



H.B. 60*

123rd General Assembly
(As Reported by S. Judiciary)

Reps. Womer Benjamin, Willamowski, Corbin, Haines, Pringle, Jacobson, Grendell, Mottley, Goodman, Ford, Callender, Buchy, Salerno, Carey, Tiberi, Olman, Austria, Evans, Perry, Roman

Sens. Johnson, Herington

BILL SUMMARY

- Requires the state to pay postjudgment interest for each day between (1) the date of entry in the Court of Claims of a judgment or administrative determination in a civil action that is not based on tortious conduct and (2) the date of payment of that judgment or determination if the prevailing claimant in the Court of Claims also prevails in "any" appeal of that judgment or determination.
- Specifies that the revised "postjudgment interest--period of payment" provision applies to judgments and administrative determinations rendered in the Court of Claims on or after the bill's effective date.

CONTENT AND OPERATION

Background law

Court of Claims jurisdiction--in general

The Court of Claims is a court of record created by the General Assembly. Its "subject matter" jurisdiction includes the following: exclusive, original jurisdiction over civil actions against the state permitted by the General Assembly's waiver of the former common law doctrine of "state government" sovereign immunity (see below); exclusive jurisdiction over causes of action in

* *This analysis was prepared before the report of the Senate Judiciary Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.*

certain civil actions removed to the Court of Claims; exclusive, original jurisdiction to hear and determine claims for a declaratory judgment, injunctive relief, or other equitable relief against the state that arise out of the same circumstances that give rise to the previously described civil actions; jurisdiction to hear appeals from the decisions of the Court of Claims Commissioners under the Crime Victims Reparations Awards Program Law; exclusive, original jurisdiction to determine whether a state officer or employee is entitled to a statutory immunity from personal tort liability *or* has forfeited that immunity and may be sued in a court of common pleas; and exclusive, original jurisdiction over all civil actions against the board of trustees of the Ohio State University. The Court of Claims has full equity powers in and may determine all counterclaims, cross-claims, and third-party claims in all actions within its jurisdiction. (Secs. 2743.02(F), 2743.03(A), and 3335.03(B)--not in the bill.)

In conjunction with the creation of the Court of Claims (effective January 1, 1975), the General Assembly waived the former common law doctrine of *state government* sovereign immunity. Most claims covered by this waiver of sovereign immunity are tort claims against the state--that is, claims for an award of compensatory damages for injury, death, or loss to person or property proximately caused by negligent acts or omissions of state officers or employees engaged within the scope of their official responsibilities or employment. However, certain types of civil actions that are not based on tortious conduct (e.g., civil actions based on certain *contract claims* with respect to which the state had not consented to be sued prior to January 1, 1975) may be commenced against the state in the Court of Claims pursuant to section 2743.02(A)(1)'s waiver of sovereign immunity.

Interest on a judgment or administrative determination: in general

The Court of Claims Law authorizes awards of prejudgment interest and postjudgment interest against the state *under specified circumstances and subject to certain limitations* in connection with judgments and administrative determinations rendered against the state. Postjudgment interest *generally* must be awarded against the state "at the same rate that is applicable to judgments rendered against private parties to a suit" and "for each day between the date of entry of the judgment or the determination . . . and the date of payment of the judgment or the determination . . . *or for sixty days from the date of entry of the judgment or the determination, whichever is less.*" Under the associated mechanism for the payment of a Court of Claims judgment or administrative determination against the state, a judgment or administrative determination generally cannot be processed for payment until all appeals have been determined and all rights to appeal have been exhausted. Consequently, if the state appeals an adverse judgment or administrative determination, if the appellate process takes *more than sixty days*

from the date of the entry of the judgment or administrative determination, and if the prevailing claimant in the Court of Claims also prevails in the appellate court, the prevailing claimant *generally* is entitled to an award of postjudgment interest *only for the sixty-day period* commencing with the date of the entry of the judgment or administrative determination. (Sec. 2743.18(B)(1) and sec. 2743.19(C)(2) and (6) and (D)--not in the bill.) (See **COMMENT** 1 and 2.)

Exception to the general postjudgment interest provisions for civil actions not based on tortious conduct

If the state appeals an adverse judgment or administrative determination in a civil action *not based on tortious conduct* and if the prevailing claimant in the Court of Claims also prevails in the appellate court (see **COMMENT** 3), postjudgment interest must be paid from the date of the entry of the judgment or administrative determination *until the date of the payment of the judgment or administrative determination*. Thus, under these circumstances, the prevailing claimant is not limited to an award of postjudgment interest for the 60-day period commencing with the date of the entry of the judgment or administrative determination. (Sec. 2743.18(B)(2).)

Changes proposed by the bill

The bill modifies the exception to the general postjudgment interest provisions for civil actions not based on tortious conduct. It eliminates the condition that the state must have appealed an adverse judgment or administrative determination in a civil action not based on tortious conduct. Thus, under the bill, postjudgment interest must be paid from the date of the entry of the judgment or administrative determination in a civil action of that nature until the date of the payment of the judgment or administrative determination if the prevailing claimant in the Court of Claims also prevails in any appeal of the judgment or administrative determination (e.g., an appeal commenced *by the prevailing claimant* challenging the adequacy of the amount of the damages awarded against the state in a *contract action*). The revised exception applies to judgments and administrative determinations rendered in the Court of Claims on or after the bill's effective date. (Sec. 2743.18(B)(2); Section 3.)

COMMENT

1. The Court of Claims Law provides that civil actions filed against the state in the Court that do not exceed \$2,500 generally must be decided administratively by the Court's clerk. Subject to the provision for review by the Court as described below, the clerk's administrative determination must be processed, as if it were a judgment, under the existing mechanism for the payment

of judgments of the Court. Upon the motion of a party to the action, the Court is required to review the clerk's administrative determination and enter judgment consistent with its findings. (Sec. 2743.10.) All civil actions filed against the state in the Court that are not within the scope of this administrative determination provision are heard by the Court under normal Court of Claims procedures.

2. Existing section 1343.03 sets forth the judgment interest provisions that generally are applicable in civil actions between private parties. Division (A) of that section provides that the general postjudgment interest rate with respect to "all judgments, decrees, and orders of any judicial tribunal for the payment of money arising out of tortious conduct or a contract or other transaction" is 10% per annum or, if a written contract provides a different rate of interest in relation to the money that becomes due and payable, at the rate provided in the contract. Division (B) of that section provides that, generally, postjudgment interest on a judgment, decree, or order for the payment of money rendered in a civil action based on tortious conduct is computed from the date the judgment, decree, or order is rendered to the date on which the money is paid. Division (C) of that section provides that, in specified circumstances involving the judgment debtor's lack of good faith effort to settle the case, and the judgment creditor's attempted good faith effort to settle the case, specified prejudgment interest is to be awarded in a civil action based on tortious conduct that is not settled by agreement of the parties. Division (D) of that section specifies that the above-described provisions of divisions (B) and (C) do not apply to a judgment, decree, or order rendered in an action against the state in the Court of Claims.

3. Under section 2743.20 (not in the bill), appeals from judgments of the Court of Claims must be made to the Court of Appeals for Franklin County (the Tenth District Court of Appeals).



HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	01-20-99	p. 95
Reported, H. Civil & Commercial Law	03-03-99	pp. 258-259
Passed House (95-0)	03-24-99	pp. 352-353
Reported, S. Judiciary	---	---

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