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House Bill 5511 (Substitute H-2 as passed by the House)
Sponsor: Representative Michael D. McCready
House Committee: Families, Children, and Seniors
Senate Committee: Families, Seniors and Human Services

Date Completed: 10-1-14

CONTENT

The bill would amend the Revised Judicature Act to 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 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.**

The bill would take effect on January 1, 2016.

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. The bill would require the State Treasurer to pay the claim from the unencumbered appropriation upon receiving the certification.

Under the bill, when a judgment became final or a claim was allowed and certified to the clerk, the plaintiff or claimant would have to give the defendant against whom the judgment was entered or claim granted any information required by the Department of Treasury 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 or to perform the Department's duties with regard to the promulgation of rules. The Department would have to make available to State departments, commissions, boards,

institutions, arms, and agencies 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 defendant would have to give the Department the name of the plaintiff or claimant and the identifying information required by the bill. If the plaintiff or claimant brought the action or made the claim in a representative capacity, the defendant would have to give the Department the name and identifying information for each individual for whose benefit the action was brought or claim made.

The Department could not issue a warrant in the 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 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 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.

("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.)

The Department of Treasury would have to promulgate rules or revise existing ones under the Administrative Procedures Act as necessary to implement the bill's requirements. The rules would have to include a procedure for assuring that a defendant or claimant had received or would receive notice and an opportunity for a hearing with respect to the liability to which the amount of the judgment or claim was to be applied.

The bill's requirements regarding the provision of names and identifying information to a defendant and the Department of Treasury 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 defendant would have to notify the Department 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.

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.

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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.