

## **BILL ANALYSIS**

C.S.H.J.R. 3  
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Civil Practices  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

In 1977 the Texas Legislature passed the Medical Liability and Insurance Improvement Act of Texas to cover health care liability claims. The Act contained a \$500,000-cap on all damages except medical expenses for health care liability claims. In 1988, in *Lucas v. United States*, 757 S.W.2d 687 (Tex. 1988), the Texas Supreme Court held that the limitation on damages was unconstitutional as applied to common law causes of action but constitutional as applied to statutory causes of action. The *Lucas* court held that the statutory limitation on medical malpractice damages was unconstitutional as applied to common law causes of action because it violated the “open courts provision.” As proposed, C.S.H.J.R. 3 requires the submission to the voters of a constitutional amendment authorizing the Legislature to determine limits for non-economic damages in medical or health care liability claims and other actions.

### **RULEMAKING AUTHORITY**

It is the committee’s opinion that this resolution does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

**C.S.H.J.R. 3** amends Article III of the Texas Constitution by adding a Section 66 which defines economic damages to mean compensatory damages for any pecuniary loss or damage not including non-economic damages; provides that notwithstanding any other provision of the Constitution the Legislature may place limitations on non-economic damages in health care liability claims; provides that beginning in January 1, 2005, the Legislature may enact limitations on non-economic damages in addition to what is permitted in new Subsection (b); clarifies the scope of authority to enact limitations on non-economic damages and contains a new Subsection (e) requiring the Legislature to obtain a three-fifths vote of the members present to constitutionally enact limitations on non-economic damages, pursuant to this amendment.

### **FOR ELECTION**

This proposed constitutional amendment shall be submitted to the voters at an election to be held September 13, 2003.

### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

Revises the ballot language to read “The constitutional amendment concerning civil lawsuits against doctors and health care providers, and other actions, authorizing the legislature to determine limitations on non-economic damages.” Deletes the old Subsection (d) which related to legislative authority and judicial construction. Adds a new Subsection (e) which requires a three-fifths vote of the members present in each House to constitutionally enact limits on non-economic damages for Acts to which this amendment applies. Calls for the election to be held September 13, 2003, instead of November 4, 2003.