

**HOUSE OF REPRESENTATIVES  
FINAL BILL ANALYSIS**

**BILL #:** HB 4077 (SB 1268)

**FINAL HOUSE FLOOR ACTION:**

**SPONSOR(S):** Metz (Simmons)

117 Y's

0 N's

**COMPANION  
BILLS:** SB 1268

**GOVERNOR'S ACTION:** Approved

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**SUMMARY ANALYSIS**

HB 4077 passed the House on February 16, 2012, and subsequently passed the Senate on March 8, 2012. The bill repeals a statutory provision allowing a court to set a settlement conference where a cause of action is brought under the Tort Reform and Insurance Act of 1986.

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

The bill was approved by the Governor on April 13, 2012, ch. 2012-113, Laws of Florida. The effective date of the bill is upon becoming law.

## I. SUBSTANTIVE INFORMATION

### A. EFFECT OF CHANGES:

Section 768.75, F.S., was enacted as part of the Tort Reform and Insurance Act of 1986.<sup>1</sup> 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.<sup>2</sup> However, ex parte communication between the judge and a party is grounds for disqualification.<sup>3</sup>

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, after the Tort Reform and Insurance Act.

The bill repeals s. 768.75, F.S.

## 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.

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<sup>1</sup> Chapter 86-160, L.O.F.

<sup>2</sup> *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).

<sup>3</sup> *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.