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IN THE SUPREME COURT OF FLORIDA

Case No. SC01-1000

**ADVISORY OPINION
TO THE ATTORNEY GENERAL**

**RE: AUTHORIZATION FOR COUNTY VOTERS
TO APPROVE OR DISAPPROVE SLOT MACHINES
WITHIN EXISTING PARI-MUTUEL FACILITIES**

**INITIAL BRIEF OF
THE FLORIDA HORSEMAN'S BENEVOLENT AND
PROFESSIONAL ASSOCIATION**

AND

THE SOUTH FLORIDA GREYHOUND ASSOCIATION, INC.

(SUPPORTING THE INITIATIVE PETITION)

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STATEMENT OF THE CASE AND FACTS

Floridians for a Level Playing Field has invoked the initiative petition process of Article XI, section 3, Florida Constitution, to propose an amendment to the Florida Constitution. The amendment would provide authorization for county voters to approve or disapprove slot machines within existing pari-mutuel facilities.

Pursuant to section 15.21, Florida Statutes (2000), the Secretary of State has submitted the initiative petition to the Attorney General certifying that Floridians has successfully met the signature requirements.

The ballot title and summary for the proposed amendment provides:

AUTHORIZATION FOR COUNTY VOTERS TO APPROVE OR DISAPPROVE SLOT MACHINE WITHIN EXISTING PARI-MUTUEL FACILITIES.

This amendment authorizes county voters to approve or disapprove, in their respective counties only, slot machines at existing pari-mutuel facilities only; requires the legislature to license, regulate and tax such slot machines and to appropriate such tax revenues to enhance senior citizen and education programs; permits voters to authorize the taxation of slot machines by simple majority vote rather than the 2/3 majority vote for new state taxes provided in Article XI, Section 7.

Pursuant to section 16.061, Florida Statutes (2000), the Attorney General has petitioned this Court for an opinion as to whether the ballot title, ballot summary, and the text of the proposed constitutional amendment comply with Article XI, section 3, Florida Constitution and section 101.161, Florida Statutes (2000).

This Court has issued an Interlocutory Order requiring all interested parties to file briefs on these issues. This brief is filed on behalf of the Florida Horseman's Benevolent and Professional Association ("FHBPA") and the South Florida Greyhound Association, Inc. ("SFGAI") in support of the proposed initiative. The FHBPA represents over 5,000 owners and trainers of thoroughbred horses that race in Florida. The SFGAI is a non-profit association of kennel owners in 20 southern counties in Florida.

The petition provides:

Article X, Section 19 is created to read:

SECTION 19. AUTHORIZATION FOR COUNTY VOTERS TO APPROVE OR DISAPPROVE SLOT MACHINES WITHIN EXISTING PARI-MUTUEL FACILITIES. —

(a) Slot machines are hereby permitted in those counties where the electorate has authorized slot machines pursuant to referendum, and then only within licensed pari-mutuel facilities (*i.e.*, thoroughbred horse racing tracks, harness racing tracks, jai-alai frontons, and greyhound dog racing tracks) authorized by law as of the effective date of this section, which facilities have conducted live pari-mutuel wagering events in each of the two immediately preceding twelve month periods.

(b) Within 180 days of the voters' approval of this amendment, the legislature, by general law, shall implement this section with legislation to license, regulate and tax slot machines. The requirement of a 2/3 majority vote for new state taxes in Article XI, Section 7 of this constitution shall not apply to any slot machine tax authorized by general law in accordance with the mandate of this amendment to the constitution.

(c) The legislature, by general law, shall approve tax revenue derived from slot machines to enhance senior citizen services, classroom construction, education programs, and teachers' salaries and benefits.

(d) Following the effective date of this amendment and its implementation by the legislature, the governing body of each county in which there is an eligible pari-mutuel facility as defined in subsection (a), may authorize a referendum on whether to approve or disapprove slot machine within its jurisdiction. The electorate of such county, by a majority vote of the voters in such county the voting on this referendum, may authorize slot machines within its jurisdiction.

(e) If the electorate in a particular county votes not to authorize slot machines, that county may conduct subsequent elections for the purposes of considering whether to authorize slot machines pursuant to subsection (a) hereof no earlier than two years after any vote in which slot machines were not authorized.

(f) If any portion of this section is held invalid for any reason, the remaining portion or portions of this section, to the fullest extent possible, shall be severed from the void portion and be given the fullest possible force and application.

(g) This amendment shall take effect on the date approved by the electorate; provided, however, that no slot machines shall be authorized to operate in the state until July 1, 2003.

In his letter to the Court, the Attorney General inquires whether the ballot title and summary are defective. While the Attorney General acknowledges that “[t]he ballot title and summary appear to express [the] chief purpose” of the initiative, he raises the following seven matters:

(1) Whether the proposed constitutional amendment may exempt itself from the requirement under Article XI, section 7, Florida Constitution, that a constitutional amendment imposing a new state tax pass by a two-thirds vote;

(2) Whether the ballot summary is misleading in that instead of exempting the proposed amendment from the two-thirds majority vote requirement, the text of the proposed amendment appears to exempt the passage of the tax imposed by the Legislature from the two-thirds majority vote requirement;

(3) Whether the ballot summary may lead voters to believe that they will be guaranteed a referendum on the issue;

(4) Whether the ballot title and summary are misleading in that they do not advise voters that a referendum on the issue may not be conducted within two years of a failed referendum on the issue;

(5) Whether the ballot summary is misleading in that it does not advise voters that no slot machines may be authorized to operate in the state until July 1, 2003;

(6) Whether the ballot summary is misleading because it does not define "slot machine" or advise voters of the extent of slot machine operation; and,

(7) Whether the ballot summary is misleading in that it does not indicate whether the operation of slot machines is restricted to periods during pari-mutuel

wagering events or whether such machines may operate continuously even though pari-mutuel events are not being conducted at a facility.

The Attorney General also asks the Court whether the proposed amendment so substantially affects the functions of the Legislature and county governments as to violate the single subject requirement of Article XI, section 3, Florida Constitution. Further, the Attorney General questions whether the proposed amendment enfolds disparate subjects by directing tax revenue derived from slot machines be used to enhance programs benefiting senior citizens and education.

SUMMARY OF THE ARGUMENT

Because the people's sovereign right to amend their constitution is at stake, this Court has the responsibility to sustain the petition authorizing county voters to decide whether to approve slot machines, if possible, after considering the proposal as a whole and giving effect to the intent of the drafters and chief purpose of the measure. The standard of review is deferential, and the Court's duty is to uphold the proposal unless it can be shown to be clearly and conclusively defective.

The Florida Constitution is an act of the people. The constitution provides within itself the methods for its amendment or revision and those methods have been adhered to in this initiative petition. The people have the inherent power to amend their constitution by majority vote at any time. Accordingly, the Attorney General's suggestion that the proposed amendment may not exempt itself from the requirement under Article XI, section 7, Florida Constitution, that an amendment imposing a new state tax pass by a two-thirds majority vote is clearly erroneous.

Here, the ballot title and summary fully inform voters of the chief purpose of the proposed amendment. The chief purpose of the proposed amendment is to authorize county voters to decide whether to permit licensed, regulated, and taxed slot machines to operate within existing pari-mutuel facilities. Voters will not be misled by the clearly-worded ballot title and summary into understanding that they are being asked to exempt tax legislation from a two-thirds majority vote

requirement that applies only to the passage of constitutional amendments. Neither will voters be misled into concluding that the mere authorization of a referendum on the issue guarantees a referendum on the issue.

Moreover, the ballot summary is not defective simply because it provides no notice that a referendum on the issue may be conducted within two years of a failed referendum on this issue or that no slot machines may be authorized to operate in the state until July 1, 2003. Every detail and ramification cannot and need not be explained in the ballot title and summary. In fact, providing such information superfluous to the decision on the chief purpose of the proposed amendment would arguably have a greater tendency to confuse voters.

Additionally, the ballot summary is not defective because it lacks a definition of the term "slot machine." Not only do voters have an understanding of what a slot machine is, but the term has also been defined by the Legislature by statute. Voters will not be misled, as the Attorney General suggests, into concluding that to "permit" slot machines would allow pari-mutuel facilities to become slot machine manufacturing plants, mass storage warehouses of slot machines, or huge slot machine repair centers. Lastly, the ramifications of approving slot machines are a function of legislative regulation. The people have reasonable expectations about the extent to which the operation of slot machines should be restricted and the people's elected representatives in the Legislature will

enact those reasonable expectations into law. The ballot title and summary are thus clear and unambiguous and should be approved.

A proposed constitutional amendment complies with the single subject requirement if it has a logical and natural oneness of purpose or if it may be logically viewed as having a natural relation and connection as component parts or aspects of a single dominant plan or scheme. The sole purpose of the proposed amendment is to provide authorization for county voters to approve or disapprove slot machines within existing pari-mutuel facilities. The entire amendment is directed to that objective and expresses a oneness of purpose.

A proposed amendment does not violate the single-subject rule, even if multiple levels of government are affected, when the proposed amendment does not substantially alter or perform the functions of those multiple levels of government. While the proposed amendment calls upon the Legislature to enact implementing legislation and empowers county governments to ascertain the will of the county electorate through referendum, the proposed amendment does not substantially alter or perform the functions of the Legislature or county governments. The proposed amendment clearly embraces “but one subject and matter directly connected therewith.” Accordingly, this Court should approve the proposed amendment to be placed on the ballot.

ARGUMENT

I. THE INITIATIVE PETITION IS ENTITLED TO GREAT DEFERENCE BY THE COURT.

Because of the great importance of protecting the people's rights to modify the organic law of Florida, this Court has always recognized that it should be extremely reluctant to remove a proposed constitutional amendment from the ballot. As noted in *Askew v. Firestone*, 421 So. 2d 151, 156 (Fla. 1982), the court "must act with extreme care, caution, and restraint before it removes a constitutional amendment from the vote of the people." The Court's "duty is to uphold an initiative petition unless it can be shown to be 'clearly and conclusively defective'." *Floridians Against Casino Takeover v. Let's Help Florida*, 363 So. 2d 337, 339 (Fla. 1978).

In *Advisory Opinion to the Attorney General Re: Tax Limitation*, 644 So. 2d 486 (Fla. 1994) ["Tax Limitation I"], the Court explained in more detail its authority in reviewing initiative petitions:

Infringing on the people's right to vote on an amendment is a power this Court should use only where the record shows the constitutional single-subject requirement has been violated or the record establishes that the ballot language would clearly mislead the public concerning material elements of the proposed amendment and its effect on the present constitution.

644 So. 2d at 489.

When given the deference to which it is entitled, the petition authorizing county voters to decide whether to approve slot machines is well within the requirements of the law.

A. THE BALLOT TITLE AND SUMMARY ACCURATELY INFORM VOTERS OF THE CHIEF PURPOSE OF THE AMENDMENT.

Pursuant to section 101.161(1), Florida Statutes (2000), the substance of any proposed constitutional amendment, like the one under consideration, must be printed in “clear and unambiguous language on the ballot.” Section 101.161(1) provides in relevant part:

Whenever a constitutional amendment . . . is submitted to the vote of the people, the substance of such amendment . . . shall be printed in clear and unambiguous language on the ballot The substance of the amendment . . . shall be an explanatory statement, not exceeding 75 words in length, of the chief purpose of the measure. The ballot title shall consist of a caption, not exceeding 15 words in length, by which the measure is commonly referred to or spoken of.

The ballot title of the proposed amendment is “Authorization For County Voters To Approve Or Disapprove Slot Machines Within Existing Pari-Mutuel Facilities.” As the Attorney General points out, the chief purpose of the amendment is to authorize county voters to approve slot machines within existing pari-mutuel facilities and to require the Legislature to license, regulate, and tax such machines. The Attorney General acknowledges that “[t]he ballot title and summary appear to express [the] chief purpose” of the initiative but questions whether a proposed constitutional amendment may exempt itself from an existing

constitutional requirement that such amendment pass by two-thirds vote. The Attorney General suggests that “to allow such a construction would effectively render the requirements of Article XI, section 7, Florida Constitution, a nullity.”

The Attorney General’s assertion undoubtedly arises from the *Advisory Opinion To The Attorney General Re Tax Limitation*, 673 So. 2d 864 (Fla. 1996) [“Tax Limitation II”]. There the Court found that the ballot title and summary for the proposed amendment requiring two-thirds vote for new constitutionally imposed state taxes/fees were valid under the state constitution and complied with statutory requirements by accurately informing the voter of the chief purpose and effects of the proposed amendment. In a concurring opinion, Justice Overton departed from the Court's customary restraint and commented on the merits of the proposal stating “that [the tax limitation initiative] would prevent a majority of the electorate from changing the tax structure of the State of Florida as currently set out in the Constitution.” *Id.* at 869 (Overton, J., concurring). He further offered that the initiative did not only limit the ability of the state to raise revenue, but also limited the authority of the voters to make any change in who must pay taxes. *Id.* (Overton, J., concurring). Justice Overton did not opine, however, that a majority of the electorate could not repeal, or create an exemption from, an existing constitutional provision as is proposed in the instant case. In short, the concurrence does not contemplate the straightforward, limited exemption to the

two-thirds requirement that will be presented to the voters if the Court approves this initiative petition.

The Florida Constitution is an act of the people of the state. *Collier v. Gray*, 157 So. 40, 45 (Fla. 1934). The Constitution provides within itself the only methods for its amendment or revision. Art. XI, Fla. Const.; *State v. Florida State Improvement Commission*, 60 So. 2d 747, 754 (Fla. 1952). The constitution cannot be modified, amended, or repealed in any particular either by legislative fiat, executive usurpation, or judicial interpretation or construction, but only in conformity with the method provided in the fundamental law itself. *Sparkman v. State*, 58 So. 2d 431, 432 (Fla. 1952). The paramount act in amending the constitution is the expression of the popular voice of the people. *West v. State*, 39 So. 412, 414 (Fla. 1905). The popular voice of the people can, and does, change.

Needless to say, it is possible for one constitutional provision to repeal another. *Jackson v. The Consolidated Government of City of Jacksonville*, 225 So. 2d 497, 500 (Fla. 1969). However, “a new constitutional provision prevails over prior provisions of the Constitution (a) if it specifically repeals them or (b) if it cannot be harmonized with them.” *Id.* Implied repeal of one constitutional provision over another is not favored and this Court has recognized that “every reasonable effort [should] be made to give effect to both provisions.” *Id.*

The drafters of the proposed amendment did not indicate any intention to

repeal Article XI, section 7. Instead, the proposed amendment merely creates a limited exemption from the supermajority voting requirement under Article XI, section 7, for taxes authorized under the proposed slot machine amendment. As to any future initiative petition for a constitutional amendment that imposes new state taxes, Article XI, section 7 remains in full force and effect.

This Court has, on numerous occasions, approved for inclusion on the ballot proposed amendments that repealed or substantially altered pre-existing constitutional provisions. In *Advisory Opinion to the Attorney General -- Fee On The Everglades Sugar Production*, 681 So. 2d 1124 (Fla. 1996), this Court considered a proposed amendment which established the Everglades Trust Fund but exempted the trust fund from the termination provisions under Article III, section 19(f) of the Florida Constitution. This Court approved the Everglades Trust Fund amendment for inclusion on the ballot, while recognizing that the amendment “substantially alter[ed]” the prohibition under Article III, section 19(f)(1) of trust funds unless created by “a three-fifths vote of the membership of each house of the legislature in a separate bill for that purpose only.” *Id.* at 1130.

In fact, Article XI, section 7, which was proposed by initiative petition and passed by a simple majority vote, itself created an exemption from Article XI, section 5(c), which provides that amendments to the constitution pass by simple majority vote. The people are similarly empowered to effectuate a partial repeal or

exemption from that provision by a simple majority vote. Art. X, Sec. 12(d), Fla. Const. Thus, it is clear that the people are empowered to amend their constitution by the expression of the popular voice of the people, which is the vote of the majority. *Id.*

B. THE ATTORNEY GENERAL'S CONSTRUCTION OF THE LANGUAGE OF THE PROPOSED AMENDMENT REGARDING THE TWO-THIRDS MAJORITY REQUIREMENT IS ERRONEOUS.

The Attorney General opines that the proposed amendment appears to exempt the passage of the implementing legislation from a two-thirds majority vote requirement rather than exempting the passage of the proposed constitutional amendment from the two-thirds majority vote requirement. This construction overlooks the express language of the proposed amendment. Section (b) of the proposed amendment states, in relevant part, "The requirement of a 2/3 majority vote for new state taxes in Article XI, Section 7 of this constitution shall not apply to any slot machine tax authorized by general law in accordance with the mandate of this amendment to the constitution." (emphasis supplied).

As provided in the ballot summary, the proposed amendment "permits voters to authorize the taxation of slot machines by simple majority vote rather than the 2/3 majority vote for new state taxes provided in Article XI, Section 7." The ballot title and summary are abundantly clear both in wording and intent. Voters will not

have difficulty understanding that the proposed amendment creates an exception to the supermajority vote requirement found in Article XI, Section 7.

C. THE BALLOT SUMMARY CLEARLY DOES NOT SUGGEST TO VOTERS THAT A REFERENDUM IS GUARANTEED.

The Attorney General ponders whether voters may believe from the ballot summary that a referendum will be guaranteed. This Court has explained that the ballot title and summary must “provide fair notice of the content of the proposed amendment so that the voter will not be misled as to its purpose and can cast an intelligent and informed ballot.” *Advisory Opinion to Attorney General Re: Term Limits Pledge*, 718 So. 2d 798, 803 (Fla. 1998).

The clear and unambiguous language of the proposed amendment communicates that the chief purpose of the measure is permissive rather than directive. The initiative clearly does not place a mandate upon the counties to unwillingly bear the expense and administrative burden associated with a referendum. The proposed amendment merely empowers county governments to independently assess the sentiment of the affected electors and to ascertain through the most efficacious means, up to and including a referendum, whether voters wish to authorize slot machines in their county.

The language of the ballot summary contains all necessary material facts and provides fair notice of the content of the proposed amendment. Voters cannot possibly be confused that “authorization for” actually means “requires.”

D. EVERY DETAIL AND RAMIFICATION NEED NOT BE EXPLAINED IN THE BALLOT TITLE AND SUMMARY.

The Attorney General references several other matters in relation to his inquiry to this Court regarding whether the ballot title and summary comply with section 101.161(1), Florida Statutes (2000).

The Attorney General queries whether it is misleading to voters that the ballot summary is misleading because it provides no notice that no slot machine may be authorized to operate until July 1, 2003. In *Advisory Opinion to the Attorney General Re Florida Locally Approved Gaming*, 656 So. 2d 1259 (Fla. 1995) ["Locally Approved Gaming"], this Court approved a proposed amendment which contained virtually identical language to the language in the slot machine amendment. The text of the proposed amendment in that case provided that "[t]his amendment shall take effect on the date approved by the electors, provided that **no casinos shall be authorized to operate before July 1, 1995.**" *Id.* at 1262 (emphasis added). Neither the ballot title nor summary of the *Locally Approved Gaming* amendment indicated that no casinos could be authorized to operate until July 1, 1995. *Id.* at 1261. Nonetheless, the Court approved the proposed amendment for inclusion on the ballot. *Id.* at 1264.

The proposed amendment should not fail simply because the ballot title and summary do not indicate that no slot machines may be authorized before July 1, 2003. Voters are already informed that the chief purpose of the amendment is to

authorize county voters to approve or disapprove slot machines within existing pari-mutuel facilities. Knowing the date that slot machines may be authorized to operate within the state adds little to voters' understanding of the amendment. Moreover, the additional words necessary to convey this information could not have been added given the seventy-five-word limit for ballot summaries under section 101.161(1), Florida Statutes (2000).¹

The Attorney General also contemplates whether the absence of a definition for the term "slot machine" provides insufficient notice to voters of "the types of gambling devices that would be authorized by passage of the proposed amendment." The Attorney General is correct in pointing out that no definition of the term "slot machine" is provided in the proposed amendment—either in the ballot title and summary or in the text. However, the absence of such definition does not affect the voters' understanding of the proposed amendment.

In *Locally Approved Gaming*, this Court approved a proposed amendment that employed the term "slot machine" without providing a definition for the term. *Locally Approved Gaming*, 656 So. 2d 1259, 1261-1264 (Fla. 1995). That proposed amendment provided for the authorization of gaming at twenty casinos

¹ The current ballot summary, containing 74 words, meets the length limitation of section 101.161(1). Moreover, the ballot title also complies with the fifteen-word length limitation of section 101.161(1).

throughout the state, as well as the licensing, regulation and taxation of gaming by the Legislature. The drafters of the amendment defined the term “gaming” to include “slot machines.” No further definition of “slot machine” was provided. Notwithstanding the failure to specifically define the term “slot machine,” this Court held that the ballot title and summary “clearly inform[ed] the voter.” *Id.* at 1263.

It was also unnecessary for the drafters of the slot machine amendment to define the term “slot machine,” not only because the public understands the plain and ordinary meaning of the term, but also because the term is defined by statute. *See* §§ 849.15 and 849.16, Fla. Stat. (2000). Accordingly, the absence of a definition of the term “slot machine” in the proposed amendment does not make the ballot title and summary misleading to the voter.

Finally, the Attorney General also theorizes that use of the term “permitted” could lead voters to believe that the slot machine amendment authorizes the manufacture, repair, or storage of slot machines at authorized facilities as well as the operation of such machines. With regard to the possible connotation of the term “permitted,” the ballot summary is clear and unambiguous. “Permitted” means exactly what voters will understand the term to mean. Incidental on-site repair and storage of slot machines will justifiably be assumed but it is ludicrous to

conclude that pari-mutuel facilities will evolve into slot machine manufacturing plants as a result of this initiative.

In short, the ballot title and summary contain all necessary material facts for voters to make an informed and intelligent decision and state “in clear and unambiguous language the chief purpose of the measure.” *Askew v. Firestone*, 421 So. 2d 151, 155 (Fla. 1982).

II. THE PETITION SATISFIES THE SINGLE-SUBJECT REQUIREMENT OF ARTICLE XI, SECTION 3, FLORIDA CONSTITUTION.

Article XI, section 3, Florida Constitution, specifies that any amendment, except for those limiting the power of government to raise revenue, “shall embrace but one subject and matter directly connected therewith.” The single-subject requirement was placed in the constitution by the people to allow citizens, by initiative petition, to propose and vote on singular changes in the functions of our governmental structure.” *Fine v. Firestone*, 448 So. 2d 984, 988 (Fla. 1984). The single-subject requirement “is a rule of restraint designed to insulate Florida’s organic law from precipitous and cataclysmic change.” *In Re: Advisory Opinion to the Attorney General -- Save Our Everglades Trust Fund*, 636 So. 2d 1336, 1339 (Fla. 1994).

A. THE PROPOSED INITIATIVE IS NOT AN EXAMPLE OF LOGROLLING.

The Attorney General queries whether the proposed amendment violates the single subject rule by impermissibly enfolding the subjects of education and senior citizens by directing that tax revenue derived from slot machines be used for the enhancement of “senior citizen services, classroom instruction, education programs, and teachers’ salaries and benefits.” The proposed amendment does not contain more than one separate issue about which voters might differ.

A proposed constitutional amendment meets the single-subject requirement if it has a logical and natural oneness of purpose or if it may be logically viewed as having natural relation and connection as component parts or aspects of a single dominant plan or scheme. *Fine v. Firestone*, 448 So. 2d 984, 990 (Fla. 1984) (quoting *City of Coral Gables v. Gray*, 19 So. 2d 318, 320 (1944)).

The single-subject provision prevents “logrolling,” a practice in which several separate issues are rolled into a single initiative in order to aggregate votes or secure approval of an otherwise unpopular issue. *In Re: Advisory Opinion to the Attorney General -- Save Our Everglades Trust Fund*, 636 So. 2d 1336, 1339 (Fla. 1994).

In *Floridians Against Casino Takeover v. Let’s Help Florida*, 363 So. 2d 337 (Fla. 1978), the Court approved an initiative that required that anticipated tax revenues be applied to education and law enforcement. Applying the Attorney

General's logic, the language of the amendment in *Floridians Against Casino Takeover* impermissibly combined the disparate subjects of law enforcement and education.

The slot machine initiative petition clearly complies with the single subject requirement as interpreted by this Court. Its fundamental and natural oneness of purpose is to authorize county voters to decide whether to permit licensed, regulated, and taxed slot machines to operate within existing pari-mutuel facilities with the benefit inuring to Florida's most vulnerable citizens—seniors and children. All the provisions in the amendment relate to the implementation of this objective.

B. THE PROPOSED CONSTITUTIONAL AMENDMENT DOES NOT SUBSTANTIALLY AFFECT MULTIPLE LEVELS OF GOVERNMENT.

The Attorney General inquires whether the proposed amendment so substantially affects the separate functions of state and local government as to violate the single subject requirement of Article XI, section 3, Florida Constitution.

In ascertaining whether a proposed amendment meets the single-subject requirement, this Court must decide whether the amendment affects separate functions of government and how it impacts other provisions of the Florida Constitution. *Advisory Opinion to the Attorney General Re: Requirement for Adequate Public Education Funding*, 703 So. 2d 446, 448 (Fla. 1997). No single

proposal can substantially alter or perform the functions of multiple branches. See *Advisory Opinion To The Attorney General Re: Fish And Wildlife Conservation Commission*, 705 So. 2d 1351, 1353-54 (Fla. 1998); *In Re: Advisory Opinion to the Attorney General -- Save Our Everglades Trust Fund*, 636 So. 2d 1336, 1340 (Fla. 1994).

This Court has approved initiatives that directed a particular branch of the government to implement the proposed amendment. In *Advisory Opinion To The Attorney General; Re: Limited Casinos*, 644 So. 2d 71 (Fla. 1994) [“Limited Casinos”], the proposed initiative “authorized” the operation of a limited number of gaming casinos. Although the Legislature was given a mandate to implement the amendment, through legislation to regulate, tax, and license casinos and pari-mutuel facilities, this Court recognized that nothing in that proposed initiative:

usurps, interferes with, or affects, the powers and authority of the executive branch of government or of local governments to integrate casinos into existing governmental policies for planning, zoning, land use or environmental considerations. There is no directive in the petition for an override of local or state environmental, land use, or regulatory policies.

Id. at 74.

In *In Re: Advisory Opinion to the Attorney General English--The Official Language of Florida*, 520 So. 2d 11 (Fla. 1988), the Court approved an initiative that required the Legislature to implement establishing English as an official state language. Like the *Limited Casinos* amendment, this proposed amendment may

have broad ramifications for this State, but it only deals with one subject and it does not substantially alter or perform multiple functions of government. The proposed amendment preserves the Legislature's inherent authority to license, tax, and regulate slot machines in any manner it deems appropriate. Indeed, the proposed amendment does not even specify the nature of the tax authorized. The Legislature retains the discretion to impose a tax on income, sales, gross receipts, etc. Further, county governments retain their discretion whether or not to place the issue before the voters through a referendum election. This amendment merely provides a mechanism by which counties may ascertain the will the voters relative to the authorization of slot machines in existing pari-mutuel facilities.


Because the proposed amendment does not substantially alter or perform the functions of the Legislature or county governments, it complies with the single subject requirement under section 101.161(1), Florida Statutes (2000). Accordingly, the proposed amendment should be approved for inclusion on the ballot.

CONCLUSION

The standard of review for an initiative petition is highly deferential. Yet, by any standard, the petition authorizing county voters to decide whether to permit licensed, regulated, and taxed slot machines to operate within existing pari-mutuel facilities "embraces but one subject and matter directly connected therewith" and


the ballot title and summary accurately explain the chief purpose and are not misleading to voters. The Court should expeditiously approve the proposed amendment for submission to the voters.

Respectfully submitted this 25th day of June 2001.



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by United States Mail to Hon. Robert A. Butterworth, Office of the Attorney General, PL-01 The Capitol, Tallahassee, FL 32399-1050; Timothy McLendon, 510-5 S.W. 34th Street, Gainesville, FL 32607-2924; Barnaby W. Zall, 7018 Tilden Lane, Rockville, MD 20852-4549; Mark Herron, Post Office Box 1701, Tallahassee, FL 32302-1701; Daniel K. Adkins, Post Office Box 350940, Miami, FL 33125-0940; and Parker D. Thomson, One Southeast Third Avenue, Suite 1700, Miami, FL 33131-1714; on this 25th day of June 2001.


LORI S. ROWE

CERTIFICATE OF COMPLIANCE WITH FONT REQUIREMENT

I HEREBY CERTIFY that the foregoing Brief has been prepared in Times New Roman 14 font in compliance with Rules 9.210(a)(2) and 9.100(1), Florida Rules of Appellate Procedure.


LORI S. ROWE