

State of Minnesota

HOUSE OF REPRESENTATIVES**Unofficial Engrossment**

House Engrossment of a Senate File

EIGHTY-SEVENTH SESSION

S. F. No. 530

Senate Author(s): null

House Action

05/17/2011 Companion to House File No. 770. (Authors:null)

Read First Time and Referred to the Committee on Judiciary Policy and Finance

01/30/2012 Adoption of Report: Pass as Amended and Read Second Time

1.1 A bill for an act
1.2 relating to civil actions; regulating interest on verdicts, awards, and judgments;
1.3 amending Minnesota Statutes 2010, section 549.09, subdivisions 1, 2.

1.4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.5 Section 1. Minnesota Statutes 2010, section 549.09, subdivision 1, is amended to read:

1.6 Subdivision 1. **When owed; rate.** (a) When a judgment or award is for the recovery
1.7 of money, including a judgment for the recovery of taxes, interest from the time of
1.8 the verdict, award, or report until judgment is finally entered shall be computed by the
1.9 court administrator or arbitrator as provided in paragraph (c) and added to the judgment
1.10 or award.

1.11 (b) Except as otherwise provided by contract or allowed by law, preverdict,
1.12 preaward, or prereport interest on pecuniary damages shall be computed as provided
1.13 in paragraph (c) from the time of the commencement of the action or a demand for
1.14 arbitration, or the time of a written notice of claim, whichever occurs first, except as
1.15 provided herein. The action must be commenced within two years of a written notice of
1.16 claim for interest to begin to accrue from the time of the notice of claim. If either party
1.17 serves a written offer of settlement, the other party may serve a written acceptance or a
1.18 written counteroffer within 30 days. After that time, interest on the judgment or award
1.19 shall be calculated by the judge or arbitrator in the following manner. The prevailing
1.20 party shall receive interest on any judgment or award from the time of commencement
1.21 of the action or a demand for arbitration, or the time of a written notice of claim, or as
1.22 to special damages from the time when special damages were incurred, if later, until the
1.23 time of verdict, award, or report only if the amount of its offer is closer to the judgment or
1.24 award than the amount of the opposing party's offer. If the amount of the losing party's

2.1 offer was closer to the judgment or award than the prevailing party's offer, the prevailing
2.2 party shall receive interest only on the amount of the settlement offer or the judgment or
2.3 award, whichever is less, and only from the time of commencement of the action or a
2.4 demand for arbitration, or the time of a written notice of claim, or as to special damages
2.5 from when the special damages were incurred, if later, until the time the settlement offer
2.6 was made. Subsequent offers and counteroffers supersede the legal effect of earlier offers
2.7 and counteroffers. For the purposes of clause (2), the amount of settlement offer must
2.8 be allocated between past and future damages in the same proportion as determined by
2.9 the trier of fact. Except as otherwise provided by contract or allowed by law, preverdict,
2.10 preaward, or prereport interest shall not be awarded on the following:

2.11 (1) judgments, awards, or benefits in workers' compensation cases, but not including
2.12 third-party actions;

2.13 (2) judgments or awards for future damages;

2.14 (3) punitive damages, fines, or other damages that are noncompensatory in nature;

2.15 (4) judgments or awards not in excess of the amount specified in section 491A.01;

2.16 and

2.17 (5) that portion of any verdict, award, or report which is founded upon interest, or
2.18 costs, disbursements, attorney fees, or other similar items added by the court or arbitrator.

2.19 ~~(c)(1) For a judgment or award of \$50,000 or less or a judgment or award for or~~
2.20 ~~against the state or a political subdivision of the state, regardless of the amount, The~~
2.21 interest shall be computed as simple interest per annum. The rate of interest shall be based
2.22 on the secondary market yield of one year United States Treasury bills, calculated on a
2.23 bank discount basis as provided in this section.

2.24 On or before the 20th day of December of each year the state court administrator
2.25 shall determine the rate from the one-year constant maturity treasury yield for the most
2.26 recent calendar month, reported on a monthly basis in the latest statistical release of the
2.27 board of governors of the Federal Reserve System. This yield, rounded to the nearest one
2.28 percent, or four percent, whichever is greater, shall be the annual interest rate during the
2.29 succeeding calendar year. The state court administrator shall communicate the interest
2.30 rates to the court administrators and sheriffs for use in computing the interest on verdicts
2.31 and shall make the interest rates available to arbitrators.

2.32 ~~This clause applies to any section that references section 549.09 by citation for the~~
2.33 ~~purposes of computing an interest rate on any amount owed to or by the state or a political~~
2.34 ~~subdivision of the state, regardless of the amount.~~

3.1 (2) ~~For a judgment or award over \$50,000, other than a judgment or award for or~~
3.2 ~~against the state or a political subdivision of the state, the interest rate shall be ten percent~~
3.3 ~~per year until paid.~~

3.4 (3) When a judgment creditor, or the judgment creditor's attorney or agent, has
3.5 received a payment after entry of judgment, whether the payment is made voluntarily by
3.6 or on behalf of the judgment debtor, or is collected by legal process other than execution
3.7 levy where a proper return has been filed with the court administrator, the judgment
3.8 creditor, or the judgment creditor's attorney, before applying to the court administrator
3.9 for an execution shall file with the court administrator an affidavit of partial satisfaction.
3.10 The affidavit must state the dates and amounts of payments made upon the judgment after
3.11 the most recent affidavit of partial satisfaction filed, if any; the part of each payment that
3.12 is applied to taxable disbursements and to accrued interest and to the unpaid principal
3.13 balance of the judgment; and the accrued, but the unpaid interest owing, if any, after
3.14 application of each payment.

3.15 (d) This section does not apply to arbitrations between employers and employees
3.16 under chapter 179 or 179A. An arbitrator is neither required to nor prohibited from
3.17 awarding interest under chapter 179 or under section 179A.16 for essential employees.

3.18 ~~(e) For purposes of this subdivision:~~

3.19 ~~(1) "state" includes a department, board, agency, commission, court, or other entity~~
3.20 ~~in the executive, legislative, or judicial branch of the state; and~~

3.21 ~~(2) "political subdivision" includes a town, statutory or home rule charter city,~~
3.22 ~~county, school district, or any other political subdivision of the state.~~

3.23 (e) This section does not apply to a judgment or award upon which interest is entitled
3.24 to be recovered under section 60A.0811.

3.25 **EFFECTIVE DATE.** This section is effective August 1, 2012, and applies to
3.26 judgments and awards entered on or after that date.

3.27 Sec. 2. Minnesota Statutes 2010, section 549.09, subdivision 2, is amended to read:

3.28 Subd. 2. **Accrual of interest.** (a) During each calendar year, interest shall accrue
3.29 on the unpaid balance of the judgment or award from the time that it is entered or made
3.30 until it is paid, at the annual rate provided in subdivision 1 or paragraph (b). The court
3.31 administrator shall compute and add the accrued interest to the total amount to be collected
3.32 when the execution is issued and compute the amount of daily interest accruing during the
3.33 calendar year. The person authorized by statute to make the levy shall compute and add
3.34 interest from the date that the writ of execution was issued to the date of service of the writ

4.1 of execution and shall direct the daily interest to be computed and added from the date of
4.2 service until any money is collected as a result of the levy.

4.3 (b) For a judgment or award over \$50,000, other than a judgment or award for or
4.4 against the state or a political subdivision of the state, the interest rate is ten percent per
4.5 year. This paragraph does not apply to a section that references section 549.09 by citation
4.6 for the purpose of computing an interest rate on any amount owed to or by the state or a
4.7 political subdivision of the state, regardless of the amount.

4.8 **EFFECTIVE DATE.** This section is effective August 1, 2012, and applies to
4.9 judgments and awards entered on or after that date.