

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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Representative Murman offered the following:

Amendment (with title amendment)

Between lines 2510 and 2511, and insert:

Section 55. (1) The Legislature finds that access to quality, affordable health care for all Floridians is a necessary goal for this state and that public teaching hospitals play an essential role in providing access to comprehensive health care services. The Legislature finds that access to quality health care at public teaching hospitals is enhanced when public teaching hospitals affiliate and coordinate their common endeavors with medical schools. These affiliations have proved to be an integral part of the delivery of more efficient and economical health care services to patients of teaching hospitals by offering quality graduate medical education programs to resident physicians who provide patient services at public teaching hospitals and clinics owned by such hospitals.

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28 These affiliations ensure continued access to quality
29 comprehensive health care services for Floridians and,
30 therefore, should be encouraged in order to maintain and expand
31 such services. The Legislature finds that when teaching
32 hospitals affiliate or enter into contracts with medical schools
33 to provide comprehensive health care services to patients of
34 teaching hospitals, public teaching hospitals greatly increase
35 their exposure to claims arising out of alleged medical
36 malpractice and other allegedly negligent acts because some
37 public teaching hospital employees and agents do not have the
38 same level of protection against liability claims as colleges
39 and universities with medical schools and their employees
40 providing the same patient services to the same public teaching
41 hospital patients. The Legislature finds that the high cost of
42 litigation, unequal liability exposure, and increased medical
43 malpractice insurance premiums have adversely impacted the
44 ability of some public teaching hospitals to permit their
45 employees to provide patient services to patients of public
46 teaching hospitals. This finding is consistent with the report
47 issued in April 2002 by the American Medical Association
48 declaring Florida to be one of 12 states in the midst of a
49 medical liability insurance crisis. The crisis in the
50 availability and affordability of medical malpractice insurance
51 is a contributing factor in the reduction of access to quality
52 health care in this state and has declined significantly. If no
53 corrective action is taken, this health care crisis will lead to
54 a continued reduction of patient services in public teaching
55 hospitals. The Legislature finds that the state's 6 public
56 teaching hospitals provide 70 percent of the state's graduate

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57 medical education as reported in the 2001-2002 Report on
58 Graduate Medical Education in Florida: Findings and
59 Recommendations and that the public teaching hospitals ensure
60 the state's future medical manpower. The Legislature finds that
61 the public is better served and will benefit from corrective
62 action to address the foregoing concerns. It is imperative that
63 the Legislature further the public benefit by conferring
64 sovereign immunity upon public teaching hospitals and their
65 employees and agents when public teaching hospitals elect to be
66 agents of the Department of Health as providers of the state's
67 graduate medical education. It is also the intent of the
68 Legislature that employees of public teaching hospitals
69 providing patient services to patients of a public teaching
70 hospital be immune from lawsuits in the same manner and to the
71 same extent as employees and agents of the state, its agencies,
72 and political subdivisions, and further, that they shall not be
73 held personally liable in tort or named as a party defendant in
74 an action while performing patient services except as provided
75 in s. 768.28(9)(a).

76 Section 56. Paragraph (b) of subsection (9) of section
77 768.28, Florida Statutes, is amended to read:

78 768.28 Waiver of sovereign immunity in tort actions;
79 recovery limits; limitation on attorney fees; statute of
80 limitations; exclusions; indemnification; risk management
81 programs.--

82 (9)

83 (b) As used in this subsection, the term:

84 1. "Employee" includes any volunteer firefighter.

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85 2. "Officer, employee, or agent" includes, but is not
86 limited to:

87 a. Any receiving facility designated under chapter 394 and
88 any persons operating as employees or agents of the receiving
89 facility when providing emergency treatment to a person who
90 presented himself or herself for examination and treatment in
91 accordance with chapter 394.

92 b. Any health care provider when providing services
93 pursuant to s. 766.1115, any member of the Florida Health
94 Services Corps, as defined in s. 381.0302, who provides
95 uncompensated care to medically indigent persons referred by the
96 Department of Health, and any public defender or her or his
97 employee or agent, including, among others, an assistant public
98 defender and an investigator.

99 c. Any public teaching hospital, as defined in s. 408.07,
100 and any employee or agent of a public teaching hospital who
101 provides patient services to patients at such facility or at a
102 clinic or other facility owned and operated by the public
103 teaching hospital, that elects to be considered as an agent of
104 the Department of Health and indemnifies the state for the
105 reasonable costs of defense and indemnity payments, if any, up
106 to the liability limits set forth in this chapter.

107
108 ===== T I T L E A M E N D M E N T =====

109 Remove line 215, and insert:

110 1, 2004; providing legislative findings and intent; amending s.
111 768.28, F.S.; revising the definition of the term "officer,
112 employee, or agent" to include certain receiving facilities and
113 employees or agents of such facilities and certain public

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114 teaching hospitals for purposes of limitation of liability in
115 tort under certain circumstances; providing severability;
116 providing for
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