

**Department of Planning and Budget
2008 Fiscal Impact Statement**

REVISED

1. Bill Number: HB1305

House of Origin ☐ Introduced ☐ Substitute ☐ Engrossed
Second House ☐ In Committee ☐ Substitute ☒ Enrolled

2. Patron: Morgan

3. Committee: Passed both houses

4. Title: **Virginia Birth-Related Neurological Injury Compensation Program.**

5. Summary: Increases the annual assessment for physicians who participate in the Virginia Birth-Related Neurological Injury Compensation Program from its current level of \$5,300 to \$5,600, which amount will increase thereafter to a maximum of \$6,200. The annual participating hospital assessment will increase from \$50 per live birth to \$52.50 per live birth in 2008, which amount will increase each year thereafter by \$2.50 per live birth to a maximum of \$55 per live birth. The assessment on nonparticipating physicians will apply to all physicians licensed in the Commonwealth other than participating physicians; currently, only such physicians practicing in Virginia are required to pay an assessment. The maximum contribution rate required from liability insurance carriers is increased from 0.25 percent to 0.4 percent of net direct premiums written. The size of the board of directors of the Program is increased from seven to nine. Provision is made for covered expenses to cover therapeutic, nursing and attendant care, medications and supplies, and for attendant nursing care that is provided by the claimant's relatives when beyond what is normally provided family members of uninjured children. The measure also (i) removes the prohibition of suing a nonparticipating provider prior to pursuing a claim under the Birth-Related Neurological Injury Compensation Act if the suit is not successful; (ii) authorizes the Program's board of directors to hire outside counsel at its discretion; (iii) provides that the Freedom of Information Act exemption does not prohibit the Workers Compensation Commission from requiring the Program to produce relevant evidence during litigation; (iv) provides that pursuing a claim under Act tolls the statute of limitations for actions that may be brought by the injured infant's personal representative, parents, dependants, or next of kin; (v) expands the types of discovery allowed in litigation under the Act; (vi) requires that only one member of the panel of physicians be from the field of obstetrics; and (vii) requires the Program to pay \$3,000 per claim reviewed to the medical school that performs an assessment.

6. Fiscal Impact Estimates: None to the Commonwealth. This program is an independent organization.

7. Budget Amendment Necessary: No

8. Fiscal Implications: According to the program director's estimate, the increase in various fees would increase the revenue by \$750,000 a year. The program currently receives approximately \$22 million in revenue a year. According to the recent actuarial report (conducted by an actuary hired by the State Corporation Commission), the fund has a

projected deficit of \$139 million. With the proposed change in the actuarial methodology, the deficit would be reduced by approximately \$40 million to \$99 million.

9. Specific Agency or Political Subdivisions Affected: Workers' Compensation Commission, Virginia Birth Injury Fund

10. Technical Amendment Necessary: No

11. Other Comments: Similar to SB 211

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