

Regular Session, 2013

HOUSE BILL NO. 532

BY REPRESENTATIVES KLECKLEY AND LEGER

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

FUNDS/FUNDING: (Constitutional Amendment) Provides for a hospital stabilization formula and assessment and creates the Hospital Stabilization Fund and provides for uses of the fund

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A JOINT RESOLUTION

Proposing to add Article VII, Section 10.13 of the Constitution of Louisiana, to provide relative to health care funding; to provide for a hospital stabilization formula; to provide for a hospital assessment; to create the Hospital Stabilization Fund as a treasury fund; to provide for deposit, use, and investment of the fund; 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 VII, Section 10.13 of the Constitution of Louisiana, to read as follows:

§10.13. Hospital stabilization formula and assessment; Hospital Stabilization Fund
(A) Hospital Stabilization Formula. (1) The legislature may annually adopt a Hospital Stabilization Formula, hereafter referred to in this Section as "the formula", by concurrent resolution by a favorable vote of a majority of the elected members of each house. Such resolution shall be referred to the standing committees of the Legislature that receive the general appropriation bill. The formula shall, to the maximum extent possible enhance the economic viability of Louisiana hospitals

1 and reduce shifting the cost of caring for Louisiana's needy residents to the state's
2 insured residents.

3 (2)(a) The first formula established pursuant to Subparagraph (1) of this
4 Paragraph, which shall require a favorable vote of two-thirds of the elected members
5 of each house for adoption, shall define and establish as the base rate the payment
6 levels under the Louisiana medical assistance program provided for in Title XIX of
7 the Social Security Act, hereafter referred to as the "Medicaid Program", to hospitals
8 for inpatient and outpatient services in Fiscal Year 2012-2013. The formula shall
9 also provide for the preservation and protection of rural hospitals as provided for by
10 law. Each formula established thereafter shall apply a rate of inflation, which shall
11 not be a negative rate, to the base rate from the previous formula adopted by the
12 legislature.

13 (b) Each formula shall also include and establish assessments to be paid by
14 hospitals, and the basis on which such assessments shall be calculated, provided the
15 amount of the assessments does not exceed the nonfederal share of the rate
16 enhancements.

17 (c) Each formula shall also establish reimbursement rate enhancements
18 under the Medicaid Program, or its successor achieving the maximum rates allowed
19 for such payment by federal law, and which results in distributing such rate
20 enhancements exclusively among hospitals for hospital services. Rate enhancements
21 may also be distributed for uninsured services delivered.

22 (d) Each formula shall also include any additional provisions necessary to
23 the implementation of the formula.

24 (3) The base rate resulting from the formula shall not be paid from the
25 Hospital Stabilization Fund.

26 (4) The treasurer shall return any assessment to the hospital from which it
27 was collected, and no further assessment shall be collected from any hospital, in a
28 fiscal year in which any of the following occur:

29 (a) The legislature fails to adopt a formula.

1 **(b) The Department of Health and Hospitals, or its successor or contractors,**
2 **reduces or does not pay rate enhancements established in the current formula as**
3 **adopted by the legislature.**

4 **(c) The appropriations provided for in Subparagraph (B)(2) of this Section**
5 **are reduced.**

6 **(B) Appropriation. (1) The legislature shall annually appropriate an amount**
7 **necessary to fund the base rate for hospitals established in the most recent formula**
8 **adopted by the legislature.**

9 **(2) The legislature shall annually appropriate the balance of the Hospital**
10 **Stabilization Fund solely to fund the rate enhancements as provided in the most**
11 **recent formula adopted by the legislature.**

12 **(3) Notwithstanding Article VII, Section 10(F) of this constitution, neither**
13 **the governor nor the legislature may reduce the appropriation funding the base rate**
14 **or the rate enhancements to satisfy a budget deficit, except the governor may reduce**
15 **the appropriation to the base rate if the following occur:**

16 **(a) Such reduction is consented to in writing by two-thirds of the elected**
17 **members of each house in a manner provided by law; and**

18 **(b) Such reduction does not exceed the average reduction of those made to**
19 **the appropriations for other providers under the Medicaid Program, or its successor.**

20 **(C) Hospital Stabilization Fund. There is hereby established as a special**
21 **fund in the state treasury the Hospital Stabilization Fund, hereafter referred to as "the**
22 **fund". After compliance with the requirements of Article VII, Section 9(B) of this**
23 **constitution relative to the Bond Security and Redemption Fund, the treasurer shall**
24 **deposit all proceeds from the assessment collected pursuant to the Hospital**
25 **Stabilization Formula provided for in this Section. The monies in the fund shall be**
26 **invested in the same manner as monies in the state general fund and all interest**
27 **earned on the investment of the fund shall be deposited in and credited to the fund.**
28 **Appropriations from the fund shall be restricted to funding the rate enhancements**
29 **established in the Hospital Stabilization Formula adopted by the legislature for the**

1 fiscal year in which the assessment is collected. Any amounts remaining in the fund
2 at the end of a fiscal year shall be refunded to the participating hospitals in
3 proportion to the assessments paid.

4 Section 2. Be it further resolved that this proposed amendment shall be submitted
5 to the electors of the state of Louisiana at the statewide election to be held on November 4,
6 2014.

7 Section 3. Be it further resolved that on the official ballot to be used at the election,
8 there shall be printed a proposition, upon which the electors of the state shall be permitted
9 to vote YES or NO, to amend the Constitution of Louisiana, which proposition shall read as
10 follows:

11 Do you support an amendment to authorize the legislature to establish a
12 formula to calculate payments made to hospitals for Medicaid
13 reimbursement of health care services; by creating the Hospital Stabilization
14 Fund; and by depositing assessments paid by hospitals into the fund to
15 support the enhancement of Louisiana hospital reimbursement? (Adds Article
16 VII, Section 10.13)

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)]

Kleckley

HB No. 532

Abstract: Provides for the legislature to establish a formula for funding hospitals by establishing rate increases for hospitals; by establishing an assessment on hospitals; by creating the Hospital Stabilization Fund to deposit assessments, and using the monies in the fund for rate enhancements.

Proposed constitutional amendment provides for an annual Hospital Stabilization Formula by concurrent resolution by a favorable vote of 2/3 of the elected members of each house in the first resolution. The resolution requires a favorable vote of a majority of the elected members of each house in subsequent years. Further, the resolution shall be referred to the standing committees of the legislature that receive the general appropriation bill. The formula provided for in the resolution includes:

- (1) A base rate that is the payment levels under the Medicaid Program to hospitals for inpatient and outpatient services in FY 2012-2013 in the first year and each subsequent formula applies a rate of inflation to the base rate from the previous fiscal year.

- (2) Assessments to be paid by La. hospitals, provided the amount of the assessment does not exceed the nonfederal share of the rate enhancement.
- (3) Reimbursement rate enhancements for those hospitals subject to an assessment provided for in the formula.
- (4) Any additional provisions necessary to the implementation of the formula.

Proposed constitutional amendment provides that the base rate shall not be paid from the Hospital Stabilization Fund.

Proposed constitutional amendment provides that no assessments shall be collected from any hospital in a fiscal year in which any of the following occur:

- (1) The legislature fails to adopt a formula.
- (2) The Department of Health and Hospitals reduces or does not pay rate enhancements established in the current formula.
- (3) The appropriations provided for in proposed constitutional amendment are reduced.

Proposed constitutional amendment provides for annual appropriation of an amount necessary to fund the base rate for hospitals and appropriate the balance of the Hospital Stabilization Fund created in the proposed constitutional amendment for rate enhancements.

Proposed constitutional amendment provides for reductions to the appropriations if the reduction is consented to in writing by 2/3 of the elected members of each house in a manner provided by law and does not exceed the average reduction of those made to the appropriations for other providers under the Medicaid Program.

Proposed constitutional amendment creates the Hospital Stabilization Fund and provides appropriations only for funding the rate enhancement established in the Hospital Stabilization Formula for the fiscal year in which the assessment is collected. Any amounts remaining in the fund at the end of a fiscal year shall be refunded to the participating hospitals in proportion to the assessments paid.

Provides for submission of the proposed amendment to the voters at the statewide election to be held Nov. 4, 2014.

(Adds Const. Art. VII, §10.13)

Summary of Amendments Adopted by House

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

1. Changed the vote necessary for approval of the resolution establishing the formula ~~from~~ two-thirds of elected members to a majority, except the resolution for the first formula which shall require a favorable vote of 2/3 of the elected members of each house.
2. Required the resolution providing for the formula be referred to the standing committees of the legislature that receive the general appropriation bill.
3. Added that the formula provide for the preservation and protection of rural hospitals as provided for by law.

4. Clarified that rate enhancements established in the formula will be distributed among hospitals for hospital services and deletes the provision that the rate enhancements will be distributed in proportion to the Medicaid services delivered.