

## **Department of Planning and Budget**

### **2009 Fiscal Impact Statement**

**1. Bill Number:** SB 1389

House of Origin	<u>  X  </u>	Introduced	<u>      </u>	Substitute	<u>      </u>	Engrossed
Second House	<u>      </u>	In Committee	<u>      </u>	Substitute	<u>      </u>	Enrolled

**2. Patron:** Stolle, Kenneth W.

**3. Committee:** Courts of Justice

**4. Title:** Medical malpractice; judgment in excess of \$2 million to be paid from Patient's Compensation Fund

**5. Summary:** Provides that on and after July 1, 2009, a health care provider's personal liability is limited to \$2 million for any injury to, or death of, a patient, and any amount due from a judgment or verdict in excess of \$2 million shall be paid from the Patient's Compensation Fund. The bill provides that the Fund is financed through fees levied upon health care providers and collected by the health regulatory boards. The assets of the fund shall be used solely to pay that portion of the amount due from a malpractice judgment, settlement, or verdict in excess of \$2 million and to administer the Patients' Compensation Program, which is governed by a board of directors whose appointments are prescribed in the bill and who manage and operate the Fund.

**6. Fiscal impact estimates are unknown (see item 8)**

**7. Budget Amendment Necessary:** No

**8. Fiscal Implications:** While the Patient's Compensation Fund (the Fund) and associated board of directors prescribed by this legislation would not technically fall under the Department of Health Professions (DHP) the cost to support both would be borne by DHP's regulated professions. The department is specifically required to collect fees set by the Fund's board sufficient to cover all expenses for the administration and operation of the Program, which includes the Fund.

Since the Board created by this legislation is tasked with administering the Fund, all of the potential areas of expenditure cannot be guessed. The department estimates, based on prior experience, that the administrative costs would be at least \$325,000 in the first year and \$300,000 each year thereafter. Those numbers include the cost of employing a fund manager as well as an independent auditor. It is expected that most licensure fees incurred by DHP's professions will need to be increased to support the added administrative costs of this bill. In addition, the fee increases will have to ultimately include sufficient revenue to cover the judgment costs incurred by the Fund. However, the full impact on licensees and licensure fees is unknown since the agency had no information available as to the frequency of malpractice judgments over the \$2 million threshold. Moreover, malpractice judgments awards could increase since there would be virtually no limitation on the amount a patient could recover.

**9. Specific Agency or Political Subdivisions Affected:**  
Department of Health Professions

**10. Technical Amendment Necessary:** No

**11. Other Comments:** None

**Date:** 1/26/2009

**Document:** G:\2009 Fiscal Year\EFIS\SB1389.Doc

cc: Secretary of Health and Human Resources