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## DIGEST

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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.