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BILL ANALYSIS



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Senate Bill 1068 (as reported without amendment)  
Sponsor: Senator Philip E. Hoffman  
Committee: Judiciary

Date Completed: 9-30-96

### RATIONALE

Chapter 60 of the Revised Judicature Act (RJA), which deals with enforcement of judgments, provides that interest is allowed on a money judgment recovered in a civil action but, for complaints filed on or after October 1, 1986, interest is not allowed on "future damages" from the date the complaint is filed to the date the judgment is entered. For purposes of this provision, "future damages" is defined by reference to that term in Chapter 63 of the RJA, which deals with personal injury verdicts and damages. Under Chapter 63, "future damages" means damages arising from personal injury that the trier of fact finds will accrue after the damage findings are made and includes damages for medical treatment, care and custody, loss of earnings, loss of earning capacity, loss of bodily function, and pain and suffering. In a 1995 age discrimination case (*Paulitch v Detroit Edison Co.*, 208 Mich App 656), a panel of the Michigan Court of Appeals ruled that, since Chapter 60 defines "future damages" with reference to the definition in Chapter 63, the prohibition in Chapter 60 against awarding interest on future damages applies only to personal injury verdicts. Some people believe that Chapter 60 should include a definition of "future damages" without reference to personal injury, so that prejudgment interest awards on future damages would be prohibited in all civil suits. (See BACKGROUND for a description of *Paulitch*.)

### CONTENT

The bill would amend Chapter 60 of the Revised Judicature Act to specify that "future damages" would mean damages in a civil action that the trier of fact found would accrue after the damage findings were made.

MCL 600.6013

### BACKGROUND

In *Paulitch v Detroit Edison Co.*, a jury awarded damages to the plaintiff, based on an age discrimination claim, after the plaintiff was passed over for a promotion in favor of a younger candidate who did not score as well on a test. The trial court declined to award prejudgment interest on future damages. The defendant employer appealed the award of damages and the plaintiff appealed the denial of prejudgment interest on future damages.

The Court of Appeals upheld the verdict, finding that the elements for proving a claim of discrimination were met by the plaintiff, but reversed the lower court's denial of prejudgment interest on future damages. The plaintiff argued that the reference in Chapter 60 to future damages did not apply in this case, because future damages as defined in Chapter 63 must result from personal bodily injury. Since the case involved a civil rights violation and not a personal injury, the plaintiff contended that he was entitled to prejudgment interest. The Court of Appeals agreed. In reversing the trial court's ruling to deny prejudgment interest on future damages, the Court of Appeals held that, since the RJA's prejudgment interest limitation defines "future damages" with respect to a personal injury, a strict construction of the RJA showed that the plaintiff was entitled to prejudgment interest on future damages.

In a footnote, however, the *Paulitch* court expressed its sympathy for the position of the defendant employer on the issue of awarding prejudgment interest on future damages. The Court reasoned that "the purpose of prejudgment interest is to compensate the prevailing party for the delay in recovering money damages" and that no delay exists "in paying plaintiff money to which he became entitled only as a result of the jury verdict". Despite this statement, the Court

expressed its belief “that any modifications to this system should originate from the legislature, not the courts”.

## **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

### **Supporting Argument**

Chapter 60 of the RJA, which provides for the enforcement of judgments and contains the limitation on prejudgment interest on future damages, defines future damages with respect to Chapter 63, which deals with personal injuries. The Court of Appeals, in *Paulitch*, held that prohibition in Chapter 60 against prejudgment interest on future damages applies only to personal injury cases and that “...there can be no interpretation of this plain language other than that a plaintiff is entitled to prejudgment interest when the suit does not result from a personal bodily injury”. On its face, limiting the total amount of damages available to a personal injury victim but not to a claimant in other civil suits seems incongruous at best. By defining “future damages” in the RJA’s enforcement of judgments chapter, without reference to personal bodily injury, the bill would rectify this situation and apply the prohibition against prejudgment interest on future damages to all civil damages awards, not just personal injury cases.

Legislative Analyst: P. Affholter

## **FISCAL IMPACT**

The bill would have an indeterminate impact on State and local units of government.

Eliminating prejudgment interest for future damages in nonpersonal injury cases would benefit governmental units that could be defendants in these cases.

Fiscal Analyst: B. Bowerman

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.