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Use of obscure school tax sparks 4 Downstate suits

By Diane Rado
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Hundreds of school districts across the state and dozens in the Chicago region have dramatically increased special taxes for legal claims and insurance expenses over the last five years, a recent study shows, but not necessarily because legal troubles have mounted.

The obscure tax, which doesn't show up on homeowners' bills, in some districts has paid for portions of salaries for teachers, administrators, secretaries, custodians and cafeteria workers, a Tribune review of court records and district financial reports shows.

The practice has spawned lawsuits against four districts on behalf of thousands of taxpayers. They allege their tax dollars for legal judgments and liability insurance have been illegally diverted, and they want their money back. The first lawsuit goes to trial May 2 in Stephenson County Circuit Court.

"It's an outright abuse," said Freeport attorney Robert Slattery, who filed the lawsuits. "I mean, people would get indicted if they were doing this in corporate America."

Local school officials say the expenditures are legal and proper under the law that governs the use of the so-called "tort immunity" tax dollars. Using those funds for salaries has enabled cash-strapped districts to avoid deeper cuts, they say.

That law allows districts and other government bodies to levy a special tax on property owners to cover legal settlements, liability insurance, worker's compensation and other risk-management programs to protect them from lawsuits. Unlike some tax rates that make up each school district's levy, the rate for tort immunity expenses is not capped.

Statewide, 220 districts--nearly a fourth of the state's school districts--have increased their tax levies for tort immunity expenses by 100 percent or more between 1998 and 2003, according to a recent study by the Illinois Business RoundTable, a Chicago business organization.

Of those, 48 are in the six-county Chicago region.

A Tribune analysis of 2003-2004 financial reports of the Chicago-area districts showed that nearly every district moved the tort money into its main education operating account for teacher and administrator salaries, pumping up reserves and, in some cases, avoiding deficits.

That makes them stronger in the eyes of the state, which rates districts on their financial health and considers reserves and spending practices in the analysis. State financial ratings are to be released Wednesday by the Illinois State Board of Education and are expected to show improvements in district finances.

State education officials said they don't monitor the use of tort immunity tax dollars--or how they prop up the bottom line--because those funds are managed by local school boards and reviewed by outside auditors hired by districts.

Local school officials and attorneys say the law spells out that districts can use the funds for "educational, inspectional and supervisory services" related to ensuring schools are safe for students, staff and visitors, and protecting districts from lawsuits.

For example, a custodian who does repairs and ensures school buildings are locked could be paid with tort immunity dollars.

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But Slattery, who has filed lawsuits against the Quincy, Freeport, Pearl City and Coal City school districts, said school officials have stretched the definition so much that everyone, it seems, is involved in keeping schools safe.

In the four districts in the lawsuits, tort money is used to pay part of the salaries of teachers and administrators, school nurses, secretaries, bookkeepers, and even music, foreign language and drama instructors, among other staff, according to school district documents.

In Pearl City, for example, a drama teacher spends some time making sure that students involved in building sets for a school play are not injured. That enables the district to pay part of the teacher's stipend for extracurricular activities from tort immunity tax dollars.

Pearl City officials could not be reached for comment.

Coal City allots 30 percent of principal salaries and 10 to 12 percent or more of teacher salaries to risk-management duties.

Supt. Kent Bugg said the district surveyed teachers to determine how much time they spent on supervisory duties that keep children safe, such as monitoring halls during five-minute passing periods between classes.

He also said the district worked closely with its attorneys to ensure the expenditures were appropriate.

Jeff Mays, president of the Illinois Business RoundTable, said he fears that with tort money paying for salaries, districts won't have enough left over if they have to pay a legal judgment.

"What happens when you have a legitimate lawsuit--all of a sudden you have to lay off staff," said Mays.

He said his organization may seek changes in the law to clarify how the tort money can be used.

In the 48 Chicago-area districts that have raised tort levies by 100 percent or more, 21 reported to the state they spent some of the money on the contested category of "educational, inspectional and supervisory services."

Will County's Frankfort School District 157C, which increased its tort immunity taxes by more than 1,000 percent since 1998, spent about 93 percent of those funds in that category last school year.

The district's chief financial official, Ernest Tonelli, said the district uses tort money for a small portion of each teacher's salary--usually less than 5 percent. The district has seen increases in liability insurance costs and has paid more attention to school security since the 1999 Columbine school shootings.

Tonelli also said his district and others in the Chicago region are limited in how much revenue they can raise, because of tax caps that restrict overall increases every year to the rate of inflation.

So residents may not see an overall increase in their school taxes even if tort taxes are going up, because districts would have to adjust the tax rate in another area to stay within the cap.

But he acknowledged that taxpayers could also see a decrease in their taxes if districts didn't raise the tort tax rate.

Schools raise taxes for legal claims, insurance.

Hundreds of Illinois school districts have increased the amount of "tort immunity" taxes they collect for legal claims and insurance. Those funds in some districts have been used to pay for other things, such as salaries for teachers, custodians and secretaries.

LARGEST INCREASES IN TORT IMMUNITY TAXES (1998-2003)
 In six-county area
 SCHOOL DISTRICT COUNTY PERCENT INCREASE
 Frankfort 157C Will 1,368.99%
 Geneva 304 Kane 1,067.71

Ridgewood H.S. 234 Cook 1,026.90
Waukegan 60 Lake 923.28
New Lenox 122 Will 911.10
Community H.S. 128 Lake 702.81
Will County 92 Will 675.79
Nippersink 2 McHenry 674.76
Sunset Ridge 29 Cook 495.11
Zion-Benton Twp. H.S. 126 Lake 426.08

Sources: Districts annual financial reports, Illinois State Board of Education and county tax data compiled by the Illinois Business Roundtable

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