

SENATE BILL REPORT

SSB 5130

AS PASSED SENATE, MARCH 16, 1993

Brief Description: Revising the calculation for determining whether a prevailing party is entitled to attorneys' fees.

SPONSORS: Senate Committee on Law & Justice (originally sponsored by Senators Talmadge and A. Smith)

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 5130 be substituted therefor, and the substitute bill do pass.

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

Staff: Dick Armstrong (786-7460)

Hearing Dates: January 27, 1993

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 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 applies to the statute.

Appropriation: none

Revenue: none

Fiscal Note: none requested

TESTIMONY FOR:

In some cases the plaintiff does not plead a specific sum, but the offers of settlement by a plaintiff or defendant give the parties an indication of the worth of the case. It makes sense to have offers of settlements under \$10,000 apply to the offer of settlement statute.

TESTIMONY AGAINST: None

TESTIFIED: Senator Talmadge