

House BILL NO. 517

INTRODUCED BY Cochran

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR INTEREST ON CERTAIN DAMAGE AWARDS TO BE PAID TO THE STATE GENERAL FUND; AMENDING SECTION 27-1-210, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 27-1-210, MCA, is amended to read:

"27-1-210. Interest on torts. (1) ~~Subject~~ Except as provided in subsection (5) and subject to subsection (2), in an action for recovery on an injury as defined in 27-1-106, a prevailing claimant is entitled to interest at a rate of 10% on any claim for damages awarded that are capable of being made certain by calculation, beginning from the date 30 days after the claimant presented a written statement to the opposing party or ~~his~~ the party's agent stating the claim and how the specific sum was calculated.

(2) The interest provisions of subsection (1) do not apply to damages not capable of being made certain by calculation, including but not limited to future damages until ~~such~~ the damages are incurred and damages for:

- (a) pain and suffering;
- (b) injury to credit, reputation, or financial standing;
- (c) mental anguish or suffering;
- (d) exemplary or punitive damages;
- (e) loss of established way of life;
- (f) loss of consortium; and
- (g) attorney fees.

(3) The jury is to be advised by the court that the court will determine the amount of prejudgment interest due, if any, on any judgment rendered.

(4) Any payment by a party of any claim or interest ~~thereon~~ on a claim as set forth in subsection (1) ~~shall~~ is not ~~be~~ an admission of liability and ~~shall~~ may not be made known to the jury.

(5) Interest accrues on damages awarded by a verdict that are not subject to interest under

1 subsection (1). The interest must be paid by the losing party to the clerk of the court for deposit in the
2 state general fund. Interest is calculated at a rate of 10% from the time of the filing of the complaint and
3 continues through the date of the verdict.

4 (6) The right to enforce payment of interest as provided in subsection (5), commences on entry
5 of the final judgment and is collectible only after the prevailing party recovers all damages, interest, and
6 costs, as provided by law. Subsection (5) does not create a right in the state to intervene or effect the civil
7 action prior to the rendering of a final judgment."

8

9 NEW SECTION. Section 2. Effective date. [This act] is effective July 1, 1995.

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-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0517, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

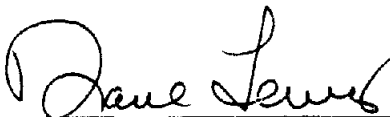
An act providing for interest on certain damage awards to be paid to the state general fund.

ASSUMPTIONS:

1. There is insufficient information available within the timeframe provided for this fiscal note regarding the total damages in previous years which would be subject to interest payable to the state general fund.
2. There is information available regarding damages which would have been subject to interest which were paid by the state in tort actions in the previous four fiscal years.
3. In estimating such amounts the following assumptions are made: the bill would apply to state government; losses are limited to verdicts; it is roughly estimated that cases will take an average of two years from the date filed with the department to verdict; and roughly half the verdict payments would be attributed to items set out in this bill.
4. Based upon the state's experience for the past four fiscal years, the Department of Administration would have paid an average of approximately \$50,000 per year to the general fund from the state self-insurance fund. This amount would vary from year to year. Expenditures from the self-insurance fund are passed on to all state agencies in the form of premiums.

Revenues:

There would be an increase in general fund revenues. An amount cannot be estimated.

 2-16-95

DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

DEB KOTTEL, PRIMARY SPONSOR DATE

Fiscal Note for HB0517, as introduced

HB 517

1 HOUSE BILL NO. 517

2 INTRODUCED BY KOTTEL

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR INTEREST ON CERTAIN DAMAGE AWARDS
5 TO BE PAID TO THE STATE GENERAL FUND; AMENDING SECTION 27-1-210, MCA; AND PROVIDING AN
6 EFFECTIVE DATE AND AN APPLICABILITY DATE."

7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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13 to interest at a rate of 10% on any claim for damages awarded that are capable of being made certain by
14 calculation, beginning from the date 30 days after the claimant presented a written statement to the
15 opposing party or ~~his~~ the party's agent stating the claim and how the specific sum was calculated.

16 (2) The interest provisions of subsection (1) do not apply to damages not capable of being made
17 certain by calculation, including but not limited to future damages until ~~such~~ the damages are incurred and
18 damages for:

- 19 (a) pain and suffering;
20 (b) injury to credit, reputation, or financial standing;
21 (c) mental anguish or suffering;
22 (d) exemplary or punitive damages;
23 (e) loss of established way of life;
24 (f) loss of consortium; and
25 (g) attorney fees.

26 (3) The jury is to be advised by the court that the court will determine the amount of prejudgment
27 interest due, if any, on any judgment rendered.

28 (4) Any payment by a party of any claim or interest ~~thereon~~ on a claim as set forth in subsection
29 (1) ~~shall~~ is not be an admission of liability and ~~shall~~ may not be made known to the jury.

30 (5) Interest accrues on damages awarded by a verdict RECEIVED BY A CLAIMANT that are not

1 subject to interest under subsection (1). The interest must be paid by the losing party to the clerk of the
2 court for deposit in the state general fund. Interest is calculated at a rate of 10% from the time of the filing
3 of the complaint and continues through the date of the verdict.

4 (6) The right to enforce payment of interest as provided in subsection (5), commences on entry
5 of the final judgment and is collectible only after the prevailing party recovers all damages, interest, and
6 costs, as provided by law. Subsection (5) does not create a right in the state to intervene or effect the civil
7 action prior to the rendering of a final judgment."

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9 NEW SECTION. SECTION 2. APPLICABILITY. [THIS ACT] APPLIES TO PROCEEDINGS FILED
10 AFTER JULY 1, 1995.

11
12 NEW SECTION. Section 3. Effective date. [This act] is effective July 1, 1995.

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