

## LEGISLATIVE BUDGET BOARD

Austin, Texas

### FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

May 31, 2003

**TO:** Honorable David Dewhurst , Lieutenant Governor, Senate  
Honorable Tom Craddick, Speaker of the House, House of Representatives

**FROM:** John Keel, Director, Legislative Budget Board

**IN RE: HB4** by Nixon (Relating to reform of certain procedures and remedies in civil actions.),  
**Conference Committee Report**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Civil Practice and Remedies Code and the Medical Liability and Insurance Improvement Act of Texas (Art. 4590i, Vernon's Texas Civil Statutes) to reform certain procedures and remedies in civil actions.

The bill would amend the Civil Practice and Remedies Code to allow state trial courts to rule that some percentage of class action suits against regulated entities are within the exclusive or primary jurisdiction of the state agencies that regulate them. The size and complexity of class action suits that may be heard before regulating state agencies under the bill may require such agencies to reallocate resources to the handling of such cases. Based on agency responses, the reallocated amounts necessary to handle class action suits would be of no significant fiscal impact.

The bill would regulate the award of attorney's fees in class action litigation. The bill provides for the award of litigation costs to parties who make certain settlement offers. The bill would amend the procedures for determining proportionate responsibility in certain cases and would amend the liability provisions for products liability cases. The bill also would amend the Finance Code by changing the calculation method for the postjudgment interest rate. The bill provides for the appointment by the chief justice of the supreme court of a multidistrict litigation panel to hear and decide certain pretrial venue motions and to assign judges to a district court. However, the fiscal implication to the state for the creation of the panel and its subsequent duties is not anticipated to be significant.

The bill would amend various provisions of the Medical Liability and Insurance Improvement Act as well as other statutes to modify the state's medical, insurance, and legal procedures relating to health care liability claims. The bill would include provisions relating to settlement offers, the payment of health care and medical expenses, limitations on claims, standards of proof, expert reports, qualifications of expert witnesses, the admissibility of certain evidence, payments for future losses, attorney's fees, the organizational liability of hospitals, and rate reductions for professional liability insurance for physicians and health care providers.

The Texas Department of Insurance indicates the provisions of the bill would have some cost to the agency. It is assumed that this cost could be absorbed by the agency within its current resources. Other agencies indicate the bill would have no significant fiscal implication to the agencies. The University of Texas indicates the provisions of the bill may have a positive impact by allowing cases to go to trial rather than settling. However, to the extent that more cases go to trial, and assuming that additional cases going to trial result in a find of no negligence, the fiscal implication to the state is not anticipated to be significant.

This estimate does not include possible savings to the state resulting from possible decreases in the rates paid by physicians and hospitals for medical malpractice insurance. This could, in turn, have a positive impact on slowing the growth in health insurance costs paid by the state. The Employees

Retirement System states that this impact cannot be estimated. A reduction in medical malpractice insurance could also have a positive fiscal impact on state-operated medical institutions, but possible savings to the state have not been included in this estimate.

The Comptroller of Public Accounts indicates that to the extent the bill proved effective in reducing health care liability insurance and health care insurance premium rates, it would exert downward pressure on premium tax collections, but to the extent that the bill proved equally effective in promoting insurance accessibility, affordability, and availability, it would induce aggregate premium and premium tax revenue growth. It is assumed the net effect on insurance premium taxes would be revenue neutral.

The bill would take effect September 1, 2003, except for Article 17, which would take effect immediately if it receives a vote of two-thirds of the members in each house, or on September 1, 2003, if two-thirds votes are not received.

### **Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 201 Supreme Court of Texas, 212 Office of Court Administration, Texas Judicial Council, 223 Third Court of Appeals District, Austin, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 312 Securities Board, 324 Department of Human Services, 327 Employees Retirement System, 360 State Office of Administrative Hearings, 451 Department of Banking, 454 Department of Insurance, 503 Board of Medical Examiners, 507 Board of Nurse Examiners, 529 Health and Human Services Commission, 720 The University of Texas System Administration, 739 Texas Tech University Health Sciences Center, 763 University of North Texas Health Science Center at Fort Worth

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