

GREEN SHEET REDIGEST

HB 553

2018 Regular Session

Barras

(KEYWORD, SUMMARY, AND DIGEST as amended by Senate committee amendments)

GAMING/CASINO: Provides with respect to the casino operating contract.

DIGEST

The present law Louisiana Economic Development and Gaming Corporation Act provides for the creation of the Louisiana Economic Development and Gaming Corporation, the ownership interest of which is vested in the state, which is empowered to enter into contracts for the conducting of casino gaming operations at a single official gaming establishment in Orleans Parish. Pursuant to present law, effective May 1, 1996, the Louisiana Gaming Control Board assumed control of the affairs of the Louisiana Economic Development and Gaming Corporation and all powers, duties, functions, responsibilities, and obligations associated therewith.

Under present law, the term of the contract and any option to extend or renew may not exceed a total of 20 years primary term and one ten-year renewal option.

Proposed law amends present law to authorize the Louisiana Gaming Control Board to enter into one additional 20 year renewal term with one 10 year renewal option, in addition to the initial 20-year term and the one ten-year renewal term, upon all of the following:

- (1) The casino gaming operator making a capital investment on or around the official gaming establishment of \$350,000,000 within four years of approval of the amended casino operating contract. The casino operator shall utilize at least 35% disadvantaged business enterprises participation in the planning, development, construction, and operation of the capital investment development project.
- (2) A showing that additional renewals of the casino operating contract will benefit the economy of the state, encourage the continued growth of tourism, and promote the stability of casino operations at the land-based casino.
- (3) Approval by the Joint Legislative Committee on the Budget of any change in terms of the casino operating contract.

Proposed law requires the renewal terms of the casino operating contract to contain provisions that do all of the following:

- (1) Require the casino gaming operator to annually pay directly to the governing authority of the parish where the official gaming establishment is located a sum of money, set forth in the provisions of proposed law, to compensate the parish for the cost to the parish for providing support services resulting from the operation of the official gaming establishment and activities therein.

In this regard, present law requires the La. Gaming Control Board to enter into a contract for casino support services (including but not limited to fire, police, sanitation, health, transportation, and traffic services) with the governing authority of the parish where the official gaming establishment is located in order to compensate the parish for the cost to the parish for providing support services resulting from the operation of the official gaming establishment and the activities therein. The amount of the contract is determined by negotiation and agreement between the La. Gaming Control Board and the parish, subject to approval by the Joint Legislative Committee on the Budget, and is paid from the Casino Support Services Fund, specifically created for this purpose.

Proposed law amends present law to repeal the procedure by which the La. Gaming Control Board pays the governing authority according to the negotiated casino

support services contract, and instead provides that beginning on Aug. 1, 2018, the casino gaming operator shall annually pay the governing authority directly to compensate the parish for providing support services. Beginning Aug. 1, 2018, the annual payment, payable in quarterly installments, shall be equal to \$6,000,000. Beginning on Aug. 1, 2023, this amount shall be adjusted by a rate that is the lesser of two percent or the Consumer Price Index, United States city average for all urban consumers (CPI-U), as prepared by the United States Department of Labor, Bureau of Labor Statistics for the two calendar years immediately preceding the adjustment, with adjustments being made to this amount in the same manner every two years thereafter.

- (2) Require the casino gaming operator to annually pay to the Louisiana Gaming Control Board a sum of money as set forth in the provisions of proposed law, in addition to the existing present law obligations to remit to the Louisiana Gaming Control Board any fees or compensation.

In this regard, present law (R.S. 27:241.1) provides that effective midnight Mar. 31, 2001, the minimum compensation to be paid by the casino operator to the La. Gaming Control Board shall be the greater of: (i) eighteen and one-half percent of gross revenues or (ii) \$50,000,000 for the casino fiscal year April 1, 2001, through March 31, 2002, and \$60,000,000 for each casino fiscal year thereafter.

Proposed law retains present law and provides that, beginning Aug. 1, 2018, in addition to this existing obligation, the casino gaming operator shall annually pay to the La. Gaming Control Board the sum of money equal to \$3,400,000. Beginning on Aug. 1, 2023, this amount shall be adjusted by a rate that is the lesser of two percent or the Consumer Price Index, United States city average for all urban consumers (CPI-U), as prepared by the United States Department of Labor, Bureau of Labor Statistics for the two calendar years immediately preceding the adjustment, with adjustments being made to this amount in the same manner every two years thereafter.

- (3) Require the casino operator, no later than ten days after approval of the amended casino operating contract and approval of the amended casino lease, to pay \$40,000,000 to the state and the city of New Orleans. 75% shall be paid to the state and 25% shall be paid to the city of New Orleans.
- (4) Require the casino operator to pay \$40,000,000 to the state and city of New Orleans if, prior to the end of the term of the casino operating contract, the casino operator sells the casino lease. 75% shall be paid to the state and 25% shall be paid to the city of New Orleans no later than ten days after the execution of the sale.
- (5) Require the casino operator, beginning casino fiscal year Apr. 1, 2019, through Mar. 31, 2020, and for each casino fiscal year thereafter, to pay \$40,000,000 to the state to be deposited into the state general fund.

Present law authorizes the casino gaming operator to operate and conduct certain non-casino gaming activities such as restaurants, cafeteria style food services, catering, special events, and leasing of space at the establishment for certain specified purposes including but not limited to business meetings for outside entities, special events, and parties. Present law further provides certain restrictions on the casino gaming operator relative to such operations and activities, including restrictions on pricing and advertising.

Present law authorizes the casino gaming operator to own or operate offsite lodging which may be physically connected to the official gaming establishment subject to certain conditions and restrictions on the number of rentable units, square footage, advertising, and pricing.

Proposed law amends provisions of present law to provide that beginning Aug. 1, 2018, the casino gaming operator is authorized to conduct certain non-casino related activities at the official gaming establishment or at another location subject to certain requirements as follows:

- (1) The casino gaming operator may have a meeting space for parties, VIP events, and the like but shall not rent business meeting space for business seminars and training associated with the sale or purchase of rentable units, unless such rentable units are rented at the rates based on average seasonal rates for the preceding year of hotels located in the Central Business District and French Quarter of Orleans Parish as compiled by a nationally recognized firm that compiles data on room rates for such parish.
- (2) The casino gaming operator, on its own or through an affiliate, shall not provide lodging, except that the casino gaming operator may own or operate lodging at or in the vicinity of the official gaming establishment consistent with both of the following:
 - (a) Certain conditions provided by proposed law relative to room rates, complimentary and discounted hotel offerings, and advertising.
 - (b) Any agreement between the casino gaming operator and the Greater New Orleans Hotel and Lodging Association and its predecessors, as such agreement may be amended from time to time.
- (3) The casino gaming operator is subject to the requirements of a memorandum of understanding (MOU) and agreement entered into with the Greater New Orleans Hotel and Lodging Association dated March 2018, which may include an authorization to provide an agreed upon number of additional hotel rooms at a new hotel site, and a MOU and agreement entered into with the La. Restaurant Association dated March 2018.

In this regard, proposed law provides:

- (a) Any action related to the enforcement of the memoranda of understanding and agreement shall be instituted in the Civil District Court for the Parish of Orleans; and the La. Gaming Control board shall retain jurisdiction over the casino gaming operator's compliance with the provisions of present and proposed law and any regulations or rules adopted by the La. Gaming Control Board.
- (b) The memorandum of understanding and agreement with the Greater New Orleans Hotel and Lodging Association dated March 2018, shall provide for certain restrictions specified in proposed law, relative to advertising of market rates and state and local sales taxes and occupancy taxes, that apply only to the additional rooms authorized by the MOU and agreement.

Present law requires the corporation, on a daily basis, to transfer to the state treasury for deposit into certain funds in the treasury the amount of net revenues which the corporation determines are surplus to its needs. Further provides that such net revenues shall be deposited as follows:

- (1) In each year for which the Joint Legislative Committee on the Budget disapproves or does not act upon the amount of the casino support services contract, no monies are deposited in and credited to the Casino Support Services Fund:
 - (a) 10% shall be deposited in and credited to the Support Education in Louisiana First Fund and used solely and exclusively for specific purposes provided in present law.
 - (b) 90% shall be deposited in and credited to the Support Education in Louisiana First Fund.
- (2) In each year for which the Joint Legislative Committee on the Budget approves the amount of the casino support services contract:
 - (a) The first \$1,800,000 shall be deposited in and credited to the Casino Support Services Fund.

- (b) The next \$60,000,000 shall be deposited in and credited to the Support Education in Louisiana First Fund.
- (c) After satisfying the requirements of paragraphs (a) and (b) above, monies shall be deposited into the Casino Support Services Fund until the casino support services contract is fully funded for that year.
- (d) After satisfying the requirements of paragraph (c) above, the remainder of the monies shall be deposited in and credited to the Support Education in Louisiana First Fund.

In this regard, proposed law amends present law to provide for the allocation and distribution of such net revenues as follows:

- (1) Beginning Aug. 1, 2018, if the amount received pursuant to present law (R.S. 27:241.1(A)) for the previous casino fiscal year is \$60,000,000 or less, the amount received shall be allocated as follows:
 - (a) 10% shall be deposited in and credited to the Support Education in Louisiana First Fund and used solely and exclusively for purposes provided in present law.
 - (b) 90% shall be deposited in and credited to the Support Education in Louisiana First Fund.
- (2) Beginning Aug. 1, 2018, if the amount received pursuant to present law (R.S. 27:241.1(A)) for the previous casino fiscal year is greater than \$60,000,000 after satisfaction of the requirements of paragraph (1) above, all residual monies shall be allocated in the following order:
 - (a) \$3,600,000 shall be deposited in and credited to the Louisiana Early Childhood Education Fund.
 - (b) Of the monies remaining after satisfaction of the requirements of paragraph (a) above, 30% shall be distributed by the state treasurer to the governing authority of the parish in which the official gaming establishment is located for use in support of capital infrastructure projects, and 70% shall be deposited in and credited to the state general fund.

Effective July 1, 2018.

(Amends R.S. 27:241(A), 241.1, 243(C), 247, and 270(A)(3))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill:

- 1. Amend proposed law to provide that the memorandum of understanding between the casino gaming operator and the Greater New Orleans Hotel and Lodging Association dating March 2018 may include, instead of shall include, an authorization to provide an agreed upon number of additional hotel rooms at a new hotel site.
- 2. Specify that any action related to the enforcement of memoranda of understanding and agreements shall be instituted in the Civil District Court for the Parish of Orleans.
- 3. Add changes to provisions of present law which provides for the distribution of certain net revenues into specific funds and which provides for the procedure by which the amount allocated to each fund is determined.

The House Floor Amendments to the engrossed bill:

1. Require the casino gaming operator to make a capital investment of \$350,000,000 prior to the board's approval of the first additional 30-year renewal term and remove the capital investment from the list of required elements of the first thirty-year renewal term contract.
2. Provide that adjustments to the amount paid to the La. Gaming Control Board by the casino gaming operator and the amount paid for casino support services shall be made every two years, instead of every five years.
3. Make changes to the provisions of proposed law which provide for the distribution of certain funds to increase the percentage of funds allocated to the Community Water Enrichment and Other Improvements Fund from 50% to 70% and to decrease the percentage of funds allocated to the governing authority of the parish in which the official gaming establishment is located from 50% to 30%.

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary B to the reengrossed bill

1. Changes the renewal terms allowable for the casino operating contract to one 20 year renewal term and one additional ten year renewal option.
2. Requires the casino operator to make the \$350,000,000 capital investment on or around the official gaming establishment within six years of approval of the amended casino operating contract.
3. Requires the casino operator to pay \$40,000,000 split 75% to the state and 25% to the city of New Orleans within ten days of approval of the amended casino operating contract and approval of the amended casino lease.
4. Requires the casino operator to pay \$40,000,000 split 75% to the state and 25% to the city of New Orleans if the casino operator sells the casino lease prior to the end of the term of the casino operating contract.
5. Requires the casino operator, beginning casino fiscal year April 1, 2019, through March 31, 2020, to annually pay \$40,000,000 to the state to be deposited into the state general fund.
6. Clarifies that for hotel rooms existing prior to Aug. 1, 2018, and the additional hotel rooms authorized by the MOU dated March 2018, the room taxes to be paid include all state and local sales taxes and occupancy taxes.
7. Increases the amount paid annually by the casino operator to the parish where the official gaming establishment is located for support services to \$6,000,000.
8. Clarifies that the previous casino fiscal year's minimum compensation payment is used to determine the allocation and distribution of daily transfers of net revenues.
9. Changes daily allocation of daily transfers of net revenues in proposed law from the Community Water Enrichment Fund and Other Improvements Fund to the state general fund.
10. Makes technical changes.

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Revenue and Fiscal Affairs to the reengrossed bill

1. Changes the time frame for which the \$350 million capital investment must be made from within six years to within four years of July 1, 2018 and adds a force majeure clause.
2. Provides that the casino operator shall utilize at least 35% disadvantaged business enterprises participation in the planning, development, construction, and operation of the capital investment development project.
3. Changes references of "urban customer" to "urban consumer".
4. Makes technical changes.
5. Provides for an effective date.