for paying judgments of more than \$100,000 regarding default vendor contracts. The change also could reduce associated litigation costs by eliminating the incentive to initiate a lawsuit for debts of over \$100,000.

However, a school vendor would then be responsible for the school district's failure or refusal to pay on a contract associated with school operations, thus taking a loss, which may discourage vendors from entering into contracts with school districts in the future due to the risks involved. Alternatively, vendors may charge higher fees to school districts to offset the risks.

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