

2019 Regular Session

HOUSE BILL NO. 544

BY REPRESENTATIVES BARRAS, BAGNERIS, MARCELLE, MOSS, AND NORTON
AND SENATOR ALARIO

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

GAMING/CASINO: Provides with respect to the land-based casino operating contract

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AN ACT

To amend and reenact R.S. 27:241(A), 241.1, 243(C), 247, and 270(A)(3), and Subpart P-1 of Part II-A of Chapter 1 of Subtitle I of Title 39 of the Louisiana Revised Statutes of 1950, comprised of R.S. 39:100.81, relative to the land-based casino operating contract; to provide relative to the duration of the primary contract term and the duration of renewal terms; to authorize a renewal term of thirty years when certain conditions are met; to provide relative to compensation paid to the Louisiana Gaming Control Board; to provide for a specific amount to be paid to the Louisiana Gaming Control Board and to provide for disposition and use of such monies; to provide relative to the exercise of a call option to the leasehold interest in the official gaming establishment; to provide for the deposit of monies into certain special treasury funds; to provide with respect to the Community Water Enrichment Fund And Other Improvements and accounts therein; to provide relative to the contract and payment for casino support services; to provide for a specific amount to be paid to the governing authority for the parish where the official gaming establishment is located for providing casino support services; to provide relative to the casino gaming operator's authority to conduct and offer non-casino gaming activities and operations; to provide for certain restrictions on certain non-casino gaming activities including restaurants and hotels; to provide relative to a memorandum of understanding and agreement between the casino gaming operator and the Greater

1 New Orleans Hotel and Lodging Association; to provide relative to a memorandum
2 of understanding and agreement between the casino gaming operator and the
3 Louisiana Restaurant Association; and to provide for related matters.

4 Be it enacted by the Legislature of Louisiana:

5 Section 1. R.S. 27:241(A), 241.1, 243(C), 247, and 270(A)(3) are hereby amended
6 and reenacted to read as follows:

7 §241. Board to let contract to conduct casino gaming operations; bid specifications;
8 compensation of casino gaming operator; contract renewal

9 A.(1) Notwithstanding any provision of law to the contrary, the board of
10 directors shall publicly advertise, offer, and let, in accordance with the provisions of
11 this Chapter, a contract to conduct casino gaming operations at a single official
12 gaming establishment to be located upon the site of the Rivergate Convention Center
13 in Orleans Parish. The initial term of the contract and any option to extend or renew
14 the initial term of the contract may not exceed a total of twenty years primary term
15 and one ten-year renewal option except as provided in this Subsection. The contract
16 or renewal option to conduct casino operations shall not be subject to sale, alienation,
17 assignment, or transfer by the casino gaming operator except as provided for in this
18 Chapter.

19 (2)(a) Notwithstanding any law to the contrary, upon meeting the
20 requirements of Subparagraph (b) of this Paragraph and upon a showing that
21 additional renewals of the casino operating contract will benefit the economy of the
22 state, encourage the continued growth of tourism, and promote the stability of casino
23 operations at the land-based casino, and subject to the approval of any change in
24 terms of the casino operating contract by the Joint Legislative Committee on the
25 Budget and the approval by the New Orleans City Council, the mayor of the city of
26 New Orleans, and the casino operator of all matters necessary to implement the
27 provisions of the extension, the Louisiana Gaming Control Board shall approve and
28 enter into additional thirty-year renewal terms of the casino operating contract, in

1 addition to the initial term and the ten-year renewal term, subject to compliance with
2 the provisions of this Chapter.

3 (b) Prior to July 15, 2024, the casino operator shall make a capital
4 investment on or around the official gaming establishment of three hundred and
5 twenty-five million dollars, subject to an extension for any force majeure event,
6 including any lawsuit, that delays construction, provided however, that in order for
7 such extension to take place, the casino operator shall be required to post a bond or
8 put monies in escrow to ensure satisfaction of the mandated capital spend and shall
9 be required to proceed with construction immediately upon the cessation of the force
10 majeure event.

11 (3) The thirty-year renewal term, extending the casino operating contract to
12 July of 2054, shall contain provisions that do all of the following:

13 (a) As provided in R.S. 27:247, require the casino operator to annually pay
14 directly to the governing authority of the parish where the official gaming
15 establishment is located a sum of money as set forth in R.S. 27:247 to compensate
16 the parish for the cost to the parish for providing support services resulting from the
17 operation of the official gaming establishment and activities therein.

18 (b) As provided in R.S. 27:241.1(B), require the casino operator to annually
19 pay to the Louisiana Gaming Control Board a sum of money as set forth in R.S.
20 27:241.1(B), in addition to the existing obligation to remit to the Louisiana Gaming
21 Control Board any fees or compensation, including compensation paid to the
22 Louisiana Gaming Control Board pursuant to R.S. 27:241.1(A).

23 (c) As provided in R.S. 27:241.1(C), require the casino operator to pay to the
24 Louisiana Gaming Control Board an annual license payment as set forth in R.S.
25 27:241.1(C), in addition to the existing obligation to remit to the Louisiana Gaming
26 Control Board any fees or compensation, including compensation paid to the
27 Louisiana Gaming Control Board pursuant to R.S. 27:241.1(A) and (B).

28 (d)(i) Notwithstanding any provision of law to the contrary, the casino
29 operator shall pay a sum of twenty-five million dollars to the state and to the city of

1 New Orleans to be paid and dispersed pursuant to the provisions of Item (ii) of this
2 Subparagraph.

3 (ii) Seventy percent shall be paid to the state and thirty percent shall be paid
4 to the city of New Orleans no later than ten days after all of the following occur:

5 (aa) Approval by the Joint Legislative Committee on the Budget of the
6 amended casino operating contract.

7 (bb) Approval by the New Orleans City Council of an amended lease that
8 reflects the parties' mutual understanding and economic development requirements
9 consistent with this Chapter.

10 (cc) The execution of the amended casino operating contract reflecting the
11 renewal of the contract through July of 2054.

12 (e) Notwithstanding any provision of law to the contrary, at such time as the
13 real estate investment trust option holder, hereinafter referred to as "option holder",
14 exercises, prior to October 1, 2020, its call option to the leasehold interest in the
15 official gaming establishment, the casino operator shall pay a sum of forty million
16 dollars, seventy percent of which shall be paid to the state and thirty percent of which
17 shall be paid to the city of New Orleans, in three installments as follows:

18 (i) Twenty million dollars to be paid no later than ten days after the exercise
19 of the call option if the following conditions have been fulfilled at the time of the
20 exercise of the call option, or if the conditions have not been fulfilled at the time of
21 the exercise of the call option, payment shall be made no later than ten days after the
22 fulfillment of the following conditions:

23 (aa) Approval by the Joint Legislative Committee on the Budget of the
24 amended casino operating contract.

25 (bb) Approval by the New Orleans City Council of an amended lease that
26 reflects the parties' mutual understanding and economic development requirements
27 consistent with this Chapter, and all approvals necessary for the assignment of the
28 lease of the official gaming establishment or sublease to the option holder provided
29 that there are no further requirements for remuneration to be paid or further

1 concessions to be made by the casino operator or the option holder to the city of New
2 Orleans in connection with the approval of the assignment of the lease of the official
3 gaming establishment or sublease to the option holder, except as provided in this
4 Chapter.

5 (cc) The execution of the amended casino operating contract reflecting the
6 renewal of the contract through July of 2054.

7 (ii) Ten million dollars on the first anniversary of the date on which the
8 payment was made pursuant to Item (i) of this Subparagraph.

9 (iii) Ten million dollars on the second anniversary of the date on which the
10 payment was made pursuant to Item (i) of this Subparagraph.

11 (f) Notwithstanding any provision of law to the contrary, if the call option
12 to the leasehold interest in the official gaming establishment is not exercised by
13 October 1, 2020, the casino operator shall pay a sum of forty million dollars, seventy
14 percent of which shall be paid to the state and thirty percent of which shall be paid
15 to the city of New Orleans, in three installments as follows:

16 (i) Twenty million dollars to be paid no later than ten days after October 1,
17 2020.

18 (ii) Ten million dollars on the first anniversary of the date on which the
19 payment was made pursuant to Item (i) of this Subparagraph.

20 (iii) Ten million dollars on the second anniversary of the date on which the
21 payment was made pursuant to Item (i) of this Subparagraph.

22 * * *

23 §241.1. Minimum compensation payments; effective March 31, 2001; payments
24 beginning August 1, 2022

25 A. Notwithstanding the provisions of R.S. 27:241(C) or any other law to the
26 contrary, effective midnight March 31, 2001, the minimum compensation to be paid
27 by the casino operator to the Louisiana Gaming Control Board shall be the greater
28 of: (i) eighteen and one-half percent of gross revenues or (ii) fifty million dollars for
29 the casino fiscal year April 1, 2001 through March 31, 2002, ~~and~~ sixty million

1 dollars for ~~each~~ the casino fiscal year April 1, 2002 through March 31, 2022, and
2 sixty-five million dollars for the casino year April 1, 2022 and for each casino fiscal
3 year thereafter. Such amount shall be allocated as provided in R.S. 27:270(A)(3)(b).

4 B.(1) In addition to any existing obligation to remit to the Louisiana Gaming
5 Control Board any fees or compensation, including compensation paid to the
6 Louisiana Gaming Control Board pursuant to the provisions of this Section,
7 beginning on August 1, 2019, and concluding July 31, 2054, the casino operator shall
8 annually pay to the Louisiana Gaming Control Board the sum of money set forth in
9 Paragraph (2) of this Subsection.

10 (2)(a) Except as provided in Subparagraph (b) of this Paragraph, beginning
11 on October 1, 2019, the payment required by Paragraph (1) of this Subsection shall
12 be equal to three million four hundred thousand dollars.

13 (b) Beginning on August 1, 2024, the amount set forth in Subparagraph (a)
14 of this Paragraph shall be adjusted by a rate that is the lesser of two percent or the
15 Consumer Price Index, United States city average for all urban customers (CPI-U),
16 as prepared by the United States Department of Labor, Bureau of Labor Statistics for
17 the two calendar years immediately preceding the adjustment, with adjustments
18 being made to this amount in the same manner every two years thereafter.

19 C. Beginning in casino fiscal year April 1, 2022 and each casino fiscal year
20 thereafter, in addition to any existing obligation to remit to the Louisiana Gaming
21 Control Board any fees or compensation, including compensation paid to the
22 Louisiana Gaming Control Board pursuant to the provisions of this Section, the
23 casino operator shall annually pay to the Louisiana Gaming Control Board an annual
24 license payment of three million dollars.

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26 §243. Requirements for casino operating contract

27 * * *

28 C. ~~As to~~ Beginning August 1, 2019, the casino operator is authorized to
29 conduct the following non-casino related activities at the official gaming

1 establishment or at another location subject to the requirements set forth in
2 Paragraphs (1), (2), (3), and (4) of this Subsection:

3 (1) The casino gaming operator: may offer food and restaurant facilities at
4 or in the vicinity of the official gaming establishment consistent with the terms of
5 any agreement between the casino operator and the Louisiana Restaurant Association
6 and its successors, as such agreement may be amended from time to time.

7 ~~(a) May directly offer a single restaurant facility with table food within the~~
8 ~~official gaming establishment, provided that the seating does not exceed one hundred~~
9 ~~fifty seats.~~

10 ~~(b) May directly offer limited cafeteria style food services for employees and~~
11 ~~patrons provided that seating for patrons shall be limited to four hundred seats and~~
12 ~~further that any such seating shall be used only for buffet seating.~~

13 ~~(c) May directly cater events within the official gaming establishment~~
14 ~~provided that such catering on the second floor of the facility shall be limited to~~
15 ~~targeted persons identified in Subparagraph (g) of this Paragraph, and provided~~
16 ~~further that the casino gaming operator shall permit persons contracting a catered~~
17 ~~event the option of using outside caterers.~~

18 ~~(d) May lease space on the second floor of the official gaming establishment~~
19 ~~to unaffiliated third parties that shall be permitted to operate no more than two~~
20 ~~restaurants with seating for no more than three hundred fifty persons, in the~~
21 ~~aggregate.~~

22 ~~(e) May directly operate non-casino related businesses on the second floor~~
23 ~~of the casino provided that, other than as provided in Subparagraph (c) of this~~
24 ~~Paragraph, any food for such operation shall be purchased or catered by a third party~~
25 ~~restaurateur or food preparer with purchases at fair market value.~~

26 ~~(f) May lease space to third parties that may operate non-casino related~~
27 ~~businesses on the second floor of the official gaming establishment provided that the~~
28 ~~primary purpose of such business is not a restaurant which shall require that no more~~

1 ~~than thirty-five percent of the revenues of such business shall be derived from the~~
2 ~~sale of food.~~

3 ~~(g) May not offer or advertise complimentary or discounted food offerings~~
4 ~~to the general public within a fifty-mile radius of the official gaming establishment~~
5 ~~and within Louisiana, but may, nonetheless, offer and advertise complimentary or~~
6 ~~discounted food offerings to: (i) a patron that is a member of a customer reward~~
7 ~~system or otherwise maintained on a data base; (ii) a known "high roller" or patrons~~
8 ~~on a junket with established play at the casino or with other casinos; (iii) a person~~
9 ~~that, based upon observed win or loss levels, is eligible to obtain discounted or full~~
10 ~~complimentary food offerings; (iv) a targeted prospective customer outside a fifty-~~
11 ~~mile radius of the official gaming establishment or not within the state, provided that~~
12 ~~no advertising of complimentary or discounted food offerings for such persons shall~~
13 ~~be disseminated to the general public such as on billboards or in the print media; (v)~~
14 ~~a person that has suffered a service error that results in complimentary or discounted~~
15 ~~food offerings to rectify the error in service; or (vi) a vendor or other person visiting~~
16 ~~the official gaming establishment for business or educational purposes. In no event~~
17 ~~shall the casino gaming operator prospect for new customers in this state and within~~
18 ~~a fifty-mile radius of the official gaming establishment through use of~~
19 ~~complimentary or discounted food offerings disseminated through any advertising~~
20 ~~media whether newspaper, television, direct mail, coupons, or billboards.~~

21 ~~(h) May lease space to area restaurant owners and food preparers who may~~
22 ~~offer to provide for food service in a kiosk area, in the official gaming establishment~~
23 ~~provided that all seating for any kiosk area or areas shall be limited to an aggregate~~
24 ~~of one hundred seats which shall be used only for kiosk seating.~~

25 ~~(i) May (2) The casino operator may have a meeting space for parties, VIP~~
26 ~~events, and the like but shall not rent business meeting space for business seminars~~
27 ~~and training associated with the sale or purchase of rentable units, unless such~~
28 ~~rentable units are rented at the rates established as provided in Subparagraph~~
29 ~~(C)(2)(b) (3)(b) of this Subsection.~~

1 ~~(2)~~(3) The casino gaming operator, on its own or through an affiliate, shall
2 not provide lodging, except that the casino gaming operator may own or operate
3 ~~offsite lodging, which may be physically connected to the official gaming~~
4 ~~establishment, subject to the following conditions:~~ at or in the vicinity of the official
5 gaming establishment consistent with the following conditions and any agreement
6 between the casino operator and the Greater New Orleans Hotel and Lodging
7 Association and its successors, as such agreement may be amended from time to
8 time:

9 (a) There shall be no more than four hundred fifty rentable units, and not
10 more than fifteen thousand square feet of meeting space if a hotel is newly
11 constructed or twenty thousand square feet if an existing hotel is purchased or leased
12 that contains such space, from April 1, 2001 to March 31, 2005, provided that after
13 March 31, 2005, additional rentable units may be owned or operated with additional
14 meeting space, only in accordance with any agreement for such increases entered
15 into by and between the casino gaming operator and the Greater New Orleans Hotel-
16 Motel Association and its successors, as such agreement may be amended from time
17 to time.

18 (b) Except as provided in Subparagraph (c) of this Paragraph and Paragraph
19 (4)(a) of this Subsection, the casino gaming operator shall not advertise room rates
20 to the general public at below market rates. The casino gaming operator shall base
21 room rates on average seasonal rates for the preceding year of hotels located in the
22 Central Business District and French Quarter of the parish of the official gaming
23 establishment as compiled by a nationally recognized firm that compiles data on
24 room rates for such parish.

25 (c) The casino gaming operator shall not offer complimentary or discounted
26 hotel offerings to the general public, but may, nonetheless, offer complimentary or
27 discounted hotel offerings to: (i) a patron that is a member of the casino gaming
28 operator's or manager's customer reward system or otherwise maintained on the
29 casino gaming operator's or manager's data base; (ii) a known "high roller" or patrons

1 on a junket with established play at the official gaming establishment or with other
2 casinos; (iii) a person that, based upon observed win or loss levels at the casino, is
3 eligible to a discount or full complimentary offerings; (iv) a targeted prospect outside
4 a fifty-mile radius of the official gaming establishment, or not within the state; (v)
5 a person that has suffered a service error that results in a complimentary rate or
6 discount to rectify the error in service; or (vi) a vendor or other person visiting the
7 casino for business or educational purposes.

8 (d) The casino ~~gaming~~ operator shall not advertise to the general public,
9 which does not include those individuals specified in Items (c)(i) through (vi) of this
10 Paragraph, complimentary or discounted hotel rates; however, the casino gaming
11 operator may advertise rooms rented at the rates established in Subparagraph (b) of
12 this Paragraph on billboards outside a fifty-mile radius of the official gaming
13 establishment or on billboards outside of Louisiana. The casino ~~gaming~~ operator
14 may otherwise prospect for new customers through advertising media so long as the
15 pricing for rooms is consistent with the rate structure as set forth in Subparagraph (b)
16 of this Paragraph.

17 ~~(e)(4)(a)~~ The casino operator is subject to the requirements of a
18 memorandum of understanding and agreement entered into with the Greater New
19 Orleans Hotel and Lodging Association dated April 2019, which may include an
20 authorization to provide an agreed upon number of additional hotel rooms at a new
21 hotel site, and a memorandum of understanding and agreement entered into with the
22 Louisiana Restaurant Association dated March 2018. Any action related to the
23 enforcement of the memoranda of understanding and agreements shall be instituted
24 in the Civil District Court for the Parish of Orleans. The Louisiana Gaming Control
25 Board shall retain jurisdiction over the casino operator's compliance with the
26 provisions of this Chapter and any regulations or rules adopted by the Louisiana
27 Gaming Control Board.

1 ~~limited to fire, police, sanitation, health, transportation, and traffic services. The~~
2 ~~amount of the contract shall be determined by negotiation and agreement between~~
3 ~~the gaming control board and the parish, subject to approval by the Joint Legislative~~
4 ~~Committee on the Budget. In the event that a new contract is not agreed upon by the~~
5 ~~gaming control board and the parish by March thirty-first of any year, the contract~~
6 ~~currently in effect shall be submitted to the Joint Legislative Committee on the~~
7 ~~Budget for approval of the amount of the contract at the next meeting of the~~
8 ~~committee. If the committee approves the amount of the contract the chairman shall~~
9 ~~notify the treasurer of the amount of the contract and, the contract shall remain in full~~
10 ~~force and effect. If the committee disapproves or does not act upon the amount of~~
11 ~~the contract, the contract shall be null, void, and of no effect and the treasurer shall~~
12 ~~be prohibited from depositing monies into the Casino Support Services Fund.~~

13 ~~B.(1) There is hereby created in the state treasury, as a special fund, the~~
14 ~~Casino Support Services Fund, hereinafter referred to as the "fund", to provide~~
15 ~~compensation to the parish governing authority pursuant to a casino support services~~
16 ~~contract executed pursuant to Subsection A of this Section.~~

17 ~~(2) Monies in the fund shall be invested in the same manner as monies in the~~
18 ~~general fund. Interest earned on investment of monies in the fund shall be credited~~
19 ~~to the fund. Unexpended and unencumbered monies in the fund at the end of the~~
20 ~~fiscal year shall remain in the fund.~~

21 ~~C. Monies in the fund shall be appropriated to the parish governing authority~~
22 ~~and used to compensate the parish for its costs for providing support services~~
23 ~~resulting from the operation of the official gaming establishment and the activities~~
24 ~~therein.~~

25 A. Beginning on August 1, 2019, and continuing throughout the term of the
26 casino operating contract, the casino operator shall annually pay directly to the
27 governing authority of the parish where the official gaming establishment is located,
28 the sum of money set forth in Subsection B of this Section to compensate the parish

1 (b)(i) Beginning August 1, 2019, and through March 31, 2022, if the amount
2 received pursuant to R.S. 27:241.1(A) is sixty million dollars or less, the amount
3 received shall be allocated as follows:

4 (aa) Ten percent shall be deposited in and credited to the Support Education
5 in Louisiana First Fund as provided in R.S. 17:421.7 and shall be used solely and
6 exclusively for the same purposes provided for in Paragraph (B)(1) of that Section.

7 (bb) Ninety percent shall be deposited in and credited to the Support
8 Education in Louisiana First Fund as provided in R.S. 17:421.7.

9 ~~(ii) In each year for which the Joint Legislative Committee on the Budget~~
10 ~~approves the amount of the casino support services contract as provided in R.S.~~
11 ~~27:247:~~

12 ~~(aa) The first one million eight hundred thousand dollars shall be deposited~~
13 ~~in and credited to the Casino Support Services Fund.~~

14 ~~(bb) The next sixty million dollars shall be deposited in and credited to the~~
15 ~~Support Education in Louisiana First Fund as provided in R.S. 17:421.7.~~

16 ~~(cc) After satisfying the requirements of Subitems (aa) and (bb) of this Item,~~
17 ~~monies shall be deposited into the Casino Support Services Fund until the casino~~
18 ~~support services contract is fully funded for that year.~~

19 ~~(dd) After satisfying the requirements of Subitem (cc) of this Item, the~~
20 ~~remainder of the monies shall be deposited in and credited to the Support Education~~
21 ~~in Louisiana First Fund as provided for in R.S. 17:421.7.~~

22 (ii) Beginning August 1, 2019, and through March 31, 2022, if the amount
23 received pursuant to R.S. 27:241.1(A) is greater than sixty million dollars, after
24 satisfaction of the requirements of Item (i) of this Subparagraph, all residual monies
25 shall be allocated in the following order:

26 (aa) Three million six hundred thousand dollars shall be deposited in and
27 credited to the Louisiana Early Childhood Education Fund established under R.S.
28 17:407.30.

1 (bb) Of the monies remaining after satisfaction of the requirements of
2 Subitem (aa) of this Item, thirty percent shall be distributed by the state treasurer to
3 the governing authority of the parish in which the official gaming establishment is
4 located for use in support of capital infrastructure projects, and seventy percent shall
5 be deposited in and credited to the Community Water Enrichment and Other
6 Improvements Fund established under R.S. 39:100.81.

7 (c)(i) Beginning April 1, 2022, if the amount received pursuant to R.S.
8 27:241.1(A) is sixty-five million dollars or less, the amount received shall be
9 allocated as follows:

10 (aa) Ten percent shall be deposited in and credited to the Support Education
11 in Louisiana First Fund as provided in R.S. 17:421.7 and shall be used solely and
12 exclusively for the same purposes provided for in Paragraph (B)(1) of that Section.

13 (bb) Ninety percent shall be deposited in and credited to the Support
14 Education in Louisiana First Fund as provided in R.S. 17:421.7.

15 (ii) Beginning April 1, 2022, if the amount received pursuant to R.S.
16 27:241.1(A) is greater than sixty-five million dollars, after satisfaction of the
17 requirements of Item (i) of this Subparagraph, all residual monies shall be allocated
18 in the following order:

19 (aa) Three million six hundred thousand dollars shall be deposited in and
20 credited to the Louisiana Early Childhood Education Fund established under R.S.
21 17:407.30.

22 (bb) Of the monies remaining after satisfaction of the requirements of
23 Subitem (aa) of this Item, thirty percent shall be distributed by the state treasurer to
24 the governing authority of the parish in which the official gaming establishment is
25 located for use in support of capital infrastructure projects, and seventy percent shall
26 be deposited in and credited to the Community Water Enrichment and Other
27 Improvements Fund established under R.S. 39:100.81.

28 (b)(d) Net revenues or proceeds shall be determined by deducting from gross
29 corporation revenues the necessary expenses incurred by the corporation in the

1 operation and administration of the casino gaming operations. This shall include the
2 expenses of the corporation, the expenses resulting from any contract or contracts
3 entered into for ordinary and customary business services rendered to the
4 corporation, and the amount required to be transferred to the state treasury pursuant
5 to Paragraph (2) of this Subsection.

6 * * *

7 Section 2. Subpart P-1 of Part II-A of Chapter 1 of Subtitle I of Title 39 of the
8 Louisiana Revised Statutes of 1950, comprised of R.S. 39:100.81, is hereby amended and
9 reenacted to read as follows:

10 SUBPART P-1. COMMUNITY WATER ENRICHMENT AND OTHER
11 IMPROVEMENTS FUND

12 §100.81. Community Water Enrichment and Other Improvements Fund

13 A. There is hereby created in the state treasury, as a special fund, the
14 Community Water Enrichment and Other Improvements Fund, hereinafter referred
15 to as the "fund". The fund shall consist of two accounts: the Water System
16 Enrichment Account and the Other Improvements Account. Subject to appropriation
17 by the legislature, monies in the ~~fund~~ Water System Enrichment Account shall be
18 used solely to fund rehabilitation, improvement, and construction projects for
19 community water systems to provide drinking water to Louisiana's small rural
20 communities. Subject to appropriation by the legislature, monies in the Other
21 Improvements Account shall be used by the office of community development solely
22 to provide for a grants program for local governments to assist with capital,
23 infrastructure, and other projects.

24 B. The fund shall consist of monies deposited annually pursuant to R.S.
25 27:270(A)(3)(b)(ii)(bb), with fifty percent to be deposited in and credited to the
26 Water System Enrichment Account and fifty percent to be deposited in and credited
27 to the Other Improvements Account. Further, the fund shall also consist of any other
28 monies appropriated, allocated, or transferred to the fund. Monies in the fund shall
29 be invested in the same manner as monies in the state general fund. Interest earned

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 on investment of monies in the fund shall be credited to the fund. Unexpended and
 2 unencumbered monies in the fund at the end of the fiscal year shall remain in the
 3 fund.

4 Section 3. On the effective date of this Act, the state treasurer shall transfer all
 5 monies in the Community Water Enrichment Fund at the close of the prior business day for
 6 a one-time deposit and credit to the Water System Enrichment Account within the
 7 Community Water Enrichment and Other Improvements Fund.

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 544 Engrossed

2019 Regular Session

Barras

Abstract: Provides relative to the casino operating contract for the official gaming establishment located in Orleans Parish and the renewal of such contract.

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 require the Louisiana Gaming Control Board to enter into additional 30-year renewal terms of the casino operating contract, in addition to the initial 20-year term and the one ten-year renewal term, upon all of the following:

- (1) Prior to July 15, 2024, the casino gaming operator making a capital investment on or around the official gaming establishment of \$325,000,000, subject to an extension for any force majeure event.
- (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.
- (4) Approval by the New Orleans City Council, the mayor of the city of New Orleans, and the casino operator of all matters necessary to implement the provisions of the extension.

Proposed law requires the first 30-year renewal term which extends the casino operating contract to July of 2054, 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, 2019, the casino gaming operator shall annually pay the governing authority directly to compensate the parish for providing support services. Beginning Aug. 1, 2019, the annual payment, payable in quarterly installments, shall be equal to \$6,000,000. Beginning on Aug. 1, 2024, 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 customers (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 but provides that for fiscal year April 1, 2002 through March 31, 2022, the minimum compensation to be paid by the casino operator to the La. Gaming Control Board shall be the greater of eighteen and one-half percent of gross revenues or \$60,000,000; and that for fiscal year April 1, 2022 and for each fiscal year thereafter, the minimum compensation to be paid by the casino operator to the La. Gaming Control Board shall be the greater of eighteen and one-half percent of gross revenues or \$65,000,000.

In addition to this existing obligation, as modified by proposed law, proposed law provides that beginning October 1, 2019, and concluding July 1, 2054, 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, 2024, 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 customers (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, beginning casino fiscal year April 1, 2022, and each casino fiscal year thereafter, to pay an annual license payment of \$3,000,000 to the La. Gaming Control Board.
- (4) Require the casino operator to pay a sum of \$25,000,000 to the state and to the city of New Orleans. Seventy percent shall be paid to the state and thirty percent shall be paid to the city of New Orleans no later than ten days after all of the following occur:
- (a) Approval by the Joint Legislative Committee on the Budget of the amended casino operating contract.
 - (b) Approval by the New Orleans City Council of an amended lease that reflects the parties' mutual understanding and economic development requirements consistent with present and proposed law.
 - (c) The execution of the amended casino operating contract reflecting the renewal of the contract through July 2054.
- (5) Require the casino operator, at such time as the option holder exercises, prior to October 1, 2020, its call option to the leasehold interest in the official gaming establishment, to pay a sum of \$40,000,000, with 70% of which being paid to the state and 30% of which being paid to the city of New Orleans, in three installments as follows:
- (a) \$20,000,000 to be paid no later than 10 days after the exercise of the call option if the following conditions have been fulfilled at the time of the exercise of the call option, or if the conditions have not been fulfilled at the time of the exercise of the call option, payment shall be made no later than 10 days after the fulfillment of the following conditions:
 - (i) Approval by the Joint Legislative Committee on the Budget of the amended casino operating contract.
 - (ii) Approval by the New Orleans City Council of an amended lease that reflects the parties' mutual understanding and economic development requirements consistent with present and proposed law, and all approvals necessary for the assignment of the lease of the official gaming establishment or sublease to option holder provided that there are no further requirements for remuneration to be paid or further concessions to be made by the casino operator or the option holder to the city of New Orleans in connection with the approval of the assignment of the lease of the official gaming establishment or sublease to the option holder except as provided in present and proposed law.
 - (iii) The execution of the amended casino operating contract reflecting the renewal of the contract through July 2054.
 - (b) \$10,000,000 on the first anniversary of the date on which the first payment was made.
 - (c) \$10,000,000 on the second anniversary of the date on which the first payment was made.

- (6) Require the casino operator, if the call option to the leasehold interest in the official gaming establishment is not exercised by October 1, 2020, to pay a sum of \$40,000,000, with 70% of which being paid to the state and 30% of which being paid to the city of New Orleans, in three installments as follows:
- (a) \$20,000,000 to be paid no later than 10 days after October 1, 2020.
 - (b) \$10,000,000 on the first anniversary of the date on which the first payment was made.
 - (c) \$10,000,000 on the second anniversary of the date on which the first payment was made.

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, 2019, 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 operator may offer food and restaurant facilities at or in the vicinity of the official gaming establishment consistent with the terms of any agreement between the casino operator and the Louisiana Restaurant Association and its successors, as such agreement may be amended from time to time.
- (2) 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.
- (3) 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.
- (4) 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 April 2019, 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 April 2019, shall provide for certain restrictions, relative to advertising of market rates and payment of room taxes by the casino operator, for rooms that exist prior to August 1, 2018, and restrictions in the same regard that apply only to the additional rooms authorized by the MOU and agreement. For additional hotel rooms authorized by the MOU and agreement dated April 2019, the casino operator is required to pay room taxes on all discounted and complimentary rooms at applicable tax rates based upon average seasonal rates for the preceding year of luxury hotels in the Central Business District, French Quarter, and Warehouse District.

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, 2019, through March 31, 2022, if the amount received pursuant to present law (R.S. 27:241.1(A)) is \$60,000,000 or less per fiscal year, 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, 2019, through March 31, 2022, if the amount received pursuant to present law (R.S. 27:241.1(A)) is greater than \$60,000,000 per fiscal year, 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 Community Water Enrichment and Other Improvements Fund as the fund is amended by proposed law.

In this regard, proposed law changes the present law "Community Water Enrichment Fund" to the "Community Water Enrichment and Other Improvements Fund" to be comprised of two accounts, the Water System Enrichment Account and the Other Improvements Account, with each account receiving 50% of the monies deposited from the portion of the net revenues allocated to the Community Water Enrichment and Other Improvements Fund as provided by proposed law. Further provides that monies in the Other Improvements Account shall be used by the office of community development solely to provide for a grants program for local governments to assist with capital, infrastructure, and other projects.

In this regard, proposed law requires the state treasurer, on the effective date of proposed law, to transfer all monies in the Community Water Enrichment Fund at the close of the prior business day for a one-time deposit and credit to the Water System Enrichment Account as created by proposed law.

- (3) Beginning April 1, 2022, if the amount received pursuant to present law (R.S. 27:241.1(A)) is \$65,000,000 or less per fiscal year, 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.

- (4) Beginning April 1, 2022, if the amount received pursuant to present law (R.S. 27:241.1(A)) is greater than \$65,000,000 per fiscal year, 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 Community Water Enrichment and Other Improvements Fund as the fund is amended by proposed law.

In this regard, proposed law changes the present law "Community Water Enrichment Fund" to the "Community Water Enrichment and Other Improvements Fund" to be comprised of two accounts, the Water System Enrichment Account and the Other Improvements Account, with each account receiving 50% of the monies deposited from the portion of the net revenues allocated to the Community Water Enrichment and Other Improvements Fund as provided by proposed law. Further provides that monies in the Other Improvements Account shall be used by the office of community development solely to provide for a grants program for local governments to assist with capital, infrastructure, and other projects.

(Amends R.S. 27:241(A), 241.1, 243(C), 247, and 270(A)(3) and R.S. 39:100.81)

Summary of Amendments Adopted by House

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

1. With respect to room taxes on discounted and complimentary rooms, remove the limitation that the casino operator pay only the portion of room taxes dedicated to local tourism funds.