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BILL ANALYSIS



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Senate Bills 630 and 631 (as introduced 12-2-15)
Sponsor: Senator Mike Shirkey
Committee: Local Government

Date Completed: 2-17-16

CONTENT

Senate Bill 630 would amend Section 6093 of the Revised Judicature Act, which establishes the method of recovery of a judgment against a city, village, township, or county, to do the following:

- Delete provisions that require the appropriate assessing officer to assess the amount of the judgment against the taxable property of the municipality.
- Allow a plaintiff, after a judgment against a municipality became final, to move for an order for the judgment to be paid from the ad valorem taxes on property collected for the municipality.
- Require the court to order a local property tax collecting unit to pay all or part of the judgment from the taxes collected.
- Require the court order to include an expiration date.
- Allow the court, if the full amount of the judgment had not been paid, to issue a new order or require the plaintiff to move for a new order.
- Require the municipality's treasurer or other tax-collecting official to comply with the court order and to account for the money paid.
- Prescribe a misdemeanor penalty for a treasurer or other collecting official who neglected or refused to comply.

The bill also would amend the Act to do the following:

- Prohibit a municipality from issuing certificates of indebtedness or bonds for the purpose of raising money to pay a judgment if the issuance would result in an increase in the total taxes levied by the municipality, unless approved by the municipality's electors.
- Prohibit the issuance of certificates or bonds for the payment of a judgment against the municipality if the judgment were for the recovery of money paid for a tax or other assessment that the municipality imposed illegally or improperly.
- Specify that taxes levied for the payment of certificates of indebtedness or bonds would be subject to limitations of the State Constitution, statutory limitations applicable to taxes levied by the municipality, and any limitations in the municipality's charter.

Senate Bill 631 would amend the General Property Tax Act to specify that tax revenue collected under the Act would be subject to a judgment against a municipality under Section 6093 of the Revised Judicature Act before delivery of the tax revenue to various taxing authorities.

The bills are tie-barred. Each bill would take effect 90 days after its enactment.

Senate Bill 630

Judgment Levy

Section 6093 of the Revised Judicature Act establishes the method of recovery of a judgment against a city, village, township, or county. Under that section, the appropriate assessing officer must assess the amount of the judgment upon the taxable property of the municipality. The bill would replace the provisions of Section 6093.

Under the bill, after a judgment against a municipality (a county, township, city, or village) became final, the plaintiff could move the court to enter an order for the payment of the judgment from the ad valorem taxes on property collected for the municipality under the General Property Tax Act. On the plaintiff's motion, the court would have to order a local tax collecting unit that collected taxes on property for the municipality to pay all or part of the judgment from the taxes collected. The order would have to state all of the following:

- The person to whom the payments were to be paid.
- The total amount to be paid.
- A date on which the order would expire and an order that the treasurer or other official of the local tax-collecting unit make payments on the applicable schedule under the General Property Tax Act or on another schedule as ordered by the court until either the total amount ordered was paid or the date that the order expired, whichever occurred first.
- In the court's discretion, an order that the treasurer or other official pay from each payment a certain amount or a percentage of the payment to be applied to the amount ordered to be paid.

The court could order that payments be made to the clerk of the court, the attorney for the plaintiff, or the plaintiff.

In its discretion, the court could include in the total amount to be paid the full amount of the judgement, with costs and interest, or limit the amount to be paid under the order to an amount that was less than the full amount of the judgment.

The treasurer or other collecting official of the local tax-collecting unit would have to comply with the court order. The treasurer or other official would have to account for money paid in a written report to the court, the plaintiff's attorney, or the plaintiff (if he or she did not have an attorney), and the supervisor of the municipality or any other official to whom the treasurer or other collecting official was required to report the collection and payment of the taxes under the General Property Tax Act.

If an order under the bill provided for the payment of less than the full amount of the judgment, or if the order expired and the full amount of the judgment had not been paid, the court could require the plaintiff to make a new motion for a new order or could issue a subsequent order or orders without a new motion by the plaintiff.

A treasurer or other collecting official who neglected or refused to comply with Section 6093 would be guilty of a misdemeanor punishable by imprisonment for up to 93 days and/or a maximum fine of \$1,000.

The bill specifies that Section 6093 would not affect any other remedy provided by law for the enforcement of the judgment.

Certificates of Indebtedness or Bonds

Under Section 6097 of the Revised Judicature Act, if a judgment of a court or administrative agency is rendered against a municipality, the municipality's legislative body may issue

certificates of indebtedness or bonds for the purpose of raising money to pay the judgment. (Section 6097 defines "municipality" as a county, township, city, village, school district, intermediate school district, community college district, metropolitan district, port district, drainage district established under the Drain Code, or another governmental authority or agency in Michigan that has the power to levy ad valorem property taxes.)

Under the bill, if the issuance of certificates of indebtedness or bonds under Section 6097 would result in an increase in the total taxes levied by a municipality, the municipality could not issue the certificates or bonds unless their issuance was approved by a vote of the municipality's electors.

A municipality could not issue certificates of indebtedness or bonds under Section 6097 if the judgment were for the recovery of money paid for a tax, fee, or other assessment that the court or agency determined was illegally or improperly imposed by the municipality.

Any taxes levied for the payment of certificates of indebtedness or bonds issued under Section 6097 would be subject to any of the following:

- Limitations imposed by the State Constitution, including limitations imposed by Article 9, Sections 6 and 25 to 34.
- Statutory limitations applicable to taxes levied by the municipality.
- Limitations in the municipality's charter, if applicable.

(Article 9 of the State Constitution deals with finance and taxation. Sections 6 and 25 to 34 impose various tax limitations and are commonly referred to as the Headlee Amendment.)

Senate Bill 631

Various sections of the General Property Tax Act authorize particular officials to collect taxes and distribute revenue from those taxes to certain taxing authorities (such as school districts, community college districts, and transportation authorities). The bill specifies that before delivery, amounts collected under the Act would be subject to any applicable court order for a judgment against a municipality under Section 6093 of the Revised Judicature Act.

MCL 600.6093 & 600.6097 (S.B. 630)
211.43 et al. (S.B. 631)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bills would tend to reduce local government revenue by an unknown amount. The elimination of the ability to assess judgment levies in excess of tax limitations without a vote of the people likely would reduce local revenue. Local services could be reduced by use of existing property tax revenue to pay court judgments. Local voters, however, could approve an additional millage to pay a judgment and maintain other local revenue. The bill also could result in reduced costs for judgements by enabling a court to reduce the amount of a judgment assessed against a city, village, township, or county that may be collected from property taxes.

Fiscal Analyst: Elizabeth Pratt

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.