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## DIGEST

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HB 553 Reengrossed

2018 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 authorize 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) The casino gaming operator making a capital investment on or around the official gaming establishment of \$350,000,000.
- (2) A showing that additional renewals of the casino operating contract will benefit the economy of the state, encourage the continued growth of tourism, and promote the stability of casino operations at the land-based casino.
- (3) Approval by the Joint Legislative Committee on the Budget of any change in terms of the casino operating contract.

Proposed law requires the 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, 2018, the casino gaming operator shall annually pay the governing authority directly to compensate the parish for providing support services. Beginning Aug. 1, 2018, the annual payment, payable in quarterly installments, shall be equal to \$3,600,000. Beginning on Aug. 1, 2023, this amount shall be adjusted by a rate that is the lesser of two percent or the Consumer Price Index, United States city average for all urban 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 and provides that, beginning Aug. 1, 2018, in addition to this existing obligation, the casino gaming operator shall annually pay to the La. Gaming Control Board the sum of money equal to \$3,400,000. Beginning on Aug. 1, 2023, this amount shall be adjusted by a rate that is the lesser of two percent or the Consumer Price Index, United States city average for all urban 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.

Present law authorizes the casino gaming operator to operate and conduct certain non-casino gaming activities such as restaurants, cafeteria style food services, catering, special events, and leasing of space at the establishment for certain specified purposes including but not limited to business

meetings for outside entities, special events, and parties. Present law further provides certain restrictions on the casino gaming operator relative to such operations and activities, including restrictions on pricing and advertising.

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

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

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

In this regard, proposed law provides:

- (a) Any action related to the enforcement of the memoranda of understanding and agreement shall be instituted in the Civil District Court for the Parish of Orleans; and the La. Gaming Control board shall retain jurisdiction over the casino gaming operator's compliance with the provisions of present and proposed law and any regulations or rules adopted by the La. Gaming Control Board.
- (b) The memorandum of understanding and agreement with the Greater New Orleans

Hotel and Lodging Association dated March 2018, shall provide for certain restrictions specified in proposed law, relative to advertising of market rates and room taxes, that apply only to the additional rooms authorized by the MOU and agreement.

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

- (1) In each year for which the Joint Legislative Committee on the Budget disapproves or does not act upon the amount of the casino support services contract, no monies are deposited in and credited to the Casino Support Services Fund:
  - (a) 10% shall be deposited in and credited to the Support Education in Louisiana First Fund and used solely and exclusively for specific purposes provided in present law.
  - (b) 90% shall be deposited in and credited to the Support Education in Louisiana First Fund.
- (2) In each year for which the Joint Legislative Committee on the Budget approves the amount of the casino support services contract:
  - (a) The first \$1,800,000 shall be deposited in and credited to the Casino Support Services Fund.
  - (b) The next \$60,000,000 shall be deposited in and credited to the Support Education in Louisiana First Fund.
  - (c) After satisfying the requirements of paragraphs (a) and (b) above, monies shall be deposited into the Casino Support Services Fund until the casino support services contract is fully funded for that year.
  - (d) After satisfying the requirements of paragraph (c) above, the remainder of the monies shall be deposited in and credited to the Support Education in Louisiana First Fund.

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

- (1) Beginning Aug. 1, 2018, if the amount received pursuant to present law (R.S. 27:241.1(A)) 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, 2018, 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.

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

The House Floor Amendments to the engrossed bill:

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