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IN THE SUPREME COURT

STATE OF FLORIDA

CASE NO. SC01-1000

ORIGINAL

IN RE: ADVISORY OPINION
TO THE
ATTORNEY GENERAL – AUTHORIZATION FOR COUNTY
VOTERS TO APPROVE OR DISAPPROVE SLOT MACHINES
WITHIN EXISTING PARI-MUTUEL FACILITIES

RESPONSE BRIEF
of
FLORIDIANS FOR A LEVEL PLAYING FIELD
(Supporting the Initiative Petition)

THOMSON MURARO RAZOOK & HART, P.A.
Parker D. Thomson (#081225)
Gregg H. Metzger (#836850)
1700 SunTrust International Center
One Southeast Third Avenue
Miami, Florida 33131
Telephone: (305) 350-7200
Telecopier: (305) 374-1005

Counsel for Floridians for a Level Playing Field

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ONE SOUTHEAST THIRD AVENUE, 17TH FLOOR, MIAMI, FLORIDA 33131 • TELEPHONE (305) 350-7200 • TELECOPIER (305) 374-1005

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ONE SOUTHEAST THIRD AVENUE, 17TH FLOOR, MIAMI, FLORIDA 33131 • TELEPHONE (305) 350-7200 • TELECOPIER (305) 374-1005

INTRODUCTION

Floridians For A Level Playing Field ("Floridians"), as sponsor of the initiative petition entitled "Authorization For County Voters To Approve Or Disapprove Slot Machines Within Existing Pari-Mutuel Facilities" (the "Petition"), herein responds to certain issues raised by the two groups of opponents in their initial briefs. The two opposition groups (collectively the "Opponents") are: (a) the group comprised of No Casinos, Inc., Humane Society of the United States, The Fund for Animals, The Ark Trust, Inc., and American Society for the Prevention of Cruelty to Animals (collectively, "No Casinos"), and (b) the group comprised of Animal Protection Institute, Ark Trust, Inc., Friends of Animals, Grey2k USA, Greyhound Protection League, Last Chance of Animals, Michigan Retired Greyhound League, National Coalition Against Gambling Expansion, National Greyhound Adoption Program and World Society for the Protection of Animals (collectively,"Animal Protection").

Many of the Opponents' arguments have already been fully addressed in Floridians' Initial Brief, and will not be repeated here, other than to note the relevant pages of Floridians' Initial Brief responding to them.

SUMMARY OF ARGUMENT

The Opponents have simply ignored the many prior advisory opinions which have already cleared the way for inclusion of the pending Petition on the ballot. In

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contending that the Petition does not conform to the requirements of Article XI, Section 3, Fla. Const., and Section 101.161(1), Fla. Stat., they are asking this Court to deviate from the guidelines previously set by this Court and relied upon in drafting the Petition.

If this Court were to accept No Casinos' invitation to consider the prospective collateral impact of the Petition upon Indian gaming here in Florida due to the federal Indian Gaming Regulatory Act, it would be engaging in a political debate that goes well beyond the pale of its proper role in evaluating initiative petitions. More importantly, this Court would be undermining the credibility and authority of its own previous advisory opinions wherein it rejected the identical arguments raised by No Casinos in opposing analogous gaming initiatives. As this Court has made clear, the only impacts it can address in this proceeding are impacts upon the Florida Constitution, and with respect to the pending Petition here, there are none.

Finally, Opponents' contention that the Petition is fatally flawed, either because it fails to inform voters that their approval of slot machines would be irreversible, or because it allegedly removes certain powers from the Legislature, is wrong on both grounds. There is no reason to believe that county voters could not repeal a prior vote to allow slot machines at pari-mutuel facilities under the proposed amendment. Moreover, the Legislature's power to regulate slot machines if approved

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by county voters is expressly preserved in the proposed amendment and conveyed in the ballot title and summary. For the reasons discussed herein, the Petition should be approved by this Court for inclusion on the ballot.

ARGUMENT

I. OPPONENTS HAVE IGNORED THE FACT THAT THIS COURT'S REVIEW OF THE PENDING PETITION WILL BE GUIDED BY ITS PRIOR DECISIONS, DECISIONS THAT HAVE BEEN RELIED UPON IN DRAFTING THE PENDING PETITION.

Opponents simply ignore the fundamental fact that this Court, through such earlier cases as Floridians Against Casino Takeover v. Let's Help Florida, 367 So.2d 337 (Fla. 1978) ("Floridians Against"); Advisory Opinion to the Attorney General Re: Limited Casinos, 644 So.2d 71 Fla. 1994) ("Limited Casinos"); Advisory Opinion to the Attorney General Re: Florida Locally Approved Gaming, 656 So.2d 1259 (Fla. 1995) ("Locally Approved Gaming") and Advisory Opinion to the Attorney General Re: Tax Limitation, 673 So.2d 864 (Fla. 1996) ("Tax Limitation II"), has already approved many of the most significant aspects of this Petition (such as the use of tax revenues and the delegation to the Legislature of the task of implementing the constitutional provision) as meeting the single-subject and fair presentation requirements, which are the only issues for consideration by this Court in an advisory opinion to the Attorney General. Through these cases, this Court has

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established guidelines for drafting petition initiatives, guidelines that have been relied upon in drafting the pending Petition. See, e.g., Evans v. Firestone, 457 So.2d 1351, 1357-58 (Fla. 1984) (Overton, J, concurring) ("[T]his Court has set down understandable guidelines for the preparation of an initiative proposal that will meet the single-subject requirement . . . Hopefully, with these guidelines, and legislation that would allow the correction of misleading ballot language, this Court will not again be faced with the problem of having to remove a constitutional amendment from the ballot because of inartful drafting.")

II. NO CASINOS' SPECULATIVE PREDICTIONS REGARDING THE COLLATERAL IMPACT OF THE INDIAN GAMING REGULATORY ACT ARE IMMATERIAL TO THIS COURT'S CONSIDERATION OF THE PETITION.

The Petition sets forth a proposed amendment to the Florida Constitution. As such, the purpose of the title and the summary is to explain to the electorate, in no more than seventy-five words, the proposed amendment to the Florida Constitution. No Casinos' opposition is primarily based upon its assertion that the proposed Petition violates the single-subject rule because (they assert), if adopted, there could be a prospective collateral impact on Indian gaming in Florida due to the federal Indian Gaming Regulatory Act ("IGRA"), 25 U.S.C. §2201 et seq. (a federal statute that in relevant part permits the Indians within a state to negotiate for the right to

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engage in gaming activity allowed in that state). No Casinos asserts that the title and summary violate Section 101.161(1), Fla.Stat., because they do not discuss this prospective collateral impact on Indian gaming in Florida.

Even if this prospective collateral impact was significant, which it is not, then permitting slot machines in licensed pari-mutuel facilities would level the playing field as between what licensed pari-mutuels are permitted to do, and what the Indian Tribes (as well as the so-called "cruises to nowhere") are presently already doing. But more importantly, any such discussion is completely irrelevant in light of this Court's well-settled precedent affirming that the proper limits of its review of an initiative petition simply preclude any consideration of these kinds of substantive attacks. Because the collateral impact that No Casinos envisions–created by a federal statute–is not an impact of the Petition on the Florida Constitution, the Attorney General, who has been involved in litigation over the construction of IGRA for many years,[1] did not even mention IGRA or what he might have thought its impact might be. Presumably, the Attorney General was silent on this point because he recognizes such conjecture is wholly immaterial to the Advisory Opinion sought here.

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[1] E.g., Seminole Tribe of Florida v. Florida, 517 U.S. 44 (1996); Florida v. Seminole Tribe of Florida, 181 F.3d 1237 (11th Cir. 1999); Diamond Game Enterprises, Inc. v. Reno, 230 F.3d 365 (D.C. Cir. 2000); AT&T Corp. v. Coeur D'Alene Tribe, 45 F.Supp.2d 995 (D. Id. 1998).

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A. The Prospective Impact Of IGRA, A Federal Statute, Is Not An Appropriate Consideration Of This Court In Deciding The Narrow Legal Issues Presented By The Petition.

Consideration of the speculative collateral impact of this Petition upon Indian gaming in Florida due to IGRA simply has no place in this Advisory Opinion proceeding, because this Court's authority is limited to a determination as to whether the Petition meets the single-subject requirement of Article XI, Section 3, Fla. Const., or whether the ballot title and summary meet the requirements of Section 101.161(1), Fla. Stat. This Court has repeatedly made clear that its jurisdiction restricts it to consideration only of these two issues in an Advisory Opinion.

This Court has thus refused to consider whether or not a proposed initiative petition violates the federal Constitution. In Advisory Opinion to the Attorney General –Limited Political Terms in Certain Elective Offices, 592 So.2d 225, 227 (Fla. 1991), this Court, over the vigorous dissent of Justice Overton, ruled that federal constitutional challenges raised to a proposed amendment simply were not justiciable in an Advisory Opinion proceeding:

> Opponents argue that the proposed amendment unconstitutionally restricts First Amendment rights and that the limitation on the terms of federal legislators violates the Supremacy Clause of the United States Constitution. However, based on the following provisions, we find that those issues are not justiciable in the instant proceeding.

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> The Florida Constitution provides that '[t]he attorney general shall, as directed by general law,' request this Court's opinion 'as to the validity of any initiative petition circulated pursuant to section 3 of article XI.'[citations omitted] General law provides that the attorney general shall seek an advisory opinion 'regarding the compliance of the test of the proposed amendment or revision with s. 3, art. XI of the State Constitution and the compliance of the proposed ballot title and substance with s. 101.161.' [citations omitted] Thus, we are limited in this proceeding to addressing whether the proposed amendment and ballot title and summary comply with article XI, section 3, Florida Constitution and section 101.161, Florida Statutes.'[2]

(Emphasis added). This Court noted that it was following Grose v. Firestone, 422 So.2d 303 (Fla. 1982), which involved a proposed amendment to the search and seizure provision of Article I, Section 12 of the Declaration of Rights, conforming it to the federal counterpart. The ballot title and summary were challenged, as No Casinos does here, on the ground that they did not "disclose or put voters on notice of the full effect of this amendment" (Id. at 304). This Court disagreed, saying this was not a justiciable issue in this case (Id. at 306).

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[2]This Court, in Advisory Opinion to the Attorney General Re: Term Limits Pledge, 718 So.2d 798, 801 n.1 (Fla. 1998), made known its view that a portion of the initiative before it violated the United States Constitution, but declined to rely upon that constitutional infirmity as a defect in the ballot summary. Instead, this Court held that the summary in that case was misleading because it misstated the impact of the initiative petition on the powers of the Secretary of State, and made clear that the proposed amendment's constitutional infirmity had no bearing on its ruling.

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If a potential federal constitutional infirmity in a proposed amendment can not be reviewed by this Court in an Advisory Opinion proceeding, then certainly an objection based upon the possible future impact of a federal statute such as IGRA may likewise not impact this Court's determination of the narrow legal issues before it. Thus the Attorney General, being mindful of the jurisdictional limitations upon this Court in this proceeding, has not raised IGRA as an objection.

Collateral impacts are properly considered only if they are impacts on other provisions of the Florida Constitution. For that is what all initiative petitions are–proposed amendments to the Florida Constitution–and the electorate is entitled to know those collateral impacts before choosing whether or not to consent to the proposed change.[3] E.g., Advisory Opinion to the Attorney General Re: Amendment to Bar Government from Treating People Differently Based on Race in Public Education, etc., 778 So.2d 888 (Fla. 2000); Advisory Opinion to the Attorney General Re: Right of Citizens to Choose Health Care Providers, 705 So.2d 563 (Fla. 1998) ("Health Care Providers"); Advisory Opinion to the Attorney General Re: Tax Limitation, etc., 644 So.2d 486 (Fla. 1994) ("Tax Limitations I"). This requirement

[3]It is for exactly this reason that the Petition makes clear that Article XI, Section 7, Fla. Const., an initiative adopted just five years ago, would not apply to taxes levied by the Legislature by reason of adoption of the Petition. That is a non-impact on the Florida Constitution about which the electorate should be advised.

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exists because the people of the State of Florida, in the exercise of their right to amend their own Constitution, must know if there is an additional impact on some other existing provision of their Constitution. Health Care Providers, 705 So.2d at 565-66. On the other hand, provisions of our Florida Constitution may implicate federal statutory or constitutional law in innumerable possible ways, as well as having far reaching policy ramifications. These are, however, issues for the political argument which will ensue when the proposed Petition goes to the electorate.[4]

Hence, No Casinos' Indian gaming argument strictly concerns policy, and has no bearing on the narrow legal issues here to be considered. Once on the ballot, all interested persons and organizations will have an ample opportunity to debate the Petition's potential benefits and risks, including the Indian gaming argument, which

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[4] No Casinos cites as authority for its request for pervasive inquiry into undisclosed potential collateral effects of a proposed amendment beyond those on other portions of the Florida Constitution the concurring opinion of Justice Kogan in Advisory Opinion to the Attorney General - Restricts Laws Related to Discrimination, 637 So.2d 1018, 1022 (Fla. 1994). (No Casinos' Initial Brief ("I.B.") at 25). The opinion of the Court in that case gives no support to No Casinos' proposition, for it references only modifications of other provisions of the Florida Constitution (in addition to the general confusion and misleading nature of the ballot summary). No Casinos' citation to Florida League of Cities v. Smith, 607 So.2d 397 (Fla. 1992) as a case wherein an "initiative [was] invalidated because of undisclosed collateral effects" is bewildering. (No Casinos I.B, at 26). Florida League of Cities, which involved an afterthought challenge of the proposed initiative amendment as to homestead valuation, refused to invalidate the proposed amendment.

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the electorate will evaluate before voting. If approved, then county electorates will likewise be presented with these arguments before the county enabling vote. The Indian gaming argument must be confined to that political context and not raised in this strictly judicial one.[5] See Florida League of Cities v. Smith, 607 So.2d 397, 400 (Fla. 1992) (acknowledging " there is a strong public policy against courts interfering in the democratic processes of elections.")

B. This Court Has Already Held, As to Prior Gaming Petition Initiatives, That It Is Inappropriate To Consider The No Casinos' Indian Gaming Argument.

This is not the first time that No Casinos has opposed a proposed gaming amendment on the basis that it could have undisclosed collateral ramifications pertaining to Indian gaming in Florida by operation of IGRA.[6] No Casinos made the

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[5]Neither the wisdom nor merit of the petition initiative is an appropriate consideration for the Court. Advisory Opinion to the Attorney Re: Florida Transportation Initiative for Statewide High Speed Monorail, Fixed Guideway or Magnetic Levitation System, 769 So.2d 367, 368 (Fla. 2000) ("This Court's review of a proposed amendment ... does not include an evaluation of the merits or wisdom of the proposed amendment."); Limited Casinos, 644 So.2d 71, 75 (Fla. 1994) (declaring that "we do not pass judgment upon the wisdom or merit of the proposed initiative amendment."); Advisory Opinion to the Attorney General Re: Tax Limitation, etc., 644 So.2d 486, 489 (Fla. 1994) ("This Court does not have the authority or responsibility to rule on the merits or the wisdom of these proposed initiative amendments . . .")

[6]No Casinos I.B. at 12-33.

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same argument (although somewhat more abbreviated) with respect to the petition at issue in Limited Casinos, 644 So.2d 71 (1994), which was approved by this Court after expressly noting and rejecting No Casinos' Indian gaming objection.

In Limited Casinos, this Court considered an initiative petition to permit casino gaming in limited geographic areas within Florida. IGRA, which had been enacted in 1988, was in effect at the time of Limited Casinos and it classified casino gaming (which includes slot machines) as "class III gaming" under IGRA;[7] No Casinos contested the proposed amendment's failure to reference IGRA and its possible impact;[8] this Court, made explicit reference to the Indian gaming argument made by No Casinos, and then dismissed that argument:

> [The opponents] also argue that the petition would impact the authority of the executive and legislative branches because it might authorize and compel negotiations for casinos on Indian reservations.
> ...

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[7] 25 U.S.C. §2703.

[8] No Casinos argued:

> The ballot summary also fails to put voters on notice, as does the entire initiative, that the amendment would fundamentally change the State's relationships with Indian tribes and would have the collateral side effect of authorizing casino gambling on Indian lands. This and the initiatives [sic] other side effects violate the single subject rule.

See Initial Brief of No Casinos in Limited Casinos filed on July 6, 1994, at 9.

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> All of the scenarios raised by the opponents relating to possible impacts on other branches of government or on the constitution are premature speculation.

644 So.2d at 74(emphasis supplied). The fact that No Casinos has increased its old argument by several more pages of a brief does not change the fact that this Court has already previously held that argument to be immaterial to its review of a petition initiative.

Subsequently, in Locally Approved Gaming, 656 So.2d 1259 (Fla. 1995), this Court approved an initiative for twenty privately owned casinos at certain venues even though the ballot title and summary (as well as the initiative itself) made no reference whatsoever to Indian gaming or IGRA. Despite the fact that No Casinos had regularly made this Court aware of the Indian gaming argument in other recent gambling cases,[9] this Court did not even mention the argument in Locally Approved Gaming.

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[9]In addition to Limited Casinos, No Casinos also raised its Indian gaming argument in Advisory Opinion to the Attorney General Re Casino Authorization, Taxation and Regulation, 656 So.2d 466 (Fla. 1995) ("Casino Authorization"). See Initial Brief of No Casinos in Casino Authorization filed August 8, 1994, at 18 and 26. In Casino Authorization, this Court disapproved the proposed gambling amendment under Section 101.161(1), Fla. Stat.; but, this Court did so on other grounds, and without even mentioning the Indian gaming argument. This case was considered by this Court contemporaneously with Locally Approved Gaming.

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By expressly rejecting, and elsewhere ignoring the Indian gaming argument as to prior gaming initiative petitions, this Court has established firm, consistent guidelines upon which the proponents of this Petition have relied in drafting the Petition. See Evans v. Firestone, 457 So.2d at 1357-58. Opponents have given no good reasons why this Court should now reverse its own guidelines and make relevant that which it has previously held to be irrelevant. There are none.

C. Section 161.061(1), Fla. Stat., Does Not Require That The Ballot Title And Summary At Issue Here Detail The Possible Impact Of The Petition Upon Indian Gaming As A Result Of IGRA.

Section 101.161(1), Fla. Stat., requires an explanatory statement of the "chief purpose" of the proposed amendment, in not more than seventy-five words. The requirement is that the summary provide fair notice of the meaning and effect of the proposed amendment. Advisory Opinion to the Attorney General Re: Stop Early Release of Prisoners, 661 So. 2d 1204, 1206 (Fla. 1995) This Court, however, also has repeatedly made clear that a summary need not recite in detail every ramification and effect of a proposed amendment. E.g., Advisory Opinion to the Attorney General Re: Prohibiting Public Funding of Campaigns, 693 So.2d 973, 975 (Fla. 1997) ("[T]he title and summary need not explain every detail or ramification of the proposed amendment."); Tax Limitation II, 673 So.2d 864, 868 (Fla. 1996) ("[T]he

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ballot summary is not required to include all possible effects..., nor to 'explain in detail what the proponents hope to accomplish'"; Limited Casinos, 644 So.2d at 75 ("The seventy-five word limit placed on the ballot summary as required by statute does not lend itself to an explanation of all of a proposed amendment's details.") Hence, the ballot title and summary are not required under Section 101.161(1), Fla. Stat., to make any reference at all to the speculative impacts of the proposed amendment upon Indian gaming in Florida as a result of IGRA; such concerns are simply not relevant to the only issues before the Court in this Advisory Opinion proceeding.

III. THE PETITION DOES NOT SUBSTANTIALLY AFFECT ANY OTHER PROVISIONS OF THE FLORIDA CONSTITUTION REQUIRING DISCLOSURE TO MEET THE SINGLE-SUBJECT REQUIREMENT.

Both Opponent groups cite various provisions of the Florida Constitution, and then, without providing any substantive explanation, argue that the Petition violates the single-subject requirement because it does not disclose the fact that it affects these other provisions of the Florida Constitution.

But, as explained in Floridians' Initial Brief at 22-23, far more is required by this Court than an assertion that the Petition may affect some other constitutional provision. Every proposed amendment will necessarily interact with other provisions

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of the Florida Constitution, but such potential interaction need not be disclosed in a ballot summary to pass muster under the single-subject rule. See Advisory Opinion to the Attorney General Re: Fee on the Everglades Sugar Production, 681 So.2d 1124, 1228 (Fla. 1996) ("The possibility that an amendment might interact with other parts of the Florida Constitution is not sufficient reason to invalidate the proposed amendment."); Advisory Opinion to the Attorney General Re: Term Limits Pledge, 718 So.2d 798, 802 (Fla. 1998) (same). Indeed, before a proposed petition initiative can be invalidated, there must be a substantial effect on, or alteration of, another provision of the Florida Constitution, which is not the case here. Advisory Opinion to the Attorney General Re: Amendment to Bar Government from Treating People Differently Based on Race in Public Education, etc., 778 So.2d 888 (Fla. 2000); Advisory Opinion to the Attorney General Re: Right of Citizens to Choose Health Care Providers, 705 So.2d 563 (Fla. 1998); Tax Limitation I, 644 So.2d 486 (Fla. 1994).

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IV. OPPONENTS ARE WRONG IN THEIR ASSERTION THAT COUNTY VOTERS COULD NOT REVERSE A PRIOR VOTE TO PERMIT THE OPERATION OF SLOT MACHINES AT PARI-MUTUEL FACILITIES CAST PURSUANT TO THE INITIATIVE, AND THERE IS NO REQUIREMENT UNDER SECTION 101.161(1), FLA. STAT., FOR THE BALLOT SUMMARY TO SO ADVISE VOTERS.

Opponent Animal Protection argues that the Petition fails to meet Section 101.161(1), Fla. Stat., because "[i]t fails to inform voters that they will have no opportunity to reconsider a vote authorizing slot machines and it fails to apprise voters that it limits legislative power to authorizes [sic] slot machines, a power currently within the province of the Legislature."[10] Assuming, for purposes of discussion, the truth of this statement, it would not materially impact the validity of the Petition because the argument simply ignores other controlling provisions of the Constitution.

Article I, Section 1, Fla. Const., states:

> **Political power.** All political power is inherent in the people. The enunciation herein of certain rights shall not be construed to deny or impair others retained by the people.

And, Article VIII, Section 1(g), Fla. Const., provides:

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[10]Animal Protection I.B. at 9.

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> **Charter Government.** Counties operating under county charters shall have all powers of local self-government not inconsistent with general law, or with special law approved by vote of the electors. The governing body of a county operating under a charter may enact county ordinances not inconsistent with general law. The charter shall provide which shall prevail in the event of conflict between county and municipal ordinances.

(Emphasis supplied). This Court has construed the phrase "not inconsistent with general law" to mean "contradictory in the sense of legislative provisions which cannot coexist." State v. Sarasota County, 549 So.2d 659, 660 (Fla. 1989); see also, Pinellas County v. Eight is Enough in Pinellas, 775 So.2d 317, 320 (Fla. 2d DCA 2000), following State v. Sarasota County as to the interpretation of that same language in Article VIII, Section 1(g), Fla. Const., quoted above.

Without adoption of the Petition, no county, via referendum or otherwise, could authorize slot machines at pari-mutuel facilities because any such authorization would be inconsistent with the current general law prohibiting slot machines in Florida. See §§849.15, 849.16, Fla. Stat. However, a county would not have to be specifically empowered in the Florida Constitution to reverse any such authorization because any such reversal would not be inconsistent with the general law prohibiting slot machines in Florida or the proposed amendment, if adopted, under which there clearly is a local option regarding the existence or non-existence of slot machines in

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pari-mutuel facilities. A county would thus have the power to set a vote to terminate the local option to permit slot machines in such facilities.[11]

V. THE INITIATIVE DOES NOT RESTRAIN WHATEVER POWER THE LEGISLATURE MAY HAVE "TO LEGALIZE SLOT MACHINES," AND HENCE THERE CAN BE NO VIOLATION OF SECTION 101.161(1), FLA. STAT., STEMMING FROM THE BALLOT SUMMARY'S NOT STATING OTHERWISE.

Animal Protection further argues that the ballot summary violates Section 101.161(1), Fla. Stat., in that "it fails to inform the voter that the effect of the amendment will be [to] limit the power of the Legislature to legalize slot machines."[12] This is nonsense, for any constitutional amendment may deprive the Legislature of some freedom to act as it previously had.

Moreover, the Petition does not do what Animal Protection says it does. The Petition takes no powers from the Legislature. The Petition retains in the Legislature the power to regulate slot machines. The Petition states that "the Legislature, by

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[11]Animal Protection further argues that, under the doctrine of *expressio unius est exclusio alterius*, the provision of the Petition imposing a two-year time period that must pass after a county negative vote as to authorization, before resubmission of the issue to the county electorate, is an implied prohibition against the county voters reversing themselves once they do authorize. Animal Protection I.B. at 19-20. This construction turns this provision on its head, and is, in any event, immaterial.

[12]Animal Protection I.B. at 20; see also Animal Protection I.B. at 17.

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ONE SOUTHEAST THIRD AVENUE, 17TH FLOOR, MIAMI, FLORIDA 33131 • TELEPHONE (305) 350-7200 • TELECOPIER (305) 374-1005

general law, shall implement this section with legislation to license, regulate and tax slot machines."[13] The mere fact that county voters are granted local power to approve slot machines does not mean that the Legislature's power to "regulate" slot machines is removed. Compare, McLeod v. Harvey, 170 So. 153 (Fla. 1936) (wherein the Court held that a statutory authorization for county voters to ban coin-operated machines (then referred to as "slot machines") within each county was not an unlawful delegation of legislative power to the county voters because the statute itself forbade the licensing of machines in counties where the required vote was cast, and the statute did not interfere with the Legislature's taxing and regulatory authority over machines in any counties where machines were not forbidden.) To the extent that the Petition favors local governmental power over the Legislature's power with respect to the approval of slot-machines at pari-mutuel facilities, it performs a unitary function. The Petition creates local power, and that is all that it does.

[13]In connection with this argument, Opponent Animal Protection also contends that the Initiative "removes from the Legislature its ability to legalize slot machines." Animal Protection I.B. at 17.

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ONE SOUTHEAST THIRD AVENUE, 17TH FLOOR, MIAMI, FLORIDA 33131 • TELEPHONE (305) 350-7200 • TELECOPIER (305) 374-1005

VI. THE OPPONENTS' REMAINING ARGUMENTS ARE ALREADY ADDRESSED IN FLORIDIANS' INITIAL BRIEF.

No Casinos' remaining contentions are that the single-subject rule is violated by the provision that "the legislature, by general law, shall implement this section with legislation to license, regulate and tax slot machines," an argument contrary to this Court's decisions in Floridians Against and Limited Casinos and fully discussed in Floridians' Initial Brief at 14-18, and that "the initiative petition further attempts to exempt itself from the 2/3 vote requirement of Article XI, Section 7,"[14] which is simply wrong, as explained fully in Floridians' Initial Brief at 29-33, since the Petition only says what is true – that Article XI, Section 7, Fla. Const., does not apply to taxes imposed by the Legislature if the proposed amendment is approved by the electorate and thereafter slot machines are authorized by one or more county electorates in pari-mutuel facilities.

Animal Protection's arguments as to single-subject are similar to those raised by No Casinos and likewise are fully dealt with at the indicated pages of Floridians' Initial Brief.

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[14] No Casinos I.B. at 8.

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ONE SOUTHEAST THIRD AVENUE, 17TH FLOOR, MIAMI, FLORIDA 33131 • TELEPHONE (305) 350-7200 • TELECOPIER (305) 374-1005

CONCLUSION

For the reasons stated herein, this Court should find the Petition fully meets the requirements of Article XI, section 3, Fla. Const., and of Section 101.161(1), Fla. Stat., and approve its submission to the electorate.

THOMSON MURARO RAZOOK & HART, P.A.

Parker D. Thomson (#081225)
Gregg H. Metzger (#836850)
1700 SunTrust International Center
One Southeast Third Avenue
Miami, Florida 33131
Telephone: (305) 350-7200
Telecopier: (305) 374-1005

Counsel for Floridians for a Level Playing Field

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that a true and correct copy of the foregoing has been mailed via U.S. Mail this 16th day of July, 2001 to the following:

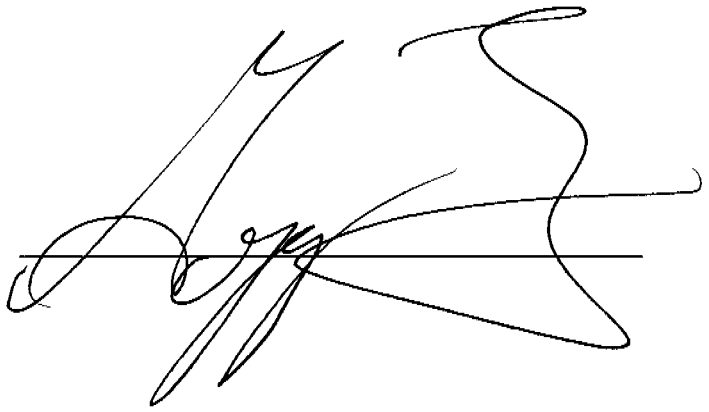
The Honorable Robert Butterworth
Office of the Attorney General
The Capitol, PL-01
Tallahassee, FL 32399

Mark Herron
Mark Herron, P.A.
Post Office Box 1701
Tallahassee, FL 32302

Timothy McLendon
510-5 S.W. 34th Street
Gainesville, FL 32607

Bruce D. Green
600 S. Andrews Avenue, Suite 400
Ft. Lauderdale, FL 33301

Barnaby W. Zall
Law Offices of Barnaby Zall
7018 Tilden Lane
Rockville, MD 20852



THOMSON MURARO RAZOOK & HART, P.A.
ONE SOUTHEAST THIRD AVENUE, 17TH FLOOR, MIAMI, FLORIDA 33131 • TELEPHONE (305) 350-7200 • TELECOPIER (305) 374-1005

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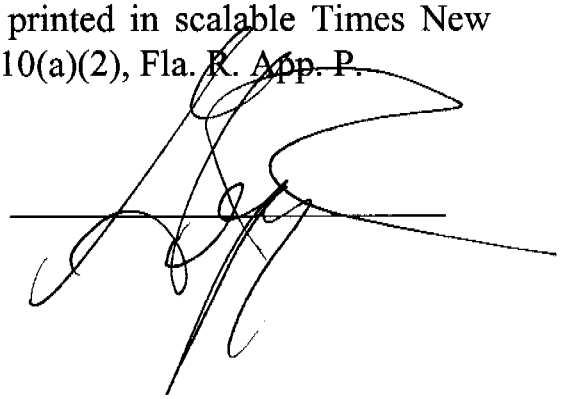

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