

SENATE BILL REPORT

SB 5130

AS OF JANUARY 7, 1994

Brief Description: Clarifying conditions for granting attorneys' fees.

SPONSORS: Senators Talmadge and A. Smith

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Dick Armstrong (786-7460)

Hearing Dates: January 27, 1993; January 13, 1994

BACKGROUND:

The "offer of settlement" statute was enacted as a means to encourage the settlement of lawsuits by awarding attorney fees to the party which makes an offer to settle and who subsequently "prevails" in the action. The plaintiff prevails when the recovery is greater than the plaintiff's offer to settle; the defendant prevails when the recovery is less than the defendant's offer to settle. The offer of settlement statute applies to civil lawsuits where the amount pleaded is \$10,000 or less.

Occasionally a plaintiff does not plead a specific amount of damages, but asks for "an amount to be proven at trial." In such cases the statute is unclear whether the offer of settlement statute applies because no specific amount is pleaded.

It is suggested that the statute should be clarified to indicate that an offer of settlement of \$10,000 or less will be used to govern the statute.

SUMMARY:

The original bill was not heard.

EFFECT OF PROPOSED SUBSTITUTE:

The offer of settlement statute is amended to clarify that an offer of settlement of \$10,000 or less by either the plaintiff or the defendant will apply to the statute.

Appropriation: none

Revenue: none

Fiscal Note: none requested