

---

## Judiciary Committee

---

### HB 2485

**Title:** An act relating to postjudgment interest on tort judgments.

**Brief Description:** Revising the rate of interest on certain tort judgments.

**Sponsors:** Representatives Lantz, Carrell, Newhouse, Alexander, Jarrett, Moeller, Sommers, Kagi, Upthegrove, Schual-Berke and Darneille.

Brief Summary of Bill
-----------------------

- |  |
|--|
| <ul style="list-style-type: none"><li>• Changes the interest rate on certain judgments to four points above the 26-week treasury bill (T-bill) rate, from the current rate which is the higher of 12 percent or four points above the T-bill rate.</li></ul> |
|--|

**Hearing Date:** 1/20/04

**Staff:** Bill Perry (786-7123).

**Background:**

Interest accrues on a tort judgment from the date of entry of the judgment at a rate determined as prescribed in statute. That rate is set at the maximum rate allowed under the state's general usury law. It is the higher of the two following rates:

- 12 percent; or
- 4 points above the 26-week T-bill rate established by the Federal Reserve Board.

This method of determining the rate was enacted in 1983 and applies to tort judgments against defendants who are government entities or private entities. Prior to 1983 the interest rate on judgments against private party defendants was 12 percent, and on judgments against the state it was 8 percent.

In 1983 the 26-week T-bill rate averaged 8.75 percent. Adding 4 percent to this amount made the two alternative methods of computing the interest rate for judgments roughly equivalent. Over the past 20 years, the highest average annual T-bill rate was 9.77 percent in 1984. However, since 1991 the T-bill rate has been no higher than 5.59 percent. As a result of these low T-bill rates, 12 percent has been the interest rate on judgments for the past decade or more.

In 1983 the legislation that created the current method of determining the interest rate on judgments expressly made the change apply only to judgments entered after the effective date of the change. (Section 3, Chapter 147, Laws of 1983.) There is case law suggesting that if

legislation is silent on the issue, the courts may go either way on the question of whether the new rate will be applied to existing unpaid judgments, as well. Whatever the outcome may be if the Legislature is silent on the subject, it does appear that the Legislature may make an interest rate change apply to existing judgments if it chooses to do so expressly. The courts of this state have said that interest on a judgment is not a matter of contractual right, but rather a matter of legislative discretion. (*Puget Sound Bank v. St. Paul Fire Ins.*, 32 Wn. App. 32 [1982], review denied, 97 Wn 2d 1036 [1982], citing *Palmer v. Laberee*, 23 Wash 409 [1900].)

**Summary of Bill:**

The interest rate on tort judgments is to be determined by adding four points to the 26-week T-bill rate.

This new method of calculating interest rates applies to interest on judgments still accruing interest on the effective date of the act, as well as to interest on judgments entered after the act takes effect.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.