Regular Session, 2011

HOUSE BILL NO. 287

BY REPRESENTATIVE HAZEL

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

MALPRACTICE/MEDICAL: Provides for the classification of monies in the Patient's Compensation Fund

AN ACT

To amend and reenact R.S. 40:1299.44(A)(1), relative to the Patient's Compensation Fund; to provide for a private custodial fund; to provide for the classification of assets; to exempt participation in certain funds; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 40:1299.44(A)(1) is hereby amended and reenacted to read as follows:

§1299.44. Patient's Compensation Fund

A.(1)(a) All funds collected pursuant to the provisions hereof shall be considered self-generated revenues, promptly deposited by the Patient's Compensation Fund Oversight Board into a fund designated as the "Patient's Compensation Fund". The Patient's Compensation Fund Oversight Board is established and authorized pursuant to Subsection D of this Section. Neither the fund nor the board shall be a budget unit of the state. <u>The assets of the fund shall not be state property, subject to appropriation by the legislature, or required to be deposited in the state treasury.</u> The state recognizes and acknowledges that the fund and any income from it are not public monies, but rather are private monies which shall be held in trust as a <u>private</u> custodial fund by the board for the use, benefit, and protection of medical malpractice claimants and the fund's private health care provider members, and all of such funds and income earned from investing the

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private monies comprising the corpus of this fund shall be subject to use and disposition only as provided by this Section.

(b) The Patient's Compensation Fund Oversight Board may enter into a cooperative endeavor agreement whereby the state treasurer shall be authorized to invest a portion of the private monies comprising the corpus of the fund, as determined by the board, in the same manner and in accordance with the law governing the investment of funds of the state, or develop and adopt an investment policy which complies with R.S. 49:327(B)(5). Income from investments under the authority of this Subsection shall be credited to the fund.

(c) The fund shall be exempt from participation in and shall not join or contribute financially to or be entitled to the protection of any plan, pool, association, or guaranty fund or insolvency fund.

(d) Neither the fund nor the board may rely on the full faith and credit of this state for payment of legal obligations.

(e) The fund and the board shall not be entitled to an appropriation of state general funds without a specific appropriation approved by the legislature.

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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. 287

Abstract: Provides that the Patient's Compensation Fund is a private custodial fund, not state property.

Present law provides that certain funds collected in accordance with the Medical Malpractice Act shall be considered self-generated revenues and deposited into the Patient's Compensation Fund which shall not be a budget unit of the state.

Proposed law retains present law and additionally provides that the assets of the fund shall not be state property, shall not be subject to appropriation by the legislature, nor required to be deposited in the state treasury.

Proposed law provides that the fund shall be exempt from participation in or protection from any guaranty fund or insolvency fund.

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

Proposed law provides that the fund and the board shall not be entitled to appropriations of state general funds without a specific appropriation approved by the legislature.

(Amends R.S. 40:1299.44(A)(1))

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Appropriations to the original bill.

1. Further clarified that the assets of the fund shall not be required to be deposited in the state treasury.

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