



Ohio Legislative Service Commission

Bill Analysis

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S.B. 326

130th General Assembly
(As Introduced)

Sens. Eklund, Coley

BILL SUMMARY

- Provides that recoveries in an action against a state university or college to recover damages for injury, death, or loss to person or property under certain circumstances must be reduced by the aggregate of insurance proceeds, disability award, settlements, or any other collateral recovery the plaintiff receives or is entitled to receive.

CONTENT AND OPERATION

Limits of damages for wrongful death or injury to person or property – colleges and universities

Under existing law, in an action against a state university or college to recover damages for injury, death, or loss to persons or property caused by an act or omission of the state university or college itself, by an act or omission of any trustee, officer, or employee of the state university or college while acting within the scope of employment or official responsibilities, or by an act or omission of any other person authorized to act on behalf of the state university or college that occurred while the person was engaged in activities at the request or direction, or for the benefit, of the state university or college, the following rules apply:¹

- Punitive or exemplary damages cannot be awarded.
- If a plaintiff receives or is entitled to receive benefits for injuries or loss allegedly incurred from a policy or policies of insurance or any other source, the benefits must be disclosed to the court, and the amount of the benefits must be deducted from any award against the state university or

¹ R.C. 3345.40(B).

college recovered by the plaintiff. No insurer or other person is entitled to bring a civil action under a subrogation provision in an insurance or other contract against a state university or college with respect to such benefits.

The bill maintains the prohibition against awarding punitive or exemplary damages. With regard to the second dot point, the bill instead provides that recoveries against a state university or college must be reduced by the aggregate of insurance proceeds, disability award, settlements, or any other collateral recovery the plaintiff receives or is entitled to receive. The bill also removes the reference to "such benefits" and replaces it within "any of those collateral recoveries."²

The bill also removes a reference to "collateral benefits" in Ohio law regarding Ohio's waiver of immunity from liability in civil actions in the Court of Claims and changes the reference to "collateral recovery." This provision states that recoveries against the state must be reduced by the aggregate of insurance proceeds, disability award, or other collateral recovery received by the claimant. This provision does not apply to civil actions in the Court of Claims against a state university or college under the circumstances described above. The collateral *recovery* provisions apply under those circumstances.³

Uncodified provision

The bill states that the amendment to R.C. 3345.40 (**Limits of damages for wrongful death or injury to person or property – colleges and universities**) to provide that settlements received by a plaintiff are collateral recoveries that are reduced from any recoveries of a plaintiff in a civil action against a state university or college for damages for injury, death, or loss to person or property abrogates the decision of the 10th District Court of Appeals in *Adae v. Ohio*, 2013-Ohio-23, 2013 WL 85200, that settlement proceeds are not subject to collateral set-off against recoveries by a plaintiff against a state university or college.⁴

HISTORY

ACTION	DATE
Introduced 50326-I-130.docx/ks	04-08-14

² R.C. 3345.40(B)(2).

³ R.C. 2743.02(D).

⁴ Section 3.

