

2020 First Extraordinary Session

SENATE BILL NO. 18

BY SENATOR FESI

FUNDS/FUNDING. Dedication of unclaimed property funds and creation of Louisiana Unclaimed Property Permanent Trust Fund. (Item #10) (See Act)

1 AN ACT

2 To enact Subpart U of Part II-A of Chapter 1 of Subtitle I of Title 39 of the Louisiana
3 Revised Statutes of 1950, to be comprised of R.S. 39:100.161, relative to unclaimed
4 property; to provide for the dedication and credit of unclaimed property monies; to
5 provide for the creation of a special fund; to provide for the investment and
6 administration of the money in the special fund; to provide for the use of money in
7 the special fund; to provide for reporting requirements; and to provide for related
8 matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. Subpart U of Part II-A of Chapter 1 of Subtitle I of Title 39 of the
11 Louisiana Revised Statutes of 1950, comprised of R.S. 39:100.161, is hereby enacted to read
12 as follows:

13 SUBPART U. LOUISIANA UNCLAIMED PROPERTY

14 PERMANENT TRUST FUND

15 §100.161. Louisiana Unclaimed Property Permanent Trust Fund

16 A. There shall be established in the state treasury as a special permanent
17 trust fund, the Louisiana Unclaimed Property Permanent Trust Fund, referred

1 to as the "UCP Permanent Trust Fund". No appropriation shall be made from
2 the UCP Permanent Trust Fund.

3 (1) The purpose of the UCP Permanent Trust Fund is to ensure a source
4 of payment for claims made by owners of unclaimed property. After allocation
5 of money to the Bond Security and Redemption Fund as provided in Article
6 VII, Section 9(B) of the Louisiana Constitution, after the payment of all
7 administrative fees, costs, and expenses as provided by law, and after the
8 deposit of monies into the Unclaimed Property Leverage Fund that were
9 pledged for the payment of the principal and interest for the I-49 Project, the
10 treasurer shall annually deposit in and credit to the UCP Permanent Trust
11 Fund the net amount of all monies received as a result of the Uniform
12 Unclaimed Property Act of 1997 or its successors at least annually.

13 (2) Realized capital gains, dividend income, and interest income, earned
14 on the investments in the UCP Permanent Trust Fund, net of trust fund
15 investment and administrative expenses, shall be deposited into the state general
16 fund.

17 (3) All monies shall be credited to the fund as provided in Paragraph (1)
18 of this Subsection until the balance in the UCP Permanent Trust Fund equals
19 the amount of the state's potential liability to unclaimed property claimants as
20 reported in the previous fiscal year pursuant to Subsection C of this Section. All
21 monies received in excess of the state's potential liability to unclaimed property
22 claimants as reported by the state treasurer shall be deposited into the state
23 general fund.

24 B.(1) The monies credited to the UCP Permanent Trust Fund pursuant
25 to Subsection A of this Section shall be permanently credited to the UCP
26 Permanent Trust Fund and shall be invested by the treasurer. Notwithstanding
27 any provision of law to the contrary, a portion of money in the UCP Permanent
28 Trust Fund, not to exceed fifty percent of the money in the fund, may be
29 invested in equities. Investment earnings shall be available for appropriation to

1 pay expenses incurred in the investment and management of the UCP
2 Permanent Trust Fund.

3 (2) The monies deposited in and permanently credited to the UCP
4 Permanent Trust Fund pursuant to Subsection A of this Section shall be
5 invested by the state treasurer.

6 (3) Subject to the limitations provided in this Subsection, the state
7 treasurer may invest the monies deposited in and credited to the UCP
8 Permanent Trust Fund in the same manner as authorized for the Louisiana
9 Education Quality Trust Fund as set forth in R.S. 17:3803.

10 (4) Subject to the approval of the State Bond Commission, the state
11 treasurer may contract for the management of UCP Permanent Trust Fund
12 investments. Expenses of the fund, including but not limited to expenses
13 incurred for outside investment managers for the investment and management
14 of the fund assets and for other custody, investment, and disbursement costs
15 directly attributable to the fund, may be paid from fund investment earnings.

16 (5) Expenses attributable to the state treasurer exercising responsibility
17 for the custody, investment, and disbursement of the monies in the fund are
18 administrative costs that shall be paid by appropriation from fund investment
19 earnings. For the purposes of this Paragraph, the term "administrative costs"
20 includes but is not limited to those costs attributable to fees charged by any
21 financial institution for providing custodial services, which shall not exceed two
22 percent of the amount managed, and costs incurred for outside investment
23 managers for the investment and management of the fund, which shall not
24 exceed two percent of the amount managed.

25 C.(1) Not less than sixty days before the beginning of each 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 the close of the
29 prior fiscal year.

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

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

9 **D. Property received by the state pursuant to the Uniform Unclaimed**
 10 **Property Act of 1997 as established in R.S. 9:151 et seq. and deposited into the**
 11 **UCP Permanent Trust Fund is private property held in trust until a claim is**
 12 **made for it by the owner.**

13 Section 2. Notwithstanding any provision of this Act to the contrary, the first report
 14 due pursuant to R.S. 39:100.161(C) shall be submitted to the legislature and the governor
 15 not less than sixty days prior to the beginning of the first regular session of the legislature
 16 after this Act becomes effective and shall contain the following: the balance of the UCP
 17 Permanent Trust Fund as of January 1, 2022, and the state's potential liability to unclaimed
 18 property claimants as of the close of the prior fiscal year.

19 Section 3. This Act shall take effect and become operative on July 1, 2021, if the
 20 proposed amendment enacting Article VII, Section 28 of the Constitution of Louisiana
 21 contained in the Act which originated as Senate Bill No. 12 of this 2020 First Extraordinary
 22 Session of the Legislature is adopted at a statewide election and becomes effective.

The original instrument was prepared by Leonore Heavey. The following
 digest, which does not constitute a part of the legislative instrument, was
 prepared by Jeanne Johnston.

DIGEST

SB 18 Reengrossed

2020 First Extraordinary Session

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Present law (R.S. 9:151 et seq.) establishes requirements and procedures for transfer to the state treasury of property that remains unclaimed for a certain period of time. Proposed law retains present law.

Proposed law creates the Unclaimed Property (UCP) Permanent Trust Fund to be used solely for the payment of claims made by owners and prohibits appropriation from the fund.

Proposed law provides that after allocation of money to the Bond Security and Redemption Fund as required by present constitution, after payment of all administrative fees, costs, and expenses as provided by law, and after the deposit of monies into the Unclaimed Property Leverage Fund pledged for payment of principal and interest for the I-49 Project, the treasurer shall annually deposit 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.

Proposed law requires realized capital gains, dividend income, and interest income, earned on the investments in the fund, net of trust fund investment and administrative expenses, to be deposited into the state general fund.

Proposed law requires the state treasurer to annually report the 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 law requires any additional money to be deposited into the state general fund.

Proposed law authorizes the state treasurer to invest up to 50% of the balance in the UCP Permanent Trust Fund in the same manner as authorized in present law (R.S. 17:3803) for the La. Education Quality Trust Fund. Further authorizes the treasurer to contract for the management of the investments and to pay expenses of the fund from investment earnings. Also authorizes payment of administrative expenses attributable to the custody, investment, and disbursement of fund monies from investment earnings.

Proposed law 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.

Effective July 1, 2021, if the proposed amendment of Article VII, Section 28 of the Constitution of La. contained in the Act which originated as Senate Bill No. 12 of this 2020 1st Ex. Sess. of the Legislature is adopted at a statewide election and becomes effective.

(Adds R.S. 39:100.161)

Summary of Amendments Adopted by Senate

Senate Floor Amendments to engrossed bill

1. Provides that the UCP Permanent Trust Fund must meet present constitutional requirements relative to the Bond Security and Redemption Fund.
2. Provides for payment of specified expenses prior to deposit of monies into the UCP Permanent Trust Fund.