

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: CS/SB 439

50th Legislature, 1st Session, 2011

Tracking Number: .186310.1

Short Title: Forfeiture of Embezzled School Money

Sponsor(s): Senators Cynthia Nava and Gay G. Kernan

Analyst: Kevin Force and David Harrell

Date: March 7, 2011

**SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR
SENATE BILL 439**

Bill Summary:

CS/SB 439 adds a new section to the *Public School Finance Act* to provide that any money or other property obtained by embezzlement from a public school or school district will be subject to forfeiture under the *Forfeiture Act*.

Fiscal Impact:

CS/SB 439 does not contain an appropriation.

Fiscal Issues:

According to the analysis of the original SB 439 by the Administrative Office of the Courts (AOC)¹:

- the bill will have a minimal administrative cost for the update, distribution, and documentation of statutory changes; and
- the cost of the increase in complexity and procedure for certain embezzlement cases is unknown.

Substantive Issues:

The *Forfeiture Act* “applies to seizures, forfeitures, and dispositions of property subject to forfeiture pursuant to laws that specifically apply the *Forfeiture Act*.”

In its analysis, AOC states that, among other procedures, the *Forfeiture Act* indicates:

- district courts have jurisdiction over forfeiture proceedings;
- venue for a forfeiture proceeding is in the same court where venue lies for the criminal proceeding giving rise to the forfeiture action; and

¹ The original SB 439 contains the same provisions as CS/SB 439. The difference is that the original bill incorporates the provisions as amendments to the embezzlement statutes, whereas CS/SB 439 places them in a new section of the *Public School Finance Act*.

- the forfeiture proceeding is brought in the same proceeding as the criminal matter, and presented to the same trier of fact, provided that:
 - the two issues are bifurcated;
 - the rules of criminal procedure apply to the criminal proceeding and the rules of civil procedure apply to the forfeiture proceeding; and
 - if the criminal defendant is represented by the public defender, the chief public defender may authorize representation for the defendant in the forfeiture proceeding.

Background:

CS/SB 439 adds another category of property subject to forfeiture under the *Forfeiture Act*.

As would be the case regarding property embezzled from a public school or school district under the proposed amendment, many other kinds of property obtained by, utilized for, or related to various crimes are subject to forfeiture under the act by specific application.

Related Bills:

SB 247a *Forfeiture of Retirement for Certain Crimes*

SB 259a *Forfeiture of Public Official Benefits*

HB 203 *Forfeiture of Real Property Used in Felony*