

2015 Regular Session

HOUSE BILL NO. 810

BY REPRESENTATIVE BILLIOT

TOURISM: Authorizes tourism organizations in Jefferson Parish to levy hotel assessments upon its hotel members and provides for treating such assessments as a surcharge to hotel guests

1 AN ACT

2 To enact Chapter 4-A of Title 21 of the Louisiana Revised Statutes of 1950, to be comprised
3 of R.S. 21:301 through 308, relative to Jefferson Parish; to authorize tourism
4 organizations in the parish to levy hotel assessments upon its hotel members; to
5 require tourism organizations to receive the approval of its hotel members prior to
6 levying any such assessment; to require hotel members to pass along any hotel
7 assessment as a mandatory surcharge on hotel guests; to require disclosure of such
8 surcharges as provided by local ordinances; to provide that surcharges are not part
9 of gross receipts or revenue; to provide for definitions; to provide for an effective
10 date; and to provide for related matters.

11 Notice of intention to introduce this Act has been published
12 as provided by Article III, Section 13 of the Constitution of
13 Louisiana.

14 Be it enacted by the Legislature of Louisiana:

15 Section 1. Chapter 4-A of Title 21 of the Louisiana Revised Statutes of 1950,
16 comprised of R.S. 21:301 through 308, is hereby enacted to read as follows:

17 CHAPTER 4-A. HOTEL ASSESSMENT FOR TOURISM PROMOTION18 IN JEFFERSON PARISH19 §301. Hotel assessment; tourism promotion; Jefferson Parish; legislative findings20 The legislature hereby finds and declares all of the following:

21 (1) There is a direct correlation between the amount of funds spent on
22 destination-based marketing, sales and promotion of a locality and an increase in the

1 number of conventions, meetings, visitors, occupancy of hotels, retail sales of food,
2 beverages, and other items, admissions to cultural and other entertainment venues,
3 collections of related state and local sales and use taxes, job creation and a resulting
4 general economic vitality of the traveler economy and related businesses in the
5 locality.

6 (2) It is in the state's public interest and vital to the welfare of the state's
7 economy to facilitate and encourage cooperating public-private partnerships for the
8 enhancement and expansion of the traveler economy and to provide for increased
9 hotel occupancy, tourism, economic development and job creation in Jefferson
10 Parish.

11 §302. Purpose

12 This Chapter is enacted for the purpose of facilitating the collection and use
13 of private sector originated supplementary funds to market and promote Jefferson
14 Parish as a traveler destination and to provide for increased economic activity within
15 its traveler economy, including increased number of conventions, meetings, visitors,
16 hotel occupancy, food, beverage, and other retail sales, tourism, including cultural
17 and family tourism, job creation and other economic development and related
18 purposes through optional, self-generated, private-sector hotel self-assessment
19 program.

20 §303. Definitions

21 For the purposes of this Chapter, the following terms shall have the following
22 meanings unless the context clearly indicates otherwise:

23 (1) "Assessed hotel" means a person operating a hotel and required to pay
24 a hotel assessment pursuant to this Chapter and, until the hotel assessment is first
25 levied, any person operating a hotel authorized to vote in the referendum.

26 (2) "Hotel" means any establishment engaged in the business of furnishing
27 or providing rooms intended or designed for dwelling, lodging, or sleeping purposes
28 to transient guests where such establishment consists of ten or more guest rooms but
29 does not include any hospital, convalescent or nursing home or sanitarium, or any

1 hotel-like facility operated by or in connection with a hospital or medical clinic
2 providing rooms exclusively for patients and their families.

3 (3) "Hotel assessment" means any hotel assessment that is: (a) levied under
4 this Chapter by a tourism organization on its members that are operators of hotels
5 located in Jefferson Parish; (b) calculated by reference either to room occupancy or
6 room sales; and (c) for the general purposes of the organization, or otherwise for the
7 direct or indirect benefit of the tourism industry and economic development, for
8 sales, marketing and promotion, and for driving and hosting tourism growth and
9 visitors.

10 (4) "Operator of a hotel" means the person in whose name the occupational
11 license for the hotel is issued by the parish.

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

15 (6) "Referendum" means any vote by assessed hotels by mail ballot on
16 measures proposed by the tourism organization in accordance with the provisions of
17 this Chapter.

18 (7) "Surcharge" means any charge in addition to the daily room charge for
19 services to a hotel guest that is required to be paid in order to occupy a room and any
20 hotel assessment that is passed through to hotel guests as a charge on the guest folio.
21 Surcharge does not include charges for food and beverages, Internet access, spa
22 access or other goods or services sold at the hotel unless the payment for the goods
23 or services is required in connection with the use of the hotel room.

24 (8) "Tourism organization" means any private nonprofit corporation
25 domiciled in Jefferson Parish that is a nationally accredited, comprehensive,
26 membership based organization engaged in destination sales and marketing, visitor
27 support, and other tourism related activities including the Jefferson Convention and
28 Visitors Bureau, Inc.

1 §304. Levy of hotel assessments; use of proceeds

2 A. A tourism organization, under authority of its articles or bylaws, may levy
3 hotel assessments upon its hotel members in Jefferson Parish under this Chapter for
4 destination marketing, sales, public relations, and for other matters deemed by the
5 tourism organization to benefit, directly or indirectly, economic development, the
6 traveler economy, and tourism growth, which shall be approved by resolution of the
7 board of directors of the tourism organization and ratified by a vote of the assessed
8 hotels in a referendum conducted in accordance with R.S. 21:306.

9 B. A hotel assessment proposed to be levied under this Chapter by a tourism
10 organization shall be authorized by its board of directors or other governing body by
11 resolution that describes in general terms the hotel assessment to be levied and
12 includes a statement that the hotel assessment is to be levied under this Chapter and
13 shall be approved in a referendum of the assessed hotels as provided in R.S. 21:306.

14 C. A hotel operator shall not be liable for payment of a hotel assessment
15 under this Chapter for any time period in which it is not a member of the tourism
16 organization.

17 D. Notwithstanding any other provision of law, an assessed hotel shall place
18 the hotel assessment as a mandatory surcharge on the folio and in so doing shall
19 comply with R.S. 21:305(C). Receipts from any such surcharge for hotel
20 assessments levied pursuant to this Chapter are not part of gross receipt or gross
21 revenue for any purpose, including the calculation of hotel sales or occupancy taxes,
22 or state income taxes, and are not part of income pursuant to any lease or operator
23 agreement. Payment of the assessment to the tourism organization shall not be taken
24 as a deduction from income for state income tax purposes.

25 E. Any hotel assessment levied and passed through to a guest as a surcharge
26 in accordance with this Chapter is an enforceable obligation of the guest as and to
27 the same extent as are daily room charges and other lawful surcharges.

28 F. Procedures for collection of hotel assessments, interest charges, and
29 penalties for delinquent remittance of hotel assessments to the tourism organization

1 or other matters incident to the hotel assessment shall be as provided by resolution
2 or in the bylaws of the tourism organization. The state, the parish, and any and all
3 of their agencies and political subdivisions may, upon the request of a tourism
4 organization, enter into a cooperative endeavor agreement with the tourism
5 organization for the collection of hotel assessments on behalf of the tourism
6 organization.

7 §305. Disclosure of surcharges

8 A. Rate schedules setting forth room charges and any surcharges as required
9 by this Chapter for hotels shall be posted or disclosed in all hotels as required by
10 applicable local ordinances.

11 B. Each operator of a hotel shall comply with applicable local ordinances
12 relating to furnishing a schedule of charges for the rental or use of hotel rooms and
13 shall include therein surcharges in effect for the following year, a schedule of
14 binding rates, applicable surcharges, and length-of-stay requirements.

15 C. An operator of a hotel shall place line itemization of any hotel assessment
16 for which the operator is responsible on the guest folio as a charge to the guest
17 immediately after, or included in, the itemization of hotel tax and occupancy tax. All
18 hotel assessments to be passed through to guests as surcharges shall be disclosed on
19 all information or communication platforms of the hotel in the same manner as are
20 other surcharges and hotel and occupancy taxes as required by applicable laws and
21 regulations.

22 D. The provisions of this Chapter shall not supersede or limit the authority
23 of a tourism organization to levy assessments on its members under the nonprofit
24 corporation law or other applicable law and apply only to assessments that are
25 declared by resolution of the board of directors or other governing body of the
26 tourism organization to be made under this Chapter.

27 §306. Referendum

28 A. Any hotel assessment to be levied pursuant to this Chapter shall be
29 approved by a vote of the assessed hotels in a referendum conducted in accordance

1 with this Section. A referendum of all assessed hotels shall be called by the
2 president of the Greater New Orleans Hotel and Lodging Association, by written
3 notice mailed to all hotel operators identified by the tourism organization as its
4 members in accordance with such procedures as the tourism organization may
5 establish in its discretion. In any referendum, each assessed hotel shall have a
6 number of votes equal to the number of its hotel rooms as shown on its occupational
7 license. In any referendum, two-thirds of the votes cast shall be required to approve
8 or ratify any hotel assessment.

9 B. The written notice of the referendum shall include a description of any
10 proposed hotel assessment, including the effective date thereof, a ballot, and a
11 statement of the referendum period, which shall be not less than thirty days from the
12 date of the mailing of the notice and a ballot. Ballots may be delivered to the Greater
13 New Orleans Hotel and Lodging Association, or any other person designated for the
14 purpose of receiving, tabulating, and counting ballots at any time during the
15 referendum period. The Greater New Orleans Hotel and Lodging Association may,
16 in its discretion, extend the referendum period not more than fifteen additional days.
17 At the close of the referendum period, the Greater New Orleans Hotel and Lodging
18 Association, or other person designated for the purpose of receiving, tabulating, and
19 counting ballots shall count and tabulate the ballots received during the referendum
20 period. All ballots shall be presumed to be valid. A notice of the results of the
21 referendum shall be mailed by the Greater New Orleans Hotel and Lodging
22 Association, or any other person designated for the purpose of receiving, tabulating,
23 and counting ballots to the tourism organization and the assessed hotels.

24 C. The costs of the referendum, in the first instance, shall be paid by the
25 tourism organization and shall be reimbursed from hotel assessments as received.

26 §307. Liberal construction

27 This Chapter, being necessary for the welfare of the state, and the parish and
28 its residents shall be liberally construed to effect the purposes thereof.

1 §308. Severability

2 The provisions of this Chapter are severable. It is intended that if any
3 provision of this Chapter should be adjudged invalid or unenforceable, then such
4 provision, shall be ineffective to the extent of such invalidity or unenforceability
5 without invalidating the remaining provisions of this Chapter.

6 Section 2. This Act shall become effective upon signature by the governor or, if not
7 signed by the governor, upon expiration of the time for bills to become law without signature
8 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
9 vetoed by the governor and subsequently approved by the legislature, this Act shall become
10 effective on the day following such approval.

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 810 Original

2015 Regular Session

Billiot

Abstract: Authorizes tourism organizations in Jefferson Parish to levy hotel assessments on it members that are operators of hotels or motels located in the 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 Jefferson Parish as a traveler destination and to provide for increased economic activity within its traveler economy, including 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 a 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) "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.
- (3) "Hotel assessment" means any hotel assessment that is: (a) levied under proposed law by a tourism organization on its members that are operators of hotels located in Jefferson 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.

- (4) "Operator of a hotel" means the person in whose name the occupational license for the hotel is issued by the parish.
- (5) "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.
- (6) "Referendum" means any vote by assessed hotels by mail ballot on measures proposed by the tourism organization in accordance with the provisions of proposed law.
- (7) "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.
- (8) "Tourism organization" means any private nonprofit corporation domiciled in Jefferson 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 Jefferson Convention and Visitors Bureau, Inc.

Proposed law provides that a tourism organization, under authority of its articles or bylaws, may levy hotel assessments upon its hotel members in Jefferson Parish pursuant to proposed law for destination marketing, sales, public relations and for other matters deemed by the tourism organization to benefit economic development, the traveler economy, and tourism growth, which 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 is not 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 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 as and to the same extent as are 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 parish, 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 requires that rate schedules setting forth room charges and any surcharges as required by proposed law for hotels be posted or disclosed in all hotels as required by applicable local ordinances.

Proposed law requires each operator of a hotel to comply with applicable local ordinances relating to furnishing a schedule of charges for the rental or use of hotel rooms and to include therein surcharges in effect for the following year, a schedule of binding rates, applicable surcharges, and length-of-stay requirements.

Proposed law requires an operator of a hotel to 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 must 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 requires that any hotel assessment to be levied pursuant to proposed law 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 (association), 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 must 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 association, or any other person designated for the purpose of receiving, tabulating, and counting ballots at any time during the referendum period. Provides that the association 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 association, 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 requires that a notice of the results of the referendum be mailed by the association, 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 governor or lapse of time for gubernatorial action.

(Adds R.S. 21:301-308)