

CONFERENCE COMMITTEE REPORT

HB 137

2021 Regular Session

Duplessis

June 10, 2021

To the Honorable Speaker and Members of the House of Representatives and the Honorable President and Members of the Senate.

Ladies and Gentlemen:

We, the conferees appointed to confer over the disagreement between the two houses concerning House Bill No. 137 by Representative Duplessis, recommend the following concerning the Engrossed bill:

1. The set of Senate Floor Amendments proposed by Senator Henry (#3536) be rejected.
2. The set of Senate Floor Amendments proposed by Senators Smith, Bouie, and Henry (#3475) be adopted.
3. The set of Senate Committee Amendments proposed by the Senate Committee on Judiciary B (#3038) be adopted.
4. The set of Senate Legislative Bureau Amendments proposed by the Legislative Bureau (#3109) be adopted.

Respectfully submitted,

Representative Royce Duplessis

Senator Patrick Page Cortez

Representative Edward C. "Ted" James, II

Senator Gary L. Smith Jr.

Representative Tanner D. Magee

Senator Joseph Bouie Jr.

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)]

CONFERENCE COMMITTEE REPORT DIGEST

HB 137

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Keyword and oneliner of the instrument as it left the House

GAMING/CASINO: Provides relative to non-gaming economic development activities by the casino gaming operator

Report adopts Senate amendments to:

1. Make technical changes.
2. Add provisions relative to hotel room taxes.
3. Add provisions relative to the taxation of food, beverage, entertainment, and parking.
4. Remove certain provisions relative to occupancy taxes.
5. Reword proposed law provisions relative to the memorandum of understanding between the casino gaming operator and the La. Stadium and Exposition District and the Ernest N. Morial-New Orleans Exhibition Hall Authority.
6. Specify that any action related to the enforcement of the memorandum of understanding shall be instituted in the Civil District Court for the parish of Orleans.
7. Add an effective date of July 1, 2021.

Report rejects Senate amendments which would have:

1. Specify that the effective date of July 1, 2021 be contingent upon the enactment of House Bill No. 365 and Senate Bill Nos. 204 and 209 of the 2021 Regular Session of the legislature.

Digest of the bill as proposed by the Conference Committee

Present law (R.S. 27:240 et seq.) provides for the Land-Based Casino Operating Contract and provides for the operations for the land-based casino.

Present law (R.S. 27:243) provides that the casino operator is authorized to conduct noncasino related activities at the official gaming establishment in accordance with certain agreements. Provides that the memorandum of understanding and agreement between the casino gaming operator and the Greater New Orleans Hotel and Lodging Association dated April 2019, shall provide that:

- (1) For additional rooms authorized by the memorandum of understanding and agreement dated April 2019, advertising of market rates shall be based on average seasonal rates for the preceding year of luxury hotels in the Central Business District (CBD), French Quarter, and Warehouse District of the City of New Orleans, as compiled by a nationally recognized firm.

- (2) For rooms existing prior to August 1, 2018, room taxes shall be paid by the casino gaming operator on all discounted and complimentary rooms to be paid at the applicable tax rates based upon average seasonal rates for the preceding year of hotels in the CBD and French Quarter of the City of New Orleans, as compiled by a nationally recognized firm. For those hotel rooms added after 2019 and authorized by the MOU dated April 2019, room taxes shall be paid by the casino operator on all discounted and complimentary rooms to be paid at the applicable tax rates based upon average seasonal rates for the preceding year of luxury hotels in the CBD, French Quarter, and Warehouse District of the City of New Orleans, as compiled by a nationally recognized firm.

Proposed law retains present law for room taxes levied and collected by the city of New Orleans on complimentary rooms. Specifically provides that complimentary rooms provided by the casino gaming operator shall not be subject to the state sales and use tax.

Proposed law provides that room taxes levied and collected by the city of New Orleans, sales and use taxes levied by the state of La., and sales and use or occupancy taxes levied by any other political subdivision on rooms provided at a discount by the casino gaming operator shall be paid at the applicable rates based on the amount actually paid or charged for the room.

Proposed law provides that the casino gaming operator shall enter into a memorandum of understanding and agreement with the La. Stadium and Exposition District and the Ernest N. Morial-New Orleans Exhibition Hall Authority to provide for annual payments of \$1,300,000, to be divided into quarterly payments, with the first payment beginning on July 1, 2022, and continuing through July 31, 2054.

Proposed law requires the casino gaming operator to remit state and local sales and use taxes at the applicable tax rates on all complimentary and discounted food, beverage, or entertainment offerings based on the actual value of food, beverage, or entertainment provided and to remit state and local sales and use taxes at the applicable tax rates on all parking provided at a charge to the customer or the general public.

Present law (R.S. 27:248) provides relative to the promotion of non-gaming economic development by the casino gaming operator or an affiliate company through the development of businesses, including restaurants, entertainment outlets, and retail outlets leased or subleased to third-party tenants or subtenants within, adjacent to, and around the official gaming establishment.

Present law requires the casino gaming operator to report quarterly the total operating force or personnel level of the third-party tenants to the board of directors of the La. Economic Development and Gaming Corporation.

Present law provides that the reported operating force or personnel level for the prior quarter shall be determined by taking into account the greater of either the three-month average for the applicable reporting quarter or the highest monthly total during the applicable reporting quarter. Further provides that the reported operating force or personnel level for the prior quarter shall be credited to the casino gaming operator for purposes of meeting certain present law obligations, provided that such credit is limited to 400 employment positions toward the total operating force or personnel level.

Present law provides that prior to July 15, 2024, the casino operator shall make a capital investment on or around the official gaming establishment of \$325,000,000 subject to an extension for any force majeure event.

Proposed law amends present law to remove the 400 employment positions credited toward the total operating force or personnel level.

Present law defines "operating force or personnel level" as the number of people employed by the casino and any related non-gaming entity, including hotel operations, third-party tenants, and corporate employees.

Present law provides that the casino gaming operator shall not reduce its total operating force or personnel level below 90% of the force or level as such existed on March 8, 2001.

Present law provides that to meet those goals the credit is limited to 400 employment positions.

Proposed law changes present law from 400 positions to not more than half of the total operating force or personnel level to meet those goals.

Proposed law adds hospitality outlet employees to the definition of "operating force or personnel level" and also adds third-party contractor employees provided, however, that the employees of third-party contractors shall be included only until the \$325,000,000 capital investment requirement has been fulfilled.

Proposed law removes third-party tenants from the total operating force or personnel level that is reported to the gaming control board.

Proposed law amends the present law definition to also include employees of any third-party contractors.

Present law provides that the casino gaming operator shall be credited an amount equal to the pro rata share of compensation to employees of the third-party tenants.

Proposed law amends present law to provide that the amount credited to the casino gaming operator is equal to the compensation to employees of the third-party tenants.

Effective July 1, 2021.

(Amends R.S. 27:243(C)(intro. para.), (4)(b) and (5), 248(C)(2)(intro. para.), (3), (4), and (5);
Adds R.S. 27:243(C)(6))