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## Civil Rights & Judiciary Committee

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### HB 1754

**Brief Description:** Concerning prejudgment interest.

**Sponsors:** Representatives Hackney, Kirby, Berry and Valdez.

<p style="text-align: center;"><b>Brief Summary of Bill</b></p> <ul style="list-style-type: none"><li>• Modifies the accrual date for interest on tort judgments for tortious conduct of public agencies, individuals, and other entities from the date of entry of judgment to the date the cause of action accrues.</li></ul>
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**Hearing Date:** 1/11/22

**Staff:** Yelena Baker (786-7301).

**Background:**

Torts Generally.

A tort is a civil wrong in which a plaintiff seeks monetary compensation for harm to the plaintiff's person or property. Tort law includes actions based on negligence, intentional conduct, and strict liability. Damages that may be awarded to an injured plaintiff include both economic damages, such as lost earnings and medical expenses, and noneconomic damages, such as pain and suffering and emotional distress.

For purposes of applying the statute of limitations and determining damages, a tort cause of action accrues at the time the injurious act or omission occurs, but there is an exception to this general rule when a plaintiff does not or cannot immediately know of an injury or the cause of an injury. Under the discovery rule, a cause of action accrues at the time when the plaintiff knows or should know all of the essential elements of the cause of action.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

At common law, states were immune from tort liability under a doctrine known as sovereign immunity. The Washington Constitution, in Article 2, section 26, provides that the Legislature shall direct in statute the manner in which the state may be sued. The Legislature adopted a broad waiver of state governmental immunity in 1961 and local governmental immunity in 1967. These statutes provide that a governmental entity can be sued "to the same extent as if it were a private person or corporation."

#### Post Judgment Interest.

Under state law, interest on tort judgments accrues from the date of entry of the judgment at a rate specified in the statute. In a case where a court is directed on review to enter judgment on a verdict or where a judgment entered on a verdict is wholly or partly affirmed on review, interest on the judgment or on that portion of the judgment affirmed dates back and accrues from the date the verdict was rendered.

For the tortious conduct of a public agency, the post judgment interest rate is two percent above the equivalent coupon issue yield of the average bill rate for 26 weeks of Treasury bills. A public agency is defined as: (a) any state board, commission, committee, department, educational institution, or other state agency which is created by statute, other than courts and the Legislature; (b) any county, city, school district, special purpose district, or other municipal corporation or political subdivision of the state of Washington; (c) any subagency of a public agency which is created by statute, ordinance, or other legislative act, including but not limited to planning commissions, library or park boards, commissions, and agencies; or (d) any policy group whose membership includes representatives of publicly owned utilities.

For the tortious conduct of individuals and entities, the post judgment interest rate is two percent above the prime rate.

#### Prejudgment Interest.

Prejudgment interest is intended to make a plaintiff whole by compensating for the use value of damages incurred from the time of the loss until the date of judgment.

At the discretion of the court, a prejudgment award may be made on liquidated damages, i.e., damages that can be exactly computed based on the evidence provided. A prejudgment award is not available where the exact amount of damages to be allowed cannot be definitely fixed from the data or facts provided, but depends upon the opinion or discretion of the trier of fact.

Washington courts have held that the state cannot be held to interest on its debts without its consent. While the state has explicitly consented to post judgment interest on tort claims against it when the Legislature enacted the post judgment interest statute, in *Norris v. State*, the court held that because the statute did not mention prejudgment interest, the state has not consented to prejudgment interest on tort claims against it.

#### **Summary of Bill:**

Interest on judgments for tortious conduct of public agencies, individuals, and other entities is modified to run from the date on which the cause of action accrues, rather than from the date judgment is entered, at the same rates as currently provided in the statute.

**Appropriation:** None.

**Fiscal Note:** Requested on January 5, 2022.

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