

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 7121 PCB CVJS 11-14 Offers of Settlement

**SPONSOR(S):** Civil Justice Subcommittee, Soto

**TIED BILLS:** **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Civil Justice Subcommittee	14 Y, 0 N	Billmeier	Bond
1) Judiciary Committee	18 Y, 0 N	Billmeier	Havlicak

### SUMMARY ANALYSIS

Current law provides two different statutes regarding offers of settlement. This bill repeals the statute that only applies to causes of action accruing before October 1, 1990.

This bill does not appear to have a fiscal impact on state or local governments.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

Section 45.061, F.S., provides for offers of settlements in civil actions. The statute provides for attorney fees, costs, expenses, expert witness fees, and other expenses to be assessed against a party that unreasonably rejects an offer of settlement. It was repealed for all causes of action that accrued after the effective date of the repeal, October 1, 1990.<sup>1,2</sup> The Legislature enacted s. 768.79, F.S., and the Florida Supreme Court promulgated Florida Rule of Civil Procedure 1.442. The statute and rule provide a mechanism for parties to make offers of settlement and provide for sanctions for parties that unreasonably reject such offers.

Section 45.061, F.S., is obsolete by its own terms and in light of subsequent statutory changes and amendments to the rules of court. It is unlikely that there will be a need to apply the statute since the statutes of limitations for most causes of action have expired.

#### B. SECTION DIRECTORY:

Section 1 repeals s. 45.061, F.S., relating to offers of settlement.

Section 2 amends s. 44.102, F.S., relating to court-ordered mediation

Section 3 amends s. 766.209, F.S., relating to voluntary binding arbitration.

Section 4 provides an effective date of July 1, 2011.

### II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

##### 1. Revenues:

None.

##### 2. Expenditures:

None.

#### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

##### 1. Revenues:

None.

##### 2. Expenditures:

None.

#### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

#### D. FISCAL COMMENTS:

None.

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<sup>1</sup> Section 45.061(6), F.S.

<sup>2</sup> See *Timmons v. Coombs*, 608 So.2d 1 (Fla. 1992) ("The legislature has now repealed section 45.061 with respect to causes of action accruing after October 1, 1990. Ch. 90-119, § 22, Laws of Fla. This leaves section 768.79 as the only statute on the subject for new causes of action").

### **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

##### **1. Applicability of Municipality/County Mandates Provision:**

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

##### **2. Other:**

None.

#### **B. RULE-MAKING AUTHORITY:**

None.

#### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

The Civil Justice Subcommittee considered the bill on March 21, 2011, and adopted an amendment to make conforming changes to other provisions of the statutes. This analysis reflected the committee substitute.