

SENATE BILL NO. 242

BY SENATOR MURRAY AND REPRESENTATIVE LEGER

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AN ACT

To enact Chapter 4 of Title 21 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 21:201 through 208, relative to hotels and lodging houses; to provide with respect to optional assessments on hotels that are levied by a comprehensive membership based tourism organization on its members that are operators of hotels or motels located in the parish of Orleans; to provide that hotel and income taxes shall not apply to such surcharges; to provide for a hotel referendum to approve such an optional assessment; to provide for enhancement of the sales and marketing capabilities and other general purposes of the organization; to provide for the direct or indirect benefit of growing the traveler economy; to provide for levying hotel assessments as surcharges on hotel or motel folios; to provide for terms and definitions; to provide for an effective date; and to provide for related matters.

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

Be it enacted by the Legislature of Louisiana:

Section 1. Chapter 4 of Title 21 of the Louisiana Revised Statutes of 1950, comprised of R.S. 21:201 through 208 is hereby enacted to read as follows:

**§201. Legislative findings**

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

**(1) There is a direct correlation between the amount of funds spent on destination-based marketing, sales and promotion of a locality and an increase in the number of conventions, meetings, visitors, occupancy of hotels, retail sales of food, beverages and other items, admissions to cultural and other entertainment venues, collections of related state and local sales and use taxes, job creation, and a resulting general economic vitality of the traveler economy and related businesses in the locality.**

1           (2) It is in the state's public interest and vital to the welfare of the state's  
2           economy to facilitate and encourage cooperating public-private partnerships for  
3           the enhancement and expansion of the traveler economy and to provide for  
4           increased hotel occupancy, tourism, economic development and job creation in  
5           Orleans Parish.

6           §202. Purpose

7           This Chapter is enacted for the purpose of facilitating the collection and  
8           use of private sector originated supplementary funds to market and promote  
9           greater New Orleans as a traveler destination and to provide for increased  
10          economic activity within its traveler economy, including an increased number  
11          of conventions, meetings, visitors, hotel occupancy, food, beverage and other  
12          retail sales, tourism, including cultural and family tourism, job creation and  
13          other economic development and related purposes through an optional, self-  
14          generated, private-sector hotel self-assessment program.

15          §203. Definitions

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

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

22          (2) "City" means the city of New Orleans.

23          (3) "Hotel" means any establishment engaged in the business of  
24          furnishing or providing rooms intended or designed for dwelling, lodging, or  
25          sleeping purposes to transient guests where such establishment consists of ten  
26          or more guest rooms but does not include any hospital, convalescent or nursing  
27          home or sanitarium, or any hotel-like facility operated by or in connection with  
28          a hospital or medical clinic providing rooms exclusively for patients and their  
29          families.

30          (4) "Hotel assessment" means any assessment that is: (a) levied under

1 this Chapter by a tourism organization on its members that are operators of  
2 hotels located in Orleans Parish; (b) calculated by reference either to room  
3 occupancy or room sales; and (c) for the general purposes of the organization,  
4 or otherwise for the direct or indirect benefit of the tourism industry and  
5 economic development, for sales, marketing and promotion, and for driving and  
6 hosting tourism growth and visitors.

7 (5) "Operator of a hotel" means the person in whose name the  
8 occupational license for the hotel is issued by the city.

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

12 (7) "Referendum" means any vote by assessed hotels by mailed ballot of  
13 measures proposed by the tourism organization in accordance with the  
14 provisions of this Chapter.

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

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

27 §204. Levy of hotel assessments; use of proceeds

28 A. A tourism organization, under authority of its articles or bylaws, may  
29 levy a hotel assessment of up to one and three quarters percent of the daily  
30 room charge upon its hotel members in Orleans Parish under this Chapter for

1 destination marketing, sales, public relations and for other matters deemed by  
2 the tourism organization to benefit directly or indirectly economic development,  
3 the traveler economy, and tourism growth, as shall be approved by resolution  
4 of the board of directors of the tourism organization and ratified by a vote of  
5 the assessed hotels in a referendum conducted in accordance with R.S. 21:206.

6 B. A hotel assessment proposed to be levied under this Chapter by a  
7 tourism organization (1) shall be authorized by its board of directors or other  
8 governing body by resolution that describes in general terms the hotel  
9 assessment to be levied and includes a statement that the hotel assessment is to  
10 be levied under this Chapter and (2) shall be approved in a referendum of the  
11 assessed hotels as provided in R.S. 21:206.

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

15 D. Notwithstanding any other provision of law, an assessed hotel shall  
16 place the hotel assessment as a mandatory surcharge on the folio and in so doing  
17 shall comply with R.S. 21:205(C). Receipts from any such surcharge for hotel  
18 assessments levied pursuant to this Chapter are not part of gross receipt or  
19 gross revenue for any purpose, including the calculation of hotel sales or  
20 occupancy taxes or state income taxes and are not part of income pursuant to  
21 any lease or operator agreement. Payment of the assessment to the tourism  
22 organization shall not be taken as a deduction from income for state income tax  
23 purposes.

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

27 F. Procedures for collection of hotel assessments, interest charges and  
28 penalties for delinquent remittance of hotel assessments to the tourism  
29 organization or other matters incident to the hotel assessment shall be as  
30 provided by resolution or in the bylaws of the tourism organization. The state,

1 the city, and any and all of their agencies and political subdivisions may, upon  
2 the request of a tourism organization, enter into a cooperative endeavor  
3 agreement with the tourism organization for the collection of hotel assessments  
4 on behalf of the tourism organization.

5 §205. Disclosure of surcharges

6 A. Rate schedules setting forth room charges and any surcharges as  
7 required by this Chapter for hotels shall be posted or disclosed in all hotels and  
8 shall be delivered to the director of the department of finance of the city as  
9 required by applicable local ordinances.

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

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

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

27 §206. 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  
30 accordance with this Section. A referendum of all assessed hotels shall be called

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

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

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

27 §207. Liberal construction

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

1            §208. 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  
4                    such provision shall be ineffective to the extent of such invalidity or  
5                    unenforceability without invalidating the remaining provisions of this Chapter.

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

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PRESIDENT OF THE SENATE

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_