



## 103RD GENERAL ASSEMBLY

### State of Illinois

### 2023 and 2024

### HB5278

Introduced 2/9/2024, by Rep. William "Will" Davis

#### SYNOPSIS AS INTRODUCED:

745 ILCS 10/9-104  
745 ILCS 10/9-106

from Ch. 85, par. 9-104  
from Ch. 85, par. 9-106

Amends the Local Governmental and Governmental Employees Tort Immunity Act. Provides that if a local public entity does not pay a court order or administrative agency order requiring payment to a local entity during the fiscal year it becomes final, or cannot pay a judgment, court order, or administrative agency order due to the overall revenue of the local public entity and the overall volume of operating expenses and debts, and if the payment of the judgment, court order, settlement agreement, or administrative agency order creates an unreasonable financial hardship for the local public entity, it shall pay the balance of the judgment, court order, settlement agreement, or administrative agency order in installments. Provides that a local public entity shall have the power of judicial relief to restructure the settlement agreement if the payment of the settlement agreement creates an unreasonable hardship for the local public entity. Provides that a local public entity that derives revenue for its maintenance and operation from rates and charges made for services or facilities it provides shall make rates and charges in an amount sufficient to pay all its tort judgments and settlements under the Payment of Claims and Judgment Article of the Act and its obligations under the Workers' Compensation Act, the Workers' Occupational Diseases Act, and the Unemployment Insurance Act, to the extent possible.

LRB103 35040 LNS 64977 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Local Governmental and Governmental  
5 Employees Tort Immunity Act is amended by changing Sections  
6 9-104 and 9-106 as follows:

7 (745 ILCS 10/9-104) (from Ch. 85, par. 9-104)

8 Sec. 9-104. Nonpayment of judgments, orders, or  
9 agreements; installment payments.

10 (a) Subject to subsection (b) of this Section, if a local  
11 public entity does not pay a tort judgment, other court order,  
12 or administrative agency order requiring a payment to a local  
13 entity during the fiscal year in which it becomes final, or  
14 cannot pay a judgment, court order, or administrative agency  
15 order under the terms ordered due to the overall revenue of the  
16 local public entity and the overall volume of operating  
17 expenses and debts, and if, in the opinion of its governing  
18 body, the payment of the judgment, court order, settlement  
19 agreement, or administrative agency order creates an  
20 unreasonable financial hardship for the local public entity,  
21 it shall pay the balance of the judgment, court order,  
22 settlement agreement, or administrative agency order, with  
23 interest thereon, in installments.

1           (b) The court which enters judgment shall order that the  
2 governing body pay the judgment, with interest thereon, in not  
3 exceeding 10 annual installments if both of the following  
4 conditions are satisfied:

5           (1) The governing body of the local public entity has  
6 adopted an ordinance or resolution finding that an  
7 unreasonable hardship will result unless the judgment is  
8 paid in installments.

9           (2) The court, after hearing, has found that payment  
10 of the judgment in installments as ordered by the court is  
11 necessary to avoid an unreasonable hardship.

12           (c) Each installment payment shall be of an equal portion  
13 of the principal of the judgment except that where a judgment  
14 is \$500,000 or more the court may, upon a showing by the  
15 plaintiff of an extraordinary need for immediate funds in  
16 order to secure medical necessities immediately after  
17 judgment, including, but not limited to, equipment, supplies,  
18 medication, residence, or other items, order that unequal  
19 payments of the principal of the judgment be made in  
20 proportions to be determined by the court, but in no event  
21 shall any increase in a payment cause such payment to be  
22 greater than 50% of the judgment. The local public entity, in  
23 its discretion, may prepay any one or more installments or any  
24 part of an installment.

25           (d) A local public entity shall have the power to enter  
26 into a settlement agreement subject to a term not to exceed the

1 period of years negotiated by the parties and shall have the  
2 power of judicial relief to restructure the settlement  
3 agreement if, in the opinion of the public body, the payment of  
4 the settlement agreement creates an unreasonable hardship for  
5 the local public entity.

6 (Source: P.A. 84-1431.)

7 (745 ILCS 10/9-106) (from Ch. 85, par. 9-106)

8 Sec. 9-106. Use of rates and charges to pay judgments and  
9 settlements. A local public entity that derives revenue for  
10 its maintenance and operation from rates and charges made for  
11 services or facilities it provides shall in each fiscal year  
12 make rates and charges or both, or otherwise provide funds, in  
13 an amount sufficient to pay all its tort judgments and  
14 settlements in accordance with this Article and its  
15 obligations under the Workers' Compensation Act, the Workers'  
16 Occupational Diseases Act, and the Unemployment Insurance Act,  
17 to the extent possible.

18 (Source: P.A. 82-783.)