

STORAGE NAME: h1027a.jo.doc
DATE: April 3, 2001

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
JUDICIAL OVERSIGHT
ANALYSIS**

BILL #: HB 1027
RELATING TO: Judgments
SPONSOR(S): Representative Carassas
TIED BILL(S): None

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) JUDICIAL OVERSIGHT YEAS 9 NAYS 1
- (2) FISCAL POLICY AND RESOURCES
- (3) SMARTER GOVERNMENT
- (4)
- (5)

I. SUMMARY:

The bill provides that in personal injury or wrongful death actions where the plaintiff is entitled to recover costs and attorney's fees under s. 768.79, F.S., the court is required to include interest in the judgment. The interest is to be calculated in accordance with s. 55.03, F.S., and will accrue from the date the demand for judgment is filed by the plaintiff, or from the date the demand for judgment is served on the defendant if the demand is not filed.

The bill does not allow prejudgment interest to be assessed against the state or its agencies or subdivisions, including hospitals owned and operated by governmental entities or their agents and employees.

The bill takes effect on October 1, 2001.

The Committee on Judicial Oversight adopted an amendment to make clear that teaching hospitals, as defined in s. 408.07(44), F.S., cannot be assessed prejudgment interest. The amendment is traveling with the bill.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Section 768.79, F.S., governs offers of judgment and demands for judgment. The purpose of the offer of judgment statute is to encourage realistic assessment of claims and the early termination of litigation. See McMullen Oil Co., Inc. v. ISS Intern. Service System, Inc., 698 So. 2d 372, 374 (Fla. 2d DCA 1997). If a plaintiff files a demand for judgment that is not accepted within 30 days and the plaintiff recovers a judgment in an amount at least 25 percent greater than the offer, the plaintiff shall be entitled to recover reasonable costs and attorney's fees incurred from the date of the filing of the demand. If a defendant files an offer of judgment that is not accepted by the plaintiff within 30 days, the defendant may recover reasonable costs and attorney's fees if the judgment is one of no liability or the judgment is at least 25 percent less than the offer.

Interest rates on judgments are determined pursuant to s. 55.03, F.S. Interest typically begins to accrue when the judgment is entered. See Haskell v. Forest Land and Timber Co., Inc., 426 So. 2d 1251, 1253 (Fla. 1st DCA 1983) ("The general rule is that "[i]nterest on a judgment or decree ordinarily runs from the date of its entry until satisfaction thereof."). "Entitlement to attorney's fees based on an offer of judgment pursuant to section 768.79, Florida Statutes (1995) is not determined for the purpose of assessing interest on the fees until the entry of the judgment making the determination of the entitlement of such fees." Hilb, Rogal and Hamilton Co. of Ft. Myers v. T.B. & Associates, Inc., 742 So. 2d 256, 257 (Fla. 2d DCA 1997). See also Quality Engineered Installatoin, Inc. v. Higley South, Inc., 670 So. 2d 929, 930-931 (Fla. 1996) (holding that "interest accrues from the date the entitlement to attorney's fees is fixed through ... court determination, even though the amount of the award has not yet been determined.").

C. EFFECT OF PROPOSED CHANGES:

The bill provides that in personal injury or wrongful death actions where the plaintiff is entitled to recover costs and attorney's fees under s. 768.79, F.S., the court is required to include interest in the judgment. The interest is to be calculated in accordance with s. 55.03, F.S., and will accrue from the date the demand for judgment is filed by the plaintiff, or from the date the demand for judgment is served on the defendant if the demand is not filed. The bill makes clear that interest on the judgment in personal injury and wrongful death actions begins to accrue when the demand for judgment is made and not when the judgment is ultimately entered.

The bill does not allow prejudgment interest to be assessed against the state or its agencies or subdivisions, including hospitals owned and operated by governmental entities or their agents and employees.

The bill takes effect on October 1, 2001. It applies to all suits pending on that date or filed thereafter. However, for suits pending on October 1, 2001, prejudgment interest does not begin until 30 days after the effective date of the bill.

D. SECTION-BY-SECTION ANALYSIS:

See Section II.C. Effect of Proposed Changes.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

N/A

2. Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

N/A

D. FISCAL COMMENTS:

Indeterminate. It is not known how many actions will be affected by this bill.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require counties or municipalities to spend funds or to take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce the authority that counties or municipalities have to raise revenues in the aggregate.

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C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

The bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On April 3, 2001, the Committee on Judicial Oversight considered the bill. The Committee adopted an amendment to make clear that teaching hospitals, as defined in s. 408.07(44), F.S., cannot be assessed prejudgment interest. The amendment is traveling with the bill.

VII. SIGNATURES:

COMMITTEE ON JUDICIAL OVERSIGHT:

Prepared by:

Staff Director:

L. Michael Billmeier

Lynne Overton