

SENATE BILL REPORT

ESHB 1412

AS REPORTED BY COMMITTEE ON LAW & JUSTICE, APRIL 1, 1993

Brief Description: Changing provisions relating to prejudgment interest.

SPONSORS: House Committee on Judiciary (originally sponsored by Representatives R. Meyers, Padden, Dellwo and Scott)

HOUSE COMMITTEE ON JUDICIARY

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass.

Signed by Senators A. Smith, Chairman; Quigley, Vice Chairman; Niemi, Rinehart, and Spanel.

Staff: Dick Armstrong (786-7460)

Hearing Dates: March 29, 1993; April 1, 1993

BACKGROUND:

When a judgment is entered in a civil lawsuit, interest begins to run on the amount of the judgment. That interest, sometimes referred to as "postjudgment interest," will continue to accumulate until the judgment is paid or the statute of limitations for enforcing the judgment has run.

Prejudgment interest may be awarded if the damages in the case are "liquidated," i.e., not subject to any dispute regarding amount. As a practical matter, however, case law seems to effectively limit prejudgment interest to cases involving contracts.

It may be many months, or even years from the time a cause of action arises until judgment is entered. Especially in periods of substantial inflation and depending on the nature of the damages incurred by the plaintiff, having interest begin only after a judgment may provide little incentive for a defendant to expedite trial or settlement. On the other hand, proposals to have "prejudgment interest" run from the moment a cause of action arises have been criticized for exactly the same reason with respect to a plaintiff's decisions about filing a claim, beginning negotiations and proceeding to trial.

SUMMARY:

Interest on a judgment for economic damages runs from the time a claimant gives written notice of a claim or initiates a lawsuit, whichever occurs first.

If the judgment debtor has made an offer of settlement that is not accepted by the judgment creditor, no prejudgment interest may be awarded if the judgment does not exceed the offer.

Interest on any prejudgment payment ends when the payment is made. No prejudgment interest may be awarded for future damages or for noneconomic damages.

If the judgment creditor has sought a continuance after a trial date was set, then interest does not run during the continuance.

Prejudgment interest may not be used to pay the judgment creditor's attorney fees.

These provisions regarding prejudgment interest apply to judgment debtors whether they are private parties or are governmental entities.

Appropriation: none

Revenue: none

Fiscal Note: none requested

TESTIMONY FOR:

This is a streamlined version of prior bills on prejudgment interest. There are many provisions in the bill which provide a "balance" to all parties. Twenty-nine states allow prejudgment interest on personal injury actions. The interest rate is appropriate and comparable to other states.

TESTIMONY AGAINST:

The bill will have a tremendous fiscal impact on local governments. Plaintiffs will "profit" from supplemental benefits from employers. Prejudgment interest will not facilitate the settlement of claims.

TESTIFIED: Dennis Martin, WSTLA (pro); Craig McGee, Pemco Insurance (con); Gary Morse, Physicians Insurance (con); Marsha Nelson, City of Seattle (con); Basil Badley, insurance industry