



Senate Fiscal Agency
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BILL ANALYSIS



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House Bill 4658 (Substitute S-1)
Sponsor: Representative Michael D. McCready
House Committee: Families, Children, and Seniors
Senate Committee: Families, Seniors and Human Services

Date Completed: 12-2-15

CONTENT

The bill would amend the Revised Judicature Act to require the director of a department to cause a judgment or claim against the department to be paid from its unencumbered appropriation, if that amount were sufficient for the payment.

The bill also would require certain liabilities (including tax and support liabilities) to be deducted from payment made to a plaintiff or claimant as a result of a judgment against the State or a claim granted by the State Administrative Board. Specifically, the bill would do the following:

- Require the plaintiff or claimant to give the department certain identifying information, when a judgment became final or a claim was allowed.**
- Require a department director to give the Department of Treasury the plaintiff's or claimant's identifying information when requesting payment of a judgment or allowed claim.**
- Require the Department of Treasury to determine whether a plaintiff or claimant had any outstanding liabilities described in the bill, and if so, apply the amount of the judgment or claim to those liabilities in a particular order of priority, before paying the plaintiff or claimant.**
- Provide that identifying information would be exempt from disclosure under the Freedom of Information Act if a protective order prohibiting disclosure existed.**

The bill would define "department" as a principal department, as that term is used in Article V of the State Constitution, against which a final judgment or allowable claim is rendered as provided in the bill, or a commission, board, institution, arm, or agency of the State that is located within a principal department against which a final judgment or allowable claim is rendered. "Director" would mean the head of the department or that person's designee.

The bill would take effect 90 days after its enactment or on January 31, 2016, whichever was later.

Payment from Unencumbered Appropriation

Under Section 6458 of the Revised Judicature Act, in rendering any judgment against the State or a State department, commission, board, institution, arm, or agency, the Court of Claims must determine and specify the department, commission, board, institution, arm, or agency from whose appropriation the judgment must be paid. When a judgment becomes final or a claim is allowed by the State Administrative Board and certified by the Board secretary, the clerk of the Court of Claims must certify to the State Treasurer that the

judgment was entered or that the claim was allowed. When the certification is made, the claim must be paid from the specified unencumbered appropriation.

Under the bill, notwithstanding Section 6458, when a judgment against the State or a department became final, or a claim by the State Administrative Board was allowed, the director would have to cause the judgment or claim to be paid from the unencumbered appropriation of the department, if he or she determined that the unencumbered appropriation was sufficient for the payment.

Provision of Information to the Department

Under the bill, when a judgment against the State or a department became final or a claim was allowed by the State Administrative Board, the plaintiff or claimant would have to give the department any information required by the director to identify the plaintiff or claimant or, if applicable, each individual for whose benefit the action was brought or the claim made, for purposes of complying with the provisions described below. The Department of Treasury would have to make available to departments an itemization of the information needed from a plaintiff or claimant to satisfy this requirement.

When requesting payment of a judgment or allowed claim from the Department of Treasury, the director would have to give the Department of Treasury the name of the plaintiff or claimant or, if applicable, the name of the individual for whose benefit the action was brought or the claim was made, and the identifying information required by the bill in the manner prescribed by the Department of Treasury.

These requirements would apply to all judgments and claims, notwithstanding any order in an action that prohibited the disclosure of the name of a plaintiff, claimant, or individual for whose benefit the action was brought or claim was made. If such a protective order existed, the director would have to notify the Department of Treasury of the order when providing the name of the plaintiff, claimant, or individual. In addition, the name and identifying information would be exempt from disclosure under the Freedom of Information Act.

Outstanding Liabilities/Deductions

The Department of Treasury could not issue a warrant in satisfaction of a judgment or claim until it determined whether the plaintiff or claimant or, if applicable, the individual for whose benefit the action was brought or claim made, had a liability described below. If it identified such a liability, the Department of Treasury first would have to apply the amount of the judgment or claim in the order of priority prescribed in the bill. The excess, if any, would have to be paid to satisfy the judgment or claim.

The amount of a judgment or claim would have to be applied to the following in the order of priority listed below:

- Any known tax liability to the State.
- Any other known liability to the State.
- Any of the following in the order of priority received, unless otherwise provided by law: a support liability, an order of restitution, a writ of garnishment or other court order directed to the State or the State Treasurer, a levy of the Internal Revenue Service, or a liability to repay unemployment benefits obtained under the Michigan Employment Security Act.

("Support" would mean that term as it is defined in Section 2a of the Friend of the Court Act. Under that section, the term means all of the following:

- The payment of money for a child or a spouse ordered by the circuit court, including payment of medical, dental, and other health care expenses; child care expenses; and educational expenses.
- The payment of money ordered by the circuit court under the Paternity Act for the necessary expenses connected to the pregnancy of the mother or the birth of the child, or for the repayment of genetic testing expenses.
- A surcharge ordered to be added to past-due support payments.)

Proposed MCL 600.6096

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill could have a minor positive impact on State revenue and result in additional administrative costs to the Department of Treasury. Allowing liabilities to the State to be collected from judgments and claims payable by the State could increase State revenue. The amount of revenue collected would depend on individual cases, so the total additional revenue is unknown. The Department would have additional administrative costs from collecting the required information and processing judicial and administrative claims. The additional costs would depend on the number of judgments entered and claims approved annually.

The bill would have no fiscal impact on local government.

Fiscal Analyst: Cory Savino

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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.