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SFA**BILL ANALYSIS**

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Senate Bill 507 (as passed by the Senate)
Sponsor: Senator Philip E. Hoffman
Committee: Judiciary

Date Completed: 11-25-97

RATIONALE

Both statutory and case law address the issue of whether a party to a civil lawsuit may receive prejudgment interest on future damages. Generally, prejudgment interest refers to interest on damages between the time a suit is filed and the time judgment is entered, and future damages are expenses and losses that will be incurred after the verdict is made. In statute, Chapter 60 of the Revised Judicature Act (RJA) deals with enforcement of judgments. Chapter 60 provides that interest is allowed on a money judgment recovered in a civil action, but 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, however, "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. 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 prejudgment interest on future damages applies only to personal injury verdicts. It has been suggested that Chapter 60 should define "future damages" without reference to personal injury, so that prejudgment interest on future damages would be prohibited in all civil suits.

CONTENT

The bill would amend Chapter 60 of the Revised Judicature Act to specify that "future damages" would mean damages awarded 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. 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, 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. The Court of Appeals agreed and held that, since the RJA's prejudgment interest limitation defines "future damages" with respect to a personal injury, the plaintiff was entitled to prejudgment interest on future damages, based on a strict construction of the RJA.

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

An award for damages may cover such items as medical treatment, loss of earnings, loss of earning capacity, loss of bodily function, and pain and suffering. While a party may be compensated for losses and expenses that have been incurred before a judgment is entered, an award of "future" damages is designed to compensate a party for expenses and losses that have not yet occurred, but are expected to arise after a judgment is entered. As the Court of Appeals noted in *Paulitch* (in a footnote), "...the purpose of prejudgment interest is to compensate the prevailing party for the delay in recovering money damages...", and, "[t]here is no delay in paying plaintiff money to which he became entitled only as a result of the

jury verdict". The Court also expressed its belief that "...any modifications to this system should originate from the legislature, not the courts". By defining "future damages" in the RJA's enforcement of judgments chapter, without reference to personal bodily injury, the bill would prohibit prejudgment interest on future damages in all civil awards, not just in personal injury cases.

Legislative Analyst: S. Lowe

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.