

2021 Regular Session

HOUSE BILL NO. 415

BY REPRESENTATIVE GAINES

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

TOURISM: Provides for the creation of tourism recovery and improvement districts

1 AN ACT

2 To enact Chapter 11-A of Title 33 of the Louisiana Revised Statutes of 1950, to be  
3 comprised of R.S. 33:4600.1 through 4600.10, relative to tourism; to provide for the  
4 creation of tourism recovery and improvement districts by tourist commissions; to  
5 provide relative to the powers granted to tourist commissions with respect to such  
6 districts; to provide relative to assessments levied on businesses by tourist  
7 commissions; to provide for definitions; to provide limitations; to provide for  
8 severability; to provide for an effective date; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. Chapter 11-A of Title 33 of the Louisiana Revised Statutes of 1950,  
11 comprised of R.S. 33:4600.1 through 4600.10, is hereby enacted to read as follows:

12 CHAPTER 11-A. LOUISIANA TOURISM RECOVERY AND  
13 IMPROVEMENT DISTRICTS

14 §4600.1. Legislative findings

15 The legislature hereby finds and declares all of the following:

- 16 (1) There is a direct correlation between the amount of funds spent on  
17 destination-based marketing, sales, and promotion of a locality and an increase in the  
18 number of conventions, meetings, visitors, occupancy of lodging businesses, retail  
19 sales of food, beverages, and other items, admissions to cultural and other  
20 entertainment venues, collections of related state and local sales and use taxes, job

1 creation, and a resulting general economic vitality of the traveler economy and  
2 related businesses in the locality.

3 (2) It is in the state's public interest and vital to the welfare of the state's  
4 economy to facilitate and encourage cooperating public-private partnerships for the  
5 enhancement and expansion of the business economy and to provide for increased  
6 business activity, tourism, economic development and job creation in municipalities  
7 and parishes in the state of Louisiana.

8 §4600.2. Purpose

9 The purpose of this Chapter is to facilitate the collection of supplementary  
10 funds to market and promote destinations in the state to provide for increased  
11 economic activity within its traveler economy, including increases in conventions,  
12 meetings, visitors, hotel occupancy, food, beverage and other retail sales, tourism,  
13 including cultural and family tourism, tourism business job creation, tourism  
14 economic development, and other tourism related purposes.

15 §4600.3. Definitions

16 As used in this Chapter, the following terms shall have the meanings ascribed  
17 to them unless the context clearly indicates otherwise:

18 (1) "Activities" means marketing, promotions, sales efforts, events, and any  
19 other services that are reasonably related to the enhancement of tourism.

20 (2) "Assessed business" means a person operating a business and required  
21 to pay an assessment pursuant to this Chapter.

22 (3) "Assessment" means the levy imposed pursuant to this Chapter. An  
23 assessment may be levied based on a fixed amount, rate per transaction, fixed rate  
24 per transaction per day, percentage of sales, any combination of these methods, or  
25 any other method that confers benefit to the payor.

26 (4) "Business" means all types of tourism businesses, including but not  
27 limited to tourist homes, hotel, motel, or trailer court accommodations, recreational  
28 vehicle parks and privately-owned or managed campgrounds, other lodging intended  
29 for short-term occupancy, restaurant, retail, tourism attraction, and activity provider.

1           (5) "Business owner" means any person recognized by the tourist  
2           commissioners as the owner of the business subject to assessment. A tourist  
3           commissioner has no obligation to obtain other information as to the ownership of  
4           businesses, and its determination of ownership shall be final and conclusive for the  
5           purposes of this Chapter. If the signature of a business owner is required by any  
6           provision of this Chapter, the signature of the authorized agent of the business owner  
7           shall be sufficient.

8           (6) "Improvement" means the acquisition, construction, installation, or  
9           maintenance of any tangible property with an estimated useful life of five years or  
10           more that is reasonably related to the enhancement of tourism.

11           (7) "Management plan" means a plan adopted or amended pursuant to this  
12           Chapter for the development, redevelopment, maintenance, operation, and promotion  
13           of a tourism recovery and improvement district.

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

17           (9) "Surcharge" means any charge to the consumer that is required to be paid  
18           for goods and services that is passed through to the consumer as a charge on the  
19           customers receipt or guest folio.

20           (10) "Tourist commission" means a political subdivision created pursuant to  
21           R.S. 33:4574(B) for the purpose of promoting tourism within its respective  
22           jurisdiction. "Tourist commission" does not mean the Jefferson Convention and  
23           Visitors Bureau, Inc., or any tourism organization domiciled in Orleans Parish,  
24           including New Orleans & Company.

25           (11) "Tourist commissioners" means the members of the governing body of  
26           a tourist commission.

27           §4600.4. Initiation of proceedings, petition

28           A.(1) A tourist commission may initiate proceedings to form a tourism  
29           recovery and improvement district upon the written petition of the owners or

1 authorized representatives of the owners or authorized representatives of businesses  
2 in the district, signed by either of the following:

3 (a) The business owners in the proposed tourism recovery and improvement  
4 district who will pay more than fifty percent of the assessments proposed to be  
5 levied.

6 (b) More than fifty percent of the total assessed businesses by number.

7 (2) In the case of a petition weighted by the amount of assessment proposed  
8 to be levied as described in Subparagraph (1)(a) of this Subsection, the amount of  
9 assessment attributable to a business owned by the same business owner that is in  
10 excess of forty percent of the amount of all assessments proposed to be levied, shall  
11 not exceed the value of forty percent in determining whether the petition is signed  
12 by business owners who will pay more than fifty percent of the total amount of  
13 assessments proposed to be levied.

14 B. The petition of business owners required in Subsection A of this Section  
15 shall include a summary of the management plan. That summary shall include all  
16 of the following:

17 (1) A map showing the boundaries of the tourism recovery and improvement  
18 district.

19 (2) Information specifying where the complete management plan can be  
20 obtained.

21 (3) Information specifying that the complete management plan shall be  
22 furnished upon request.

23 §4600.5. Contents of management plan

24 The management plan shall include all of the following:

25 (1) A map that identifies the tourism recovery and improvement district  
26 boundaries in sufficient detail to allow a business owner to reasonably determine  
27 whether a business is located within the boundaries of the tourism recovery and  
28 improvement district.

29 (2) The name of the proposed tourism recovery and improvement district.

1           (3) A description of the boundaries of the tourism recovery and improvement  
2           district, including the boundaries of benefit zones, proposed for establishment or  
3           extension in a manner sufficient to identify the affected businesses included, which  
4           may be made by reference to any plan or map that is on file with the tourist  
5           commission. The boundaries of a tourism recovery and improvement district created  
6           pursuant to this Chapter may overlap the boundaries of any other tourism recovery  
7           and improvement district created pursuant to this Chapter and the boundaries of other  
8           assessment districts established pursuant to law.

9           (4) The estimated cost of improvements, maintenance, and activities or the  
10          estimated assessment rate charged, or both. If the improvements, maintenance, and  
11          activities proposed for each year of operation are the same, a description of the first  
12          year's proposed improvements, maintenance, and activities and a statement that the  
13          same improvements, maintenance, and activities are proposed for subsequent years  
14          shall satisfy the requirements of this Paragraph.

15          (5) The total annual amount proposed to be expended for improvements,  
16          maintenance, or activities, and debt service in each year of operation of the tourism  
17          recovery and improvement district. This amount may be estimated based upon the  
18          assessment rate. If the total annual amount proposed to be expended in each year of  
19          operation of the tourism recovery and improvement district is not significantly  
20          different, the amount proposed to be expended in the initial year and a statement that  
21          a similar amount applies to subsequent years shall satisfy the requirements of this  
22          Paragraph.

23          (6) The proposed source or sources of financing, including the proposed  
24          method and basis of levying the assessment in sufficient detail to allow each business  
25          owner to calculate the amount of the assessment to be levied against his business. If  
26          the assessment is levied on a percentage basis, the maximum assessment rate shall  
27          not exceed five percent. If the assessment is levied on a dollar amount basis, the  
28          total assessment rate shall not exceed five dollars.

29          (7) A statement as to whether bonds will be issued to finance improvements.

1           (8) The time and manner of collecting the assessments.

2           (9) The specific number of years in which assessments shall be levied. In  
3           a new tourism recovery and improvement district, the maximum number of years  
4           shall be five. Upon renewal, a tourism recovery and improvement district shall have  
5           a term not to exceed ten years. Notwithstanding these limitations, in order to finance  
6           capital improvements with bonds, a tourism recovery and improvement district may  
7           levy assessments until the maximum maturity of the bonds. The management plan  
8           may set forth specific increases in assessments for each year of operation of the  
9           tourism recovery and improvement district.

10           (10) The proposed time for implementation and completion of the  
11           management plan.

12           (11) Any proposed rules and regulations to be applicable to the tourism  
13           recovery and improvement district.

14           (12) A statement that the tourist commission shall provide the  
15           improvements, maintenance, and activities described in the management plan.

16           (13) Any other item or matter required to be incorporated therein by the  
17           tourist commission.

18           §4600.6. Notice; public hearing; majority protest

19           A. If a tourist commission proposes to levy a new or increased business  
20           assessment pursuant to this Chapter, notice shall be mailed to the owners of the  
21           businesses proposed to be assessed. A protest may be made orally or in writing by  
22           any interested person. Every written protest shall be filed with the tourist  
23           commission at or before the time fixed for the public hearing. The tourist  
24           commission may waive any irregularity in the form or content of any written protest.  
25           A written protest may be withdrawn in writing at any time before the conclusion of  
26           the public hearing. Each written protest shall contain a description of the business  
27           in which the person subscribing the protest is interested sufficient to identify the  
28           business and, if a person subscribing is not shown on the official records of the city  
29           as the owner of the business, the protest shall contain or be accompanied by written

1 evidence that the person subscribing is the owner of the business or the authorized  
2 representative. A written protest that does not comply with the requirements of this  
3 Subsection shall not be counted in determining a majority protest.

4 B.(1) If written protests are received from the owners or authorized  
5 representatives of businesses in the proposed tourism recovery and improvement  
6 district who will pay more than fifty percent of the assessments proposed to be levied  
7 or represent more than fifty percent of the total assessed businesses by number, then  
8 no further proceedings to levy the proposed assessment against such businesses shall  
9 be taken for a period of one year from the date of the finding of a majority protest  
10 by the tourist commission.

11 (2) In the case of a protest weighted by the number of owners of businesses  
12 or authorized representatives of businesses who will pay more than fifty percent of  
13 the assessments to be levied, the amount of assessment attributable to a business  
14 owned by the same business owner that is in excess of forty percent of the amount  
15 of all assessments proposed to be levied, shall not exceed the value of forty percent  
16 in determining whether the petition is signed by business owners who will pay more  
17 than fifty percent of the total amount of assessments proposed to be levied.

18 C. If a tourist commission proposes to conduct a single proceeding to levy  
19 both a new or increased property assessment and a new or increased business  
20 assessment, the notice, protest, and hearing procedures for the property assessment  
21 shall comply with Subsection A of this Section and the notice, protest, and hearing  
22 procedure for the business assessment shall comply with Subsection B of this  
23 Section. If a majority protest is received from either the property or business  
24 owners, that respective portion of the assessment shall not be levied. The remaining  
25 portion of the assessment may be levied unless the improvement or other special  
26 benefit was proposed to be funded by assessing both property and business owners.

27 §4600.7. Levy of assessments

28 A. An assessment proposed to be levied pursuant to this Chapter shall be  
29 authorized by a resolution of the tourist commission that describes in general terms

1 the assessment to be levied and includes a statement that the assessment is to be  
2 levied pursuant to this Chapter. The assessment shall be approved in a public  
3 hearing procedure as provided in this Chapter.

4 B. Notwithstanding any other provision of law to the contrary, an assessed  
5 business shall place the assessment as a mandatory surcharge on the consumer  
6 receipt or guest folio. All assessments to be passed through to consumers and guests  
7 as surcharges shall be disclosed on all information or communication platforms of  
8 the business in the same manner as are other surcharges, hotel and occupancy taxes,  
9 and sales and use taxes as required by applicable laws and regulations.

10 C. Receipts from any such surcharge for business assessments levied  
11 pursuant to this Chapter are not part of gross receipts or gross revenue for any  
12 purpose, including the calculation of sales revenue or occupancy taxes or state  
13 income taxes and are not part of income pursuant to any lease or operator agreement.  
14 Payment of the assessment to the tourist commission or other person designated for  
15 the purpose of receiving it, shall not be taken as a deduction from income for state  
16 income tax purposes.

17 D. Any assessment levied and passed through to a consumer as a surcharge  
18 in accordance with this Chapter is an enforceable obligation of the consumer to the  
19 same extent as other lawful surcharges.

20 E. Procedures for the collection of business assessments, interest charges,  
21 and penalties for delinquent remittance of business assessments to the tourist  
22 commission or other person designated for the purpose of receiving it, or other  
23 matters incident to the business assessment shall be as provided by resolution.

24 §4600.8. Modification of plan by resolution after public hearing; adoption of  
25 resolution of intention

26 A. The tourist commission may, at any time, modify the management plan.  
27 Any modification of the management plan shall be made in accordance with the  
28 provisions of this Section.

1           B. The tourist commission may modify the management plan after  
 2           conducting a public hearing as provided in this Chapter regarding the proposed  
 3           modifications. The tourist commission may modify the improvements and activities  
 4           to be funded with the revenue derived from the levy of the assessments by adopting  
 5           a resolution determining to make the modifications after holding a public hearing on  
 6           the proposed modifications.

7           C. The tourist commission shall adopt a resolution of intention which states  
 8           the proposed modification prior to the public hearing. The public hearing shall be  
 9           held not more than ninety days after the adoption of the resolution of intention.

10          §4600.9. Renewal of tourism recovery and improvement district; transfer or refund  
 11          of remaining revenues; term limit

12           A. Any tourism recovery and improvement district may be renewed by  
 13           following the procedures for establishment as provided in this Section.

14           B.(1) If there are no changes to activities, assessment rates, assessment  
 15           method, or boundaries, the tourism recovery and improvement district may be  
 16           renewed by conducting a public hearing as provided in this Chapter to determine  
 17           whether the tourism recovery and improvement district shall be renewed.

18           (2) If there are changes to activities, assessment rates, assessment method,  
 19           or boundaries, the tourism recovery and improvement district may be renewed by  
 20           following the procedures for the petition as provided in this Chapter in addition to  
 21           the public hearing procedure as provided in this Chapter.

22           C. Upon renewal, any remaining revenues derived from the levy of  
 23           assessments, or any revenues derived from the sale of assets acquired with the  
 24           revenues, shall be transferred to the renewed tourism recovery and improvement  
 25           district. If the renewed tourism recovery and improvement district includes  
 26           additional businesses not included in the prior tourism recovery and improvement  
 27           district, the remaining revenues shall be spent to benefit only the businesses in the  
 28           prior tourism recovery and improvement district. If the renewed tourism recovery  
 29           and improvement district does not include businesses included in the prior tourism

1 recovery and improvement district, the remaining revenues attributable to these  
2 businesses shall be refunded to the owners of these businesses.

3 D. Upon renewal, a tourism recovery and improvement district shall have a  
4 term not to exceed ten years, or, if the tourism recovery and improvement district is  
5 authorized to issue bonds, until the maximum maturity of those bonds. There is no  
6 requirement that the boundaries, assessments, improvements, or activities of a  
7 renewed district be the same as the original or prior tourism recovery and  
8 improvement district.

9 §4600.10. Dissolution of a tourism recovery and improvement district; procedure

10 A. Any tourism recovery and improvement district that has no outstanding  
11 indebtedness may be dissolved by resolution of the tourist commissioners by either  
12 of the following methods:

13 (1) During the operation of the tourism recovery and improvement district,  
14 there shall be a thirty day period each year in which assessees may request the  
15 dissolution of the tourism recovery and improvement district. The first such period  
16 shall begin one year after the date of establishment of the district and shall continue  
17 for thirty days. The next such thirty day period shall begin two years after the date  
18 of the establishment of the tourism recovery and improvement district. Each  
19 successive year of operation of the tourism recovery and improvement district shall  
20 have such a thirty day period.

21 (2) The tourist commission shall initiate proceedings to dissolve a tourism  
22 recovery and improvement district upon the written petition of the owners or  
23 authorized representatives of the owners or authorized representatives of businesses  
24 in the district, signed by either:

25 (a) The business owners in the proposed tourism recovery and improvement  
26 district who will pay more than fifty percent of the assessments proposed to be  
27 levied.

28 (b) More than fifty percent of the total assessed businesses by number.

1           B. In the case of a petition weighted by the amount of assessment proposed  
2           to be levied as described in Subparagraph(A)(2)(a) of this Section, the amount of  
3           assessment attributable to a business owned by the same business owner that is in  
4           excess of forty percent of the amount of all assessments proposed to be levied, shall  
5           not exceed the value of forty percent in determining whether the petition is signed  
6           by business owners who will pay more than fifty percent of the total amount of  
7           assessments proposed to be levied.

8           C. The tourist commission shall adopt a resolution of intention to dissolve  
9           the tourism recovery and improvement district prior to the public hearing provided  
10          for in this Chapter. The resolution shall state the reason for the dissolution and the  
11          time and place of the public hearing. The resolution shall also contain a proposal to  
12          dispose of any assets acquired with the revenues from the assessment levied within  
13          the tourism recovery and improvement district. The notice of the public hearing on  
14          dissolution required by this Section shall be given by mail to the owner of each  
15          business subject to assessment in the tourism recovery and improvement district. The  
16          tourist commission shall conduct a public hearing on dissolution not less than thirty  
17          days after mailing the notice to the business owners. The public hearing shall be  
18          held not more than sixty days after the adoption of the resolution of intention.

19          Section 2. If any provision of this Act or the application thereof is held invalid, such  
20          invalidity shall not affect other provisions or applications of this Act which can be given  
21          effect without the invalid provisions or applications, and to this end the provisions of this  
22          Act are hereby declared severable.

23          Section 3. This Act shall become effective upon signature by the governor or, if not  
24          signed by the governor, upon expiration of the time for bills to become law without signature  
25          by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
26          vetoed by the governor and subsequently approved by the legislature, this Act shall become  
27          effective on the day following such approval.

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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)]

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HB 415 Original

2021 Regular Session

Gaines

**Abstract:** Authorizes tourist commissions to create tourism recovery and improvement districts to generate funds to aid in the state's traveler economy.

Proposed law authorizes tourist commissions, for the purpose of facilitating the collection of supplementary funds to market and promote destinations in the state, to create tourism recovery and improvement districts upon the written petition of the owners or authorized representatives of the owners or authorized representatives of businesses in the district, signed by either of the following:

- (1) The business owners in the proposed tourism recovery and improvement district who will pay more than 50% of the assessments proposed to be levied.
- (2) More than 50% of the total assessed businesses by number.

Proposed law requires that the petition include a summary of the management plan. Provides further with respect to the content requirements of the management plan, including the name and the boundaries of the district and the estimated cost of improvements within the district. Authorizes the tourist commission to modify the management plan.

Proposed law provides that a tourist commission may, by resolution, propose to levy an assessment on businesses. Provides that an assessment may be levied based on a fixed amount, rate per transaction, fixed rate per transaction per day, percentage of sales, any combination of these methods, or any other method that confers benefit to the payor.

Proposed law requires that the resolution describe the assessment to be levied in general terms and include a statement that the assessment is to be levied pursuant to proposed law. Requires the tourist commission to give notice by mail to the owners of the businesses proposed to be assessed. Further requires that the resolution provide for the collection of the assessment, interest charges, and penalties for delinquent remittance.

Proposed law provides that in a newly created tourism recovery and improvement district the assessment may be levied for a term not to exceed five years, but the district may be renewed for a term not to exceed 10 years. Proposed law provides that in order to finance capital improvements with bonds, a district may levy assessments until the maximum maturity of the bonds.

Proposed law provides that if there are no changes to activities, assessment rates, assessment method, or boundaries, the district may be renewed by conducting a public hearing pursuant to proposed law. Further provides that if there are changes in these categories, the district may be renewed by following the procedures for the petition and public hearing as provided in proposed law. Provides for the allocation of assessment revenues from the prior district.

Proposed law provides that a protest to the levy of an assessment may be made orally or in writing by any interested person. Requires that every written protest be filed with the tourist commission at or before the time fixed for the public hearing. Proposed law authorizes the tourist commission to waive any irregularity in the form or content of any written protest. Provides that a written protest may be withdrawn in writing at any time before the conclusion of the public hearing. Provides further with respect to the content requirements of the written protest. Provides that if written protests are received from a certain number

of business owners then no further proceedings to levy the assessment may take place for one year.

Proposed law requires an assessed business to place the assessment as a mandatory surcharge on the consumer receipt or guest folio. Further requires that all assessments passed through to consumers and guests as surcharges be disclosed on all information or communication platforms of the business in the same manner as other surcharges.

Proposed law provides for the dissolution of a tourism recovery and improvement district by resolution of the tourist commissioners if the district has no outstanding indebtedness and meets either of the following conditions:

- (1) During the operation of the district, there shall be a 30 day period each year in which assessee may request dissolution of the district.
- (2) The tourist commission must initiate proceedings to dissolve a district upon the written petition of the owners or authorized representatives of the owners or authorized representatives of businesses in the district, signed by either:
  - (a) The business owners in the proposed tourism recovery and improvement district who will pay more than 50% percent of the assessments proposed to be levied.
  - (b) More than 50% percent of the total assessed businesses by number.

Proposed law requires that the resolution state the reason for the dissolution and the time and place of the public hearing. Additionally requires that the resolution contain a proposal to dispose of any assets acquired with the revenues from the assessment.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Adds R.S. 33:4600.1-4600.10)