

Regular Session, 2011

HOUSE BILL NO. 341

BY REPRESENTATIVE HAZEL

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

FUNDS/FUNDING: (Constitutional Amendment) Provides for assets and property of the Patient's Compensation Fund

1 A JOINT RESOLUTION

2 Proposing to add Article XII, Section 16 of the Constitution of Louisiana, relative to the
3 Patient's Compensation Fund; to authorize the legislature to create a private custodial
4 fund; to provide relative to the assets and property of the fund; to provide for
5 exemption from a guaranty fund; to provide for the payment of legal obligations; to
6 provide for submission of the proposed amendment to the electors; and to provide
7 for related matters.

8 Section 1. Be it resolved by the Legislature of Louisiana, two-thirds of the members
9 elected to each house concurring, that there shall be submitted to the electors of the state of
10 Louisiana, for their approval or rejection in the manner provided by law, a proposal to add
11 Article XII, Section 16 of the Constitution of Louisiana, to read as follows:

12 §16. Patient's Compensation Fund

13 Section 16.(A) Authorization. Notwithstanding any other provision of this
14 constitution to the contrary, the legislature may establish a private custodial fund to
15 be designated the "Patient's Compensation Fund". Any deposits into a fund
16 established pursuant to this Section are not public monies, but are self-generated,
17 private monies to be held in trust by a board created by the legislature for the use,
18 benefit, and protection of medical malpractice claimants and the private health care
19 provider members. Pursuant to Article VII, Section 10(J) of this constitution, such
20 funds shall not be defined as state general funds or dedicated funds required for
21 deposit in the state treasury.

1 (B) Patient's Compensation Fund assets. The assets of a fund, when
2 established pursuant to this Section, shall not be state property, shall not be subject
3 to appropriation by the legislature, and shall not be required for deposit in the state
4 treasury pursuant to Article VII, Section 9(A) of this constitution. Assets of such a
5 fund shall consist of all surcharges collected from health care provider members and
6 filing fees collected from claimants, all reserves to pay future claims, all interest
7 earned upon any monies invested by the board, any securities acquired through the
8 investment of fund monies, all earnings on such securities, and all other monies and
9 assets deposited into the fund.

10 (C) Guaranty fund. Any such fund created pursuant to this Section shall be
11 exempt from participation in and shall not join or contribute financially to or be
12 entitled to the protection of any plan, pool, association, or guaranty fund or
13 insolvency fund.

14 (D) Full faith and credit. No fund nor board that may be created pursuant
15 to this Section may rely on the full faith and credit of this state for the payment of
16 legal obligations.

17 (E) State general funds. Any such fund or board created pursuant to this
18 Section shall not be entitled to an appropriation of state general funds without a
19 specific appropriation approved by the legislature.

20 Section 2. Be it further resolved that this proposed amendment shall be submitted
21 to the electors of the state of Louisiana at the statewide election to be held on October 22,
22 2011.

23 Section 3. Be it further resolved that on the official ballot to be used at said election
24 there shall be printed a proposition, upon which the electors of the state shall be permitted
25 to vote FOR or AGAINST, to amend the Constitution of Louisiana, which proposition shall
26 read as follows:

27 To authorize the legislature to establish a private custodial fund, designated
28 as the Patient's Compensation Fund, for the use, benefit, and protection of
29 medical malpractice claimants and private health care provider members; to

1 provide that assets of the fund shall not be state property. (Adds Article XII,
2 Section 16)

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Hazel

HB No. 341

Abstract: Creates the Patient's Compensation Fund as a private custodial fund whose monies shall not be state property.

Present law (R.S. 40:1299.44) establishes the Patient's Compensation Oversight Board and the Patient's Compensation Fund. Present law provides that all funds collected are self-generated revenues and shall not be a budget unit of the state. Provides that the state recognizes and acknowledges that the fund and any income are not public monies, but are private and shall be held in trust by the board.

Proposed law retains present law and constitutionally authorizes the legislature to establish the Patient's Compensation Fund as a private custodial fund in which any income from it is not public money, shall not be state property, and shall not be subject to appropriation by the legislature.

Proposed law provides that assets in the fund, including surcharges, reserves, interest earned, and securities, are not state property and are not for deposit in the state treasury.

Proposed law provides that such fund shall be exempt from any protection of any guaranty fund or insolvency fund.

Proposed law provides that such fund may not rely on the full faith and credit of the state for the payment of legal obligations.

Provides for submission of the proposed amendment to the voters at the statewide election to be held Oct. 22, 2011.

(Adds Const. Art. XII, §16)