Senate Fiscal Agency
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BILL ANALYSIS

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House Bill 5511 (Substitute H-2 as reported without amendment)
Sponsor: Representative Michael E. McCready
House Committee: Families, Children, and Seniors
Senate Committee: Families, Seniors and Human Services

CONTENT

The bill would amend the Revised Judicature Act to require certain 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:

-- Require the plaintiff or claimant to give the defendant certain identifying information, when a judgment became final or a claim was allowed.
-- Require a defendant 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 to determine whether a plaintiff or claimant had any outstanding liabilities described in the bill, and if so, first apply the amount of the judgment or claim to those liabilities in a particular order of priority.
-- Require the Department to promulgate rules or revise existing ones to implement the bill's requirements.
-- Provide that identifying information would be exempt from disclosure under the Freedom of Information Act if a protective order prohibiting disclosure existed.

Currently, after a judgment against the State or a State department, commission, board, institution, or agency becomes final, the Court of Claims must determine the department, commission, etc. from whose appropriation the judgment must be paid. When a judgment becomes final or a claim is allowed by the State Administrative Board, the clerk of the Court of Claims must certify that to the State Treasurer, and the claim must be paid from the specified unencumbered appropriation. The bill would require the State Treasurer to pay the claim from the unencumbered appropriation upon receiving the certification.

The Department of Treasury could not issue a warrant to pay the judgment or claim until it determined whether the plaintiff or claimant had a liability described below. If it identified such a liability, the Department first would have to apply the amount of the judgment or claim in the prescribed order of priority. 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 following order of priority:

-- 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, 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.

The bill would take effect on January 1, 2016.

MCL 600.6458 Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill could result in additional costs to the Department of Treasury for it to comply with the requirement to determine whether a plaintiff or claimant had any outstanding liabilities before making payments for judgments or claims against the State.

Currently, most judgments or claims are paid by the State department or agency against which the judgment is made. According to the Department of Treasury, it does not currently have in place the appropriate accounting system to make the deductions from departments' appropriations for the payments for any liabilities of plaintiffs/claimants that would be required under the bill. The Department has indicated that costs would be incurred for additional staff and staff time to perform the information technology changes that would be necessary. The Department does not currently have an estimate for these costs but has stated that they could be significant.

In FY 2012-13, the State paid out $85.6 million in claims and settlements. It is indeterminate how much of these payments would have been withheld to pay outstanding liabilities against plaintiffs/claimants if this legislation had been in place. Only tax liabilities or other liabilities that were owed to the State would result in additional revenue for the State. All other liabilities, such as child or spousal support payments, would not result in additional revenue for the State. Again, the amount of the liabilities owed to the State is indeterminate.

Date Completed: 10-21-14 Fiscal Analyst: Joe Carrasco