

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

**April 21, 2009**

**TO:** Honorable Todd Hunter, Chair, House Committee on Judiciary & Civil Jurisprudence

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB2719** by Howard, Donna (Relating to a limited waiver of sovereign immunity for state and local governmental entities in certain employment lawsuits filed by nurses.), **As Introduced**

<b>No significant fiscal implication to the State is anticipated.</b>
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The bill would waive the state's or a local governmental entity's sovereign immunity from suit and liability when a nurse employed by a hospital operated by or on behalf of the state or local governmental entity alleges a retaliatory employment action for either 1) reporting violations of the Nursing Practice Act and patient care concerns or 2) requesting in good faith, a nursing peer review determination.

The bill would allow the nurse to maintain a lawsuit in state court to obtain certain relief, including recovery of the greater of actual damages or \$5,000, exemplary damages, court costs, and attorney's fees, reinstatement or limited severance pay and compensation for wages lost during the period of suspension or termination, and relief provided by the Whistleblower Act, and any other remedies they may have under state or federal law as a public employee.

The state does operate hospitals that would be subject to the bill, including the University of Texas Medical Branch at Galveston and state hospitals under the Department of State Health Services. To the extent that nurses employed by a state operated hospital would be wrongfully terminated on grounds that would be protected by the bill, the state could be subject to court action and found liable for court judgments made against the state for that action. It is assumed that the costs of any potential litigation would not be significant and could be absorbed within existing resources. The cost relating to any court judgment the state would be liable for cannot be estimated.

**Local Government Impact**

The fiscal impact to local governmental entities that own and operate hospitals could be significant depending on the number of lawsuits filed by nurses claiming retaliation for a protected activity.

**Source Agencies:** 302 Office of the Attorney General, 507 Texas Board of Nursing, 537 State Health Services, Department of, 539 Aging and Disability Services, Department of, 696 Department of Criminal Justice, 710 Texas A&M University System Administrative and General Offices, 720 The University of Texas System Administration

**LBB Staff:** JOB, MN, LR, JJ, TP