

Legislative Analysis



JUDGEMENTS AGAINST SCHOOL DISTRICTS

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Senate Bill 442 (S-1)

Senate Bill 443 (S-2)

Sponsor: Sen. Jim Marleau

House Committee: Financial Liability Reform

Senate Committee: Education

Complete to 12-4-13

A SUMMARY OF SENATE BILLS 442 AND 443 AS PASSED BY THE SENATE

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 exclude judgments against school districts or intermediate districts for damages from the certification and tax collection process allowed under this section if they are related to school operations, including, but not limited to, collective bargaining agreements, or contracts for employment, construction, or procurement.

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 to pay for judgments regarding default vendor contracts relating to school operations. The change also could reduce associated litigation costs by eliminating the incentive to initiate a lawsuit.

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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