

Regular Session, 2011

ACT No. 421

HOUSE BILL NO. 341

BY REPRESENTATIVE HAZEL

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

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A JOINT RESOLUTION

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

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

§16. Patient's Compensation Fund

Section 16.(A) Authorization. Notwithstanding any other provision of this constitution to the contrary, the legislature may establish a private custodial fund to be designated the "Patient's Compensation Fund". Any deposits into a fund established pursuant to this Section are not public monies, but are self-generated, private monies to be held in trust by a board created by the legislature for the use, benefit, and protection of medical malpractice claimants and the private health care provider members. Pursuant to Article VII, Section 10(J) of this constitution, such

1 funds shall not be defined as state general funds or dedicated funds required for
 2 deposit in the state treasury.

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

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

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

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

22 Section 2. Be it further resolved that this proposed amendment shall be submitted
 23 to the electors of the state of Louisiana at the statewide election to be held on October 22,
 24 2011.

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

1 To authorize the legislature to establish a private custodial fund, designated
2 as the Patient's Compensation Fund, for the use, benefit, and protection of
3 medical malpractice claimants and private health care provider members; to
4 provide that assets of the fund shall not be state property. (Adds Article XII,
5 Section 16)

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE