

Department of Planning and Budget 2005 Fiscal Impact Statement

1. Bill Number HB1694

House of Origin	<input checked="" type="checkbox"/> Introduced	<input type="checkbox"/> Substitute	<input type="checkbox"/> Engrossed
Second House	<input type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input type="checkbox"/> Enrolled

2. Patron Purkey

3. Committee H. Courts of Justice

4. Title Medical malpractice; limit on attorney fees.

5. Summary/Purpose:

Medical malpractice; limit on attorney fees. Provides that beginning with medical malpractice actions accruing on or after July 1, 2003, attorney fees shall be limited in accordance with the following fee schedule: 33 and one-third percent of the first \$300,000 of the sum recovered; 25 percent of the next \$300,000 recovered; 20 percent of the next \$300,000 recovered; 15 percent of the next \$300,000 recovered; 10 percent of damages of at least \$2.5 million but less than \$5 million; or 5 percent of damages of \$5 million or more. The percentage limitations are applied to the sum recovered by the plaintiff through trial, settlement, or arbitration, less the expenses related to the action but including any liens for medical care or treatment.

6. Fiscal Impact Estimates are: Indeterminate. See item 8, below.

7. Budget amendment necessary: No.

8. Fiscal implications:

The Department of the Treasury, Division of Risk Management provides medical professional liability protection to state and non-state employees (including state hospitals, student health facilities, free clinics, and jails). This bill would not require the Department of the Treasury, Division of Risk Management to take any action. When medical malpractice cases are settled or judgments are paid from the state insurance reserve trust fund, Treasury issues checks made payable jointly to both plaintiff(s) and attorney(s). The Department has no knowledge of payment arrangements between plaintiffs and their attorneys.

9. Specific agency or political subdivisions affected:

Department of the Treasury. The State Corporation Commission is not affected by the legislation.

10. Technical amendment necessary:

Yes. The Code provides for a medical malpractice cap. The current statutory cap is \$1.75 million, increasing each year to a total of \$2.0 million in 2008. Section 8.01-581.15 paragraph B.1.e and B.1.f. appear to be inconsistent with the cap. B.1.e could be interpreted to allow an award of between \$2.5 million and \$4.9 million; B.1.f. could be interpreted to allow an award of \$5 million or more.

11. Other comments: none.

Date: 01/13/05/tmw

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cc: Secretary of Finance