

Fiscal Note & Local Impact Statement

123rd General Assembly of Ohio

BILL: **H.B. 60** DATE: **March 23, 1999**
STATUS: **As Reported by House Civil & Commercial Law** SPONSOR: **Rep. Womer Benjamin**

LOCAL IMPACT STATEMENT REQUIRED: **No — No local cost**

CONTENTS: **Eliminates the condition that the state must have appealed a judgment or determination in a civil action not based on tortious conduct in order for a prevailing claimant on appeal to recover specified postjudgment interest**

State Fiscal Highlights

STATE FUND	FY 1999	FY 2000	FUTURE YEARS
General Revenue Fund			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	- 0 -	Potential increase in postjudgment interest payments	Potential increase in postjudgment interest payments
Other State Funds			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	- 0 -	Potential increase in postjudgment interest payments	Potential increase in postjudgment interest payments

Note: The state fiscal year is July 1 through June 30. For example, FY 2000 is July 1, 1999 – June 30, 2000.

- 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. By removing the sixty-day postjudgment limitation, the state could potentially realize an increase in awards to plaintiffs, but the size and frequency is uncertain at this time.

Local Fiscal Highlights

- No direct fiscal effect on local governments.

Detailed Fiscal Analysis

In general, there is a limitation to postjudgment interest in connection with judgments and administrative rulings rendered against the state. Normally, postjudgment interest awarded against the state is based on each day between the entry of the judgment or determination and the date of the payment of the judgment or the determination, or for sixty days from the date of the judgment or determination, whichever is less. The general postjudgment interest rate is ten



percent 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.

However, there is an exception to this limitation. 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, 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 sixty-day period commencing with the date of the entry of the judgment or administrative determination. This bill would modify the exception by removing the condition that the state must have appealed an adverse decision. This change would allow a prevailing claimant in the Court of Claims who also prevails in any appeal of the judgment or administrative determination to receive postjudgment interest not limited by the sixty-day period.

All civil actions against the state fall within the exclusive jurisdiction of the Court of Claims. Over the past decade, 1,100 to 1,500 cases have been filed annually with the Court. The majority of these cases is based on tortious conduct and would not be affected by this bill. Most of the cases in the Court of Claims are handled administratively and not judicially. Civil actions in the Court of Claims are determined in one of two ways. Actions against the state of \$2,500 or less are determined administratively by the Clerk or Deputy Clerk. Civil actions in excess of \$2,500 are heard and determined by a single judge. A judge of the Court may review a civil action that has been determined administratively and enter judgment. This judgment cannot be the subject of further review. Appeals of the judicial determinations of the Court of Claims must be made to the Court of Appeals for Franklin County, the Tenth District Court of Appeals.

It is difficult to determine how many cases will be affected by this change or how significant an increase in state expenditures might be needed to fully pay off these increased awards. Actions determined administratively are so small and usually reviewed in such a relatively short period of time that this bill should not cause these cases to have any measurable fiscal impact upon the state. The smaller group of judicially determined cases is distilled down into a smaller number of those based upon non-tortious conduct. Even then, the plaintiffs would have to be appealing a case in which they were only partially successful in the original hearing. This bill will affect only a small minority of cases. However, a couple of complex cases with sizeable amounts being contested could result in significant amounts of postjudgment interest being paid by the state.

The modification of this restriction should encourage more successful plaintiffs to seek full compensation through the appeals process. The amount of postjudgment interest should not be a main factor in determining whether or not to file an appeal of a partially successful verdict. So, the increase in the number of cases should be insignificant. The difference between the verdict and the original amount sought is the controlling factor in that equation. Any increases in the court operational expenses of the Tenth District Court of Appeals should be minimal.

□ *LBO staff: Corey C. Schaal, Budget/Policy Analyst*

\\Budget_office\isis_voll.lbo\FN123\HB0060hr.doc