

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 4077 Actions for Damages

SPONSOR(S): Metz

TIED BILLS: None **IDEN./SIM. BILLS:** SB 1268

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Civil Justice Subcommittee	14 Y, 0 N	Caridad	Bond
2) Judiciary Committee	17 Y, 0 N	Caridad	Havlicak

SUMMARY ANALYSIS

Current law provides that a court may require the parties to attend a settlement conference. This bill repeals the statutory provision regarding such conferences.

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 768.75, F.S., was enacted as part of the Tort Reform and Insurance Act of 1986.¹ It provides that in any action to which the provisions regarding damages for negligence apply, the court may require a settlement conference to be held at least three weeks before the date set for trial. Attorneys who will conduct the trial, parties, and persons with authority to settle must attend the settlement conference held before the court unless excused by the court for good cause.

Section 38.10, F.S., provides that a judge shall be disqualified for prejudice against a party in an action before the court. A judge's mere knowledge of settlement proceedings does not constitute grounds for disqualification based on prejudice.² However, ex parte communication between the judge and a party is grounds for disqualification.³

Section 44.102, F.S., provides that a court, upon the request of a party, must refer the action for monetary damages at issue to mediation. This statute was passed in 1987.

The bill repeals s. 768.75, F.S.

B. SECTION DIRECTORY:

Section 1 repeals s. 768.75, F.S., relating to optional settlement conference in certain tort actions.

Section 2 provides that the act shall take effect upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have any impact on state revenues.

2. Expenditures:

The bill does not appear to have any impact on state expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have any impact on local government revenues.

2. Expenditures:

The bill does not appear to have any impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill does not appear to have any impact on the private sector.

¹ Ch. 86-160, L.O.F.

² See *Enterprise Leasing Co. v. Jones*, 750 So.2d 114 (Fla. 5th DCA 1999) (holding that judge's mere knowledge of settlement negotiations and offers did not require disqualification).

³ See, e.g., *Klapper-Barrett v. Nurell*, 742 So.2d 851 (Fla. 5th DCA 1999) (holding that judge's ex parte communication with a party in a dissolution of marriage proceeding regarding settlement negotiations warranted a grant of a motion to recuse).

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The 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:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.