

Regular Session, 2014

SENATE BILL NO. 44

BY SENATOR MARTINY

TOURISM. Authorizes a levy of an optional hotel assessment by a tourism organization upon its hotel members and provides for treating such assessment as a surcharge to hotel guests. (8/1/14)

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AN ACT

To enact Chapter 4-A of Title 21 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 21:301 through 308, relative to hotels and lodging houses; to provide with respect to optional assessments on hotels that are levied by a comprehensive membership based tourism organization on its members that are operators of hotels or motels located in the parish of Jefferson; to provide that hotel and income taxes shall not apply to such surcharges; to provide for a hotel referendum to approve such an optional assessment; to provide for enhancement of the sales and marketing capabilities and other general purposes of the organization; to provide for the direct or indirect benefit of growing the traveler economy; to provide for levying hotel assessments as surcharges on hotel or motel folios; to provide for terms and definitions; to provide for an effective date; and to provide for related matters.

Notice of intention to introduce this Act has been published.

Be it enacted by the Legislature of Louisiana:

Section 1. Chapter 4-A of Title 21 of the Louisiana Revised Statutes of 1950, comprised of R.S. 21:301 through 308 is hereby enacted to read as follows:

§301. Legislative findings

1 **The legislature hereby finds and declares all of the following:**

2 **(1) There is a direct correlation between the amount of funds spent on**
3 **destination-based marketing, sales and promotion of a locality and an increase**
4 **in the number of conventions, meetings, visitors, occupancy of hotels, retail sales**
5 **of food, beverages and other items, admissions to cultural and other**
6 **entertainment venues, collections of related state and local sales and use taxes,**
7 **job creation and a resulting general economic vitality of the traveler economy**
8 **and related businesses in the locality.**

9 **(2) It is in the state's public interest and vital to the welfare of the state's**
10 **economy to facilitate and encourage cooperating public-private partnerships for**
11 **the enhancement and expansion of the traveler economy and to provide for**
12 **increased hotel occupancy, tourism, economic development and job creation in**
13 **Jefferson Parish.**

14 **§302. Purpose**

15 **This Chapter is enacted for the purpose of facilitating the collection and**
16 **use of private sector originated supplementary funds to market and promote**
17 **Jefferson Parish as a traveler destination and to provide for increased economic**
18 **activity within its traveler economy, including increased number of conventions,**
19 **meetings, visitors, hotel occupancy, food, beverage and other retail sales,**
20 **tourism, including cultural and family tourism, job creation and other economic**
21 **development and related purposes through optional, self-generated, private-**
22 **sector hotel self-assessment program.**

23 **§303. Definitions**

24 **For the purposes of this Chapter, the following terms shall have the**
25 **following meanings unless the context clearly indicates otherwise:**

26 **(1) "Assessed hotel" means a person operating a hotel and required to**
27 **pay a hotel assessment pursuant to this Chapter and, until the hotel assessment**
28 **is first levied, any person operating a hotel authorized to vote in the**
29 **referendum.**

1 (2) "Hotel" means any establishment engaged in the business of
2 furnishing or providing rooms intended or designed for dwelling, lodging, or
3 sleeping purposes to transient guests where such establishment consists of ten
4 or more guest rooms but does not include any hospital, convalescent or nursing
5 home or sanitarium, or any hotel-like facility operated by or in connection with
6 a hospital or medical clinic providing rooms exclusively for patients and their
7 families.

8 (3) "Hotel assessment" means any hotel assessment that is: (a) levied
9 under this Chapter by a tourism organization on its members that are operators
10 of hotels located in Jefferson Parish; (b) calculated by reference either to room
11 occupancy or room sales; and (c) for the general purposes of the organization,
12 or otherwise for the direct or indirect benefit of the tourism industry and
13 economic development, for sales, marketing and promotion, and for driving and
14 hosting tourism growth and visitors.

15 (4) "Operator of a hotel" means the person in whose name the
16 occupational license for the hotel is issued by the city.

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

20 (6) "Referendum" means any vote by assessed hotels by mailed ballot of
21 measures proposed by the tourism organization in accordance with the
22 provisions of this Chapter.

23 (7) "Surcharge" means any charge in addition to the daily room charge
24 for services to a hotel guest that is required to be paid in order to occupy a room
25 and any hotel assessment that is passed through to hotel guests as a charge on
26 the guest folio. Surcharge does not include charges for food and beverages,
27 Internet access, spa access or other goods or services sold at the hotel unless the
28 payment for the goods or services is required in connection with the use of the
29 hotel room.

1 **(8) "Tourism organization" means any private nonprofit corporation**
2 **domiciled in Jefferson Parish that is a nationally accredited comprehensive**
3 **membership based organization engaged in destination sales and marketing,**
4 **visitor support and other tourism related activities including the Jefferson**
5 **Parish Convention and Visitors Bureau.**

6 **§304. Levy of hotel assessments; use of proceeds.**

7 **A. A tourism organization, under authority of its articles or bylaws,**
8 **may levy hotel assessments upon its hotel members in Jefferson Parish under**
9 **this Chapter for destination marketing, sales, public relations and for other**
10 **matters deemed by the tourism organization to benefit directly or indirectly**
11 **economic development, the traveler economy and tourism growth as shall be**
12 **approved by resolution of the board of directors of the tourism organization**
13 **and ratified by a vote of the assessed hotels in a referendum conducted in**
14 **accordance with R.S. 21:306.**

15 **B. A hotel assessment proposed to be levied under this Chapter by a**
16 **tourism organization (1) shall be authorized by its board of directors or other**
17 **governing body by resolution that describes in general terms the hotel**
18 **assessment to be levied and includes a statement that the hotel assessment is to**
19 **be levied under this Chapter and (2) shall be approved in a referendum of the**
20 **assessed hotels as provided in R.S. 21:306.**

21 **C. A hotel operator shall not be liable for payment of a hotel assessment**
22 **under this Chapter for any time period in which it is not a member of the**
23 **tourism organization.**

24 **D. Notwithstanding any other provision of law, an assessed hotel shall**
25 **place the hotel assessment as a mandatory surcharge on the folio and in so doing**
26 **shall comply with R.S. 21:305(C). Receipts from any such surcharge for hotel**
27 **assessments levied pursuant to this Chapter are not part of gross receipt or**
28 **gross revenue for any purpose, including the calculation of hotel sales or**
29 **occupancy taxes, or state income taxes, and are not part of income pursuant to**

1 any lease or operator agreement. Payment of the assessment to the tourism
2 organization shall not be taken as a deduction from income for state income tax
3 purposes.

4 E. Any hotel assessment levied and passed through to a guest as a
5 surcharge in accordance with this Chapter is an enforceable obligation of the
6 guest as and to the same extent as are daily room charges and other lawful
7 surcharges.

8 F. Procedures for collection of hotel assessments, interest charges and
9 penalties for delinquent remittance of hotel assessments to the tourism
10 organization or other matters incident to the hotel assessment shall be as
11 provided by resolution or in the bylaws of the tourism organization. The state,
12 the parish, and any and all of their agencies and political subdivisions may,
13 upon the request of a tourism organization, enter into a cooperative endeavor
14 agreement with the tourism organization for the collection of hotel assessments
15 on behalf of the tourism organization.

16 §305. Disclosure of surcharges

17 A. Rate schedules setting forth room charges and any surcharges as
18 required by this Chapter for hotels shall be posted or disclosed in all hotels and
19 shall be delivered to the director of the department of finance of the parish as
20 required by applicable local ordinances.

21 B. Each operator of a hotel shall comply with applicable local
22 ordinances relating to furnishing a schedule of charges for the rental or use of
23 hotel rooms and shall include therein surcharges in effect for the following year,
24 a schedule of binding rates, applicable surcharges and length-of-stay
25 requirements.

26 C. An operator of a hotel shall place line itemization of any hotel
27 assessment for which the operator is responsible on the guest folio as a charge
28 to the guest immediately after, or included in, the itemization of hotel tax and
29 occupancy tax. All hotel assessments to be passed through to guests as

1 surcharges shall be disclosed on all information or communication platforms of
2 the hotel in the same manner as are other surcharges and hotel and occupancy
3 taxes as required by applicable laws and regulations.

4 D. The provisions of this Chapter shall not supersede or limit the
5 authority of a tourism organization to levy assessments on its members under
6 the nonprofit corporation law or other applicable law and apply only to
7 assessments that are declared by resolution of the board of directors or other
8 governing body of the tourism organization to be made under this Chapter.

9 §306. Referendum

10 A. Any hotel assessment to be levied pursuant to this Chapter shall be
11 approved by a vote of the assessed hotels in a referendum conducted in
12 accordance with this Section. A referendum of all assessed hotels shall be called
13 by the president of the Jefferson Parish Hotel and Lodging Association, by
14 written notice mailed to all hotel operators identified by the tourism
15 organization as its members in accordance with such procedures as the tourism
16 organization may establish in its discretion. In any referendum, each assessed
17 hotel shall have a number of votes equal to the number of its hotel rooms as
18 shown on its occupational license. In any referendum, two-thirds of the votes
19 cast shall be required to approve or ratify any hotel assessment.

20 B. The written notice of the referendum shall include a description of any
21 proposed hotel assessment, including the effective date thereof, a ballot, and a
22 statement of the referendum period, which shall be not less than thirty days
23 from the date of the mailing of the notice and a ballot. Ballots may be delivered
24 to the Jefferson Parish Hotel and Lodging Association, or any other person
25 designated for the purpose of receiving, tabulating and counting ballots at any
26 time during the referendum period. The Jefferson Parish Hotel and Lodging
27 Association, may in its discretion extend the referendum period not more than
28 fifteen additional days. At the close of the referendum period, the Jefferson
29 Parish Hotel and Lodging Association, or other person designated for the

1 purpose of receiving, tabulating and counting ballots shall count and tabulate
 2 the ballots received during the referendum period. All ballots shall be
 3 presumed to be valid. A notice of the results of the referendum shall be mailed
 4 by the Jefferson Parish Hotel and Lodging Association, or any other person
 5 designated for the purpose of receiving, tabulating and counting ballots to the
 6 tourism organization and the assessed hotels.

7 C. Referendum costs. The costs of the referendum, in the first instance,
 8 shall be paid by the tourism organization and shall be reimbursed from hotel
 9 assessments as received.

10 §307. Liberal construction

11 This Chapter, being necessary for the welfare of the state, the parish and
 12 its residents, shall be liberally construed to effect the purposes thereof.

13 §308. Severability

14 The provisions of this Chapter are severable. It is intended that if any
 15 provision of this Chapter should be adjudged invalid or unenforceable, then
 16 such provision shall be ineffective to the extent of such invalidity or
 17 unenforceability without invalidating the remaining provisions of this Chapter.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Michael Bell.

DIGEST

Proposed law provides that there is a direct correlation between the amount of funds spent on destination-based marketing, sales and promotion of a locality and an increase in the number of conventions, meetings, visitors, occupancy of hotels, retail sales of food, beverages and other items, admissions to cultural and other entertainment venues, collections of related state and local sales and use taxes, job creation and a resulting general economic vitality of the traveler economy and related businesses in the locality.

Proposed law provides that it is in the state's public interest and vital to the welfare of the state's economy to facilitate and encourage cooperating public-private partnerships for the enhancement and expansion of the traveler economy and to provide for increased hotel occupancy, tourism, economic development and job creation in Jefferson Parish.

Proposed law provides that proposed law is enacted for the purpose of facilitating the collection and use of private sector originated supplementary funds to market and promote Jefferson Parish as a traveler destination and to provide for increased economic activity within its traveler economy, including increased number of conventions, meetings, visitors, hotel occupancy, food, beverage and other retail sales, tourism, including cultural and family tourism, new job creation and other economic development and related purposes through an

optional, self-generated, private-sector hotel self-assessment program.

Proposed law provides that for the purposes of proposed law, the following terms shall have the following meanings unless the context clearly indicates otherwise:

- (1) "Assessed hotel" means a person operating a hotel and required to pay an hotel assessment pursuant to proposed law and, until the hotel assessment is first levied, any person operating a hotel authorized to vote for in referendum.
- (2) "Hotel" means any establishment engaged in the business of furnishing or providing rooms intended or designed for dwelling, lodging, or sleeping purposes to transient guests where such establishment consists of ten or more guest rooms but does not include any hospital, convalescent or nursing home or sanitarium, or any hotel-like facility operated by or in connection with a hospital or medical clinic providing rooms exclusively for patients and their families.
- (3) "Hotel assessment" means any hotel assessment that is: (a) levied under this Chapter by a tourism organization on its members that are operators of hotels located in Jefferson Parish; (b) calculated by reference either to room occupancy or room sales; and (c) for the general purposes of the organization, or otherwise for the direct or indirect benefit of the tourism industry and economic development, for sales, marketing and promotion, and for driving and hosting tourism growth and visitors.
- (4) "Operator of a hotel" means the person in whose name the occupational license for the hotel is issued by the parish.
- (5) "Person" means an individual, public entity, firm, corporation, partnership, limited liability company, trust, association, or any other business entity or juridical person, whether operating on a for-profit or nonprofit basis.
- (6) "Referendum" means any vote by assessed hotels by mailed ballot of measures proposed by the tourism organization in accordance with the provisions of proposed law.
- (7) "Surcharge" means any charge in addition to the daily room charge for services to a hotel guest that is required to be paid in order to occupy a room and any hotel assessment that is passed through to hotel guests as a charge on the guest folio. Surcharge does not include charges for food and beverages, Internet access, spa access or other goods or services sold at the hotel unless the payment for the goods or services is required in connection with the use of the hotel room.
- (8) "Tourism organization" means any private nonprofit corporation domiciled in Jefferson Parish that is a nationally accredited comprehensive membership based organization engaged in destination sales and marketing, visitor support and other tourism related activities including the Jefferson Parish Convention and Visitors Bureau.

Proposed law provides that a tourism organization, under authority of its articles or bylaws, may levy hotel assessments upon its hotel members in Jefferson Parish pursuant to present law for destination marketing, sales, public relations and for other matters deemed by the tourism organization to benefit directly or indirectly economic development, the traveler economy and tourism growth as shall be approved by resolution of the board of directors of the tourism organization and ratified by a vote of the assessed hotels in a referendum conducted in accordance with proposed law.

Proposed law provides that a hotel assessment proposed to be levied pursuant to proposed law by a tourism organization: (1) shall be authorized by its board of directors or other governing body by resolution that describes in general terms the hotel assessment to be

levied and includes a statement that the hotel assessment is to be levied pursuant to proposed law and (2) shall be approved in a referendum of the assessed hotels as provided in proposed law.

Proposed law provides that a hotel operator shall not be liable for payment of a hotel assessment under proposed law for any time period in which it is not a member of the tourism organization.

Proposed law provides that in addition to the right to resign from the tourism organization as provided in the bylaws or other governing documents of the tourism organization, an assessed hotel shall have the right to resign its membership in the tourism organization by written notice given to the tourism organization within 30 days of the announcement of the results of the referendum approving the hotel assessment and, for purposes of proposed law, such resignation shall be effective as of the date of the referendum.

Proposed law provides that a hotel operator shall not be liable for payment of a hotel assessment under proposed law during any time period in which it is not a member of the tourism organization.

Proposed law provides that an assessed hotel shall place the hotel assessment as a mandatory surcharge on the folio and in so doing shall comply with proposed law.

Proposed law provides that receipts from any hotel assessments levied pursuant to proposed law are not part of gross receipts or gross revenue for any purpose, including the calculation of hotel sales or occupancy taxes, or state income taxes, and are not part of income pursuant to any lease or operator agreement.

Proposed law provides that payment of the assessment to the tourism organization shall not be taken as a deduction from income for state income tax purposes.

Proposed law provides that any hotel assessment levied and passed through to a guest as a surcharge in accordance with proposed law is an enforceable obligation of the guest as and to the same extent as are daily room charges and other lawful surcharges.

Proposed law provides that procedures for collection of hotel assessments, interest charges and penalties for delinquent remittance of hotel assessments to the tourism organization or other matters incident to the hotel assessment shall be as provided by resolution or in the bylaws of the tourism organization.

Proposed law provides that the state, the parish, and any and all of their agencies and political subdivisions may, upon the request of a tourism organization, enter into a cooperative endeavor agreement with the tourism organization for the collection of hotel assessments on behalf of the tourism organization.

Proposed law provides that rate schedules setting forth room charges and any surcharges as required by proposed law for hotels shall be posted or disclosed in all hotels and shall be delivered to the director of the department of finance of the parish as required by applicable local ordinances.

Proposed law provides that each operator of a hotel shall comply with applicable local ordinances relating to furnishing a schedule of charges for the rental or use of hotel rooms and shall include therein surcharges in effect for the following year, a schedule of binding rates, applicable surcharges and length-of-stay requirements.

Proposed law provides that an operator of a hotel shall place line itemization of any hotel assessment for which the operator is responsible on the guest folio as a charge to the guest immediately after, or included in, the itemization of hotel tax and occupancy tax.

Proposed law provides that all hotel assessments to be passed through to guests as surcharges shall be disclosed on all information or communication platforms of the hotel in the same manner as are other surcharges and hotel and occupancy taxes as required by applicable laws and regulations.

Proposed law provides that the provisions of proposed law shall not supersede or limit the authority of a tourism organization to levy assessments on its members under the nonprofit corporation law or other applicable law and apply only to assessments that are declared by resolution of the board of directors or other governing body of the tourism organization to be made under proposed law.

Proposed law provides that any hotel assessment to be levied pursuant to proposed law shall be approved by a vote of the assessed hotels in a referendum conducted in accordance with proposed law.

Proposed law provides that a referendum of all assessed hotels shall be called by the president of the Jefferson Parish Hotel and Lodging Association, by written notice mailed to all hotel operators identified by the tourism organization as its members in accordance with such procedures as the tourism organization may establish in its discretion.

Proposed law provides that in any referendum, each assessed hotel shall have a number of votes equal to the number of its hotel rooms as shown on its occupational license. In any referendum, 2/3 of the votes cast shall be required to approve or ratify any hotel assessment.

Proposed law provides that the written notice of the referendum shall include a description of any hotel assessment, including the effective date thereof, a ballot, and a statement of the referendum period, which shall be not less than 30 days from the date of the mailing of the notice and a ballot.

Proposed law provides that ballots may be delivered to the Jefferson Parish Hotel and Lodging Association, or any other person designated for the purpose of receiving, tabulating and counting ballots at any time during the referendum period. The Jefferson Parish Hotel and Lodging Association, may in its discretion extend the referendum period not more than 15 additional days.

Proposed law provides that at the close of the referendum period, the Jefferson Parish Hotel and Lodging Association, or other person designated for the purpose of receiving, tabulating and counting ballots shall count and tabulate the ballots received during the referendum period. All ballots shall be presumed to be valid.

Proposed law provides that a notice of the results of the referendum shall be mailed by the Jefferson Parish Hotel and Lodging Association, or any other person designated for the purpose of receiving, tabulating and counting ballots to the tourism organization and the assessed hotels.

Proposed law provides that the costs of the referendum, in the first instance, shall be paid by the tourism organization and shall be reimbursed from hotel assessments as received.

Proposed law provides that proposed law shall be liberally construed to effect the purposes of proposed law.

Proposed law provides that the provisions of proposed law are severable.

Effective August 1, 2014.

(Adds R.S. 21:301-308)