

2018 Regular Session

HOUSE BILL NO. 553

BY REPRESENTATIVES BARRAS, BAGNERIS, BILLIOT, BISHOP, JIMMY HARRIS,
HOLLIS, LEGER, LEOPOLD, MARINO, REYNOLDS, AND TALBOT AND
SENATORS BISHOP, CARTER, CHABERT, JOHNS, MARTINY, PETERSON,
AND JOHN SMITH

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

1 AN ACT

2 To amend and reenact R.S. 27:241(A), 241.1, 243(C), and 247, relative to the land-based

3 casino operating contract; to provide relative to the duration of the primary contract

4 term and the duration of renewal terms; to authorize a renewal term of thirty years

5 when certain conditions are met; to provide relative to compensation paid to the

6 Louisiana Gaming Control Board; to provide for a specific amount to be paid to the

7 Louisiana Gaming Control Board; to provide relative to the contract and payment for

8 casino support services; to provide for a specific amount to be paid to the governing

9 authority for the parish where the official gaming establishment is located for

10 providing casino support services; to provide relative to the casino gaming operator's

11 authority to conduct and offer non-casino gaming activities and operations; to

12 provide for certain restrictions on certain non-casino gaming activities including

13 restaurants and hotels; to provide relative to a memorandum of understanding and

14 agreement between the casino gaming operator and the Greater New Orleans Hotel

15 and Lodging Association; to provide relative to a memorandum of understanding and

16 agreement between the casino gaming operator and the Louisiana Restaurant

17 Association; and to provide for related matters.

18 Be it enacted by the Legislature of Louisiana:

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

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

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

15 (2) Notwithstanding any law to the contrary, upon a showing that additional
16 renewals of the casino operating contract will benefit the economy of the state,
17 encourage the continued growth of tourism, and promote the stability of casino
18 operations at the land-based casino, and subject to the approval of any change in
19 terms of the casino operating contract by the Joint Legislative Committee on the
20 Budget, the Louisiana Gaming Control Board may approve and enter into additional
21 thirty-year renewal terms of the casino operating contract, in addition to the initial
22 term and the ten-year renewal term, subject to compliance with the provisions of this
23 Chapter.

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

26 (a) Require the casino gaming operator to pursue a capital investment on or
27 around the official gaming establishment of three hundred fifty million dollars
28 (\$350,000,000).

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

7 (c) As provided in R.S. 27:241.1(B), require the casino gaming operator to
 8 annually pay to the Louisiana Gaming Control Board a sum of money as set forth in
 9 R.S. 27:241.1(B), in addition to the existing obligation to remit to the Louisiana
 10 Gaming Control Board any fees or compensation, including compensation paid to
 11 the Louisiana Gaming Control Board pursuant to R.S. 27:241.1(A).

12 * * *

13 §241.1. Minimum compensation payments; effective March 31, 2001; payments
 14 beginning August 1, 2018, and August 1, 2023

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

21 B.(1) In addition to any existing obligation to remit to the Louisiana Gaming
 22 Control Board any fees or compensation, including compensation paid to the
 23 Louisiana Gaming Control Board pursuant to the provisions of this Section,
 24 beginning on August 1, 2018, and continuing throughout the term of the casino
 25 operating contract, the casino gaming operator shall annually pay to the Louisiana
 26 Gaming Control Board the sum of money set forth in Paragraph (2) of this
 27 Subsection.

1 (2)(a) Except as provided in Subparagraph (b) of this Paragraph, beginning
 2 on August 1, 2018, the payment required by Paragraph (1) of this Subsection shall
 3 be equal to three million four hundred thousand dollars (\$3,400,000).

4 (b) Beginning on August 1, 2023, the amount set forth in Subparagraph (a)
 5 of this Paragraph shall be adjusted by a rate that is the lesser of two percent or the
 6 Consumer Price Index, United States city average for all urban customers (CPI-U),
 7 as prepared by the United States Department of Labor, Bureau of Labor Statistics for
 8 the five calendar years immediately preceding the adjustment, with adjustments
 9 being made to this amount in the same manner every five years thereafter.

10 * * *

11 §243. Requirements for casino operating contract

12 * * *

13 C. As to Beginning August 1, 2018, the casino gaming operator is authorized
 14 to conduct the following non-casino related activities at the official gaming
 15 establishment or at another location subject to the requirements set forth in
 16 Paragraphs (1), (2), and (3) of this Subsection:

17 (1) The casino gaming operator:

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

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

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

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

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

9 ~~(f) May lease space to third parties that may operate non-casino related~~
10 ~~businesses on the second floor of the official gaming establishment provided that the~~
11 ~~primary purpose of such business is not a restaurant which shall require that no more~~
12 ~~than thirty-five percent of the revenues of such business shall be derived from the~~
13 ~~sale of food.~~

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

1 ~~complimentary or discounted food offerings disseminated through any advertising~~
2 ~~media whether newspaper, television, direct mail, coupons, or billboards.~~

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

7 ~~(i) May may have a meeting space for parties, VIP events, and the like but~~
8 ~~shall not rent business meeting space for business seminars and training associated~~
9 ~~with the sale or purchase of rentable units, unless such rentable units are rented at the~~
10 ~~rates established as provided in Subparagraph (C)(2)(b).~~

11 (2) The casino gaming operator, on its own or through an affiliate, shall not
12 provide lodging, except that the casino gaming operator may own or operate ~~offsite~~
13 ~~lodging, which may be physically connected to the official gaming establishment,~~
14 ~~subject to the following conditions:~~ at or in the vicinity of the official gaming
15 establishment consistent with the following conditions and any agreement between
16 the casino gaming operator and the Greater New Orleans Hotel and Lodging
17 Association and its predecessors, as such agreement may be amended from time to
18 time:

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

28 (b) Except as provided in Subparagraph (c) of this Paragraph and Paragraph
29 (3)(a) of this Subsection, the casino gaming operator shall not advertise room rates

1 to the general public at below market rates. The casino gaming operator shall base
2 room rates on average seasonal rates for the preceding year of hotels located in the
3 Central Business District and French Quarter of the parish of the official gaming
4 establishment as compiled by a nationally recognized firm that compiles data on
5 room rates for such parish.

6 (c) The casino gaming operator shall not offer complimentary or discounted
7 hotel offerings to the general public, but may, nonetheless, offer complimentary or
8 discounted hotel offerings to: (i) a patron that is a member of the casino gaming
9 operator's or manager's customer reward system or otherwise maintained on the
10 casino gaming operator's or manager's data base; (ii) a known "high roller" or patrons
11 on a junket with established play at the official gaming establishment or with other
12 casinos; (iii) a person that, based upon observed win or loss levels at the casino, is
13 eligible to a discount or full complimentary offerings; (iv) a targeted prospect outside
14 a fifty-mile radius of the official gaming establishment, or not within the state; (v)
15 a person that has suffered a service error that results in a complimentary rate or
16 discount to rectify the error in service; or (vi) a vendor or other person visiting the
17 casino for business or educational purposes.

18 (d) The casino gaming operator shall not advertise to the general public,
19 which does not include those individuals specified in Items (c)(i) through (vi) of this
20 Paragraph, complimentary or discounted hotel rates; however, the casino gaming
21 operator may advertise rooms rented at the rates established in Subparagraph (b) of
22 this Paragraph on billboards outside a fifty-mile radius of the official gaming
23 establishment or on billboards outside of Louisiana. The casino gaming operator
24 may otherwise prospect for new customers through advertising media so long as the
25 pricing for rooms is consistent with the rate structure as set forth in Subparagraph (b)
26 of this Paragraph.

27 ~~(c)~~(3)(a) The casino gaming operator is subject to the requirements of a
28 memorandum of understanding and agreement entered into with the Greater New
29 Orleans Hotel and Lodging Association dated March 2018, which shall include an

1 authorization to provide an agreed upon number of additional hotel rooms at a new
2 hotel site, and a memorandum of understanding and agreement entered into with the
3 Louisiana Restaurant Association dated March 2018. Any action related to the
4 enforcement of the memoranda of understanding and agreements shall be instituted
5 in a court of competent jurisdiction. The Louisiana Gaming Control board shall
6 retain jurisdiction over the casino gaming operator's compliance with the provisions
7 of this Chapter and any regulations or rules adopted by the Louisiana Gaming
8 Control Board.

9 (b) Among other things, the memorandum of understanding and agreement
10 with the Greater New Orleans Hotel and Lodging Association dated March 2018,
11 shall provide for the following:

12 (i) Only for those additional rooms authorized by the memorandum of
13 understanding and agreement dated March 2018, advertising of market rates shall be
14 based on average seasonal rates for the preceding year of luxury hotels in the Central
15 Business District, French Quarter, and Warehouse District of the City of New
16 Orleans, as compiled by a nationally recognized firm.

17 (ii) For rooms existing prior to August 1, 2018, ~~Room~~ room taxes shall be
18 paid by the casino gaming operator on all discounted and complimentary rooms to
19 be paid at the applicable tax rates based upon average seasonal rates for the
20 preceding year of hotels in the Central Business District; and French Quarter of the
21 parish of the ~~official gaming establishment~~ City of New Orleans, as compiled by a
22 nationally recognized firm. Only for those additional hotel rooms authorized by the
23 memorandum of understanding and agreement dated March 2018, room taxes shall
24 be paid by the casino gaming operator on all discounted and complimentary rooms
25 to be paid at the applicable tax rates based upon average seasonal rates for the
26 preceding year of luxury hotels in the Central Business District, French Quarter, and
27 Warehouse District of the City of New Orleans, as compiled by a nationally
28 recognized firm.

1 ~~(3)~~(4) The casino gaming operator shall not engage in such activities as are
2 prohibited by the casino operating contract.

3 * * *

4 §247. Casino support services contract; Casino Support Services Fund

5 A. ~~Subject to and in accordance with the provisions of this Chapter, the~~
6 ~~gaming control board shall enter into a casino support services contract with the~~
7 ~~governing authority of the parish where the official gaming establishment is located~~
8 ~~in order to compensate the parish for the cost to the parish for providing support~~
9 ~~services resulting from the operation of the official gaming establishment and the~~
10 ~~activities therein. Support services as used in this Section shall include but not be~~
11 ~~limited to fire, police, sanitation, health, transportation, and traffic services. The~~
12 ~~amount of the contract shall be determined by negotiation and agreement between~~
13 ~~the gaming control board and the parish, subject to approval by the Joint Legislative~~
14 ~~Committee on the Budget. In the event that a new contract is not agreed upon by the~~
15 ~~gaming control board and the parish by March thirty-first of any year, the contract~~
16 ~~currently in effect shall be submitted to the Joint Legislative Committee on the~~
17 ~~Budget for approval of the amount of the contract at the next meeting of the~~
18 ~~committee. If the committee approves the amount of the contract the chairman shall~~
19 ~~notify the treasurer of the amount of the contract and, the contract shall remain in full~~
20 ~~force and effect. If the committee disapproves or does not act upon the amount of~~
21 ~~the contract, the contract shall be null, void, and of no effect and the treasurer shall~~
22 ~~be prohibited from depositing monies into the Casino Support Services Fund.~~

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

27 ~~(2) Monies in the fund shall be invested in the same manner as monies in the~~
28 ~~general fund. Interest earned on investment of monies in the fund shall be credited~~

1 ~~to the fund. Unexpended and unencumbered monies in the fund at the end of the~~
2 ~~fiscal year shall remain in the fund.~~

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

7 A. Beginning on August 1, 2018, and continuing throughout the term of the
8 casino operating contract, the casino gaming operator shall annually pay directly to
9 the governing authority of the parish where the official gaming establishment is
10 located, the sum of money set forth in Subsection B of this Section to compensate
11 the parish for the cost to the parish for providing support services resulting from the
12 operation of the official gaming establishment and activities therein.

13 B.(1) Except as provided in Paragraph (2) of this Subsection, beginning on
14 August 1, 2018, the annual payment required by Subsection A of this Section shall
15 be equal to three million six hundred thousand dollars (\$3,600,000), payable in
16 quarterly installments.

17 (2) Beginning on August 1, 2023, the amount set forth in Paragraph (1) of
18 this Subsection shall be adjusted by a rate that is the lesser of two percent or the
19 Consumer Price Index, United States city average for all urban customers (CPI-U),
20 as prepared by the United States Department of Labor, Bureau of Labor Statistics for
21 the five calendar years immediately preceding the adjustment, with adjustments
22 being made to this amount in the same manner every five years thereafter.

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 553 Original

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 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, and subject to the approval of any change in terms of the casino operating contract by the Joint Legislative Committee on the Budget.

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 pursue a capital investment on or around the official gaming establishment of \$350,000,000.
- (2) 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 five calendar years immediately preceding the adjustment, with adjustments being made to this amount in the same manner every five years thereafter.

- (3) 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 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 five calendar years immediately preceding the adjustment, with adjustments being made to this amount in the same manner every five 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 shall 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 a court of competent jurisdiction; 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.

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