HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1305 Punitive Damages
SPONSOR(S): Tobia
TIED BILLS: None **IDEN./SIM. BILLS:** SB 1184

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Civil Justice Subcommittee	10 Y, 2 N	Arguelles	Bond
2) Justice Appropriations Subcommittee			
3) Judiciary Committee			

SUMMARY ANALYSIS

Punitive damages are awarded to punish reprehensible conduct by a person and to deter future similar behavior by others.

Current law contains a statutory cap on punitive damages applicable to most cases that is based on a formula of either 3 or 4 times the compensatory damages, based on the facts of the case. The bill provides that the statutory limits on punitive damages do not create a presumption that an award under the cap is appropriate.

The bill does not appear to have a fiscal impact on state or local government.

The bill provides an effective date of on becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current law at s. 768.72, F.S., provides for recovery of punitive damages by a claimant in a civil action. Punitive damages "are not compensation for injury. Instead, they are private fines levied by civil juries to punish reprehensible conduct and to deter its future occurrence."[1] In general, punitive damages are limited to 3 times the amount of compensatory damages or $500,000, whichever is greater.[2] If the jury finds that the wrongful conduct was motivated primarily by unreasonable financial gain and determines that the unreasonably dangerous nature of the conduct, together with the high likelihood of injury resulting from the conduct, was actually known by the managing agent, director, officer, or other person responsible for making policy decisions on behalf of the defendant, the cap on punitive damages is increased to 4 times the amount of compensatory damages or $2 million, whichever is greater.[3] If the jury finds that the defendant had a specific intent to harm the claimant and determines that the defendant's conduct did in fact harm the claimant, there is no cap on punitive damages.[4]

In 2013, an appellate court presumed that an award of punitive damages was not excessive because the punitive damages were less than the statutory limits.[5] The court ruled that $16 million in punitive damages was not excessive because the two-to one ratio between compensatory and punitive damages fell within limits of reasonableness based on this presumption.[6]

The bill provides that that there is no implied presumption about the appropriate level of punitive damages based on the limits in s. 768.73, F.S. The effect of this bill is that a trial court may have greater discretion to lower an award of punitive damages that the court finds excessive but below the statutory cap.

B. SECTION DIRECTORY:

Section 1 amends s. 768.73, F.S., to specify there is no implied presumption in the statute.

Section 2 provides an effective date of 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.

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[1] *Gertz v. Robert Welch, Inc.*, 418 U.S. 323, 350 (1974).
[2] Section 768.73(1)(a), F.S.
[3] Section 768.73(1)(b), F.S.
[4] Section 768.73(1)(c), F.S.
[5] In *Philip Morris USA, Inc v. Kayton*, 104 So. 3d 1145, 1152 (2013), the plaintiff brought an action against a tobacco company alleging strict liability, negligence and conspiracy to commit fraudulent concealment. The Plaintiff was awarded $8 million in compensatory damages and $16 million in punitive damages.
[6] *Id.*

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 direct impact on the private sector.

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 and 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.