

2020 First Extraordinary Session

SENATE BILL NO. 12

BY SENATOR FESI

UNCLAIMED PROPERTY. Constitutional amendment to dedicate unclaimed property funds and to create the Louisiana Unclaimed Property Permanent Trust Fund.
(2/3 - CA13s1(A)) (Item #10) (7/1/21)

1 A JOINT RESOLUTION

2 Proposing to add Article VII, Section 10(F)(4)(i) and Part V of Article VII, to be comprised
3 of Section 28, of the Constitution of Louisiana, relative to unclaimed property funds;
4 to provide for the creation of a special trust fund; to provide for the dedication and
5 credit of unclaimed property monies; to provide for the investment, administration,
6 and use of the monies in the special trust fund; to exempt the monies in the fund
7 from reduction in certain circumstances; to provide for certain reporting
8 requirements; to provide for appropriation of monies in the special fund; to provide
9 for an effective date; and to specify an election for submission of the proposition to
10 electors and provide a ballot proposition.

11 Section 1. Be it resolved by the Legislature of Louisiana, two-thirds of the members
12 elected to each house concurring, that there shall be submitted to the electors of the state, for
13 their approval or rejection in the manner provided by law, a proposal to add Article VII,
14 Section 10(F)(4)(i) and Part V of Article VII, comprised of Section 28, of the Constitution
15 of Louisiana, to read as follows:

16 §10. Expenditure of State Funds

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(4) The provisions of Subparagraphs (1) and (2) of this Paragraph shall not be applicable to, nor affect:

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(i) The Louisiana Unclaimed Property Permanent Trust Fund, as provided in Article VII, Section 28 of this constitution.

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PART V. UNCLAIMED PROPERTY

§28. Louisiana Unclaimed Property Permanent Trust Fund

Section 28.(A) Creation of Fund. (1) Effective July 1, 2021, there shall be established in the state treasury as a special permanent trust fund, the Louisiana Unclaimed Property Permanent Trust Fund, referred to as the "UCP Permanent Trust Fund". No appropriation shall be made from the UCP Permanent Trust Fund.

(2) The purpose of the UCP Permanent Trust Fund is to ensure a source of payment for claims made by owners of unclaimed property. The monies in the fund are exempted from the requirements of Article VII, Section 9(B) of this constitution requiring the allocation of money received by the state to the Bond Security and Redemption Fund. The treasurer shall at least annually deposit in and credit to the UCP Permanent Trust Fund the net amount of all monies received as a result of the Uniform Unclaimed Property Act of 1997 or its successor.

(3) Realized capital gains, dividend income, and interest income, earned on the investments in the UCP Permanent Trust Fund, net of trust fund investment and administrative expenses, shall be deposited into the State General Fund.

(4) All monies shall be credited to the fund as provided in Subparagraph (2) of this Paragraph until the balance in the UCP Permanent Trust Fund

1 equals the amount of the state's potential liability to unclaimed property
2 claimants as reported in the previous fiscal year pursuant to Paragraph (C) of
3 this Section. All money received above the state's potential liability to unclaimed
4 property claimants as reported by the state treasurer shall be deposited into the
5 State General Fund.

6 (B) Investment and Administration. The money credited to the UCP
7 Permanent Trust Fund pursuant to Paragraph (A) of this Section shall be
8 permanently credited to the UCP Permanent Trust Fund and shall be invested
9 by the treasurer. Notwithstanding any provision of this constitution to the
10 contrary, a portion of money in the UCP Permanent Trust Fund, not to exceed
11 fifty percent of the money in the UCP Permanent Trust Fund, may be invested
12 in equities. The legislature shall establish by law procedures for the investment
13 of such monies. The treasurer may contract, subject to the approval of the State
14 Bond Commission, for the management of such investments. Investment
15 earnings shall be available for appropriation to pay expenses incurred in the
16 investment and management of the UCP Permanent Trust Fund.

17 (C) Reports; Allocation. (1) Not less than sixty days prior to the
18 beginning of each regular session of the legislature, the state treasurer shall
19 submit to the legislature and the governor a report of the following:

20 (a) The balance of the UCP Permanent Trust Fund as of the close of the
21 prior fiscal year.

22 (b) The state's potential liability to unclaimed property claimants as of
23 the close of the prior fiscal year.

24 (2) Notwithstanding the provisions of Subparagraph (1) of this
25 Paragraph, not less than sixty days prior to the beginning of the 2022 Regular
26 Session of the legislature, the state treasurer shall submit to the legislature and
27 the governor a report of the following:

28 (a) The balance of the UCP Permanent Trust Fund as of January 1, 2022.

29 (b) The state's potential liability to unclaimed property claimants as of

1 the close of the prior fiscal year.

2 (3) If unclaimed property claims exceed receipts, the state treasurer shall
 3 certify the amount needed to pay received claims and shall allocate sufficient
 4 funds from the UCP Permanent Trust Fund to pay that amount. The state
 5 treasurer shall also immediately notify the legislature and governor of the
 6 amount transferred from the UCP Permanent Trust Fund and amount
 7 remaining in the UCP Permanent Trust Fund.

8 (D) Private Property. Property received by the state pursuant to the
 9 Uniform Unclaimed Property Act of 1997 or its successor and deposited into the
 10 UCP Permanent Trust Fund is private property held in trust until a claim is
 11 made for it by the owner.

12 Section 2. Be it further resolved that the provisions of the amendment contained
 13 in this Joint Resolution shall become effective on July 1, 2021.

14 Section 3. Be it further resolved that this proposed amendment shall be submitted
 15 to the electors of the state of Louisiana at the statewide election to be held on November 3,
 16 2020.

17 Section 4. Be it further resolved that on the official ballot to be used at said election
 18 there shall be printed a proposition, upon which the electors of the state shall be permitted
 19 to vote YES or NO, to amend the Constitution of Louisiana, which proposition shall read as
 20 follows:

21 Do you support an amendment to create the Louisiana
 22 Unclaimed Property Permanent Trust Fund to preserve the
 23 money that remains unclaimed by its owner or owners?
 24 (July 1, 2021) (Adds Article VII, Sections 10(F)(4)(i) and 28)

The original instrument and the following digest, which constitutes no part
 of the legislative instrument, were prepared by Jerry J. Guillot.

DIGEST

SB 12 Engrossed

2020 First Extraordinary Session

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Proposed constitutional amendment creates the UCP Permanent Trust Fund to be used solely
 for the payment of claims made by owners. Further, exempts the UCP Permanent Trust Fund
 from present constitution requirements relative to the Bond Security and Redemption Fund.

Proposed constitutional amendment prohibits appropriation from the UCP Permanent Trust Fund.

Proposed constitutional amendment requires the net amount of monies received pursuant to present law (Uniform Unclaimed Property Act, R.S. 9:151 et seq.) to be credited to the UCP Permanent Trust Fund. Further provides that realized capital gains, dividend income, and interest income, earned on investments in the fund, net of trust fund investment and administrative expenses, shall be deposited into the State General Fund.

Proposed constitutional amendment requires the state treasurer to annually report the UCP Permanent Trust Fund balance and the state's potential liability for unclaimed property claims to the legislature and the governor. Further authorizes money to be deposited into the UCP Permanent Trust Fund until the balance in that fund equals the state's reported potential liability for all unclaimed property. Once this threshold is reached in the UCP Permanent Trust Fund, proposed constitutional amendment requires any additional money received to be deposited into the State General Fund.

Proposed constitutional amendment authorizes the state treasurer to invest up to 50% of the balance in the UCP Permanent Trust Fund in equities. Requires the legislature to establish procedures for the investment of the funds and authorizes the treasurer to contract for the management of the investments.

Proposed constitutional amendment authorizes the treasurer to transfer money from the UCP Permanent Trust Fund if claims for unclaimed property exceed receipts. Requires the treasurer to certify the amount needed to pay claims received and immediately notify the legislature and the governor of the new fund balance once he has transferred the money.

Proposal constitutional amendment becomes effective on July 1, 2021.

Specifies submission of the amendment to the voters at the statewide election to be held on November 3, 2020.

(Adds Const. Art. VII, §10(F)(4)(i) and §28)