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DIGEST

Murray (SB 242)

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 Orleans 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 greater New Orleans as a traveler destination and to provide for increased economic activity within its traveler economy, including an 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) "City" means the city of New Orleans.
- (3) "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.
- (4) "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 Orleans 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.

- (5) "Operator of a hotel" means the person in whose name the occupational license for the hotel is issued by the city.
- (6) "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.
- (7) "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.
- (8) "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.
- (9) "Tourism organization" means any private nonprofit corporation domiciled in Orleans 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 New Orleans Convention and Visitors Bureau.

Proposed law provides that a tourism organization, under authority of its articles or bylaws, may levy a hotel assessment of up to one and three quarters percent of the daily room charge upon its hotel members in Orleans Parish pursuant to proposed 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 an assessed hotel 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 to the same extent as 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 city, 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 city 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 Greater New Orleans Hotel and Lodging Association, Inc., 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 Greater New Orleans Hotel and Lodging Association, Inc., or any other person designated for the purpose of receiving, tabulating and counting ballots at any time during the referendum period. The Greater New Orleans Hotel and Lodging Association, Inc., 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 Greater New Orleans Hotel and Lodging Association, Inc., 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 Greater New Orleans Hotel and Lodging Association, Inc. 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 upon signature of the governor or lapse of time for gubernatorial action.

(Adds R.S. 21:201-208)

Summary of Amendments Adopted by Senate

Senate Floor Amendments to engrossed bill

1. Provides that the optional hotel assessment can be levied up to one and three quarters percent of the daily room charge.