

ACT

42

ENROLLED

Regular Session, 1994

HOUSE BILL NO. 444

*Ruling act B/C of
later filing date.*

BY REPRESENTATIVES COPELIN, ALARIO, AND LANDRIEU AND
SENATOR JOHNSON

AN ACT

To amend and reenact Section 4(H) and (I), Section 6.1, the first, second, and eighth unnumbered paragraphs of Section 8, Section 20, Section 21(A), (G), and (M), and Section 23 and to enact Sections 20.1 and 20.2 of Act No. 305 of the 1978 Regular Session of the Legislature, as amended by Act No. 657 of the 1979 Regular Session of the Legislature, Act No. 99 of the 1980 Regular Session of the Legislature, Act No. 9 of the 1980 Second Extraordinary Session of the Legislature, Act No. 287 of the 1982 Regular Session of the Legislature, Act No. 572 of the 1984 Regular Session of the Legislature, Act No. 390 of the 1987 Regular Session of the Legislature, Act No. 43 of the 1992 Regular Session of the Legislature, and Act No. 1013 of the 1993 Regular Session of the Legislature, all relative to the Ernest N. Morial Convention Center - New Orleans; to provide with respect to the levy, collection, pledge, and termination of hotel occupancy taxes; to provide for the issuance of bonds and other obligations of the Authority to finance expansion projects; to provide for additional bonding capacity of the Authority; to delete certain limitations on hotel occupancy tax and food and beverage tax-secured bonds authorized to be issued by the Authority; and to provide for related matters.

===== ORIGINATED =====

===== IN THE =====

House of Representatives

GOVERNOR'S OFFICE

MAY 27 1994

TIME 3:45 pm
RECEIVED [Signature]

RECEIVED
BY SECRETARY OF STATE

JUN 08 94

W. FOX McKEITHEN
SECRETARY OF STATE

[Signature]
Clerk of the House of Representatives

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BY REPRESENTATIVES COPELIN, ALARIO, AND LANDRIEU AND
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AN ACT

To amend and reenact Section 4(H) and (I), Section 6.1, the first, second, and eighth unnumbered paragraphs of Section 8, Section 20, Section 21(A), (G), and (M), and Section 23 and to enact Sections 20.1 and 20.2 of Act No. 305 of the 1978 Regular Session of the Legislature, as amended by Act No. 657 of the 1979 Regular Session of the Legislature, Act No. 99 of the 1980 Regular Session of the Legislature, Act No. 9 of the 1980 Second Extraordinary Session of the Legislature, Act No. 287 of the 1982 Regular Session of the Legislature, Act No. 572 of the 1984 Regular Session of the Legislature, Act No. 390 of the 1987 Regular Session of the Legislature, Act No. 43 of the 1992 Regular Session of the Legislature, and Act No. 1013 of the 1993 Regular Session of the Legislature, all relative to the Ernest N. Morial Convention Center - New Orleans; to provide with respect to the levy, collection, pledge, and termination of hotel occupancy taxes; to provide for the issuance of bonds and other obligations of the Authority to finance expansion projects; to provide for additional bonding capacity of the Authority;

to delete certain limitations on hotel occupancy tax and food and beverage tax-secured bonds authorized to be issued by the Authority; and to provide for related matters.

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

Be it enacted by the Legislature of Louisiana:

Section 1. Section 4(H) and (I), Section 6.1, the first, second, and eighth unnumbered paragraphs of Section 8, Section 20, Section 21(A), (G), and (M), and Section 23 of Act No. 305 of the 1978 Regular Session of the Legislature, as amended by Act No. 657 of the 1979 Regular Session of the Legislature, Act No. 99 of the 1980 Regular Session of the Legislature, Act No. 9 of the 1980 Second Extraordinary Session of the Legislature, Act No. 287 of the 1982 Regular Session of the Legislature, Act No. 572 of the 1984 Regular Session of the Legislature, Act No. 390 of the 1987 Regular Session of the Legislature, Act No. 43 of the 1992 Regular Session of the Legislature, and Act No. 1013 of the 1993 Regular Session of the Legislature are hereby amended and reenacted and Sections 20.1 and 20.2 of said Act No. 305 are hereby enacted to read as follows:

Section 4. As used hereinafter in this Act, the word "project" or "projects" shall mean any one or more of any combination of convention, exhibition, and tourist facilities, other than lodging facilities, and the necessary furnishings, machinery, equipment, and appurtenances therefor. The purpose for which the Authority is created is to acquire, construct, reconstruct, extend, improve, maintain, and operate projects within the city of New Orleans, subject to the zoning and other applicable ordinances of the city of New Orleans, except as to the Poydras Street Wharf and other properties

under the administration of the Board of Commissioners of the Port of New Orleans, in order to promote the economic growth and development of the city and its neighboring parishes. The Authority shall have all the powers and authority necessary or convenient to carry out the purposes of this Act including but not limited to the following powers and authority:

* * *

H. To pledge to the payment of its bonds or other obligations and interest thereon the avails or proceeds of the hotel occupancy taxes authorized by this Act, and other income and revenues of the Authority derived from any source whatsoever, including without limitation any and all taxes, fees, and charges authorized by this Act, and revenues derived from one or more projects or expansion projects and leases and agreements securing the payment of bonds.

I. To levy and collect taxes upon the occupancy of hotel rooms located within the parish of Orleans in the manner hereinafter provided in this Act.

* * *

Section 6.1. In addition to the one percent hotel occupancy tax authorized to be levied and collected by the Authority pursuant to Section 6 hereof, the Authority is hereby further authorized and empowered to levy and collect an additional tax on the occupancy of hotel rooms located within the parish of Orleans. Such tax shall be in the amount of one percent of the rent or fee charged for such occupancy and shall be in addition to all taxation upon the occupancy of hotel rooms located in the parish of Orleans, including the tax authorized by Section 6 hereof. Said tax shall be levied and collected in the same manner, according to the same procedures and upon the

same terms and conditions, including the approval of the council of the city of New Orleans and the electorate of the city, as required for the imposition of the tax by Section 6 hereof. The herein authorized additional one percent tax shall be automatically terminated upon the payment in full of all bonds or other obligations secured in whole or in part by said tax.

* * *

Section 8. The Authority shall have the power and is hereby authorized from time to time, with the approval of the State Bond Commission, to issue its negotiable bonds in one or more series in such principal amount as, in the opinion of its board, shall be necessary to provide for the acquisition, construction, reconstruction, extension, or improvement of one or more projects, including engineering, architectural, inspection, legal, and financial fees and costs, interest on such bonds during construction and for a reasonable period thereafter, establishment of reserves to secure such bonds, and all other expenditures of the Authority incidental or necessary or convenient thereto. The annual payments due on bonds of the Authority for principal, interest, premium, or otherwise shall not exceed the estimated annual revenues of the hotel occupancy taxes authorized by this Act, and other income and revenues of the Authority derived from any source whatsoever, including without limitation any and all taxes, fees, and charges authorized by this Act, and revenues derived from one or more projects or expansion projects and leases and agreements securing the payment of bonds. Such bonds shall be authorized and issued by a resolution of the board of the Authority and shall be of such series, bear such date or dates, be serial or term bonds or a combination of the same, mature at such

times or times, bear interest at such rate or rates payable on such date or dates, be in such denominations, be in such form, carry such registration and exchangeability privilege, be payable in such medium of payment and at such place or places, be subject to such terms of redemption, and be secured in such manner consistent with the authority contained herein as the resolution authorizing such bonds may provide.

The bonds shall be executed in the name of the Authority by the manual or facsimile signature of such officer or officers of the board as may be designated in the resolution or other instrument providing for their issuance. If any officer whose manual or facsimile signature appears on any bond ceases to be such officer before the delivery of such bonds, such signature nevertheless shall be valid and sufficient for all purposes as if he had remained in office until such delivery. The resolution or trust instrument may provide for authentication of the bonds by the trustee or fiscal agent thereunder.

* * *

The board is authorized to provide by resolution for the issuance of refunding bonds of the Authority for the purpose of refunding outstanding bonds of the Authority issued pursuant to the provisions of this Act, such refunding bonds to be issued pursuant to the provisions of Chapter 14-A of Title 39 of the Louisiana Revised Statutes of 1950, as amended.

* * *

Section 20. As used herein, "expansion project" shall mean a project or projects for the acquisition, construction, installation, and equipping of additions or improvements to the existing Ernest N.

Morial Convention Center - New Orleans (the "Convention Center"), and the term "Phase III Convention Center Expansion Project" shall mean the project to construct a new building to be attached to the existing Convention Center containing additional exhibit space, meeting rooms, ballroom space, a food court, exhibit hall concession stands, food production facilities, and other structures and facilities functionally related to the Convention Center, and is herein called the "Phase III Expansion Project", provided that such Phase III Expansion shall be constructed only at a site or sites owned or leased by the Authority on the date any bonds are issued as provided in this Act. The Phase III Expansion Project is hereby declared to constitute an "expansion project" as that term is defined hereinabove.

Section 20.1. Notwithstanding any other provision of law to the contrary, the Authority is authorized to levy and collect, within the parish of Orleans, a tax on the furnishing of goods and services which are provided on a contractual basis by service contractors in conjunction with trade shows, conventions, exhibitions, and other events, whether public or private, such services to include goods and services provided in connection with the installation and dismantling of exhibits, displays and booths, decorations, electrical supplies, material handling, drayage, flowers and floral decorations, computers, audio and visual equipment, bands and orchestras, lighting trusses, rigging and associated equipment, furniture, carpets, signs, props, floats, business machines, plumbing, telephones, photography, catering food services, compressed air or gas, balloons, scaffolding, fork lifts, highlights, security, information retrieval systems, and any other services or items associated with the above. Said tax shall be levied on the service contractor providing the services in an amount

equal to two percent of total charges specified in the contract to be paid to the service contractor for the furnishing of the goods and services; however, the amount of the tax may be included in the contract as a charge to be paid by the person for whom the goods and services were provided.

In the ordinance imposing the tax (the service contractor tax ordinance), the Authority shall provide for the administration and enforcement of the tax and the collection of the tax from persons subject to the tax as the Authority determines to be necessary or practicable for the effective collection, administration, and enforcement of the tax. The Authority may enter into agreements as it deems appropriate with any governmental agency providing for the governmental agency to act as the Authority's agent to collect the tax. For purposes of this Section, "service contractors" shall mean and include those persons who contract to furnish the services and items listed in this Section in conjunction with trade shows, conventions, and exhibitions, whether public or private, which are held and conducted within the parish of Orleans.

All proceeds of the tax, penalties, and interest collected under the service contractor tax ordinance shall be paid to the treasurer of the Authority or, at the discretion of the Authority, to a bank designated by the Authority or trustee in accordance with the provisions of a bond resolution and deposited into a trust fund held in the name of the Authority and administered by the treasurer or trustee as provided hereinafter in this Section.

All amounts deposited from the proceeds of the aforesaid tax imposed by the Authority to the credit of said trust fund shall be administered and/or disbursed as follows: first, an amount, if any,

necessary for the payment of costs of collection of the tax shall be set aside in a special account established for such purpose; second, an amount necessary for the payment of refunds shall be retained in the trust fund or set aside in a special account established for such purpose; and third, the balance of the proceeds shall be used solely for the purpose of paying costs of the Phase III Expansion Project and may be pledged to and used for the payment of bonds secured in whole or in part by such tax and for the payment of all costs and expenses associated with the issuance, sale, and delivery of such bonds, including credit enhancement, derivative products, underwriter's discount, and funding of reserves or other accounts required by the resolution or trust indenture authorizing their issuance.

When all bonds secured in whole or in part by the tax have been retired or are no longer deemed to be outstanding under the terms of their issuance, the authority to levy and collect the tax authorized in this Section shall be null and void and such tax shall no longer be collected.

Section 20.2. As used in this Section, the following words and terms shall have the following meanings:

"Per capita sight-seeing tour" means a sight-seeing tour sold to individuals and/or groups of individuals on a cost per person basis.

"Sight-seeing tour" means a tour of places and things, including but not by way of limitation points of interest, historic buildings, parks, and other sites conducted by persons acting as sight-seeing guides and/or lecturers, and includes walking tours and those conducted on any type of vehicle or other means of conveyance.

"Sight-seeing tour" shall not mean any of the following types of

tours: (i) tours for a group or groups of individuals who collectively hire a guide and/or a vehicle for an exclusive private tour limited to such group or groups of individuals, or (ii) tours of museums, historic buildings or homes, churches, cemeteries, buildings, planetariums, libraries, zoos, or aquariums when a fee is charged by such establishment, place, or facility for a tour of, or visit to, such establishment, place, or facility; however, the definition of "sight-seeing tour" shall mean and include tours of, or visits to, any of the establishments, places, or facilities set forth herein, if such tours or visits are a part of a general tour of multiple sites, establishments, places, or facilities.

"Ticket" means a certificate, token, or any document evidencing that payment of an admission fee or fare has been made.

Notwithstanding any other provisions of law to the contrary, the Authority is hereby authorized to levy and collect a tax of one dollar on all tickets sold in the parish of Orleans for per capita sight-seeing tours in the parish of Orleans, or for tours, a portion of which includes sight-seeing in the parish of Orleans, except those sold by a governmental agency. Said tax shall be imposed by ordinance (the tour tax ordinance) adopted by the board which shall provide for the administration and enforcement of the tax and the collection of the tax from persons subject to the tax as the Authority determines to be necessary or practical for the effective collection, administration, and enforcement of the tax. Said tax shall be paid by the purchasers of the tickets at the time of purchase. The Authority may enter into agreements as it deems appropriate with any governmental agency providing for that entity or agency to act as the Authority's agent to collect the tax.

All proceeds of the tax, penalties, and interest collected under the tour tax ordinance shall be paid to the treasurer of the Authority or, at the discretion of the Authority, to a bank designated by the Authority or trustee in accordance with the provisions of a bond resolution and deposited into a trust fund held in the name of the Authority and administered by the treasurer or trustee as provided hereinafter in this Section.

All amounts deposited from the proceeds of the aforesaid tax imposed by the Authority to the credit of said trust fund shall be administered and/or disbursed as follows: first, an amount, if any, necessary for the payment of costs of collection of the tax shall be set aside in a special account established for such purpose; second, an amount necessary for the payment of refunds shall be retained in the trust fund or set aside in a special account established for such purpose; and third, the balance of the proceeds deposited in the trust fund shall be used solely for the purpose of financing a portion of the Phase III Expansion Project and may be pledged to and used for the payment of bonds secured in whole or in part by such tax and for the payment of all costs and expenses associated with the issuance, sale, and delivery of such bonds, including credit enhancement, derivative products, underwriter's discount, and funding of reserves or other accounts required by the resolution or trust indenture authorizing their issuance.

Until such time as bonds have been issued by the Authority and secured by all or any part of the proceeds of the tax, monies on deposit in the trust fund shall be used solely to pay costs of the Phase III Expansion Project.

When all bonds secured in whole or in part by the tax have

been retired or are no longer deemed to be outstanding under the terms of their issuance, the authority to levy and collect the tax authorized in this Section shall be null and void and such tax shall no longer be collected.

Section 21.A. Without reference to any other provision of the Constitution of Louisiana or of the laws of Louisiana and as a grant of power in addition to the authority to issue bonds contained in Section 8 hereof and to carry out the purposes hereunder, the Authority is authorized, from time to time, with the approval of the State Bond Commission, to issue its negotiable bonds in one or more series for the purpose of providing funds to finance an expansion project or projects, including engineering, architectural, inspection, legal, and financial fees and costs, interest on such bonds during construction and for a reasonable period thereafter, establishment of reserves to secure such bonds, all costs associated with the issuance of such bonds, including credit enhancement, derivative products, underwriter's discount, and funding of accounts, if any, required by the terms of the resolution or trust indenture authorizing their issuance, and all other expenditures of the Authority incidental or necessary or convenient thereto. Such bonds shall be authorized and issued by a resolution or resolutions of the board and shall be of such series, bear such date or dates, be of such type, mature at such time or times, bear interest at such rate or rates payable on such date or dates, be in such denominations, be in such form, carry such registration and exchangeability privilege, be payable in such medium of payment and at such place or places, be subject to such terms of redemption, and be secured in such manner consistent with the authority contained herein as the resolution authorizing such bonds

may provide. Payment of the bonds authorized hereunder may be secured by a pledge of the avails or proceeds of (i) the hotel occupancy taxes and food and beverage tax authorized to be levied by this Act, (ii) such other taxes, fees, and charges authorized to be levied by this Act, and (iii) any other income and revenue of the Authority as may be determined by the board and as authorized or permitted by law. The word "bonds" as used in this Section shall mean and include bonds, notes, certificates of indebtedness, or other evidence of indebtedness for the repayment of borrowed money.

* * *

G. Any pledge of taxes, fees and charges, revenues, securities, and other monies made by the Authority pursuant to this Section shall be valid and binding from time to time when the pledge is made. Such taxes, fees and charges, revenues, securities, and other monies so pledged and then held or thereafter received by the Authority or any fiduciary shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the Authority, whether or not such parties have notice thereof. The instrument by which such a pledge is created need not be filed or recorded except in the official minutes of the Authority.

* * *

M. When any bonds secured in whole or in part by any taxes, fees, or charges authorized to be imposed under any provisions of this Act shall have been issued hereunder, neither the legislature nor the Authority shall discontinue or decrease the applicable taxes, fees, or charges, or permit to be discontinued or decreased the

applicable taxes, fees, or charges in anticipation of the collection of which such bonds have been issued, or in any way make any change in the allocation and dedication of the proceeds of such taxes, fees, or charges which would diminish the amount of the revenues to be received therefrom by the Authority until all of such bonds shall have been retired as to principal and interest or irrevocable provision shall have been made for the payment of principal and interest on such bonds.

* * *

Section 23. In each fiscal year, after payment of all obligations of the Authority secured by or payable from all or any part of the taxes levied pursuant to Sections 18 and 19 hereof, the Authority shall deposit the balance of such taxes into a special escrow fund to be used solely to retire said obligations in advance of their maturities at a price or prices not greater than the applicable redemption price; provided, however, the provisions of this Section 23 shall be applicable only to outstanding obligations of the Authority issued or incurred prior to the effective date of this amendment to Section 23 and shall not be applicable with respect to any bonds or other obligations issued or incurred thereafter to pay any costs of the Phase III Expansion Project.

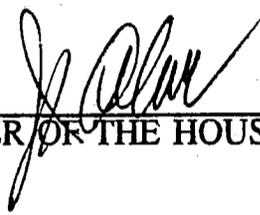
* * *

Section 2. All laws or parts of laws in conflict herewith are hereby repealed.

Section 3. The legislature hereby specifically declares that this Act is in no way and to no extent intended to nor shall it be construed in any manner which will impair outstanding bonded debt obligations of the Authority.

Section 4. To the extent that the provisions of this Act are inconsistent with any provision of any general statute or special act or part thereof, the provisions of this Act shall be deemed controlling.

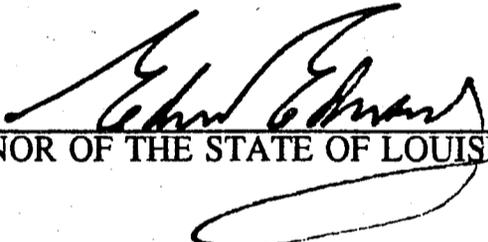
Section 5. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided in Article III, Section 18 of the Constitution of Louisiana.



SPEAKER OF THE HOUSE OF REPRESENTATIVES



PRESIDENT OF THE SENATE



GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: June 7, 1994