

HB

546

(9)

COMMITTEE REPORT

HOUSE

3/7
Review

1/16/80

FURTHER:

Date: _____

Mr. Speaker:

The Committee on JUDICIARY has had HB 546

"An Act increasing post-judgment interest rates."

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

do pass do not pass

do pass with attached amendments(s)

replace with CS for HB 546 same title new title

and recommends it do pass

AND attaches a "Letter of Intent" New Fiscal Note

reports it back without recommendation

referred to the _____ Committee

MEMBERS SIGNING DO PASS

Tom Winters
Richard McQuinn
Charles H. ...
D. ...
Buchheit
Noble ...
...
...
H. Malone

MEMBERS HAVING OTHER RECOMMENDATIONS:

Charles H. ...
CHAIRMAN

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Senate CS for CS for House Bill No. 546
 Title "An Act increasing prejudgment and post-judgment interest rates. *
 Requested by Legislative Finance Division Date 4/17/80

* and providing for an effective date."

II. FISCAL DETAIL

Agency Affected Department of Law
 Program Category Affected General Government
 BRU, Program, or Subprogram(s) Affected Legal Services

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	0	0	0	0	0	0

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

A "zero" fiscal note is being submitted to reflect the fact that the majority of judgments paid by the state are done by using supplemental appropriations. The Department of Law does have a \$15,000 annual appropriation which is used to pay miscellaneous small judgments. Since these latter judgments are paid timely, interest does not usually accrue. The cost of judgments paid by supplemental appropriation will increase approximately \$2,000 if the amount paid in this manner remains constant.

IV. DATE April 17, 1980 PREPARED BY Richard I. Pegues, Admin. Officer
 AGENCY Department of Law

Original: Legislative Finance PHONE 465-3695

cc: Budget and Management
 Prime Sponsor (First Legislator Named)

incorporated in HB 545

Introduced: 4/17/79
Referred: Judiciary

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IN THE HOUSE

BY MALONE

HOUSE BILL NO. 466

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the rate of prejudgment interest."

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

* Section 1. AS 45.45.010(a) is amended to read:

(a) The rate of interest in the state [IS EIGHT PER CENT A YEAR AND NO MORE] on money after it is due is equal to the maximum rate that may be charged by express agreement of the parties in a contract or loan commitment under [EXCEPT AS PROVIDED IN] (b) of this section, determined as of the day the obligation accrues. [THE RATE OF INTEREST IN THE STATE IS SIX PER CENT A YEAR AND NO MORE ON

(1) MONEY RECEIVED TO THE USE OF ANOTHER AND RETAINED BEYOND A REASONABLE TIME WITHOUT THE OWNER'S EXPRESS OR IMPLIED CONSENT;

(2) MONEY DUE UPON THE SETTLEMENT OF MATURED ACCOUNTS FROM THE DAY THE BALANCE IS ASCERTAINED; OR

(3) MONEY DUE OR TO BECOME DUE WHEN THERE IS A CONTRACT TO PAY INTEREST AND NO RATE IS SPECIFIED.]

* Sec. 2. This Act applies only to obligations accruing on or after the effective date of this Act.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
95 - 465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 14, 1980

SUBJECT: Post-Judgment Interest Rates
(Work Order Number 7547)

TO: Representative Charles H. Parr, Chairman
House Judiciary Committee
Attn: Peggy Berck
Administrative Assistant

FROM: Thomas A. Sofo
Legislative Counsel

AS 45.45.010, the Alaska statute dealing with the legal rate of interest generally within the state, already requires the Department of Commerce and Economic Development to compile the 12th Federal Reserve District figure on a quarterly basis. If the intent behind the current amendment is to make the post-judgment interest rate more responsive to market conditions, this can be done on a quarterly basis (rather than semiannually as you have requested) without imposing any additional administrative burden on the bureaucracy.

TAS:ljb

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

December 13, 1979

SUBJECT: Post-Judgment Interest Rates
(Work Order Number 7547)

TO: Charles H. Parr, Chairman
House Judiciary Committee
Attn: Peggy Berck
Administrative Assistant

FROM: Thomas A. Sofo
Legislative Counsel *TAS*

At present post- and pre-judgment interest rates are both at eight percent. By amending the post-judgment interest rate in a manner which will undoubtedly make it higher than the eight percent pre-judgment rate of AS 45.45.010(a) we are creating a situation in which the big corporate defendant has financial incentive to delay litigation. It is only removed in degree from the earlier situation in which there was apparently post-judgment interest but no recognition of pre-judgment interest until the courts made it clear that such was necessary to counter certain abuses. A review of the case law indicates that we may be recreating a situation subject to the very misuses which the post-judgment and pre-judgment interests statutes and cases were designed to alleviate. Possibly we should consider amending or adding a section to AS 45.45.010 in such a manner as to reflect a calculation of the pre-judgment interest rate by the same manner post-judgment interest rates are calculated. Please let me know of your desires with regard to the above.

TAS:ljb

Enclosure

*Sec. 3. AS 45.45.010(a) is amended to read:

(a) The rate of interest in the state (IS EIGHT PER CENT A YEAR AND NO MORE) on money after it is due is two percentage points (EIGHT PER CENT A YEAR) above the annual rate charged member banks for advances by the 12th Federal Reserve District that prevailed on the 25th day of the month preceding the commencement of the calendar quarter during which the day the obligation to pay occurs. except as provided in (b) of this section. (DELETE ALL REMAINING LANGUAGE IN THIS SUBSECTION, IE, SUBSECTION (a)).

*Sec. 4. AS 34.34.010 (d) is amended to read:

(d) Notice of the annual rate charged member banks for advances by the 12th Federal Reserve District prevailing on the 25th day of the month preceeding the commencement of each calendar quarter required for the (MAXIMUM INTEREST RATE COMPUTATION UNDER (b) OF THIS SECTION SHALL BE PROVIDED BY THE DEPARTMENT OF COMMERCE.) interest rate computation under (a) of this section and for the maximum interest rate computation under (b) of this section shall be provided by the Department of Commerce.

GARRETSON & JARVI

Attorneys at Law

750 WEST SECOND AVENUE

SUITE 201

ANCHORAGE, ALASKA 99501

WALTER H. GARRETSON

KENNETH O. JARVI

JACOB H. ALLMARAS

T. W. PATCH

TELEPHONE
(907) 278-6131

October 22, 1979

Honorable Joe L. Hayes
District 12
625 West 5th Avenue, Suite 1
Anchorage, AK 99501

Dear Joe:

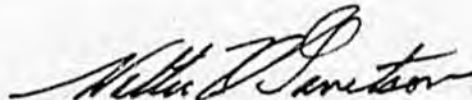
I would be greatly honored by your sponsorship of a bill in the legislature which would address the concern expressed in my letter of September 17, 1979. There was a minor error in the transcription of the wording suggested in my letter. I will restate the proposed addition to AS 45.45.010(a).

In the event an action is filed in any court in this state, including any federal court, on a claim for money due on an express or implied contract for the payment of money, prejudgment interest shall accrue from the date the action is filed on any principal amount unpaid as of the date the action is filed at the highest rate allowed from time to time under (b) of this section until judgment, notwithstanding any agreement of the parties.

If I can be of any assistance, please do not hesitate to call upon me.

Very truly yours,

GARRETSON & JARVI



Walter H. Garretson

WHG/lw

HB 546 file



P.O. BOX 1330
FAIRBANKS, ALASKA 99701

Fairbanks
MEDICAL ASSOCIATION

HCR 40-
HJR 57-
HRS 644-
HB 933-



April 7, 1980

Honorable Robert H. Ziegler, Sr.
Pouch V
Juneau, Alaska 99811

RE: CSHB 546 - Regarding
Pre and Post Judgment
Interest Rates

Dear Senator Ziegler:

Thank you for requesting medical society input on this bill. The position of the Fairbanks Medical Association is that there already exists a significant imbalance in tort law, such that it is easier and often cheaper to sue than it is to defend. This encourages a settlement of non-meritorious suits in preference to bearing the cost of defense. This bill, if passed, would worsen this imbalance by further increasing the advantage to plaintiff of prolonged litigation, and increasing the motivation of defendants to settle prematurely in non-meritorious cases. Although the "fairness" of an "appropriate" interest rate geared to economic conditions may appear logical on the surface, we believe that this is a bad proposed law - for this reason.

Please write or call if you would like to discuss this matter. Again, thank you for your interest.

Sincerely,

Donald E. Thieman, M.D.
President
Fairbanks Medical Association
1001 Noble Street
Fairbanks, Alaska 99701

DET:mb

cc: Douglas Smith, M.D., President
Alaska State Medical Association

Winthrop Fish, M.D., Chairman
Alaska State Medical Association Legislative Committee

Martha MacDermaid, Executive Secretary
Alaska State Medical Association

Introduced: 1/16/80
Referred: Judiciary

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS for HOUSE BILL NO. 546

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL
prejudgment AND

6 For an Act entitled: "An Act increasing[^]post-judgment interest rates."

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 * Section 1. AS 09.30.070 is amended to read:

9 Sec. 09.30.070. INTEREST ON JUDGMENTS. The annual rate of inter-
10 est on judgments and decrees for the payment of money is two percentage
11 points [EIGHT PER CENT A YEAR] above the annual rate charged member
12 banks for advances by the 12th Federal Reserve District that prevailed
13 on the 25th day of the month preceding the commencement of the calendar
14 ^{quarter}half during which the judgment or decree is rendered, except that a
15 judgment or decree founded on a contract in writing, providing for the
16 payment of interest until paid at a specified rate not exceeding the
17 legal rate of interest for that type of contract, bears interest at the
18 rate specified in the contract if the interest rate is set out in the
19 judgment or decree [, BUT IN NO EVENT MAY IT BE MORE THAN 10 PER CENT A
20 YEAR].

21 * Sec. 2. AS 09.30.070 is amended by adding a new subsection to read:

22 (b) Notice of the annual rate charged member banks for advances by
23 the 12th Federal Reserve District prevailing on the 25th day of the
24 month preceding the commencement of each calendar ^{quarter}half required for the
25 maximum interest rate computation under (a) of this section shall be
26 provided by the Department of Commerce and Economic Development.

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