

2021 Regular Session

HOUSE BILL NO. 415

BY REPRESENTATIVES GAINES AND MARCELLE

1 AN ACT

2 To enact Chapter 11-A of Title 33 of the Louisiana Revised Statutes of 1950, to be
3 comprised of R.S. 33:4600.1 through 4600.12, relative to tourism; to provide for the
4 creation of tourism recovery and improvement districts by tourist commissions; to
5 provide relative to the powers granted to tourist commissions with respect to such
6 districts; to provide relative to assessments levied on businesses by tourist
7 commissions; to provide for definitions; to provide limitations; to provide for
8 severability; to provide for exceptions; to provide for an effective date; and to
9 provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. Chapter 11-A of Title 33 of the Louisiana Revised Statutes of 1950,
12 comprised of R.S. 33:4600.1 through 4600.12, is hereby enacted to read as follows:

13 CHAPTER 11-A. LOUISIANA TOURISM RECOVERY AND
14 IMPROVEMENT DISTRICTS

15 §4600.1. Legislative findings

16 The legislature hereby finds and declares all of the following:

17 (1) There is a direct correlation between the amount of funds spent on
18 destination-based marketing, sales, and promotion of a locality and an increase in the
19 number of conventions, meetings, visitors, occupancy of lodging businesses, retail
20 sales of food, beverages, and other items, admissions to cultural and other
21 entertainment venues, collections of related state and local sales and use taxes, job
22 creation, and a resulting general economic vitality of the traveler economy and
23 related businesses in the locality.

1 (2) It is in the state's public interest, and vital to the welfare of the state's
2 economy, to facilitate and encourage cooperating public-private partnerships for the
3 enhancement and expansion of the business economy and to provide for increased
4 business activity, tourism, economic development, and job creation in municipalities
5 and parishes in the state of Louisiana.

6 §4600.2. Purpose

7 The purpose of this Chapter is to facilitate the collection of supplementary
8 funds to market and promote destinations in the state to provide for increased
9 economic activity within its traveler economy, including increases in conventions,
10 meetings, visitors, hotel occupancy, food, beverage and other retail sales, tourism,
11 including cultural and family tourism, tourism business job creation, tourism
12 economic development, and other tourism related purposes.

13 §4600.3. Definitions

14 As used in this Chapter, the following terms shall have the meanings ascribed
15 to them unless the context clearly indicates otherwise:

16 (1) "Activities" means marketing, promotions, sales efforts, events, and any
17 other services that are reasonably related to the enhancement of tourism.

18 (2) "Assessed business" means a business operated by a business owner who
19 is required to pay an assessment pursuant to this Chapter.

20 (3) "Assessment" means the levy imposed pursuant to this Chapter. An
21 assessment may be levied based on a fixed amount, rate per transaction, fixed rate
22 per transaction per day, percentage of sales, any combination of these methods, or
23 any other method that confers benefit to the payor.

24 (4) "Business" means any type of tourism business, including but not limited
25 to any tourist home, hotel, motel, or trailer court accommodations, recreational
26 vehicle park, privately owned or managed campgrounds, other lodging intended for
27 short-term occupancy, restaurant, tourism attraction, activity provider, and other
28 tourism businesses that benefit from the visitor economy.

29 (5) "Business owner" means any person recognized by the tourist
30 commissioners as the owner of the business subject to assessment. A tourist

1 commissioner may request a list of all businesses from the Louisiana secretary of
2 state to confirm business information regarding entity name, status, date of
3 incorporation, organization, registration, current registered office address, registered
4 agent name, and address, and the names and addresses of current officers, directors,
5 members, and managers. The list shall be final and conclusive in the determination
6 of ownership of any such business. If the signature of a business owner is required
7 by any provision of this Chapter, the signature of the authorized agent of the business
8 owner shall be sufficient.

9 (6) "Improvement" means the acquisition, construction, installation, or
10 maintenance of any corporeal property with an estimated useful life of five years or
11 more that is reasonably related to the enhancement of tourism.

12 (7) "Management plan" means a plan adopted or amended pursuant to this
13 Chapter for the development, redevelopment, maintenance, operation, and promotion
14 of a tourism recovery and improvement district.

15 (8) "Person" means an individual, public entity, firm, corporation,
16 partnership, limited liability company, trust, association, or any other business entity
17 or juridical person, whether operating on a for-profit or nonprofit basis.

18 (9) "Surcharge" means any charge to the consumer that is required to be paid
19 for goods and services that is passed through to the consumer as a charge on the
20 customer's receipt or guest folio.

21 (10) "Tourist commission" means a political subdivision created pursuant to
22 R.S. 33:4574(B) for the purpose of promoting tourism within its respective
23 jurisdiction. "Tourist commission" does not mean the Jefferson Convention and
24 Visitors Bureau, Inc., or any tourism organization domiciled in Orleans Parish,
25 including New Orleans & Company.

26 (11) "Tourist commissioners" means the members of the governing body of
27 a tourist commission.

28 §4600.4. Initiation of proceedings; petition

29 A.(1) A tourist commission may initiate proceedings to form a tourism
30 recovery and improvement district upon the written petition of the owners or

1 authorized representatives of the owners or authorized representatives of businesses
2 in the district, signed by either of the following:

3 (a) The business owners in the proposed tourism recovery and improvement
4 district who will pay more than sixty-seven percent of the assessments proposed to
5 be levied.

6 (b) More than sixty-seven percent of the total assessed businesses by
7 number.

8 (2) In the case of a petition weighted by the amount of assessment proposed
9 to be levied as described in Subparagraph (1)(a) of this Subsection, the amount of
10 assessment attributable to a business owned by the same business owner that is in
11 excess of fifty percent of the amount of all assessments proposed to be levied, shall
12 not exceed the value of fifty percent in determining whether the petition is signed by
13 business owners who will pay more than sixty-seven percent of the total amount of
14 assessments proposed to be levied.

15 B. The petition of business owners required in Subsection A of this Section
16 shall include a summary of the management plan. That summary shall include all
17 of the following:

18 (1) A map showing the boundaries of the tourism recovery and improvement
19 district.

20 (2) Information specifying where the complete management plan can be
21 obtained.

22 (3) Information specifying that the complete management plan shall be
23 furnished upon request.

24 (4) All signatures on petitions shall be accompanied by a self-affirmation in
25 the manner provided in R.S. 33:4600.5.

26 §4600.5. Self-affirmation; penalties

27 A. The self-affirmation on a petition shall state the following: "I state, under
28 penalty of law, that to my knowledge and belief the facts stated in the petition are
29 true, that my signature and name are as shown on this petition, and that I have signed

1 this petition or have been duly authorized to sign this petition by the entity identified
 2 hereunder".

3 B. A self-affirmation on a petition shall not be valid after one year has
 4 elapsed between the date of the self-affirmation as shown on the petition and the date
 5 the petition is filed with the tourist commission under R.S. 33:4600.4.

6 C. Except as otherwise provided in this Section, a self-affirmation shall be
 7 presumed valid unless competent evidence to the contrary is presented to and
 8 accepted by the tourist commission manager or the tourist commissioner determines
 9 otherwise.

10 D. If a person eligible to sign a petition is no longer capable of signing his
 11 name, such person may affirm by making a mark on the self-affirmation, with or
 12 without assistance, witnessed by the signature of another person.

13 E. It shall be unlawful for any person knowingly to make a false statement
 14 on a self-affirmation on any petition filed under this Chapter. Any signature
 15 presented to the tourist commission shall serve as the equivalent of the business
 16 owner having been administered an oath or affirmation, acknowledging that the facts
 17 contained in the petition are true and correct to the best of his knowledge, subject to
 18 the penalties for perjury or false swearing.

19 F. It shall be unlawful for any person to, by use of force or any other means,
 20 unduly influence a person to sign a petition or to not sign a petition, falsely make,
 21 alter, forge, or counterfeit any petition before or after it has been filed as provided
 22 in R.S. 33:4600.4, or to destroy, deface, mutilate, or tamper with any petition before
 23 or after it has been filed as provided in R.S. 33:4600.4.

24 §4600.6. Contents of management plan

25 The management plan shall include all of the following:

26 (1) A map that identifies the tourism recovery and improvement district
 27 boundaries in sufficient detail to allow a business owner to reasonably determine
 28 whether a business is located within the boundaries of the tourism recovery and
 29 improvement district.

30 (2) The name of the proposed tourism recovery and improvement district.

1 (3) A description of the boundaries of the tourism recovery and improvement
2 district, including the boundaries of benefit zones, proposed for establishment or
3 extension in a manner sufficient to identify the affected businesses included, which
4 may be made by reference to any plan or map that is on file with the tourist
5 commission. The boundaries of a tourism recovery and improvement district created
6 pursuant to this Chapter may overlap the boundaries of any other tourism recovery
7 and improvement district created pursuant to this Chapter and the boundaries of other
8 assessment districts established pursuant to law.

9 (4) The estimated cost of improvements, maintenance, and activities or the
10 estimated assessment rate charged, or both. If the improvements, maintenance, and
11 activities proposed for each year of operation are the same, a description of the first
12 year's proposed improvements, maintenance, and activities and a statement that the
13 same improvements, maintenance, and activities are proposed for subsequent years
14 shall satisfy the requirements of this Paragraph.

15 (5) The total annual amount proposed to be expended for improvements,
16 maintenance, or activities, and debt service in each year of operation of the tourism
17 recovery and improvement district. This amount may be estimated based upon the
18 assessment rate. If the total annual amount proposed to be expended in each year of
19 operation of the tourism recovery and improvement district is not significantly
20 different, the amount proposed to be expended in the initial year and a statement that
21 a similar amount applies to subsequent years shall satisfy the requirements of this
22 Paragraph.

23 (6) The proposed source or sources of financing, including the proposed
24 method and basis of levying the assessment in sufficient detail to allow each business
25 owner to calculate the amount of the assessment to be levied against his business. If
26 the assessment is levied on a percentage basis, the maximum assessment rate shall
27 not exceed five percent. If the assessment is levied on a dollar amount basis, the
28 total assessment rate shall not exceed five dollars.

29 (7) A statement as to whether bonds will be issued to finance improvements.

30 (8) The time and manner of collecting the assessments.

1 (9) The specific number of years in which assessments shall be levied. In
2 a new tourism recovery and improvement district, the maximum number of years
3 shall be five. Upon renewal, a tourism recovery and improvement district shall have
4 a term not to exceed ten years. Notwithstanding these limitations, in order to finance
5 capital improvements with bonds, a tourism recovery and improvement district may
6 levy assessments until the maximum maturity of the bonds. The management plan
7 may set forth specific increases in assessments for each year of operation of the
8 tourism recovery and improvement district.

9 (10) The proposed time for implementation and completion of the
10 management plan.

11 (11) Any proposed rules and regulations to be applicable to the tourism
12 recovery and improvement district.

13 (12) A statement that the tourist commission shall provide the
14 improvements, maintenance, and activities described in the management plan.

15 (13) Any other item or matter required to be incorporated therein by the
16 tourist commission.

17 §4600.7. Notice; public hearing; majority protest

18 A. If a tourist commission proposes to levy a new or increased business
19 assessment pursuant to this Chapter, notice shall be mailed to the owners of the
20 businesses proposed to be assessed. A protest may be made orally or in writing by
21 any interested person. Every written protest shall be filed with the tourist
22 commission at or before the time fixed for the public hearing. The tourist
23 commission may waive any irregularity in the form or content of any written protest.
24 A written protest may be withdrawn in writing at any time before the conclusion of
25 the public hearing. Each written protest shall contain a description of the business
26 in which the person subscribing the protest is interested sufficient to identify the
27 business and, if a person subscribing is not shown on the official records of the city
28 as the owner of the business, the protest shall contain or be accompanied by written
29 evidence that the person subscribing is the owner of the business or the authorized

1 representative. A written protest that does not comply with the requirements of this
2 Subsection shall not be counted in determining a majority protest.

3 B.(1) If written protests are received from the owners or authorized
4 representatives of businesses in the proposed tourism recovery and improvement
5 district who will pay more than sixty-seven percent of the assessments proposed to
6 be levied or represent more than sixty-seven percent of the total assessed businesses
7 by number, then no further proceedings to levy the proposed assessment against such
8 businesses shall be taken for a period of one year from the date of the finding of a
9 majority protest by the tourist commission.

10 (2) In the case of a protest weighted by the number of owners of businesses
11 or authorized representatives of businesses who will pay more than sixty-seven
12 percent of the assessments to be levied, the amount of assessment attributable to a
13 business owned by the same business owner that is in excess of fifty percent of the
14 amount of all assessments proposed to be levied, shall not exceed the value of fifty
15 percent in determining whether the petition is signed by business owners who will
16 pay more than sixty-seven percent of the total amount of assessments proposed to be
17 levied.

18 §4600.8. Levy of assessments

19 A. An assessment proposed to be levied pursuant to this Chapter shall be
20 authorized by a resolution of the tourist commission that describes in general terms
21 the assessment to be levied and includes a statement that the assessment is to be
22 levied pursuant to this Chapter. The assessment shall be approved in a public
23 hearing procedure as provided in this Chapter.

24 B. Notwithstanding any other provision of law to the contrary, an assessed
25 business shall place the assessment as a mandatory surcharge on the consumer
26 receipt or guest folio. All assessments to be passed through to consumers and guests
27 as surcharges shall be disclosed on all information or communication platforms of
28 the business in the same manner as are other surcharges, hotel and occupancy taxes,
29 and sales and use taxes as required by applicable laws and regulations.

1 C. Receipts from any such surcharge for business assessments levied
2 pursuant to this Chapter are not part of gross receipts or gross revenue for any
3 purpose, including the calculation of sales revenue or occupancy taxes or state
4 income taxes and are not part of income pursuant to any lease or operator agreement.
5 Payment of the assessment to the tourist commission or other person designated for
6 the purpose of receiving it, shall not be taken as a deduction from income for state
7 income tax purposes.

8 D. Any assessment levied and passed through to a consumer as a surcharge
9 in accordance with this Chapter is an enforceable obligation of the consumer to the
10 same extent as other lawful surcharges.

11 E. Procedures for the collection of business assessments, interest charges,
12 and penalties for delinquent remittance of business assessments to the tourist
13 commission or other person designated for the purpose of receiving it, or other
14 matters incident to the business assessment shall be as provided by resolution.

15 §4600.9. Modification of plan by resolution after public hearing; adoption of
16 resolution of intention

17 A. The tourist commission may, at any time, modify the management plan.
18 Any modification of the management plan shall be made in accordance with the
19 provisions of this Section.

20 B. The tourist commission may modify the management plan after
21 conducting a public hearing as provided in this Chapter regarding the proposed
22 modifications. The tourist commission may modify the improvements and activities
23 to be funded with the revenue derived from the levy of the assessments by adopting
24 a resolution determining to make the modifications after holding a public hearing on
25 the proposed modifications.

26 C. The tourist commission shall adopt a resolution of intention which states
27 the proposed modification prior to the public hearing. The public hearing shall be
28 held not more than ninety days after the adoption of the resolution of intention.

1 §4600.10. Renewal of tourism recovery and improvement district; transfer or refund
2 of remaining revenues; term limit

3 A. Any tourism recovery and improvement district may be renewed by
4 following the procedures for establishment as provided in this Section.

5 B.(1) If there are no changes to activities, assessment rates, assessment
6 method, or boundaries, the tourism recovery and improvement district may be
7 renewed by conducting a public hearing as provided in this Chapter to determine
8 whether the tourism recovery and improvement district shall be renewed.

9 (2) If there are changes to activities, assessment rates, assessment method,
10 or boundaries, the tourism recovery and improvement district may be renewed by
11 following the procedures for the petition as provided in this Chapter in addition to
12 the public hearing procedure as provided in this Chapter.

13 C. Upon renewal, any remaining revenues derived from the levy of
14 assessments, or any revenues derived from the sale of assets acquired with the
15 revenues, shall be transferred to the renewed tourism recovery and improvement
16 district. If the renewed tourism recovery and improvement district includes
17 additional businesses not included in the prior tourism recovery and improvement
18 district, the remaining revenues shall be spent to benefit only the businesses in the
19 prior tourism recovery and improvement district. If the renewed tourism recovery
20 and improvement district does not include businesses included in the prior tourism
21 recovery and improvement district, the remaining revenues attributable to these
22 businesses shall be refunded to the owners of these businesses.

23 D. Upon renewal, a tourism recovery and improvement district shall have a
24 term not to exceed ten years or, if the tourism recovery and improvement district is
25 authorized to issue bonds, until the maximum maturity of those bonds. There is no
26 requirement that the boundaries, assessments, improvements, or activities of a
27 renewed district be the same as the original or prior tourism recovery and
28 improvement district.

1 §4600.11. Dissolution of a tourism recovery and improvement district; procedure

2 A. Any tourism recovery and improvement district that has no outstanding
 3 indebtedness may be dissolved by resolution of the tourist commissioners by either
 4 of the following methods:

5 (1) During the operation of the tourism recovery and improvement district,
 6 there shall be a thirty-day period each year in which assesseees may request the
 7 dissolution of the tourism recovery and improvement district. The first such period
 8 shall begin one year after the date of establishment of the district and shall continue
 9 for thirty days. The next such thirty-day period shall begin two years after the date
 10 of the establishment of the tourism recovery and improvement district. Each
 11 successive year of operation of the tourism recovery and improvement district shall
 12 have such a thirty-day period.

13 (2) The tourist commission shall initiate proceedings to dissolve a tourism
 14 recovery and improvement district upon the written petition of the owners or
 15 authorized representatives of the owners or authorized representatives of businesses
 16 in the district, signed by either:

17 (a) The business owners in the proposed tourism recovery and improvement
 18 district who will pay more than sixty-seven percent of the assessments proposed to
 19 be levied.

20 (b) More than sixty-seven percent of the total assessed businesses by
 21 number.

22 B. In the case of a petition weighted by the amount of assessment proposed
 23 to be levied as described in Subparagraph(A)(2)(a) of this Section, the amount of
 24 assessment attributable to a business owned by the same business owner that is in
 25 excess of fifty percent of the amount of all assessments proposed to be levied shall
 26 not exceed the value of fifty percent in determining whether the petition is signed by
 27 business owners who will pay more than sixty-seven percent of the total amount of
 28 assessments proposed to be levied.

29 C. The tourist commission shall adopt a resolution of intention to dissolve
 30 the tourism recovery and improvement district prior to the public hearing provided

1 for in this Chapter. The resolution shall state the reason for the dissolution and the
 2 time and place of the public hearing. The resolution shall also contain a proposal to
 3 dispose of any assets acquired with the revenues from the assessment levied within
 4 the tourism recovery and improvement district. The notice of the public hearing on
 5 dissolution required by this Section shall be given by mail to the owner of each
 6 business subject to assessment in the tourism recovery and improvement district. The
 7 tourist commission shall conduct a public hearing on dissolution not less than thirty
 8 days after mailing the notice to the business owners. The public hearing shall be
 9 held not more than sixty days after the adoption of the resolution of intention.

10 §4600.12. Exceptions to Applicability

11 The provisions of this Chapter shall not be applicable to the parishes of
 12 Jefferson and Orleans.

13 Section 2. If any provision of this Act or the application thereof is held invalid, such
 14 invalidity shall not affect other provisions or applications of this Act which can be given
 15 effect without the invalid provisions or applications, and to this end the provisions of this
 16 Act are hereby declared severable.

17 Section 3. This Act shall become effective upon signature by the governor or, if not
 18 signed by the governor, upon expiration of the time for bills to become law without signature
 19 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 20 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 21 effective on the day following such approval.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____