

2015 Regular Session

HOUSE BILL NO. 771

BY REPRESENTATIVE MIKE JOHNSON

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

TAX/SALES-USE, STATE: Establishes an incentive program for development of new tourism infrastructure and assets in exchange for certain sales and use tax revenues

1 AN ACT

2 To enact R.S. 36:209(I) and 808 and Chapter 5 of Subtitle VII of Title 47 of the Louisiana

3 Revised Statutes of 1950, to be comprised of R.S. 47:6361 through 6368, relative to

4 rebates; to authorize contracts for certain state sales and use tax rebates; to provide

5 for the amount, approval, and issuance of rebates; to establish the Tourism

6 Development Incentives Authority; to provide for the placement of the authority

7 within the Department of Culture, Recreation and Tourism; to provide for the powers

8 and duties of the authority; to provide with respect to the membership of the

9 authority; to provide relative to the powers and duties of the secretary and

10 undersecretary of the Department of Culture, Recreation and Tourism; to provide

11 relative to the powers and duties of the Department of Revenue and its secretary; and

12 to provide for related matters.

13 Be it enacted by the Legislature of Louisiana:

14 Section 1. Chapter 5 of Subtitle VII of Title 47 of the Louisiana Revised Statutes of
15 1950, comprised of R.S. 47:6361 through 6368, is hereby enacted to read as follows:

16 CHAPTER 5. TOURISM DEVELOPMENT INCENTIVES

17 §6361. Tourism Development Incentives Authority

18 A. The Tourism Development Incentives Authority is created within the
19 Department of Culture, Recreation and Tourism. The authority shall consist of seven
20 members appointed by the Governor. The members of the authority shall serve

1 without compensation but shall be entitled to reimbursement for their necessary
2 expenses incurred in performing their duties. Of the members initially appointed to
3 the authority, two members shall be appointed for terms of one year, three members
4 shall be appointed for terms of two years, and two members shall be appointed for
5 terms of three years. Thereafter, the members of the authority shall be appointed for
6 terms of four years.

7 B. The Governor shall appoint one member as chairperson of the authority.
8 The members of the authority may elect other officers as they deem necessary.

9 C. No member of the authority shall either directly or indirectly be a party
10 to, or be in any manner interested in, any contract or agreement with the authority
11 for any matter, cause, or thing that creates any liability or indebtedness against the
12 authority.

13 D. The authority shall have the powers necessary to carry out the purposes
14 of this Chapter, including but not limited to the power to:

15 (1) Employ fiscal consultants, attorneys, appraisers, and other agents on
16 behalf of the authority whom the authority deems necessary or convenient for the
17 preparation and administration of agreements and documents necessary or incidental
18 to any project. The fees for the services provided by persons employed on behalf of
19 the authority shall be paid by the beneficiary of a loan under this program directly
20 to the person providing consultation, advisory, legal, or other services.

21 (2) Impose and collect fees and charges in connection with any transaction
22 and provide for reasonable penalties for delinquent payment of fees and charges.

23 §6362. Definitions

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

26 (1) "Agreement" means the tourism development agreement entered into
27 between the authority and an approved company.

28 (2) "Approved company" means any eligible company that has received final
29 approval to receive incentives provided under this Chapter.

1 (3) "Approved costs" means the amount of eligible costs approved by the
2 authority upon completion of the project.

3 (4) "Authority" means the Tourism Development Incentives Authority
4 created by this Chapter.

5 (5) "Department" means the Department of Culture, Recreation and Tourism.

6 (6) "Crafts and products center" means a facility primarily devoted to the
7 display, promotion, and sale of Louisiana products, and at which a minimum of
8 eighty percent of the sales occurring at the facility are of Louisiana arts, crafts, or
9 agricultural products.

10 (7) "Eligible company" means any corporation, limited liability company,
11 partnership, limited partnership, sole proprietorship, business trust, or any other
12 entity operating or intending to operate a tourism development project.

13 (8) "Eligible costs" means:

14 (a) Obligations incurred for labor and amounts paid to vendors, contractors,
15 subcontractors, builders, suppliers, deliverymen, and materialmen in connection with
16 the acquisition, construction, equipping, and installation of a tourism development
17 project.

18 (b) The costs of acquiring real property or rights including the acquisition
19 of real property by a leasehold interest with a minimum term of ten years, and any
20 costs incidental thereto.

21 (c) The cost of contract bonds and of insurance of all kinds that may be
22 required or necessary during the course of the acquisition, construction, equipping,
23 and installation of a tourism development project which is not paid by the vendor,
24 supplier, deliveryman, contractor, or otherwise provided.

25 (d) All costs of architectural and engineering services, including but not
26 limited to estimates, plans and specifications, preliminary investigations, and
27 supervision of construction and installation, as well as for the performance of all the
28 duties required by or consequent to the acquisition, construction, equipping, and
29 installation of a tourism development project.

1 (e) All costs required to be paid under the terms of any contract for the
2 acquisition, construction, equipping, and installation of a tourism development
3 project.

4 (f) All costs required for the installation of utilities, including but not limited
5 to water, sewer, sewer treatment, gas, electricity and communications, and including
6 off-site construction of the facilities paid for by the approved company.

7 (g) All other costs comparable with those described in this Paragraph.

8 (9) "Entertainment destination center project" means a facility that meets the
9 requirements of this Chapter.

10 (10) "Final approval" means the action taken by the authority authorizing the
11 eligible company to receive incentives under this Chapter.

12 (11) "Full-service lodging facility" means a facility that provides overnight
13 sleeping accommodations, including private bathrooms and all of the following:

14 (a) On-site dining facilities.

15 (b) Room service.

16 (c) Catering.

17 (d) Meeting space.

18 (12) "Incentives" means the sales tax rebate as prescribed in this Chapter.

19 (13) "Lodging facility project" means a full-service lodging facility that
20 meets one or more of the following:

21 (a) Is located on recreational property owned or leased by the state or the
22 federal government.

23 (b) Involves the restoration or rehabilitation of a structure that meets one or
24 more of the following:

25 (i) Is listed individually on the National Register of Historic Places.

26 (ii) Is located in a National Register Historic District, is certified as
27 contributing to the historic significance of the district, and the rehabilitation or
28 restoration of the structure has been approved in advance by the department.

29 (c) Is an integral part of a major convention or sports facility.

1 (d) Is located:

2 (i) Within a fifty mile radius of a property listed on the National Register of
3 Historic Places with a current function of recreation and culture.

4 (ii) In any of the twenty least-populated parishes in the state, in terms of
5 population density, according to the most recent federal decennial census.

6 (e) Is located on property:

7 (i) Owned by the state, or leased by the state from the federal government.

8 (ii) Acquired for use in the state park system.

9 (iii) Operated by the office of state parks.

10 (f) Is located on property owned or leased by the federal government and
11 under the control of the Department of the Interior.

12 (g) Is part of a tourism attraction project, entertainment destination center
13 project, or theme restaurant destination attraction project and the full-service lodging
14 facility represents less than fifty percent of the total eligible costs.

15 (h) Has not less than five hundred guest rooms.

16 (14) "Net positive fiscal impact" means the amount by which increased state
17 tax revenues will exceed the incentives given.

18 (15) "Preliminary approval" means the action taken by the authority
19 conditionally approving an eligible company for the incentives under this Chapter.

20 (16) "Recreational facility" means a structure or outdoor area that:

21 (a) Provides visitors recreational opportunities, including but not limited to
22 amusement parks, boating, hiking, horseback riding, hunting, fishing, camping,
23 wildlife viewing, live theater, rock climbing, and all-terrain vehicle trails.

24 (b) Serves as a likely destination where individuals who are not residents of
25 the state would remain overnight in commercial lodging at or near the recreational
26 facility.

27 (17) "Theme restaurant destination attraction project" means a restaurant
28 facility that meets the requirements for incentives under this Chapter.

29 (18)(a) "Tourism attraction project" means any of the following:

1 (i) A cultural or historical site.

2 (ii) A recreational facility.

3 (iii) An entertainment facility.

4 (iv) An area of natural phenomenon or scenic beauty.

5 (v) A crafts and products center.

6 (b) "Tourism attraction project" does not include facilities that are primarily
7 devoted to the retail sale of goods, other than a crafts and products center, or a
8 tourism attraction where the sale of goods is a secondary and subordinate component
9 of the attraction.

10 (19) "Tourism development project" means any of the following:

11 (a) A tourism attraction project.

12 (b) A theme restaurant destination attraction project.

13 (c) An entertainment destination center project.

14 (d) A lodging facility project.

15 §6363. Legislative findings; qualifications for incentives; incentives available

16 A. The legislature finds and declares that:

17 (1) The general welfare and material well-being of the citizens of the state
18 depend in large measure upon the development of tourism in the state.

19 (2) It is in the best interest of the state to provide incentives for the creation
20 of new tourism attractions and the expansion of existing tourism attractions within
21 the state in order to advance the public purposes of relieving unemployment by
22 preserving and creating jobs that would not exist if not for the incentives offered by
23 the authority to approved companies, and by preserving and creating sources of tax
24 revenues for the support of public services provided by the state.

25 (3) The authorities granted by this Chapter are proper governmental and
26 public purposes for which public funds may be expended.

27 (4) The creation or expansion of tourism development projects is of
28 paramount importance, mandating that the provisions of this Chapter be liberally
29 construed and applied in order to advance public purposes.

1 B. To qualify for incentives provided in this Chapter, the following
2 requirements shall be met:

3 (1) For a tourism attraction project:

4 (a) The total eligible costs shall exceed one million dollars, except for a
5 tourism attraction project located in a parish designated as an enhanced incentive
6 parish at the time the eligible company becomes an approved company as provided
7 in this Chapter, the total eligible costs shall exceed five hundred thousand dollars.

8 (b) In any year, including the first year of operation, the tourism attraction
9 project shall be open to the public at least one hundred days.

10 (c) In any year following the third year of operation, the tourism attraction
11 project shall attract at least twenty-five percent of its visitors from among persons
12 who are not residents of the state.

13 (2) For an entertainment destination center project:

14 (a) The total eligible costs shall exceed five million dollars.

15 (b) The facility shall contain a minimum of two hundred thousand square
16 feet of building space adjacent or complementary to an existing tourism attraction
17 project or a major convention facility.

18 (c) The incentives shall be dedicated to a public infrastructure purpose that
19 shall relate to the entertainment destination center project.

20 (d) In any year, including the first year of operation, the entertainment
21 destination center project shall:

22 (i) Be open to the public at least one hundred days per year.

23 (ii) Maintain at least one major theme restaurant and at least three additional
24 entertainment venues, including but not limited to, live entertainment, multiplex
25 theaters, large-format theater, motion simulators, family entertainment centers,
26 concert halls, virtual reality or other interactive games, museums, exhibitions, or
27 other cultural and leisure-time activities.

1 (iii) Maintain a minimum occupancy of sixty percent of the total gross area
2 available for lease with entertainment and food and drink options, not including the
3 retail sale of tangible personal property.

4 (e) In any year following the third year of operation, the entertainment
5 destination center project shall attract at least twenty-five percent of its visitors from
6 among persons who are not residents of the state.

7 (3) For a theme restaurant destination attraction project:

8 (a) The total eligible costs shall exceed five million dollars.

9 (b) In any year, including the first year of operation, the attraction shall:

10 (i) Be open to the public at least three hundred days per year and for at least
11 eight hours per day.

12 (ii) Generate no more than fifty percent of its revenue through the sale of
13 alcoholic beverages.

14 (c) In any year following the third year of operation, the theme restaurant
15 destination attraction project shall attract a minimum of fifty percent of its visitors
16 from among persons who are not residents of the state.

17 (d) The theme restaurant destination attraction project shall:

18 (i) At the time of final approval, offer a unique dining experience that is not
19 available in the state within a one hundred mile radius of the attraction.

20 (ii) In any year, including the first year of operation, maintain seating
21 capacity of four hundred fifty guests and offer live music or live musical and
22 theatrical entertainment during the peak business hours that the facility is in
23 operation and open to the public.

24 (iii) Within three years of the completion date, the attraction shall obtain a
25 top two tier rating by a nationally accredited service and shall maintain a top two tier
26 rating through the term of the agreement.

27 (4) For a lodging facility project:

28 (a)(i) The eligible costs shall exceed five million dollars unless the
29 provisions of Item (ii) of this Subparagraph apply.

1 (ii)(aa) If the lodging facility is an integral part of a major convention or
2 sports facility, the eligible costs shall exceed six million dollars.

3 (bb) If the lodging facility includes five hundred or more guest rooms, the
4 eligible costs shall exceed ten million dollars.

5 (b) In any year, including the first year of operation, the lodging facility
6 shall:

7 (i) Be open to the public at least one hundred days.

8 (ii) Attract at least twenty-five percent of its visitors from among persons
9 who are not residents of the state.

10 (5) An expansion of any tourism development project shall in all cases be
11 treated as a new stand-alone project.

12 C. The incentives offered under the this Chapter shall be as follows:

13 (1) An approved company, excluding its lessees, may be granted a sales tax
14 incentive based on the Louisiana sales tax imposed on sales generated by or arising
15 at the tourism development project. The approved company shall have no obligation
16 to refund or otherwise return any amount of this sales tax rebate to the persons from
17 whom the sales tax was collected.

18 (2)(a) For a tourism development project other than a lodging facility project
19 described in this Chapter or a tourism attraction project described in Subparagraph
20 (b) of this Paragraph:

21 (i) A sales tax incentive shall be allowed to an approved company over a
22 period of ten years, except as provided in Subparagraph (e) of this Paragraph.

23 (ii) The sales tax incentive shall not exceed the lesser of the total amount of
24 the sales tax liability of the approved company and its lessees or a percentage of the
25 approved costs as specified by the agreement, not to exceed twenty-five percent.

26 (b) For a tourism attraction project located in an enhanced incentive parish
27 at the time the eligible company becomes an approved company as provided in this
28 Chapter:

1 (i) A sales tax incentive shall be allowed to the approved company over a
2 period of ten years.

3 (ii) The sales tax incentive shall not exceed the lesser of the total amount of
4 the sales tax liability of the approved company and its lessees or a percentage of the
5 approved costs as specified by the agreement, not to exceed thirty percent.

6 (c) For a lodging facility project described in this Chapter:

7 (i) A sales tax incentive shall be allowed to the approved company over a
8 period of twenty years.

9 (ii) The sales tax incentive shall not exceed the lesser of total amount of the
10 sales tax liability of the approved company and its lessees or a percentage of the
11 approved costs as specified by the agreement, not to exceed fifty percent.

12 (d) Any unused incentives from a previous year may be carried forward to
13 any succeeding year during the term of the agreement until the entire specified
14 percentage of the approved costs has been received through sales tax incentives.

15 (e) If the approved company is an entertainment destination center that has
16 dedicated at least thirty million dollars of the incentives provided under the
17 agreement to a public infrastructure purpose, the agreement may be amended to
18 extend the term of the agreement up to two additional years if the approved company
19 agrees to:

20 (i) Reinvest in the original entertainment destination project one hundred
21 percent of any incentives received during the extension that were outstanding at the
22 end of the original term of the agreement.

23 (ii) Report to the authority at the end of each fiscal year the amount of
24 incentives received during the extension and how the incentives were reinvested in
25 the original entertainment destination project.

26 (3) The sales tax incentive shall be reduced by the amount of any vendor
27 compensation allowed.

28 (4) Interest shall not be allowed or paid on any rebate made under the
29 provisions of this Chapter.

1 §6364. Evaluation standards; tourism attraction project applications; consulting
2 services; optional interagency review; department recommendations.

3 A. The department shall promulgate administrative rules to establish
4 standards for the making of applications for incentives and the recommendation of
5 eligible companies and their tourism development projects to the authority.

6 B. The department shall consult with the authority when establishing
7 standards to ensure that standards established pursuant to Subsection A of this
8 Section and R.S. 47:6365(A) do not conflict.

9 C.(1) The application for incentives shall be filed with the department and
10 shall include:

11 (a) The name of the applicant.

12 (b) Marketing plans for the tourism development project that target
13 individuals who are not residents of the state.

14 (c) A description and location of the tourism development project.

15 (d) Capital and other anticipated expenditures for the tourism development
16 project that indicate that the total cost of the project shall exceed the minimum
17 required costs as provided in this Chapter, and the anticipated sources of funding
18 therefor.

19 (e) The anticipated employment and wages to be paid at the tourism
20 development project.

21 (f) Business plans which indicate the average number of days in a year in
22 which the tourism development project will be in operation and open to the public.

23 (g) The anticipated revenues and expenses generated by the tourism
24 development project.

25 (h) If the tourism development project is an entertainment destination center
26 project, the application shall include the public infrastructure purpose.

27 (i) Any other information as required by the department.

28 (2) Based upon a review of these materials, if the department determines that
29 the eligible company and the proposed tourism development project appears to meet

1 the requirements established by this Chapter, and that the proposed tourism
2 development project may reasonably satisfy the criteria for final approval in
3 Subsection D of this Section, the secretary of the department may submit a written
4 request to the authority for a preliminary approval of the eligible company and the
5 tourism development project.

6 D. The authority may review the request submitted by the secretary,
7 including all relevant materials, and may, based upon that review, grant preliminary
8 approval to an eligible company. Upon a preliminary approval by the authority, the
9 department shall engage the services of a competent consulting firm to analyze the
10 data made available by the eligible company and to collect and analyze additional
11 information necessary to determine that, in the independent judgment of the
12 consultant, the proposed tourism development project meets each of the following:

13 (1) Will attract, in all years following the third year of operation, at least
14 twenty-five percent of its visitors from among persons who are not residents of the
15 state, except for a theme restaurant destination attraction project, which shall attract,
16 in all years following the third year of operation, a minimum of fifty percent of its
17 visitors from among persons who are not residents of the state.

18 (2) Will have costs in excess of the minimum amount required by this
19 Chapter.

20 (3)(a) Will have a net positive fiscal impact on the state considering, among
21 other factors, the extent to which the proposed tourism development project will
22 compete directly with existing tourism attractions or previously approved tourism
23 development projects in the state and the amount by which increased tax revenues
24 from the tourism development project will exceed the incentives given to the
25 approved company at the maximum level of recovery of approved costs as provided
26 in this Chapter.

27 (b) If the independent consultant determines that the proposed tourism
28 development project cannot produce a net positive fiscal impact to the state at the
29 maximum level of recovery of approved costs as provided in this Chapter, the

1 independent consultant shall determine the level of recovery, if any, at which the
2 proposed tourism development project can meet those standards.

3 (4) Will produce sufficient revenues and public demand to be operating and
4 open to the public for a minimum of one hundred days per year, except for a theme
5 restaurant destination attraction, which shall be operating and open to the public for
6 a minimum of three hundred days per year.

7 (5) Will not adversely affect existing employment in the state.

8 (6) Meets all other requirements of this Chapter.

9 E. The independent consultant in determining the amount of net positive
10 fiscal impact to the state for a new proposed tourism development project that is an
11 expansion of an existing tourism development project shall not consider positive
12 fiscal impacts from the following sources:

13 (1) Increased operations at the previously approved tourism development
14 project that is being expanded by the proposed tourism development project.

15 (2) Increased operations at any other tourism development project approved
16 for incentives provided under this Chapter.

17 (3) Increased operations at any project approved for tax increment financing
18 that includes state revenues.

19 F.(1) The independent consultant shall consult with the authority and the
20 division of administration in the development of a report on the proposed tourism
21 development project.

22 (2) The division of administration shall agree as to the methodology to be
23 used and assumptions to be made by the independent consultant in preparing its
24 report.

25 (3) On the basis of the independent consultant's report and prior to any final
26 approval of a project by the authority, the division of administration shall certify to
27 the authority whether there is a projected net positive fiscal impact to the state and
28 the expected amount of incremental state revenues from the tourism development

1 project. A final approval shall not be granted if it is determined that there is no
2 projected net positive fiscal impact to the state.

3 G. The eligible company shall pay for the cost of the consultant's report and
4 shall cooperate with the consultant and provide all of the data that the consultant
5 deems necessary to make its determination under Subsection D of this Section.

6 H. In lieu of the independent consultant analysis required in Subsection D
7 of this Section, if the eligible company is exempt from income tax under Section
8 501(c)(3) of the Internal Revenue Code and the estimated approved costs are less
9 than ten million dollars, the department shall have the option of performing an
10 interagency review to analyze the data made available by the eligible company and
11 to collect and analyze additional information necessary to determine that the
12 proposed tourism development project meets the requirements set forth in Paragraph
13 (D)(1) of this section. The department shall comply with the same consulting and
14 reporting requirements as an independent consultant.

15 I. After a review of relevant materials, the consultant's report, and
16 completion of other inquiries, the secretary shall, by written notification to the
17 authority, provide a recommendation to the authority regarding final approval of the
18 tourism development project.

19 §6365. Preliminary and final approval of companies and projects; meetings of
20 authority

21 A. The authority shall establish standards for preliminary approval and final
22 approval of eligible companies and their projects by the promulgation of
23 administrative rules.

24 B. The authority shall consult with the secretary when establishing standards
25 to ensure that standards established pursuant to R.S. 47:6364(A) and Subsection A
26 of this Section do not conflict.

27 C. After the authority's preliminary approval, an agent designated by the
28 department shall hold at least one public hearing to solicit public comments

1 regarding the designation of an eligible company as a preliminarily approved
2 company.

3 D. The authority shall review the report of the consultant prepared pursuant
4 to this Chapter, the recommendation of the secretary, the report prepared by the
5 agent documenting all comments, both written and oral, received at the public
6 hearing required by Subsection C of this Section, and other information that has been
7 made available to the authority in order to assist the authority in determining whether
8 the tourism development project will further the purposes of this Chapter.

9 E. The criteria for final approval of eligible companies and tourism
10 development projects shall include but not be limited to the criteria set forth in R.S.
11 47:6364(D). Final approval shall not be granted if it is determined that there is no
12 projected net positive fiscal impact to the state.

13 F. After a review of the consultant's report, the recommendation of the
14 secretary, and other information made available to the authority, the authority, by
15 resolution, may grant to the eligible company the status of an approved company and
16 authorize the execution of a tourism development project agreement as provided in
17 R.S. 47:6366. The decision reached by the authority shall be final and no appeal
18 shall be granted.

19 G. All meetings of the authority shall be held in accordance with the Open
20 Meetings Law.

21 §6366. Agreement between authority and approved company

22 A. The authority, upon adoption of its final approval, may enter into a
23 tourism development agreement with any approved company. The terms of the
24 agreement shall be negotiated between the authority and the approved company and
25 shall include but not be limited to:

26 (1) The amount of approved costs.

27 (2) That any increase in approved costs incurred by the approved company
28 and agreed to by the authority shall apply retroactively for purposes of calculating
29 the carry forward for unused incentives.

1 (3) A date certain by which the approved company shall have completed the
2 tourism development project.

3 (4) That the authority may grant an extension or change, which in no event
4 shall exceed three years from the date of final approval, to the completion date as
5 specified in the agreement of an approved company.

6 (5) That within three months of the completion date, the approved company
7 shall document the actual cost of the tourism development project through a
8 certification of the costs to be provided by an independent certified public accountant
9 acceptable to the authority.

10 (6) The term of the tourism development agreement and the maximum
11 amount of recovery.

12 (7) That within forty-five days after the end of each fiscal year of the
13 approved company, during the term of the agreement, the approved company shall
14 supply the authority with reports and certifications as the authority may request
15 demonstrating to the satisfaction of the authority that the approved company is in
16 compliance with the provisions of this Chapter.

17 (8) That the approved company shall notify the authority if any change in
18 ownership of the tourism attraction is contemplated. The authority shall reserve the
19 option to renegotiate the terms of the agreement or, if the change in ownership is
20 detrimental to the state, the authority may terminate the agreement.

21 (9) That the approved company shall not receive a sales tax incentive with
22 respect to any fiscal year if the requirements of R.S. 47:6363(B) have not been met.

23 (10) That the authority may grant an extension of up to three years to the
24 completion date in addition to the extension provided for in Paragraph (4) of this
25 Subsection, to an approved company that has completed at least fifty percent of an
26 entertainment destination center project.

27 (11) That in no event shall the completion date be more than six years from
28 the date of final approval.

1 (12) That the extension provided for in Paragraph (10) of this Subsection
2 shall be subject to all of the following conditions:

3 (a) The approved company shall have spent or have contractually obligated
4 to spend an amount equal to or greater than the amount of approved costs set forth
5 in the initial agreement.

6 (b) The term of the agreement shall not be extended, except as provided in
7 this Chapter.

8 (c) The scope of the entertainment destination center project, as set forth in
9 the initial agreement, shall not be altered to include new or additional entertainment
10 and leisure options.

11 B. The agreement, including the incentives provided under this Chapter shall
12 not be transferable or assignable by the approved company without the written
13 consent of the authority and a passage of a resolution approving the proposed
14 assignee of the incentives as an approved company.

15 §6367. Annual report of tourism development project applications, approvals, and
16 funding

17 A. By November first of each year, the authority shall file an annual report
18 with the governor and the legislature. The report shall also be available on the
19 department's website.

20 B. The report shall include information for all approved projects and the
21 following information:

22 (1) For each approved project:

23 (a) The name of the approved company and a brief description of the project.

24 (b) The amount of approved costs included in the agreement.

25 (c) The maximum amount of incentives the approved company may recover
26 over the term of the agreement.

27 (d) The term of the agreement.

28 (e) The total amount recovered under the agreement, reported for both the
29 prior fiscal year and cumulatively.

1 (2) The number of applications for projects submitted during the prior fiscal
 2 year.

3 (3) The number of projects finally approved during the prior fiscal year.

4 (4) The total dollar amount approved for recovery for all projects approved
 5 during the prior fiscal year, and cumulatively.

6 D. The information required to be reported under this Section shall be public
 7 record subject to the Public Records Law.

8 §6368. Department of Revenue; notification; certification; reporting; authority

9 A. The authority shall notify the Department of Revenue upon approval of
 10 a tourism development project. The notification shall include the name of the
 11 approved company, the name of the tourism development project, the date on which
 12 the approved company is eligible to receive incentives under this Chapter, the term
 13 of the agreement, the estimated approved costs, and the specified percentage of the
 14 approved costs that the approved company is eligible to receive and any other
 15 information that the Department of Revenue may require.

16 B. The approved company seeking the incentives shall execute
 17 information-sharing agreements prescribed by the Department of Revenue with its
 18 lessees and other related parties to verify the amount of sales tax eligible for the sales
 19 tax rebate under this Chapter.

20 C. By October first of each year, the Department of Revenue shall certify to
 21 the authority and the secretary the sales tax liability of the approved companies
 22 receiving incentives under this Chapter, and their lessees, and the amount of the sales
 23 tax rebates issued pursuant to this Chapter for the preceding fiscal year.

24 D. The Department of Revenue may promulgate rules and require the filing
 25 of forms designed by the Department of Revenue to reflect the intent of this Chapter.

26 Section 2. R.S. 36:209(I) and 808 are hereby enacted to read as follows:

27 §209. Transfer of boards, commissions, departments, and agencies to Department
 28 of Culture, Recreation and Tourism

29 * * *

1 I. The Tourism Development Incentives Authority (R.S. 47:6361 et seq.) is
2 hereby transferred to and hereafter shall be within the Department of Culture,
3 Recreation and Tourism as provided in R.S. 36:808.

4 * * *

5 §808. Transfer; Tourism Development Incentives Authority

6 A. The Tourism Development Incentives Authority, placed within the
7 Department of Culture, Recreation and Tourism by the provisions R.S. 36:209(D),
8 shall continue to be composed and selected as provided by law, shall continue to
9 exercise all powers, duties, functions, and responsibilities provided or authorized for
10 the authority by law, and shall continue to administer and implement the programs
11 as provided or authorized for the authority by law.

12 B.(1) The secretary of the department to which the authority is transferred
13 shall exercise all powers, duties, functions, and responsibilities necessary for the
14 administration and implementation of the policies and rules of the authority,
15 including those which relate to rulemaking and adjudication and payroll, personnel
16 management, procurement, and contract management, except as provided in
17 Paragraph (2) of this Subsection.

18 (2) The undersecretary of the department to which the authority is transferred
19 shall, under the supervision and control of the secretary, perform and administer all
20 functions of the authority which are in the nature of accounting and budget control,
21 management and program analysis, and grants management.

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 771 Original

2015 Regular Session

Mike Johnson

Abstract: Establishes an incentive program for development of new tourism infrastructure and assets in exchange for certain sales and use tax revenues.

Proposed law creates and provides for tourism development incentives in the form of sales tax rebates over specified periods of time, to approved, eligible companies for specified tourism development projects under certain conditions. Eligible projects include various

tourism attraction projects, crafts and products center projects, entertainment destination center projects, and theme restaurant destination attraction projects.

For the purpose of administering the tourism development incentive program, proposed law creates the Tourism Development Incentives Authority within the Dept. of Culture, Recreation and Tourism (CRT) and provides that it shall continue to be composed as provided by law and shall exercise all powers and authority as provided by law. Specifies that the secretary of CRT shall exercise all functions necessary for the administration and implementation of the policies and rules of the authority, including those which relate to rulemaking and adjudication and payroll, personnel management, procurement, and contract management and the undersecretary of CRT shall, under the supervision and control of the secretary, perform and administer all functions of the authority in the nature of accounting and budget control, management and program analysis, and grants management.

Proposed law provides for the membership and powers and duties of the authority.

Proposed law provides for the criteria to qualify for the tourism development incentives and provides that CRT promulgate rules to establish standards for applications for incentives and the recommendation of eligible companies and tourism development projects to the authority. Provides that an agreement, including incentives provided pursuant to proposed law shall not be transferable or assignable by an approved company without the written consent of the authority and passage of a resolution approving the proposed assignee of the incentives as an approved company. Requires the authority to file an annual report with the governor and the legislature by Nov. 1 of each year, including specified information for all approved projects.

Proposed law provides definitions for its purposes including "agreement", "approved company", "approved costs", "crafts and products center", "eligible company", "eligible costs", "entertainment destination center project", "full-service lodging facility", "incentives", "lodging facility project", "net positive fiscal impact", and "recreational facility".

(Adds R.S. 36:209(I) and 808 and R.S. 47:6361-6368)