

2021 Regular Session

HOUSE BILL NO. 290

BY REPRESENTATIVES ROBERT OWEN AND COX

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

INTERGOV COMPACTS: Joins Louisiana to the interstate compact known as the Solemn
Covenant of the States to Award Prizes for Curing Diseases

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AN ACT

To enact Part XI of Chapter 5-B of Title 40 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 40:1123.1, relative to the interstate compact known as the Solemn Covenant of the States to Award Prizes for Curing Diseases; to enact the compact into law and to cause this state to enter into the compact; to provide for the establishment of the Solemn Covenant of the States Commission upon the enactment of the compact by a certain number of states; to provide for powers of the commission; to provide relative to members, officers, and employees of the commission; to provide for qualified immunity and indemnification of certain commission personnel; to provide relative to meetings, bylaws, rules, finances, and records of the commission; to provide for assessment of dues on, and for other financial obligations of states that are parties to the compact; to provide for rules relative to awarding of prizes for curing diseases; to provide for withdrawal and expulsion of states from the compact; to provide relative to severability, construction, and dissolution of the compact, and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Part XI of Chapter 5-B of Title 40 of the Louisiana Revised Statutes of 1950, comprised of R.S. 40:1123.1, is hereby enacted to read as follows:

1 PART XI. SOLEMN COVENANT OF THE STATES
2 TO AWARD PRIZES FOR CURING DISEASES

3 §1123.1. Solemn Covenant of the States to Award Prizes for Curing Diseases;
4 adoption

5 The Solemn Covenant of the States to Award Prizes for Curing Diseases is
6 hereby recognized and enacted into law and entered into by this state with all states
7 legally joining therein in the form substantially as follows:

8 Article I. Definitions

9 For purposes of this compact:

10 (1) "Compacting state" means either of the following:

11 (a) Any state that has enacted the compact and which has not withdrawn or
12 been suspended pursuant to Article XIV of the compact.

13 (b) The federal government in accordance with the commission's bylaws.

14 (2) "Compact" means the Solemn Covenant of the States to Award Prizes for
15 Curing Diseases enacted in this Section.

16 (3) "Non-compacting state" means any state or the federal government, if it
17 is not at the time a compacting state.

18 (4) "Public health expenses" means the amount of all costs paid by taxpayers
19 in a specified geographic area relating to a particular disease.

20 (5) "State" means any state, district, or territory of the United States of
21 America.

22 Article II. Establishment of the Commission; Membership

23 (1) Upon the enactment of the compact by six states, the compacting states
24 shall establish the Solemn Covenant of States Commission.

25 (2) The commission is a body corporate and politic and an instrumentality
26 of each of the compacting states and is solely responsible for its liabilities, except as
27 otherwise specifically provided in the compact.

28 (3) Each compacting state shall be represented by one member as selected
29 by the compacting state. Each compacting state shall determine its member's

1 qualifications and period of service and shall be responsible for any action to remove
2 or suspend its member or to fill the member's position if it becomes vacant. Nothing
3 in the compact shall be construed to affect a compacting state's authority regarding
4 the qualification, selection, or service of its own member.

5 Article III. Powers of the Commission

6 (1) To adopt bylaws and rules pursuant to Articles V and VI of the compact,
7 which shall have the force and effect of law and shall be binding in the compacting
8 states to the extent and in the manner provided in the compact.

9 (2) To receive and review in an expeditious manner treatments and
10 therapeutic protocols for the cure of disease submitted to the commission and to
11 award prizes for submissions that meet the commission's standards for a successful
12 cure treatment or therapeutic protocol.

13 (3) To make widely available a cure treatment or therapeutic protocol upon
14 a prize winner claiming a prize and transferring any intellectual property necessary
15 for the manufacture and distribution of the cure in accordance with section (3)(g)(i)
16 of Article VI, including by arranging or contracting for the manufacturing,
17 production, or provision of any drug, serum, or other substance, device, or process,
18 provided that the commission does not market the cure or conduct any other activity
19 regarding the cure not specifically authorized in the compact.

20 (4) To establish a selling price for the cure, which shall be not more than the
21 expenses for the cure's manufacturing, distribution, licensing, and any other
22 necessary governmental requirements for compacting states, or those expenses plus
23 any royalty fees, for noncompacting states; the price shall not include the expenses
24 of any other activities.

25 (5) In non-compacting states and foreign countries, to establish and collect
26 royalty fees imposed on manufacturers, producers, and providers of any drug, serum,
27 or other substance, device, or process used for a cure treatment or therapeutic
28 protocol, for which a prize is awarded; royalty fees may be added to the sales price
29 of the cure pursuant to section (4) of this Article; provided that the royalty fees shall

1 cumulatively be not more than the estimated five-year savings in public health
2 expenses for that state or country, as calculated by actuaries employed or contracted
3 by the commission.

4 (6) To do the following regarding the collected royalty fees:

5 (a) Pay or reimburse expenses related to the payment of a prize, which shall
6 include employing or contracting actuaries to calculate annual taxpayer savings
7 amounts in compacting states in accordance with section (3)(g)(iii) of Article VI, and
8 payment of interest and other expenses related to a loan obtained in accordance with
9 section (3)(g)(vi) of Article VI.

10 (b) Annually disburse any amounts remaining after making payments or
11 reimbursements under section (6)(a) of this Article as refunds to compacting states
12 based on the percent of the state's prize obligation in relation to the total obligation
13 amount of all compacting states.

14 (7) To bring and prosecute legal proceedings or actions in its name as the
15 commission.

16 (8) To issue subpoenas requiring the attendance and testimony of witnesses
17 and the production of evidence.

18 (9) To establish and maintain offices.

19 (10) To borrow, accept, or contract for personnel services, including
20 personnel services from employees of a compacting state.

21 (11) To hire employees, professionals, or specialists, and elect or appoint
22 officers, and to fix their compensation, define their duties and give them appropriate
23 authority to carry out the purposes of the compact, and determine their qualifications;
24 and to establish the commission's personnel policies and programs relating to, among
25 other things, conflicts of interest, rates of compensation, and qualifications of
26 personnel.

27 (12) To accept any and all appropriate donations and grants of money,
28 equipment, supplies, materials, and services, and to receive, utilize, and dispose of

1 the same; provided that at all times the commission shall strive to avoid any
2 appearance of impropriety.

3 (13) To lease, purchase, or accept appropriate gifts or donations of, or
4 otherwise to own, hold, improve, or use, any property, real, personal, or mixed;
5 provided, that at all times the commission shall strive to avoid any appearance of
6 impropriety.

7 (14) To sell, convey, mortgage, pledge, lease, exchange, abandon, or
8 otherwise dispose of any property, real, personal, or mixed.

9 (15) To monitor compacting states for compliance with the commission's
10 bylaws and rules.

11 (16) To enforce compliance by compacting states with the commission's
12 bylaws and rules.

13 (17) To provide for dispute resolution among compacting states or between
14 the commission and those who submit treatments and therapeutic protocols for the
15 cure of disease for consideration.

16 (18) To establish a budget and make expenditures.

17 (19) To borrow money.

18 (20) To appoint committees, including management, legislative, and
19 advisory committees comprised of members, state legislators or their representatives,
20 medical professionals, and such other interested persons as may be designated by the
21 commission.

22 (21) To establish annual membership dues for compacting states, which shall
23 be used for daily expenses of the commission and not for interest or prize payments.

24 (22) To adopt and use a corporate seal.

25 (23) To perform such other functions as may be necessary or appropriate to
26 achieve the purposes of this compact.

27 Article IV. Meetings and Voting

28 (1) The commission shall meet and take such actions as are consistent with
29 the compact, bylaws, and rules.

1 (2) A majority of the members of the commission shall constitute a quorum
2 necessary in order to conduct business or take actions at meetings of the commission.

3 (3) Each member of the commission shall have the right and power to cast
4 one vote regarding matters determined or actions to be taken by the commission.
5 Each member shall have the right and power to participate in the business and affairs
6 of the commission.

7 (4) A member shall vote in person or by such other means as provided in the
8 commission's bylaws. The commission's bylaws may provide for members'
9 participation in meetings by telephone or other means of communication.

10 (5) The commission shall meet at least once during each calendar year.
11 Additional meetings shall be held as set forth in the commission's bylaws.

12 (6) No decision of the commission with respect to the approval of an award
13 for a treatment or therapeutic process for the cure of a disease shall be effective
14 unless two-thirds of all the members of the commission vote in favor thereof.

15 (7) Guidelines and voting requirements for all other decisions of the
16 commission shall be established in the commission's bylaws.

17 Article V. Bylaws

18 The commission shall, by a majority vote of all the members of the
19 commission, prescribe bylaws to govern its conduct as may be necessary or
20 appropriate to carry out the purposes, and exercise the powers, of the compact,
21 including, but not limited to:

22 (1) Establishing the fiscal year of the commission.

23 (2) Providing reasonable procedures for appointing and electing members,
24 as well as holding meetings, of the management committee.

25 (3) Providing reasonable standards and procedures for the following:

26 (a) The establishment and meetings of other committees.

27 (b) Governing any general or specific delegation of any authority or function
28 of the commission.

29 (c) Voting guidelines and procedures for commission decisions.

1 (4) Providing reasonable procedures for calling and conducting meetings of
2 the commission that shall consist of requiring a quorum to be present, ensuring
3 reasonable advance notice of each such meeting, and providing for the right of
4 citizens to attend each such meeting with enumerated exceptions designed to protect
5 the public's interest and the privacy of individuals.

6 (5) Providing a list of matters about which the commission may go into
7 executive session and requiring a majority of all members of the commission vote
8 to enter into such session. As soon as practicable, the commission shall make public
9 all of the following:

10 (a) A copy of the vote to go into executive session, revealing the vote of each
11 member with no proxy votes allowed.

12 (b) The matter requiring executive session, without identifying the actual
13 issues or individuals involved.

14 (6) Establishing the titles, duties, authority, and reasonable procedures for
15 the election of the officers of the commission.

16 (7) Providing reasonable standards and procedures for the establishment of
17 the personnel policies and programs of the commission. Notwithstanding any civil
18 service or other similar laws of any compacting state, the commission's bylaws shall
19 exclusively govern the personnel policies and programs of the commission.

20 (8) Allowing a mechanism for each of the following:

21 (a) The federal government to join as a compacting state.

22 (b) Foreign countries or subdivisions of those countries to join as liaison
23 members by adopting the compact; provided that adopting countries or subdivisions
24 shall not have voting power or the power to bind the commission in any way.

25 (9) Adopting a code of ethics to address permissible and prohibited activities
26 of members and employees.

27 (10) Providing for the maintenance of the commission's books and records.

28 (11) Governing the acceptance of and accounting for donations, annual
29 member dues, and other sources of funding and establishing the proportion of these

1 funds to be allocated to prize amounts for treatments and therapeutic protocols that
2 cure disease.

3 (12) Governing any fundraising efforts in which the commission wishes to
4 engage.

5 (13) Providing a mechanism for winding up the operations of the
6 commission and the equitable disposition of any surplus funds that may exist after
7 the termination of the compact after the payment and reserving of all its debts and
8 obligations.

9 Article VI. Rules

10 (1) The commission shall adopt rules to do the following:

11 (a) Effectively and efficiently achieve the purposes of this compact.

12 (b) Govern the methods, processes, and any other aspect of the research,
13 creation, and testing of a treatment or therapeutic protocol for each disease for which
14 a prize may be awarded.

15 (2) The commission shall also adopt rules establishing the criteria for
16 defining and classifying the diseases for which prizes shall be awarded. The
17 commission may define and classify subsets of diseases, for example, tubular
18 carcinoma of the breast. For purposes of sections (3)(a) and (c) of this Article, a
19 subset of a disease shall be considered one disease. The commission may consult the
20 most recent edition of the international classification of diseases as published by the
21 World Health Organization or other definitions agreed to by a two-thirds vote of the
22 commission.

23 (3) The commission shall also adopt rules regarding prizes for curing
24 diseases that establish the following:

25 (a) At least ten major diseases for which to create prizes, which shall be
26 determined based on the following factors:

27 (i) The severity of the disease to a human individual's overall health and
28 well-being.

29 (ii) The survival rate or severity of impact of the disease.

1 (iii) The public health expenses and treatment expenses for the disease.

2 (b) The criteria a treatment or therapeutic protocol must meet in order to be
3 considered a cure for any of the diseases for which a prize may be awarded, which
4 shall include the following requirements:

5 (i) It must be approved by the federal Food and Drug Administration or have
6 otherwise obtained legal status for the compact to immediately contract to
7 manufacture and distribute in the United States.

8 (ii) Except as provided in section (4) of this Article, it must yield a
9 significant increase in survival with respect to the diseases if early death is the usual
10 outcome.

11 (iii) It requires less than one year of the treatment or protocol to completely
12 cure the disease.

13 (c) The procedure for determining the diseases for which to award prizes,
14 which includes the option to award prizes for more than ten diseases that meet the
15 above criteria, if agreed to by two-thirds vote of the commission, and a requirement
16 to update the list every three years.

17 (d) The submission and evaluation procedures and guidelines, including
18 filing and review procedures, a requirement that the person or entity submitting the
19 cure bears the burden of proof in demonstrating that the treatment or therapeutic
20 protocol meets the above criteria, and limitations preventing public access to
21 treatment or protocol submissions.

22 (e) The estimated five-year public health savings that would result from a
23 cure, which shall be equal to the five-year public health expenses for each disease
24 in each compacting state, and a procedure to update these expenses every three years
25 in conjunction with the requirements in section (3)(c) of this Article. The estimated
26 five-year public health savings amount shall be calculated, estimated, and publicized
27 every three years by actuaries employed or contracted by the commission.

28 (f) The prize amount with respect to cures for each disease, which shall be
29 equal to the most recent estimated total five-year savings in public health expenses

1 for the disease as calculated in section (3)(e) of this Article in all of the compacting
2 states; amounts donated by charities, individuals, and any other entities intended for
3 the prize; and any other factors that the commission deems appropriate.

4 (g) The prize distribution procedures and guidelines, which shall include the
5 following requirements:

6 (i) Upon acceptance of a cure, the prize winner shall transfer to the
7 commission the patent and all related intellectual property for the manufacture and
8 distribution of the treatment or therapeutic protocol in exchange for the prize, except
9 in the case that the prize money is considered by the commission to be too low, and
10 that a prize will be awarded only to the first person or entity that submits a successful
11 cure for a disease for which a prize may be awarded.

12 (ii) Donation amounts intended for the prize shall be kept in a separate,
13 interest-bearing account maintained by the commission. This account shall be the
14 only account in which prize money is kept.

15 (iii) Each compacting state shall have the responsibility to pay annually the
16 compacting state's actual one-year savings in public health expenses for the
17 particular disease for which a cure has been accepted. The compacting state shall
18 make such an annual payment until it has fulfilled its prize responsibility as
19 established in section (3)(f) of this Article. Each compacting state's payment
20 responsibility begins one year after the date the cure becomes widely available. The
21 commission shall employ or contract with actuaries to calculate each state's actual
22 one-year savings in public health expenses at the end of each year to determine each
23 state's responsibility for the succeeding year.

24 (iv) Compacting states may meet prize responsibilities by any method
25 including the issuance of bonds or other obligations, with the principal and interest
26 of those bonds or obligations to be repaid only from revenue derived from estimated
27 public health expense savings from a cure to a disease. If the compacting state does
28 not make such revenue available to repay some or all of the revenue bonds or
29 obligations issued, the owners or holders of those bonds or obligations have no right

1 to have excises or taxes levied to pay the principal or interest on them. The revenue
2 bonds and obligations are not a debt of the issuing compacting state.

3 (v) A compacting state may issue bonds or other debt that are general
4 obligations, under which the full faith and credit, revenue, and taxing power of the
5 state is pledged to pay the principal and interest under those obligations, only if
6 authorized by the compacting state's constitution or, if constitutional authorization
7 is not required, by other law of the compacting state.

8 (vi) Upon acceptance of a cure, the commission shall obtain a loan from a
9 financial institution in an amount equal to the most recently calculated total
10 estimated five-year public health expenses for the disease in all compacting states,
11 in accordance with section (3)(f) of this Article. The commission reserves the right
12 to continuously evaluate the cure in the interim and rescind a prize offer if the
13 commission finds that the cure no longer meets the commission's criteria.

14 (4) The commission may award a prize for a treatment or therapeutic
15 protocol that yields a survival rate that is less than what is established in the cure
16 criteria through at least five years after the treatment or protocol has ended. In that
17 case, the prize amount awarded for that treatment or therapeutic protocol shall be
18 reduced from the prize amount originally determined by the commission for a cure
19 for that disease. The reduction shall be in proportion to the survival rate yielded by
20 that treatment or protocol as compared to the survival rate established in the cure
21 criteria.

22 (5) The commission also shall adopt rules that do the following:

23 (a) Establish the following regarding commission records:

24 (i) Conditions and procedures for public inspection and copying of its
25 information and official records, except such information and records involving the
26 privacy of individuals or would otherwise violate privacy laws under federal law and
27 the laws of the compacting states.

28 (ii) Procedures for sharing with federal and state agencies, including law
29 enforcement agencies, records and information otherwise exempt from disclosure.

1 (iii) Guidelines for entering into agreements with federal and state agencies
2 to receive or exchange information or records subject to nondisclosure and
3 confidentiality provisions.

4 (b) Provide a process for commission review of submitted treatments and
5 therapeutic protocols for curing diseases that includes the following:

6 (i) An opportunity for an appeal, not later than thirty days after a rejection
7 of a treatment or protocol for prize consideration, to a review panel established under
8 the commission's dispute resolution process.

9 (ii) Commission monitoring and review of treatment and protocol
10 effectiveness consistent with the cure criteria established by the commission for the
11 particular disease.

12 (iii) Commission reconsideration, modification, or withdrawal of approval
13 of a treatment or protocol for prize consideration for failure to continue to meet the
14 cure criteria established by the commission for the particular disease.

15 (c) Establish a dispute resolution process to resolve disputes or other issues
16 under the compact that may arise between two or more compacting states or between
17 the commission and individuals or entities who submit treatments and therapeutic
18 protocols to cure diseases, which process shall provide for all of the following:

19 (i) Administrative review by a review panel appointed by the commission.

20 (ii) Judicial review of decisions issued after an administrative review.

21 (iii) Qualifications to be appointed to a panel, due process requirements,
22 including notice and hearing procedures, and any other procedure, requirement, or
23 standard necessary to provide adequate dispute resolution.

24 (d) Establish and impose annual member dues on compacting states, which
25 shall be calculated based on the percentage of each compacting state's population in
26 relation to the population of all the compacting states.

27 (6) Recognizing that the goal of the compact is to pool the potential savings
28 of as many states and countries as possible to generate sufficient financial incentive
29 to develop a cure for many of the world's most devastating diseases, the compact will

1 respect the laws of each of these United States by adopting rules that establish ethical
2 standards for research that shall be followed in order for a prize to be claimed. The
3 compact, in the rules, shall establish a common set of ethical standards that embodies
4 the laws and restrictions in each of the states so that to be eligible for claiming a
5 prize the entity submitting a cure must not have violated any of the ethical standards
6 in any one of the fifty states, whether the states have joined the compact or not. The
7 compact will publish these common ethical standards along with the specific criteria
8 for a cure for each of the diseases the compact has targeted. So long as a researcher
9 follows the common ethical standards in effect at the time the research is done, an
10 entity presenting a cure will be deemed to have followed the standards. On or before
11 January 1 of each year, the compact shall review all state laws to determine if
12 additional ethical standards have been enacted by any of the fifty states and the
13 federal government. Any changes to the common ethical standards rules based on
14 new state laws shall be adopted and published by the compact, but shall not take
15 effect in cure criteria for a period of three years to allow for sufficient notice to
16 researchers.

17 (7) All rules may be amended as the commission sees necessary.

18 (8) All rules shall be adopted pursuant to a rule-making process that
19 conforms to the model state administrative procedure act of 1981 by the uniform law
20 commissioners, as amended, as may be appropriate to the operations of the
21 commission.

22 (9) In the event the commission exercises its rule-making authority in a
23 manner that is beyond the scope of the purpose of this compact, or the powers
24 granted hereunder, then such rule shall be invalid and have no force and effect.

25 Article VII. Committees

26 (1) Management Committee.

27 (a) The commission may establish a management committee comprised of
28 not more than fourteen members when twenty-six states enact the compact.

1 (b) The committee shall consist of those members representing compacting
2 states whose total public health expenses of all of the established diseases are the
3 highest.

4 (c) The committee shall have such authority and duties as may be set forth
5 in the commission's bylaws and rules, including all of the following:

6 (i) Managing authority over the day-to-day affairs of the commission in a
7 manner consistent with the commission's bylaws and rules and the purposes of the
8 compact.

9 (ii) Overseeing the offices of the commission.

10 (iii) Planning, implementing, and coordinating communications and
11 activities with state, federal, and local government organizations in order to advance
12 the goals of the compact.

13 (d) The commission annually shall elect officers for the committee, with
14 each having such authority and duties as may be specified in the commission's
15 bylaws and rules.

16 (e) The management committee, subject to commission approval, may
17 appoint or retain an executive director for such period, upon such terms and
18 conditions, and for such compensation as the committee determines. The executive
19 director shall serve as secretary to the commission, but shall not be a member of the
20 commission. The executive director shall hire and supervise such other staff as may
21 be authorized by the committee.

22 (2) Advisory Committees.

23 The commission may appoint advisory committees to monitor all operations
24 related to the purposes of the compact and make recommendations to the
25 commission; provided that the manner of selection and term of any committee
26 member shall be as set forth in the commission's bylaws and rules. The commission
27 shall consult with an advisory committee, to the extent required by the commission's
28 bylaws or rules, before doing any of the following:

29 (a) Approving cure criteria.

1 (b) Amending, enacting, or repealing any bylaw or rule.

2 (c) Adopting the commission's annual budget.

3 (d) Addressing any other significant matter or taking any other significant
4 action.

5 Article VIII. Finance

6 (1) The commission annually shall establish a budget to pay or provide for
7 the payment of its reasonable expenses. To fund the cost of initial operations, the
8 commission may accept contributions and other forms of funding from the
9 compacting states and other sources. Contributions and other forms of funding from
10 other sources shall be of such a nature that the independence of the commission
11 concerning the performance of its duties shall not be compromised.

12 (2) The commission shall be exempt from all taxation in and by the
13 compacting states.

14 (3) The commission shall keep complete and accurate accounts of all of its
15 internal receipts, including grants and donations, and disbursements of all funds
16 under its control. The internal financial accounts of the commission shall be subject
17 to the accounting procedures established under the commission's bylaws or rules.
18 The financial accounts and reports including the system of internal controls and
19 procedures of the commission shall be audited annually by an independent certified
20 public accountant. Upon the determination of the commission, but not less
21 frequently than every three years, the review of the independent auditor shall include
22 a management and performance audit of the commission. The commission shall
23 make an annual report to the governors and legislatures of the compacting states,
24 which shall include a report of the independent audit. The commission's internal
25 accounts shall not be confidential and such materials may be shared with any
26 compacting state upon request provided, however, that any work papers related to
27 any internal or independent audit and any information subject to the compacting
28 states' privacy laws, shall remain confidential.

1 (4) No compacting state shall have any claim or ownership of any property
 2 held by or vested in the commission or to any commission funds held pursuant to the
 3 provisions of the compact.

4 Article IX. Records

5 Except as to privileged records, data, and information, the laws of any
 6 compacting state pertaining to confidentiality or nondisclosure shall not relieve any
 7 member of the duty to disclose any relevant records, data, or information to the
 8 commission; provided, that disclosure to the commission shall not be deemed to
 9 waive or otherwise affect any confidentiality requirement; and further provided, that,
 10 except as otherwise expressly provided in the compact, the commission shall not be
 11 subject to the compacting state's laws pertaining to confidentiality and nondisclosure
 12 with respect to records, data, and information in its possession. Confidential
 13 information of the commission shall remain confidential after such information is
 14 provided to any member. All cure submissions received by the commission are
 15 confidential.

16 Article X. Compliance

17 The commission shall notify a compacting state in writing of any
 18 noncompliance with commission bylaws and rules. If a compacting state fails to
 19 remedy its noncompliance within the time specified in the notice, the compacting
 20 state shall be deemed to be in default as set forth in Article XIV.

21 Article XI. Venue

22 Venue for any judicial proceedings by or against the commission shall be
 23 brought in the appropriate court of competent jurisdiction for the geographical area
 24 in which the principal office of the commission is located.

25 Article XII. Qualified Immunity, Defense, and Indemnification

26 (1) The members, officers, executive director, employees, and
 27 representatives of the commission shall be immune from suit and liability, either
 28 personally or in their official capacity, for any claim for damage to or loss of
 29 property or personal injury or other civil liability caused by or arising out of any

1 actual or alleged act, error, or omission that occurred, or that such person had a
2 reasonable basis for believing occurred within the scope of the person's commission
3 employment, duties, or responsibilities; provided, that nothing in section (1) of this
4 Article shall be construed to protect any such person from suit or liability for any
5 damage, loss, injury, or liability caused by the intentional or willful and wanton
6 misconduct of that person.

7 (2) The commission shall defend any member, officer, executive director,
8 employee, or representative of the commission in any civil action seeking to impose
9 liability arising out of any actual or alleged act, error, or omission that occurred
10 within the scope of the person's commission employment, duties, or responsibilities,
11 or that such person had a reasonable basis for believing occurred within the scope of
12 commission employment, duties, or responsibilities; provided, that nothing in the
13 compact or commission bylaws or rules shall be construed to prohibit that person
14 from retaining his or her own counsel; and provided further, that the actual or alleged
15 act, error, or omission did not result from that person's intentional or willful and
16 wanton misconduct.

17 (3) The commission shall indemnify and hold harmless any member, officer,
18 executive director, employee, or representative of the commission for the amount of
19 any settlement or judgment obtained against the person arising out of any actual or
20 alleged act, error, or omission that occurred within the scope of the person's
21 commission employment, duties, or responsibilities, or that such person had a
22 reasonable basis for believing occurred within the scope of commission employment,
23 duties, or responsibilities; provided, that the actual or alleged act, error, or omission,
24 did not result from the intentional or willful and wanton misconduct of that person.

25 Article XIII. Compacting States, Effective Date, and Amendment

26 (1) Any state is eligible to become a compacting state.

27 (2) The compact shall become effective and binding upon legislative
28 enactment of the compact into law by two compacting states; provided, the
29 commission shall only be established after six states become compacting states.

1 Thereafter, the compact shall become effective and binding as to any other
2 compacting state upon enactment of the compact into law by that state.

3 (3) Amendments to the compact may be proposed by the commission for
4 enactment by the compacting states. No amendment shall become effective and
5 binding until all compacting states enact the amendment into law.

6 (4) If funding is requested or required, the legislative authority of each
7 compacting state shall be responsible for making the appropriations it determines
8 necessary to pay for the costs of the compact, including annual member dues and
9 prize distributions.

10 Article XIV. Withdrawal, Default, and Expulsion

11 (1) Withdrawal.

12 (a) Once effective, the compact shall continue in force and remain binding
13 upon each and every compacting state; provided, that a compacting state may
14 withdraw from the compact by doing both of the following:

15 (i) Repealing the law enacting the compact in that state.

16 (ii) Notifying the commission in writing of the intent to withdraw on a date
17 that is both of the following:

18 (I) At least three years after the date the notice is sent.

19 (II) After the repeal takes effect.

20 (b) The effective date of withdrawal is the date described in section (1)(a)(ii)
21 of this Article.

22 (c) The member representing the withdrawing state shall immediately notify
23 the management committee in writing upon the introduction of legislation in that
24 state repealing the compact. If a management committee has not been established,
25 the member shall immediately notify the commission.

26 (d) The commission or management committee, as applicable, shall notify
27 the other compacting states of the introduction of such legislation within ten days
28 after its receipt of notice thereof.

1 (e) The withdrawing state is responsible for all obligations, duties, and
2 liabilities incurred through the effective date of withdrawal, including any
3 obligations, the performance of which extend beyond the effective date of
4 withdrawal. The commission's actions shall continue to be effective and be given
5 full force and effect in the withdrawing state.

6 (f) Reinstatement following a state's withdrawal shall become effective upon
7 the effective date of the subsequent enactment of the compact by that state.

8 (2) Default.

9 (a) If the commission determines that any compacting state has at any time
10 defaulted in the performance of any of its obligations or responsibilities under the
11 compact or the commission's bylaws or rules, then, after notice and hearing as set
12 forth in the bylaws, all rights, privileges, and benefits conferred by this compact on
13 the defaulting state shall be suspended from the effective date of default as fixed by
14 the commission. The grounds for default include failure of a compacting state to
15 perform its obligations or responsibilities, and any other grounds designated in
16 commission rules. The commission shall immediately notify the defaulting state in
17 writing of the suspension pending cure of the default. The commission shall
18 stipulate the conditions and the time period within which the defaulting state shall
19 cure its default. If the defaulting state fails to cure the default within the time period
20 specified by the commission, the defaulting state shall be expelled from the compact
21 and all rights, privileges, and benefits conferred by the compact shall be terminated
22 from the effective date of the expulsion. Any state that is expelled from the compact
23 shall be liable for any cure prize or prizes for three years after its removal. The
24 commission shall also take appropriate legal action to ensure that any compacting
25 state that withdraws from the compact remains liable for paying its responsibility
26 towards a prize for a cure that was accepted while the compacting state was a
27 member of the commission.

28 (b) The expelled state must reenact the compact in order to become a
29 compacting state.

- 1 (3) Dissolution of Compact.
- 2 (a) The compact dissolves effective upon the date of either of the following:
- 3 (i) The withdrawal or expulsion of a compacting state, which withdrawal or
4 expulsion reduces membership in the compact to one compacting state.
- 5 (ii) The commission votes to dissolve the compact.
- 6 (b) Upon the dissolution of the compact, the compact becomes null and void
7 and shall be of no further force or effect, and the business and affairs of the
8 commission shall be wound up and any surplus funds shall be distributed in
9 accordance with the commission's bylaws, provided, that the commission shall pay
10 all outstanding prizes awarded before the dissolution of the compact, as well as any
11 other outstanding debts and obligations incurred during the existence of the compact.
12 Any unawarded funds donated to be a part of a prize shall be returned to the donor,
13 along with any interest earned on the amount.

14 Article XV. Severability and Construction

15 (1) The provisions of the compact shall be severable; and if any phrase,
16 clause, sentence, or provision is deemed unenforceable, the remaining provisions of
17 the compact shall be enforceable.

18 (2) The provisions of the compact shall be liberally construed to effectuate
19 its purposes.

20 Article XVI. Binding Effect of Compact and Other Laws

21 (1) Other Laws: Nothing herein prevents the enforcement of any other law
22 of a compacting state, except as provided in section (2)(b) of this Article.

23 (2) Binding Effect of the Compact.

24 (a) All lawful actions of the commission, including all commission rules, are
25 binding upon the compacting states.

26 (b) All agreements between the commission and the compacting states are
27 binding in accordance with their terms.

1 (c) Except to the extent authorized by the compacting state's constitution or,
2 if constitutional authorization is not required, by other law of the compacting state,
3 such state, by entering into the compact does not:

4 (i) Commit the full faith and credit or taxing power of the compacting state
5 for the payment of prizes or other obligations under the compact.

6 (ii) Make prize payment responsibilities or other obligations under the
7 compact a debt of the compacting state.

8 (d) Upon the request of a party to a conflict over the meaning or
9 interpretation of commission actions, and upon a majority vote of the compacting
10 states, the commission may issue advisory opinions regarding the meaning or
11 interpretation in dispute.

12 (e) In the event any provision of the compact exceeds the constitutional
13 limits imposed on any compacting state, the obligations, duties, powers or
14 jurisdiction sought to be conferred by that provision upon the commission shall be
15 ineffective as to that compacting state, and those obligations, duties, powers, or
16 jurisdiction shall remain in the compacting state and shall be exercised by the agency
17 thereof to which those obligations, duties, powers, or jurisdiction are delegated by
18 law in effect at the time the compact becomes effective.

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)]

HB 290 Engrossed

2021 Regular Session

Robert Owen

Abstract: Joins Louisiana to the interstate compact known as the Solemn Covenant of the States to Award Prizes for Curing Diseases and provides for administration and functions of the compact.

Proposed law recognizes and enacts the Solemn Covenant of the States to Award Prizes for Curing Diseases, referred to hereafter as the "compact", and causes Louisiana to enter into the compact.

Proposed law provides that upon the enactment of the compact by six states, the compacting states shall establish the Solemn Covenant of States Commission, referred to hereafter as the "commission". Provides that the powers of the commission shall include all of the following:

- (1) To adopt bylaws and rules as required by the compact, which shall have the force and effect of law and shall be binding in the compacting states to the extent and in the manner provided in the compact.
- (2) To receive and review treatments and therapeutic protocols for the cure of disease submitted to the commission and to award prizes for submissions that meet the commission's standards for a successful cure treatment or therapeutic protocol.
- (3) To make widely available a cure treatment or therapeutic protocol upon a prize winner claiming a prize and transferring any intellectual property necessary for the manufacture and distribution of the cure in accordance with the compact.
- (4) To establish a selling price for the cure, which shall be not more than the expenses for the cure's manufacturing, distribution, licensing, and any other necessary governmental requirements for compacting states, or those expenses plus any royalty fees, for noncompacting states.
- (5) In non-compacting states and foreign countries, to establish and collect royalty fees imposed on manufacturers, producers, and providers of any drug, serum, or other substance, device, or process used for a cure treatment or therapeutic protocol, for which a prize is awarded. Provides that the royalty fees shall, cumulatively, be not more than the estimated five-year savings in public health expenses for that state or country, as calculated by actuaries employed or contracted by the commission.
- (6) To do the following regarding the collected royalty fees:
 - (a) Pay or reimburse expenses related to the payment of a prize, which shall include employing or contracting actuaries to calculate annual taxpayer savings amounts in compacting states and payment of interest and other expenses related to a loan obtained in accordance with the compact.
 - (b) Annually disburse any amounts remaining after making payments or reimbursements under the compact as refunds to compacting states based on the percent of the state's prize obligation in relation to the total obligation amount of all compacting states.
- (7) To bring and prosecute legal proceedings or actions in its name.
- (8) To issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence.
- (9) To establish and maintain offices.
- (10) To borrow, accept, or contract for personnel services, including personnel services from employees of a compacting state.
- (11) To hire employees, professionals, or specialists, and elect or appoint officers, and to fix their compensation, define their duties and give them appropriate authority to carry out the purposes of the compact, and determine their qualifications; and to establish the commission's personnel policies and programs relating to conflicts of interest, rates of compensation, and qualifications of personnel.
- (12) To accept any and all appropriate donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of the same; provided that at all times the commission shall strive to avoid any appearance of impropriety.

- (13) To lease, purchase, or accept appropriate gifts or donations of, or otherwise to own, hold, improve, or use, any property; provided, that at all times the commission shall strive to avoid any appearance of impropriety.
- (14) To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property.
- (15) To monitor compacting states for compliance with the commission's bylaws and rules.
- (16) To enforce compliance by compacting states with the commission's bylaws and rules.
- (17) To provide for dispute resolution among compacting states or between the commission and those who submit treatments and therapeutic protocols for the cure of disease for consideration.
- (18) To establish a budget and make expenditures.
- (19) To borrow money.
- (20) To appoint committees, including management, legislative, and advisory committees comprised of members, state legislators or their representatives, medical professionals, and such other interested persons as may be designated by the commission.
- (21) To establish annual membership dues for compacting states, which shall be used for daily expenses of the commission and not for interest or prize payments.
- (22) To adopt and use a corporate seal.
- (23) To perform such other functions as may be necessary or appropriate to achieve the purposes of the compact.

Proposed law provides relative to meetings, bylaws, finances, and records of the commission. Requires that the commission adopt rules to do the following:

- (1) Govern the methods, processes, and any other aspect of the research, creation, and testing of a treatment or therapeutic protocol for each disease for which a prize may be awarded.
- (2) Establish the criteria for defining and classifying the diseases for which prizes shall be awarded.

Proposed law requires that the commission adopt rules regarding prizes for curing diseases. Requires that such rules establish the following:

- (1) At least ten major diseases for which to create prizes.
- (2) The criteria a treatment or therapeutic protocol must meet in order to be considered a cure for any of the diseases for which a prize may be awarded.
- (3) The procedure for determining the diseases for which to award prizes, which includes the option to award prizes for more than ten diseases that meet the requisite criteria, if agreed to by two-thirds vote of the commission, and a requirement to update the list every three years.

- (4) The submission and evaluation procedures and guidelines, including filing and review procedures, a requirement that the person or entity submitting the cure bears the burden of proof in demonstrating that the treatment or therapeutic protocol meets the requisite criteria, and limitations preventing public access to treatment or protocol submissions.
- (5) The estimated five-year public health savings that would result from a cure, which shall be equal to the five-year public health expenses for each disease in each compacting state, and a procedure to update these expenses every three years in conjunction with the applicable requirements of the compact. The estimated five-year public health savings amount shall be calculated, estimated, and publicized every three years by actuaries employed or contracted by the commission.
- (6) The prize amount with respect to cures for each disease, which shall be equal to the most recent estimated total five-year savings in public health expenses for the disease in all of the compacting states; amounts donated by charities, individuals, and any other entities intended for the prize; and any other factors that the commission deems appropriate.
- (7) Prize distribution procedures and guidelines.

Proposed law provides qualified immunity for the members, officers, executive director, employees, and representatives of the commission. Provides for defense of such persons in civil actions and indemnification of such persons for the amount of any settlement or judgment obtained against them arising out of any actual or alleged act, error, or omission that occurred within the scope of their employment, duties, or responsibilities with the commission.

Proposed law provides relative to withdrawal and expulsion of states from the compact and for procedures in cases of states defaulting in the performance of any of their obligations or responsibilities under the compact or the commission's bylaws or rules.

Proposed law provides relative to severability, construction, and dissolution of the compact.

(Adds R.S. 40:1123.1)