

**HOUSE SUMMARY OF SENATE AMENDMENTS**  
**HB 553** **2018 Regular Session** **Barras**

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

**Synopsis of Senate Amendments**

1. Changes the contract renewal term from an additional 30-year renewal term to a 20-year renewal term with one 10-year renewal option.
2. Provides that the required capital investment by the casino operator of \$350,000,000 shall be made within four years of July 1, 2018, subject to an extension for any force majeure event. Authorizes the extension only if the casino operator posts a bond or puts the remaining required capital monies in escrow to ensure satisfaction of the mandated investment and proceeds with construction immediately upon the cessation of the event.
3. Adds a requirement that, in order for the La. Gaming Control Board to enter into the renewal contract, the casino operator shall maintain compliance with all existing Disadvantaged Business Enterprises requirements in the planning, development, and construction of the capital investment development project.
4. Requires the renewal terms of the contract to contain provisions requiring the casino operator to pay a sum of \$40,000,000 no later than 10 days after the completion of both the approval of the amended casino operating contract by the Joint Legislative Committee on the Budget and the approval of the amended casino lease by the New Orleans City Council and provides for the disbursement of such funds.
5. Requires the renewal terms of the contract to contain provisions that require the casino operator to pay a sum of \$40,000,000 if, prior to the end of the term of the casino operating contract, the casino operator sells the casino lease. Requires the funds to be paid no later than ten days after the execution of the sale and provides for the disbursement of such funds.
6. Amends provisions relative to the rate of increase of the minimum compensation payments and the payments made for casino support services to provide that the rate shall be the lesser of 2% or the percentage change in the Consumer Price Index based on the city average for all urban consumers.
7. Requires beginning July 1, 2018, and continuing annually thereafter, the casino operator to pay \$20,000,000 to the state general fund.
8. Changes the amount paid by the casino gaming operator beginning August 1, 2018, for casino support services from \$3,600,000 to \$6,000,000.
9. Clarifies that the previous casino fiscal year's minimum compensation payment is used to determine the allocation and distribution of daily transfers of net revenues.
10. With regard to the allocation of daily transfers of net revenues that remain after depositing funds into the Support Education in La. First Fund and the La. Early Childhood Education Fund, changes the proposed law allocation of such remaining funds from 70% to the Community Water Enrichment and Other Improvements Fund to 67½% to the state general fund and 2½% to the Compulsive and Problem Gaming Fund.
11. Provides that the Act will be effective beginning July 1, 2018.

### **Digest of Bill as Finally Passed by Senate**

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 La. Gaming Control Board to enter into one additional 20-year renewal term with one 10-year renewal option, 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 within four years of July 1, 2018, and shall be subject to an extension for any force majeure event. Authorizes the extension only if the casino operator posts a bond or puts the remaining required capital monies in escrow to ensure satisfaction of the mandated investment and proceeds with construction immediately upon the cessation of the event.

In this regard, proposed law requires the casino operator to maintain compliance with all existing Disadvantaged Business Enterprises requirements in the planning, development, and construction of the capital investment development project

- (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 renewal terms of the casino operating contract 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 \$6,000,000. Beginning on Aug. 1, 2023, this amount shall be adjusted by a rate that is the lesser of two percent or the percentage change in the Consumer Price Index, United States city average for all urban consumers (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 La. 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 La. 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 percentage change in the Consumer Price Index, United States city average for all urban consumers (CPI-U), as prepared by the United States Department of Labor, Bureau of Labor Statistics for the two calendar years immediately preceding the adjustment, with adjustments being made to this amount in the same manner every two years thereafter.

- (3) Require the casino operator, no later than ten days after approval of the amended casino operating contract and approval of the amended casino lease, to pay \$40,000,000 to the state and the city of New Orleans. 75% shall be paid to the state and 25% shall be paid to the city of New Orleans.
- (4) Require the casino operator to pay \$40,000,000 to the state and city of New Orleans if, prior to the end of the term of the casino operating contract, the casino operator sells the casino lease. 75% shall be paid to the state and 25% shall be paid to the city of New Orleans no later than ten days after the execution of the sale.
- (5) Require the casino operator, beginning July 1, 2021, and continuing annually thereafter, to pay \$20,000,000 to the state to be deposited in and credited to the state general fund.

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 state and local sales taxes and occupancy 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)) for the previous casino fiscal year is \$60,000,000 or less, 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)) for the previous casino fiscal year is greater than \$60,000,000 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 La. 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, 67½% shall be distributed by the state treasurer to the state general fund, and 2½% shall be distributed by the treasurer to the Compulsive and Problem Gaming Fund. Proposed law requires monies deposited into the Compulsive and Problem Gaming Fund to be used to provide gambling addiction treatment services at rehabilitation centers located in La. offering gambling addiction treatment.

Effective July 1, 2018.

(Amends R.S. 27:241(A), 241.1, 243(C), 247, and 270(A)(3) and R.S. 28:842(B); Adds R.S. 28:842(D))