

(KEYWORD, SUMMARY, AND DIGEST as amended by Senate committee amendments)

**MALPRACTICE/MEDICAL. Provides relative to the ability of the Patient's Compensation Fund Oversight Board to invest certain funds and provides relative to liquidation or dissolution of the Patient's Compensation Fund.**

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DIGEST

Present law (Const. Art. XII, § 16) authorizes the establishment of the Patient's Compensation Fund to hold private monies in trust for the use, benefit, and protection of medical malpractice claimants and private health care provider members.

Present law establishes the Patient's Compensation Fund Oversight Board to manage, administer, operate, and defend the Patient's Compensation Fund.

Present law authorizes the board to invest private monies making up the body of the fund if the private monies are not needed to pay one and one-half times the amount of budgeted expenditures for that fiscal year.

Proposed law changes present law by deleting the limitation that the board may only invest the private monies that exceed the amount of one and one-half times the budgeted expenditures. Proposed law authorizes the board to invest any portion of private monies making up the body of the fund as long as the board is able to maintain timely payment of claims, future medical care and related benefits, and other expenses.

Present law creates the Residual Malpractice Insurance Authority to make available medical malpractice insurance to health care providers who have been refused coverage by private insurers and establishes rules for administration of the authority.

Present law directs the authority to place the surplus of premiums over losses and expenses into a segregated fund and directs the risk manager, with concurrence by the Patient's Compensation Oversight Board, to invest and reinvest those funds.

Proposed law changes present law by authorizing the board to invest and reinvest those funds.

Present law provides that neither the Patient's Compensation Fund nor the Patient's Compensation Oversight Board shall be a budget unit of the state. 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. Further provides that 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 private 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 private monies comprising the corpus of this fund shall be subject to use and disposition only as provided by the present law.

Proposed law adds that, notwithstanding any provision of law to the contrary, in the event the fund is dissolved or liquidated, any remaining balance after all amounts due to medical malpractice claimants, including future medical care and related benefits as provided in R.S. 40:1299.43, and all amounts due any other person for administrative or operating expenses have been paid from the fund, shall be paid over to the state general fund by the board or then administrator of the fund for deposit in the state treasury. Further adds that such proposed law shall be given retroactive application.

(Amends R.S. 40:1299.44(A)(1)(b) and 1299.46(H); adds R.S. 40:1299.44(A)(1)(f))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary A to the engrossed bill

1. Added language relative to dissolution or liquidation of fund and deposit of remaining balance in state treasury, and retroactive application of such language.