

HOUSE BILL REPORT

HB 2485

As Reported by House Committee On:
Judiciary

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 History:

Committee Activity:

Judiciary: 1/20/04 [DPS].

Brief Summary of Substitute Bill

- 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.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Lantz, Chair; Moeller, Vice Chair; Carrell, Ranking Minority Member; McMahan, Assistant Ranking Minority Member; Campbell, Lovick and Newhouse.

Minority Report: Do not pass. Signed by 2 members: Representatives Flannigan and Kirby.

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 Substitute 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.

Substitute Bill Compared to Original Bill:

The substitute provides a cross reference to clarify that the interest rate on legal financial obligations in criminal cases is not affected by the bill.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: The current default of 12 percent interest is unreasonably high. The interest on judgments should reflect to some degree economic reality at the time a judgment is entered. The current rate makes considerations of interest charges alone drive decisions on whether to appeal a case. Interest charges on a judgment against a local government can grow to hundreds of thousands of dollars while a case is being appealed. The bill will let appeal decisions be made more on the merits of the case itself. The federal government has adopted an interest rate on judgments tied to the T-bill rate, and the state should do so as well.

Testimony Against: Washington is one of only eight states that does not allow pre-judgment interest. This means that an injured party earns no interest at all on the damages he or she is owed up until the time judgment is entered. The current interest rate system is and should be something of a deterrent to appeals which may otherwise be used just to prolong the period before a plaintiff receives payment. The law should retain some fixed benchmark rate to provide certainty.

Persons Testifying: (In support) Malcolm Fleming, Kitsap County Administrator; Paul Chasco, Association of Washington Cities; and Gayla Gjertseal, Washington Insurance Cities Authority.

(Opposed) Larry Shannon, Washington State Trial Lawyers Association.

Persons Signed In To Testify But Not Testifying: None.