

2020 Regular Session

HOUSE BILL NO. 445

BY REPRESENTATIVES SCHEXNAYDER AND STEFANSKI

FUNDS/FUNDING: (Constitutional Amendment) Dedication of unclaimed property funds and creation of Louisiana Unclaimed Property Permanent Trust Fund

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A JOINT RESOLUTION

Proposing to add Article VII, Section 10(F)(4)(i) and Part V of Article VII, to be comprised of Section 28, of the Constitution of Louisiana , relative to unclaimed property funds; to provide for the creation of a special trust fund; to provide for the dedication and credit of unclaimed property monies; to provide for the investment, administration, and use of the monies in the special trust fund; to exempt the monies in the fund from reduction in certain circumstances; to provide for certain reporting requirements; to provide for appropriation of monies in the special fund; to provide for an effective date; 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(F)(4)(i) and Part V of Article VII, comprised of Section 28, of the Constitution of Louisiana, to read as follows:

§10. Expenditure of State Funds

* * *
(F)
* * *

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

3 * * *

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

6 * * *

7 PART V. UNCLAIMED PROPERTY

8 §28. Louisiana Unclaimed Property Permanent Trust Fund

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

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

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

23 (3) All monies shall be credited to the fund as provided in Subparagraph (1)
24 of this Paragraph until the balance in the UCP Permanent Trust Fund equals the
25 amount of the state's potential liability to unclaimed property claimants as reported
26 in the previous fiscal year pursuant to Paragraph C of this Section. All money
27 received above the state's potential liability to unclaimed property claimants as
28 reported by the state treasurer shall be deposited into the State General Fund.

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

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

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

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

18 (2) Notwithstanding the provisions of Subparagraph (1) of this Paragraph,
19 not less than sixty days prior to the beginning of the first regular session of the
20 legislature after this Article becomes effective, the state treasurer shall submit to the
21 legislature and the governor a report of the following:

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

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

25 (3) If unclaimed property claims exceed receipts, the state treasurer shall
26 certify the amount needed to pay received claims and shall allocate sufficient funds
27 from the UCP Permanent Trust Fund to pay that amount. The state treasurer shall
28 also immediately notify the legislature and governor of the amount transferred from

1 the UCP Permanent Trust Fund and amount remaining in the UCP Permanent Trust
2 Fund.

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

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

9 Section 3. Be it further resolved that this proposed amendment shall be submitted
10 to the electors of the state of Louisiana at the statewide election to be held on November 3,
11 2020.

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

16 Do you support an amendment to create the Louisiana Unclaimed Property
17 Permanent Trust Fund for deposit of money that remains unclaimed by its
18 owner or owners? (July 1, 2021) (Adds Article VII, Sections 10(F)(4)(i) and
19 28)

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 445 Original

2020 Regular Session

Schexnayder

Abstract: Creates the La. Unclaimed Property Permanent Trust Fund (UCP Permanent Trust Fund) to fund claims made by owners of unclaimed property.

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.) 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.

Provides for submission of the proposed amendment to the voters at the statewide election to be held Nov. 3, 2020.

Effective July 1, 2021.

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