

Regular Session, 2010

HOUSE BILL NO. 1286

BY REPRESENTATIVE LIGI

GOVERNMENT ORGANIZATION: Provides relative to the organization and budget of the Patient's Compensation Fund and the Patient's Compensation Fund Oversight Board

1 AN ACT

2 To amend and reenact R.S. 36:4(B)(1)(dd), 801.1(A), and 802.3 and R.S. 40:1299.44(A)(1)
3 and (5)(d), (e), and (f) and (D)(1)(a), relative to the Patient's Compensation Fund and
4 the Patient's Compensation Fund Oversight Board; to provide for the organization
5 of the executive branch of government; to provide for the deposit and investment of
6 the Patient's Compensation Fund; to provide that the Patient's Compensation Fund
7 and the Patient's Compensation Fund Oversight Board shall not be budget units of
8 the state; to provide for the submission of an annual budget to certain legislative
9 committees; to provide for an effective date; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 36:4(B)(1)(dd), 801.1(A), and 802.3 are hereby amended and
12 reenacted to read as follows:

13 §4. Structure of executive branch of state government

14 * * *

15 B.

16 * * *

17 (1)

18 * * *

1 (dd) The Patient's Compensation Fund Oversight Board (~~R.S. 40:1299.44~~),
 2 as established by R.S. 40:1299.44, shall be placed in the office of the governor,
 3 division of administration, shall perform and exercise its powers, duties, functions,
 4 and responsibilities as provided in ~~R.S. 36:802.3(B)~~ R.S. 36:801.1, and shall
 5 continue to appoint its executive director and other personnel as provided by law.

6 * * *

7 §801.1. Transfer; retention of all functions

8 A. The agencies transferred by the provisions of R.S. 36:4(B)(1)(dd) and
 9 (D), 4.1(C) and (G), 53(H), 209(R), 259(J), 409(N), 509(O), 651(D), 725(A), and
 10 769(J) shall continue to be comprised and selected as provided by law.

11 * * *

12 §802.3. Transfer; certain appointing authority retained

13 ~~A.~~ The agencies transferred by the provisions of R.S. 36:209(M) and 629(C)
 14 shall be transferred as provided in R.S. 36:802, except that each of the agencies so
 15 transferred shall continue to appoint its own director and assistant director or
 16 personnel to fill comparable positions as authorized by law.

17 ~~B.~~ ~~The agency placed in the division of administration by the provisions of~~
 18 ~~R.S. 36:4(B)(1)(dd) shall be transferred as provided in R.S. 36:802, except that it~~
 19 ~~shall continue to appoint its executive director and other personnel as authorized by~~
 20 ~~law.~~

21 Section 2. R.S. 40:1299.44(A)(1) and (5)(d), (e), and (f) and (D)(1)(a) are hereby
 22 amended and reenacted to read as follows:

23 §1299.44. Patient's Compensation Fund

24 A.(1)(a) ~~Subject to the exceptions contained in Article VII, Section 9(A) of~~
 25 ~~the Constitution of Louisiana, all~~ All funds collected pursuant to the provisions
 26 hereof shall be paid into the state treasury and shall be credited to the Bond Security
 27 and Redemption Fund. ~~Out of the funds remaining in the Bond Security and~~
 28 ~~Redemption Fund after a sufficient allocation is allocated from that fund to pay all~~
 29 ~~obligations secured by the full faith and credit of the state due and payable within~~

1 any fiscal year, the treasurer shall, prior to placing such remaining funds in the state
 2 general fund, pay into a special fund, which is hereby created in the state treasury
 3 and designated as the "Patient's Compensation Fund", in an amount equal to the total
 4 amount of funds paid into the treasury as a result of the voluntary collections from
 5 private health care providers provided for hereunder. considered self-generated
 6 revenues, promptly deposited by the Patient's Compensation Fund Oversight Board
 7 into a fund designated as the "Patient's Compensation Fund". The Patient's
 8 Compensation Fund Oversight Board is established and authorized pursuant to
 9 Subsection D of this Section. Neither the fund nor the board shall be a budget unit
 10 of the state. The state recognizes and acknowledges that the fund and any income
 11 from it are not public monies, but rather are private monies which shall be held in
 12 trust as a custodial fund by the state board for the use, benefit, and protection of
 13 medical malpractice claimants and the fund's private health care provider members,
 14 and all of such funds and income earned from investing the private monies
 15 comprising the corpus of this fund shall be subject to use and disposition only as
 16 provided by this Section.

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

24 * * *

25 (5)

26 * * *

27 (d) These expenses of the board and office of the clerk of the Louisiana
 28 Supreme Court shall be paid from the fund ~~by the state treasurer~~ in accordance with
 29 the law.

1 (e) ~~The fund shall be a budget unit of this state.~~

2 (f) ~~The legislature shall appropriate from the fund sufficient monies for the~~
3 ~~carrying out by the board and office of the clerk of the Louisiana Supreme Court of~~
4 ~~the duties, functions, and responsibilities imposed upon them in this Section and~~
5 ~~shall also appropriate all remaining monies in the fund for use by the board to pay~~
6 ~~approved claims based upon final judgments, court-approved settlements, final~~
7 ~~arbitration awards, and judgments awarding medical care and related benefits~~
8 ~~rendered pursuant to R.S. 40:1299.43 and vouchers drawn by the board pursuant to~~
9 ~~a judgment reciting that a patient is in need of future medical and related benefits~~
10 ~~under the provisions of R.S. 40:1299.43 in accordance with Paragraph (7) of this~~
11 ~~Subsection and in accordance with Subsection B of this Section. Not later than the~~
12 ~~first day of January each year, the board shall submit a copy of its proposed budget~~
13 ~~for the ensuing fiscal year to the Joint Legislative Committee on the Budget, the~~
14 ~~House Committee on Civil Law and Procedure, the Senate Committee on Judiciary~~
15 ~~A, the legislative auditor, and the legislative fiscal office. The format of the budget~~
16 ~~submission shall be as follows:~~

17 (i) A budget message signed by the budget preparer which shall include a
18 summary description of the proposed financial plan, policies, and objectives and
19 assumptions.

20 (ii) Narrative explanations describing the purpose and functions of the
21 Patient's Compensation Fund.

22 (iii) Statements for the last completed fiscal year, estimates covering the
23 entire current fiscal year, and projections for the ensuing fiscal year, as follows:

24 (aa) A statement showing fund balances of the Patient's Compensation Fund
25 at the beginning of each year and at the conclusion of each fiscal year.

26 (bb) A statement of revenues and receipts, itemized by source.

27 (cc) Detailed comparative statements of expenditures itemized by source of
28 funds and expenditure category by each major function, program, or service.

funds paid into the treasury as a result of the voluntary collections from private health care providers as provided for in present law.

Proposed law deletes present law and provides that all funds collected shall be considered self-generated revenues and shall be deposited by the board into the "Patient's Compensation Fund". Proposed law further provides that neither the fund nor the board shall be a budget unit of the state.

Present law provides that the fund and any income from it are private monies held in trust as a custodial fund by the state.

Proposed law changes the entity which will hold the private monies in trust as a custodial fund from the state to the board.

Proposed law provides that the board may enter into a cooperative endeavor agreement with the state treasurer to invest a portion of the private monies comprising the corpus of the fund, as determined by the Patient's Compensation Fund Oversight Board, in the same manner and in accordance with the law governing the investment of funds of the state, or develop an investment policy which prudently manages public funds, places emphasis on the safety of the investment, and establishes controls on investment risks.

Present law provides that expenses of the board and office of the clerk of the La. Supreme Court shall be paid from the fund by the state treasurer in accordance with the present law.

Proposed law retains present law, but deletes the state treasurer as the entity which will pay expenses from the fund.

Present law provides that the fund shall be a budget unit of this state.

Proposed law deletes present law.

Present law provides that the legislature shall appropriate from the fund sufficient monies for the carrying out by the board and office of the clerk of the La. Supreme Court of the duties, functions, and responsibilities imposed upon them in present law and shall also appropriate all remaining monies in the fund for use by the board to pay approved claims based upon final judgments, court-approved settlements, final arbitration awards, and judgments awarding medical care and related benefits and vouchers drawn by the board pursuant to certain judgments.

Proposed law deletes present law and provides that not later than the Jan. 1 of each year, the board shall submit a copy of its proposed budget for the ensuing fiscal year to the Joint Legislative Committee on the Budget, the House Committee on Civil Law and Procedure, the Senate Committee on Judiciary A, the legislative auditor, and the legislative fiscal office. The format of the budget submission shall be:

- (1) A budget message signed by the budget preparer which shall include a summary description of the proposed financial plan, policies, and objectives and assumptions.
- (2) Narrative explanations describing the purpose and functions of the Patient's Compensation Fund.
- (3) Statements for the last completed fiscal year, estimates covering the entire current fiscal year, and projections for the ensuing fiscal year, as follows:
 - (a) A statement showing fund balances of the Patient's Compensation Fund at the beginning of each year and at the conclusion of each fiscal year.
 - (b) A statement of revenues and receipts, itemized by source.

- (c) Detailed comparative statements of expenditures itemized by source of funds and expenditure category by each major function, program, or service.
- (d) Clearly defined indicators of the quantity and quality of performance of agency functions.
- (e) Participation of agency personnel and board members in state employee benefit programs, including insurance and retirement programs.

Effective July 1, 2010.

(Amends R.S. 36:4(B)(1)(dd), 801.1(A) and 802.3 and R.S. 40:1299.44(A)(1) and (5)(d), (e), and (f) and (D)(1)(a))

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Civil Law and Procedure to the original bill.

1. Deleted provisions placing the Patient's Compensation Oversight Board within the office of the governor, and added provisions placing the board in the division of administration.
2. Deleted provisions authorizing the commissioner of insurance to determine the surcharge of the board.