

Bill as Introduced

HB 254 - AS INTRODUCED

2011 SESSION

11-0897

09/04

HOUSE BILL **254**

AN ACT relative to offers of judgments.

SPONSORS: Rep. B. Murphy, Rock 18; Rep. Steven Smith, Sull 5; Rep. Tregenza, Carr 2;
Rep. Huxley, Hills 3

COMMITTEE: Judiciary

ANALYSIS

This bill establishes procedures for offers of judgments in civil cases based on Rule 68 of the Federal Rules of Civil Procedure.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears [~~in brackets and struckthrough~~].
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Eleven

AN ACT relative to offers of judgments.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 New Subdivision; Offers of Judgments in Civil Cases. Amend RSA 507 by inserting after
2 section 17 the following new subdivision:

3 Offers of Judgments in Civil Cases

4 507:18 Offers of Judgment in Civil Cases.

5 I. More than 10 days before the trial begins, a party defending against a claim may serve on
6 an opposing party an offer to allow judgment on specified terms, with the costs then accrued. If,
7 within 10 days after being served, the opposing party serves written notice accepting the offer, either
8 party may then file the offer and notice of acceptance, plus proof of service. The clerk shall then
9 enter judgment.

10 II. An unaccepted offer shall be considered withdrawn, but does not preclude a later offer.
11 Evidence of an unaccepted offer shall not be admissible except in a proceeding to determine costs.

12 III. When one party's liability to another has been determined, but the extent of liability
13 remains to be determined by further proceedings, the party held liable may make an offer of
14 judgment. This offer shall be served within a reasonable time, but at least 10 days, before a hearing
15 to determine the extent of liability.

16 IV. If the judgment that the offeree finally obtains is not more favorable than the unaccepted
17 offer, the offeree shall pay the costs incurred, including reasonable attorney's fees, after the offer was
18 made.

19 2 Effective Date. This act shall take effect January 1, 2012.

Amendments

Amendment to HB 254

1 Amend RSA 507:18, I-II as inserted by section 1 of the bill by replacing it with the following:

2

3 I. More than 10 days before the trial begins, either party to a claim may serve on an
4 opposing party an offer to allow judgment on specified terms, with the costs then accrued. If, within
5 10 days after being served, the opposing party serves written notice accepting the offer, either party
6 may then file the offer and notice of acceptance, plus proof of service. The clerk shall then enter
7 judgment.

8 II. An unaccepted offer shall be considered withdrawn, but does not preclude a later offer.
9 Evidence of an unaccepted offer shall not be admissible except after judgment in a proceeding to
10 determine costs.

*Amendment
NOT OFFERED*

Amendment to HB 254

1 Amend RSA 507:18 as inserted by section 1 of the bill by replacing it with the following:

2

3 507:18 Offers of Judgment in Civil Cases.

4 I. More than 10 days before the trial begins, either party to a claim may serve on an
5 opposing party an offer to allow judgment on specified terms, with the costs then accrued. If, within
6 10 days after being served, the opposing party serves written notice accepting the offer, either party
7 may then file the offer and notice of acceptance, plus proof of service. The clerk shall then enter
8 judgment.

9 II. An unaccepted offer shall be considered withdrawn, but does not preclude a later offer.
10 Evidence of an unaccepted offer shall not be admissible except after judgment in a proceeding to
11 determine costs.

12 III. When one party's liability to another has been determined, but the extent of liability
13 remains to be determined by further proceedings, the party held liable may make an offer of
14 judgment. This offer shall be served within a reasonable time, but at least 10 days, before a hearing
15 to determine the extent of liability.

16 IV. If the judgment that the offeree finally obtains is not more favorable than the
17 unaccepted offer and the court finds that the offeree was unreasonable in rejecting the offer, the
18 offeree shall pay the costs incurred, including reasonable attorney's fees, after the offer was made.

Hearing Minutes

HOUSE COMMITTEE ON JUDICIARY

PUBLIC HEARING ON HOUSE BILL 254

BILL TITLE: relative to offers of judgments.

DATE: February 3, 2011

LOB ROOM: 208

Time Public Hearing Called to Order: 2:05 pm

Time Adjourned: 3:00 pm

(please circle if present)

Committee Members: Reps. Rowe, Sorg, Souza, Hagan, Silva, Andolina, Giuda, LaCasse, McClarren, Murphy, Palmer, Peterson, Tregenza, Wheaton, Walt, Potter, Weber and Watrous.

Bill Sponsors: Rep. B. Murphy, Rock 18; Rep. Steven Smith, Sull 5; Rep. Tregenza, Carr 2; Rep. Huxley, Hills 3

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

***Rep. Murphy, sponsor, introduced the bill.**

Designed to control unnecessary litigation and encourage settlements. If a sound offer is made and is turned down, plaintiff is responsible for all fees occurred after the offer was made. Federal Rule 68 only requires a plaintiff who refuses an offer is only responsible for their own fees. This is for Civil Cases, Rule 68 is Federal. Give reasonable offer, accept offer early to limit litigation.

Kevin Dugan, New Hampshire Association for Justice - opposes

This is a one-sided bill. Gain is one-sided. New Hampshire doesn't have frivolous law suits. New Hampshire has a mechanism that provides that either side can recover some fees, not just one side. Squeezes out meritorious claims due to fear of extra fees.

Rep. Oligney, supports

Good faith mediations towards attorney's fees. Each person pays their own fees. Jury determines what reasonable terms are.

***William McGraw, Esq., Judicial Branch - information only, no testimony**

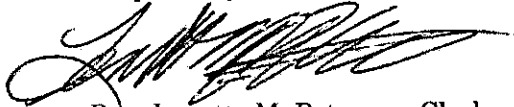
Rep. Steven Smith supports

Only New Hampshire and Virginia don't have some for on Rule 68. Potential to lower the number of litigation going to trial.

Rep. Soltani, supports

Supports concept of bill. This bill has to be a two-way street to pass the New Hampshire Constitution.

Respectfully Submitted,



Rep. Lenette M. Peterson, Clerk

HOUSE COMMITTEE ON JUDICIARY

PUBLIC HEARING ON HOUSE BILL 254

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Time Adjourned: {Time}

2:05 PM
~~2:00 pm~~
3:00 PM

(please circle if present)

Committee Members: Reps. Rowe, Sorg, Souza, Hagan, Silva, Andolina, Giuda, LaCasse, McClarren, Murphy, Palmer, Peterson, Tregenza, Wheaton, Wall, Potter, Weber and Watrous.

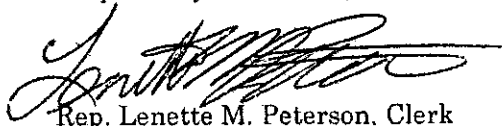
Bill Sponsors: Rep. B. Murphy, Rock 18; Rep. Steven Smith, Sull 5; Rep. Tregenza, Carr 2; Rep. Huxley, Hills 3

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Rep. Murphy - design to control unnecessary litigation and encourage settlements. If a sound offer is made and is turned down, plaintiff is responsible for all fees occurred after offer was made. Fed. Rule 68, only requires a plaintiff refuses an offer is only responsible for their own fees. This is for Civil Cases, Rule 68 is Federal. Give ~~proper~~ reasonable offer, accept offer early to limit litigation.

Respectfully Submitted,



Rep. Lenette M. Peterson, Clerk

Kevin Dugan - (oppose) a one-sided bill. Gain is one sided NH doesn't
NH Assn. for Justice have frivolous law suits. NH has a mechanism
that provides that either side can recover some
fees, not just one side. Squeezes out meritless
claims due to fear of extra fees.

Rep. O'Higney - (support) good faith mediation towards attorney's fees
each person pays their own fees. Jury determines
what is reasonable terms.

* William McFrame - (info purposes) no testimony
Judicial Branch

* Rep. Steven Smith (support) - Only NH + VA don't have some
form of Rule 68. Potential to lower the number
of litigation going to trial.

Rep. Soltani - (support) supports the concept of Bill
This Bill has to be a two way street to pass
the NH Constitution.

Testimony

HB 254
February 3, 2011

Representative Brian J.X. Murphy, Esq.

Purpose: The purpose of this bill is to further facilitate the reasonable resolution of civil disputes between NH litigants. Control unnecessary litigation and encourage settlement.

How the bill works: The bill provides for fee-shifting if a plaintiff rejects a reasonable settlement offer from the defendant and then receives less than that settlement offer through adjudication.

What the bill does: The bill causes both parties to value the specific facts in their case -- rather than respond to sensational settlements. This bill speeds up the confluence expectation and reality.

“What you can get vs. what you will get (the value of your case).”

- **\$23.7M settlement for an Oregon girl that was accidentally run over by a truck driven by her father**
- **\$10.7 million verdict - An assault case where a child at a daycare suffered broken bones.**
- **\$2.86M for damages related to spilling McDonalds coffee on your lap**

This legislation requires plaintiffs and their counsel to evaluate their case. Plaintiffs will no longer be playing with house money when it rejects a settlement offer and proceeds towards trial, knowing in a worse case scenario, the last settlement offer will be available at a later date.

Where the bill comes from: The language in this bill is modeled after the Federal Civil Procedure Rule 68. FRCP 68 has been in existence in the federal courts since 1938. The largest criticism of Federal Rule 68 (and state counterparts) is that the penalty of transferring post-offer costs (without attorney fees) is not enough motivation. Accordingly, reasonable attorney fees have been explicitly added in this bill.

41 states have some equivalent of Federal Rule 68, and at least 9 of them have attorney fee shifting as part of that component.

Benefits: There are three main benefits to passing this litigation:

1. Preserving judicial resources and further bolsters the mediation process.
2. Responsible defendants have a mechanism for reasonable resolution.
3. Plaintiff's have an opportunity for an expedited remedy.

Balance Interests:

41 states have passed similar legislation. In each case, the respective state legislators balanced their judicial resources with the interests of the defendants and the plaintiffs – and passed this legislation.

Questions: (take any questions)

Mediate.com is the leading mediation web site and mediator directory in the world.

In acknowledgement of Mediate.com's accomplishments, Mediate.com recently received the American Bar Association (ABA) 2010 Institutional Problem Solver of the Year Award.

The 10-day fuse of Rule 68 offers ensure that a conversation between the plaintiff and his counsel will happen soon after you serve your Rule 68 offer.

“There is no way to know what your opposing counsel and her client will focus on in the 10 days (and nights) the offer is open — will it be the 2 years it has taken to get to this point, their concerns about what Ms. Jones will say in her deposition 11 days away, the reputational exposure the case presents, their own cash flow requirements, their other cases, or something else? Will your offer be just the platform the plaintiff's counsel needs to have that “tough discussion” with her client? We can only guess when the tough questions would have been asked in your case without your Rule 68 offer.

What Options Do They Really Have?

No matter what type of case you have, you know that your opponents have to act on your offer. And it seems they only have 4 paths to take once they do:

- **Proceed anyway, ever mindful of this new risk if the matter goes to trial;**
- **Proceed anyway, but abandon or limit their most venturesome claims and discovery in order to keep costs down;**
- **Propose further settlement discussions or mediation since you appear serious about settlement; or**
- **Accept your offer outright (for whatever reason).”**

All of these outcomes encourage responsible motions, and timely filings, without removing the right to a jury trial for cases that merit one.

Study by University of Texas

We offer what we believe is the first study on offer-of-judgment rules that is based on actual litigation data. Any comprehensive understanding of the rule's effect must include

settlements as well as trials, since most civil litigation resolves through settlement. Settlement terms, however, are typically not publicly available. In this study, we address this problem by using data from a large national insurer. This data includes the universe of suits defended by the insurer, irrespective of how the suit was resolved (i.e., settlement or trial).

We examine a New Jersey rule of civil procedure – New Jersey Court Rule 4:58 (hereinafter “Rule 4:58”) – that was first adopted in 1971 and revised in 1994. The prior version of the rule differed from Rule 68 in that it allowed either litigant to issue a pre-trial settlement offer, but mirrored the federal rule in that it had a weak cost-shifting mechanism – a \$750 cap on attorneys fees. The revised rule abolished the cap outright. By allowing for substantial cost shifting, the revised rule provides a more credible inducement for litigants to settle. Our results reveal that while the relative average damage award in New Jersey did not undergo any statistically significant change after the rule was revised, suits in that state took less time to resolve by an average of 2.3 months, or roughly 7 percent. This reduction in litigation duration affected all quartiles of damage awards, with a statistically robust effect on all but the highest quartile. Correspondingly, shorter litigation periods translated into a decrease in the insurers' attorneys fees by an average of nearly \$1,200, or approximately 20 percent.

The bottom line:

- **Only New Hampshire and Virginia have yet to enact some form of Rule 68.**
- **This bill does not require anyone to make a Rule 68 offer.**
- **The potential decreased workload for our New Hampshire courts will be a boon for our already overworked court system.**
- **Since the plaintiff bears a higher risk than before, frivolous cases should decrease.**
- **Even when Rule 68 offers are not invoked, parties to an action will be mindful that one could be at any time and consequently will think more of controlling costs than before.**

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Superior Court Rules [Table of Contents](#)

RULES OF THE SUPERIOR COURT OF THE STATE OF NEW HAMPSHIRE

PAYING MONEY INTO COURT

60. In proper cases, the defendant may pay into Court any sum of money which he admits to be due, accompanied by the general issue as to the balance; and, if the plaintiff shall refuse to accept the same with his costs, in full satisfaction of his claim, such sum shall be struck out of the declaration; and unless the plaintiff shall prove that a larger sum be due him, he shall have no costs, but the defendant shall be allowed costs from the time of such payment.

61. When a sum of money shall be paid into Court accompanied by a special plea, or when a set-off, counterclaim or recoupment shall be filed and a sum of money paid into Court as the balance due the plaintiff, the costs of the plaintiff up to that time shall also be paid into Court; and the defendant, if he prevail, shall be allowed only his subsequent costs.

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Superior Court Rules [Table of Contents](#)

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RULES OF THE SUPERIOR COURT OF THE STATE OF NEW HAMPSHIRE

TAXATION OF COSTS IN CIVIL PROCEEDINGS

87. (a) **Costs.** Costs shall be allowed as of course to the prevailing party as provided by these rules, unless the Court otherwise directs.

(b) **Taxation of Costs.** Upon written request, the clerk shall tax costs in any case, which shall include the fees of the clerk and fees for service of process which are documented in the court file.

Any party claiming other allowable costs shall file a motion to allow costs together with an itemized, verified bill of all costs requested, to be ruled upon by the Court. Any party aggrieved by the Court's order concerning costs may appeal therefrom within 30 days from the date of notice of such order, regardless of whether an appeal concerning the underlying judgment is sought.

(c) **Allowable Costs.** The following costs shall be allowed to the prevailing party: Fees of the clerk, fees for service of process, witness fees, expense of view, cost of transcripts, and such other costs as may be provided by law. The court, in its discretion, may allow the stenographic cost of an original transcript of a deposition, plus one copy, including the cost of videotaping, and may allow other costs including, but not limited to, actual costs of expert witnesses, if the costs were reasonably necessary to the litigation.

88. Repealed, effective May 1, 1990.

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Rule 68. Offer of Judgment.

United States

Federal Rules Of Civil Procedure

RULES OF CIVIL PROCEDURE FOR THE UNITED STATES DISTRICT COURTS

Title VIII. PROVISIONAL AND FINAL REMEDIES

As amended through December 1, 2010

Rule 68. Offer of Judgment

(a) **MAKING AN OFFER; JUDGMENT ON AN ACCEPTED OFFER.** At least 14 days before the date set for trial, a party defending against a claim may serve on an opposing party an offer to allow judgment on specified terms, with the costs then accrued. If, within 14 days after being served, the opposing party serves written notice accepting the offer, either party may then file the offer and notice of acceptance, plus proof of service. The clerk must then enter judgment.

(b) **UNACCEPTED OFFER.** An unaccepted offer is considered withdrawn, but it does not preclude a later offer. Evidence of an unaccepted offer is not admissible except in a proceeding to determine costs.

(c) **OFFER AFTER LIABILITY IS DETERMINED.** When one party's liability to another has been determined but the extent of liability remains to be determined by further proceedings, the party held liable may make an offer of judgment. It must be served within a reasonable time-but at least 14 days-before the date set for a hearing to determine the extent of liability.

(d) **PAYING COSTS AFTER AN UNACCEPTED OFFER.** If the judgment that the offeree finally obtains is not more favorable than the unaccepted offer, the offeree must pay the costs incurred after the offer was made.

History. As amended Dec. 27, 1946, eff. Mar. 19, 1948; Feb. 28, 1966, eff. July 1, 1966; Mar. 2, 1987, eff. Aug. 1, 1987; Apr. 30, 2007, eff. Dec. 1, 2007; Mar. 26, 2009, eff. Dec. 1, 2009

Voting Sheets

HOUSE COMMITTEE ON JUDICIARY
EXECUTIVE SESSION on HOUSE BILL 254

BILL TITLE: relative to offers of judgments.

DATE: March 9, 2011

LOB ROOM: 208

Amendments:

Sponsor: Rep. Murphy OLS Document #: 2011 0747h

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: (OTP, OTP/A, ITL, Interim Study (Please circle one.))

Moved by Rep. Giuda

Seconded by Rep. Palmer

Vote: 14-3 (Please attach record of roll call vote.)

Motions: (OTP, OTP/A, ITL, Interim Study (Please circle one.))

Moved by Rep. Murphy

Seconded by Rep. Giuda

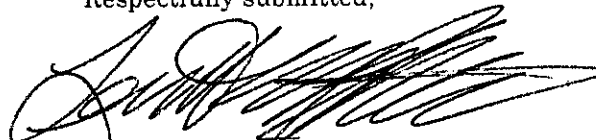
Vote: 13-4 (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: YES (NO)

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,



Rep. Lenette Peterson, Clerk

HOUSE COMMITTEE ON JUDICIARY

EXECUTIVE SESSION on HB 254

BILL TITLE: relative to offers of judgments.

DATE: 3/9/11 {Type DATE}

LOB ROOM: 208

Amendments:

Sponsor: Rep. *Murphy*

OLS Document #: *0747h*
~~0369h~~

Sponsor: Rep.

OLS Document #:

Sponsor: Rep.

OLS Document #:

Motions:

OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. *Giuda*

Seconded by Rep. *Palmer*

Vote: *14-3* (Please attach record of roll call vote.)

Motions:

OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. *Murphy*

Seconded by Rep. *Giuda*

Vote: *13-4* (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: {Type VOTE}

No

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent:

Refer to Committee Report

Respectfully Submitted

[Signature]
Rep. Lenette Peterson, Clerk

JUDICIARY

Bill #: HB 254 Title: _____

PH Date: 2, 3, 11 Exec Session Date: 3, 9, 11

Motion: 0797h ~~0369h~~ OTP Amendment #: _____

| MEMBER | YEAS | NAYS |
|---------------------------------|--------------------|------------------|
| Rowe, Robert H, Chairman | ✓ | |
| Sorg, Gregory M, V Chairman | ✓ AAAAA | AAAAA |
| Souza, Kathleen F | ✓ | |
| Hagan, Joseph M <u>Copeland</u> | ✓ | |
| Silva, Peter L | ✓ | |
| Andolina, Donald C | ✓ | |
| Giuda, J. Brandon | ✓ | |
| LaCasse, Paul D | ✓ | |
| McClarren, Donald B | ✓ | |
| Murphy, Brian JX | ✓ | |
| Palmer, Barry J | ✓ | |
| Peterson, Lenette M | ✓ | |
| Tregenza, Norman A | ✓ | |
| Wheaton, Gary W | ✓ | — |
| Wall, Janet G | | ✓ |
| Potter, Frances D | | ✓ |
| Weber, Lucy M | | ✓ |
| Watrous, Rick H | ✓ | |
| | 14 | 3 |
| TOTAL VOTE: | | |

JUDICIARY

Bill #: HB 254 Title: _____

PH Date: 2, 3, 11 Exec Session Date: 3, 9, 11

Motion: OTR/A 0747h Amendment #: _____

| MEMBER | YEAS | NAYS |
|---------------------------------|-----------|----------|
| Rowe, Robert H, Chairman | ✓ | |
| Sorg, Gregory M, V Chairman | ✓ | |
| Souza, Kathleen F | ✓ | |
| Hagan, Joseph M <i>Copeland</i> | ✓ | |
| Silva, Peter L | ✓ | |
| Andolina, Donald C | ✓ | |
| Giuda, J. Brandon | ✓ | |
| LaCasse, Paul D | ✓ | |
| McClarren, Donald B | ✓ | |
| Murphy, Brian JX | ✓ | |
| Palmer, Barry J | ✓ | |
| Peterson, Lenette M | ✓ | |
| Tregenza, Norman A | ✓ | |
| Wheaton, Gary W | — | — |
| Wall, Janet G | | ✓ |
| Potter, Frances D | | ✓ |
| Weber, Lucy M | | ✓ |
| Watrous, Rick H | | ✓ |
| | 13 | 4 |

TOTAL VOTE:
Printed: 1/4/2011

Committee Report

REGULAR CALENDAR

March 10, 2011

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Majority of the Committee on JUDICIARY to which was referred HB 254,

AN ACT relative to offers of judgments. Having considered the same, report the same with the following amendment, and the recommendation that the bill OUGHT TO PASS WITH AMENDMENT.

Rep. Brian JX Murphy

FOR THE MAJORITY OF THE COMMITTEE

**MAJORITY
COMMITTEE REPORT**

Committee: JUDICIARY
Bill Number: HB254
Title: relative to offers of judgments.
Date: March 10, 2011
Consent Calendar: NO
Recommendation: OUGHT TO PASS WITH AMENDMENT

STATEMENT OF INTENT

This bill provides a judicial procedure to facilitate the more timely resolution of civil disputes between New Hampshire litigants. The bill allows for either a plaintiff or defendant to make a formal offer of judgment. If that offer is rejected, and the judgment finally obtained is not more favorable than the rejected offer, then the court will have the discretion to assess cost-shifting on the party that rejected the offer. The cost-shifting which is to include reasonable attorney fees, will be calculated from the time the more favorable offer of judgment was made. This bill is designed to compel parties to properly value their case and then bear the risk and responsibility of being stubborn or foolhardy. Forty-one states have enacted some version of this law, which is modeled after the Federal Rules of Civil Procedure (passed in 1938). There is a significant amount of legal precedent regarding this concept. The Committee found that the bill would effectively promote responsible resolutions between litigants, in a timely manner, and thereby preserve the state's limited judicial resources.

Vote 13-4

Rep. Brian JX Murphy
FOR THE MAJORITY

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

JUDICIARY

HB254, relative to offers of judgments. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Brian JX Murphy for the **Majority** of JUDICIARY. This bill provides a judicial procedure to facilitate the more timely resolution of civil disputes between New Hampshire litigants. The bill allows for either a plaintiff or defendant to make a formal offer of judgment. If that offer is rejected, and the judgment finally obtained is not more favorable than the rejected offer, then the court will have the discretion to assess cost-shifting on the party that rejected the offer. The cost-shifting which is to include reasonable attorney fees, will be calculated from the time the more favorable offer of judgment was made. This bill is designed to compel parties to properly value their case and then bear the risk and responsibility of being stubborn or foolhardy. Forty-one states have enacted some version of this law, which is modeled after the Federal Rules of Civil Procedure (passed in 1938). There is a significant amount of legal precedent regarding this concept. The Committee found that the bill would effectively promote responsible resolutions between litigants, in a timely manner, and thereby preserve the state's limited judicial resources. **Vote 13-4.**

Original: House Clerk
Cc: Committee Bill File

HB 254-A – an act establishing procedures for offers of judgments in civil cases based on Rule 68 of the Federal Rules of Civil Procedure. OUGHT TO PASS.

Rep. Brian Murphy for Judiciary: This bill provides a judicial procedure to facilitate the more timely resolution of civil disputes between New Hampshire litigants. The bill allows for either a plaintiff or defendant to make a formal offer of judgment. If that offer is rejected, and the judgment finally obtained is not more favorable than the rejected offer, then the court will have the discretion to assess cost-shifting on the party that rejected the offer. The cost-shifting which is to include reasonable attorney fees, will be calculated from the time the more favorable offer of judgment was made. This bill is designed to compel parties to properly value their case and then bear the risk and responsibility of being stubborn or foolhardy. Forty-one states have enacted some version of this law, which is modeled after the Federal Rules of Civil Procedure (passed in 1938). There is a significant amount of legal precedent regarding this concept. The Committee found that the bill would effectively promote responsible resolutions between litigants, in a timely manner, and thereby preserve the state's limited judicial resources.
VOTE 13-4.

* * * * *

Note:

Amendment to HB 254 – 0747h was adopted by the Judiciary Committee with a vote of 14-3 in favor on Wednesday, March 9, 2011.

REGULAR CALENDAR

March 10, 2011

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Minority of the Committee on JUDICIARY to which was referred HB 254,

AN ACT relative to offers of judgments. Having considered the same, and being unable to agree with the Majority, report with the following Resolution: RESOLVED, That it is INEXPEDIENT TO LEGISLATE.

Rep. Janet G Wall

FOR THE MINORITY OF THE COMMITTEE

MINORITY COMMITTEE REPORT

Committee: JUDICIARY
Bill Number: HB254
Title: relative to offers of judgments.
Date: March 10, 2011
Consent Calendar: NO
Recommendation: INEXPEDIENT TO LEGISLATE

STATEMENT OF INTENT

The minority believes that some cases may take longer than others to reach a settlement and that it is in the best interest of the parties to determine what is fair and reasonable and conclude cases sooner. Prompt settlements would also reduce the workload on the court system. The minority disagrees with the requirement in the bill that may find the losing party liable for court costs and attorneys' fees. Those parties of lower economic status would stand at a disadvantage under this bill if they were pressured into an unreasonably low offer of settlement for fear of having to pay all costs of the other party. Justice would not be served. The committee has killed similar bills in the past while recognizing the importance of balancing justice better serve all.

Rep. Janet G Wall
FOR THE MINORITY

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

JUDICIARY

HB254, relative to offers of judgments. **INEXPEDIENT TO LEGISLATE.**

Rep. Janet G Wall for the **Minority** of JUDICIARY. The minority believes that some cases may take longer than others to reach a settlement and that it is in the best interest of the parties to determine what is fair and reasonable and conclude cases sooner. Prompt settlements would also reduce the workload on the court system. The minority disagrees with the requirement in the bill that may find the losing party liable for court costs and attorneys' fees. Those parties of lower economic status would stand at a disadvantage under this bill if they were pressured into an unreasonably low offer of settlement for fear of having to pay all costs of the other party. Justice would not be served. The committee has killed similar bills in the past while recognizing the importance of balancing justice better serve all.

Original: House Clerk
Cc: Committee Bill File

HB 254 - Minority Report

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Those parties of lower economic status would stand at a disadvantage under this bill if they were pressured into an unreasonably ~~low~~ low offer of settlement for fear of all having to pay the costs of the other party. Justice would not be served.

The committee has killed similar bills in the past while recognizing the importance of balancing justice to better serve all.

Janet L. Wall

JK

RW