

SENATE BILL REPORT

ESSB 5226

As Passed Senate, March 3, 1999

Title: An act relating to offers of settlement.

Brief Description: Revising provisions relating to offers of settlement.

Sponsors: Senate Committee on Judiciary (originally sponsored by Senator Heavey).

Brief History:

Committee Activity: Judiciary: 1/22/99, 1/25/99 [DPS].
Passed Senate, 3/3/99, 47-0.

SENATE COMMITTEE ON JUDICIARY

Majority Report: That Substitute Senate Bill No. 5226 be substituted therefor, and the substitute bill do pass.

Signed by Senators Heavey, Chair; Costa, Goings, Johnson, McCaslin, Roach, Thibaudeau.

Staff: Dick Armstrong (786-7460)

Background: An offer of settlement– statute is a mechanism to encourage the parties to a civil lawsuit to reach a settlement and avoid a lengthy and costly trial. Offer of settlement statutes provide that the prevailing party who has made an offer of settlement is entitled to payment of reasonable attorneys’ fees. The defendant is a prevailing party when the judgment obtained by the plaintiff is less than the offer made by the defendant. The plaintiff is a prevailing party when the judgment obtained by the plaintiff is greater than the offer made by the plaintiff.

The existing offer of settlement statute only applies to cases where the amount pleaded is \$10,000 or less.

Summary of Bill: The existing offer of settlement statute is increased from \$10,000 to \$35,000, which is the maximum jurisdiction of the district court.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: There are a lot of negotiations that are part of a lawsuit. You want to have incentives to reach a settlement and the bill should have greater incentives.

Testimony Against: The bill has merits as a theme, but it means that the loser pays and this can deplete resources of the ordinary person who has to litigate against a major corporation. Additional court time will be used to implement the offer of settlement. A myriad of elements are utilized to make a decision in a lawsuit and it is always a major gamble to accept or reject a lawsuit.

Efforts should be made to eliminate the transactional costs involved in many lawsuits.

Testified: Larry Shannon, WSTLA (w/concerns); Basil Badley, Insurance Industry (w/concerns); Jean Leonard, State Farm (w/concerns); Cliff Webster, Liability Reform Coalition (w/concerns).