

MEMORANDUM

TO: All Interested Parties

FROM: Marc Dunbar, Josh Aubuchon and Dan Russell

RE: Analysis of the Destination Casino Legislation Strike-All Amendment

DATE: January 5, 2012

Section

1. Eliminates the Division of Pari-Mutuel Wagering from the Department of Business and Professional Regulation. (p.1)
2. Creates the Department of Gaming Control and Gaming Commission. The Department of Gaming Control is broken down into three divisions: (p.2)
 - a. Enforcement
 - b. Licensure
 - c. Revenue and Audits
3. Removes a provision from s. 24.123, F.S., pertaining to the Legislative Auditing Committee making recommendations in the audit report to “enhance the earning capability of the state lottery.” (p.7)
4. Grants authority to the Department of Gaming Control and the State Gaming Commission relating to licensure. (p.7)
5. Reorganizes Chapter 551, Florida Statutes, creating parts I, II, and III. (p.9)
6. Creates definitions. (p.10)
7. Membership in the State Gaming Commission: (p.11)
 - a. 7 members
 - b. Appointed to staggered (initially) 2 or 4 year terms
 - c. The Chair of the Commission shall be appointed by the Governor.
 - d. The headquarters of the Commission shall be located in Leon County.
8. The State Gaming Commission Nominating Committee shall consist of 6 members, 3 from the Florida House of Representatives and 3 from the Florida Senate. (p.15)
9. The Chair of the Gaming Commission shall appoint the Executive Director of the Department. (p.18)

10. Authorizes the Department to employ law enforcement officers. (p.19)
11. Establishes a code of ethics, which: (p.20)
 - a. Forbids a member of the Commission from owning or being employed by, in the 3 years after leaving the Commission, any company or person licensed by the Commission.
 - b. Bars members of the Commission from wagering in any facility regulated by the Commission.
12. Commissioners must file a financial disclosure and undergo a thorough background check. (p.23)
13. Ex parte communications between members of the Commission and any applicant or licensee are forbidden. (p.27)
14. Establishes penalties for misconduct by a Commissioner or employee, including removal or disciplinary action. (p.29)
15. Provides for the title of s. 551.301, F.S., to be the “Destination Resort Act” or “Resort Act.” (p.30)
16. Creates definitions, including “limited gaming” which is defined as, “baccarat, twenty-one, poker, craps, slot machines, video gaming of chance, roulette wheels, Klondike tables, punch-board, faro layout, numbers ticket, push car, jar ticket, pull tab . . .” (p.30)
17. Grants powers to the State Gaming Commission, including: (p.36)
 - a. Authorizing limited gaming at 3 destination resorts
 - b. Conducting investigations
 - c. Use an invitation to negotiate process for applicants
 - d. Granting a license to an authorized pari-mutuel facility
 - e. Establish and collect fees for background checks
 - f. Issue subpoenas
 - g. Take any other action reasonable and appropriate to enforce this part.
 - h. Apply for injunctive or declaratory relief
 - i. Establish field offices.
 - j. Inspect any area of a destination resort.
 - k. Collect taxes
 - l. Deny, revoke, or suspend a license.
18. Grants authority to engage in rulemaking necessary for the implantation, administration, and regulation of limited gaming, including procedures to test gaming devices, procedures related to gaming revenues, minimum security and surveillance standards, standards for seizure of gaming equipment, and any other rules, as required. (p.41)
19. Preemption of authority which bars a county, municipality, or other political subdivision from enacting gaming ordinances. (p.46)
20. Authorizes limited gaming at destination resorts if a referendum has passed allowing for limited gaming in that county. (p.46)
21. Defines the process by which destination resort licenses are to be awarded. (p.47)
22. Lists the criteria by which a destination resort licenses should be awarded, including: (p.48)
 - a. Best serves the residents of Florida
 - b. Capacity to increase tourism
 - c. No more than 10% of the total square footage may be gaming-related.
 - d. Demonstrate a history of community involvement.
 - e. Financial ability

- f. Ability to train and employ residents of the state for jobs at resorts
 - g. Ability to expend at least \$2 billion in new development and construction for the proposed destination resort.
 - h. Ability to generate substantial gross receipts
 - i. Design and location (35%), management expertise (10%), speed to market (35%), financial plan and access to capital (10%) and community plan (10%)
 - j. Preference shall be given to facilities located in areas of high unemployment, with the ability to begin construction within 12 months, etc.
23. Creates the application process for a destination resort license and provides detailed instructions as to what documents shall be included in the application package. (p.54)
 24. Applicants may be provided an extension of 30 days to complete the application. (p.62)
 25. An application that has an institutional investor need not contain information relating to the institutional investor in the application. (p.62)
 26. Banks or other lending institutions are not required to be licensed. (p.64)
 27. Provides that limited gaming licenses may be authorized at licensed pari-mutuel facilities and establishes the qualifications for a limited gaming license. (p.64)
 28. Conditions for receiving a destination resort license include: (p.67)
 - a. Compliance with all applicable laws/rules
 - b. Ensure that the facility-based monitoring system accurately reports all financial information.
 - c. Submission and updating of the security plan
 - d. Implementation of hiring policies that include opportunities for equal, non-discriminatory practices, drug-testing, etc.
 - e. Ensuring that each slot machine payout is at least 85%.
 - f. Keep and maintain daily records for a period of at least 5 years
 29. Each destination resort licensee and limited gaming licensee must maintain a surety bond. (p.71)
 30. Provides for the conduct of limited gaming, which includes: (p.72)
 - a. Must be 21 to participate in any gaming activities
 - b. Facilities may operate 24 hours per day, every day of the year
 - c. Licensees shall set the minimum and maximum wagers
 31. Sets forth prohibited acts and penalties, including cheating or fraud penalties. (p.75)
 32. Sets for an annual license fee of \$5 million and a tax rate of 18% of gross receipts. (p.79)
 33. Provides for the disposition of trust fund moneys in excess of \$10 million to general revenue (p.81)
 34. All licensees must be fingerprinted and submit such fingerprints to FDLE (p.81)
 35. Licenses are required of gaming equipment and device suppliers: (p.83)
 - a. Licensure as a supplier requires payment of an application fee, not to exceed \$25,000
 - b. All supplier licensees must have fingerprints on file with FDLE
 - c. Requirements are substantially similar to other gaming licenses.
 36. Licenses are required of gaming manufacturers, including manufacturers of slot machines, table game devices, and associated equipment. Requirements are

- substantially similar to suppliers. (p.86)
37. All employees of destination resorts must receive an occupational license, and must be licensed prior to employment. Applicants must also: (p.90)
 - a. Disclose all previous gaming experience and positions in other jurisdictions, and
 - b. Be at least 21 to work in gaming areas or at least 18 to work in nongaming functions.
 38. Permits a temporary supplier license of up to 180 days. (p.93)
 39. Requires the Commission to file a quarterly report to the Governor, the President of the Senate, and the Speaker of the House of Representatives. (p.94)
 40. Provides that disputes between licensees and wagerer may only be resolved by the Department and that such gaming-related disputes are not under the jurisdiction of state courts. (p.94)
 41. Permits destination resorts to issue credit instruments to patrons (commonly referred to as “markers”). (p.96)
 42. Destination resorts shall offer compulsive and addictive gambling prevention programs to employees and patrons. (p.97)
 43. Patrons may request voluntary self-exclusion from a limited gaming facility. (p.98)
 44. Permits a destination resort or limited gaming licensee to obtain an alcoholic beverage license for the premises. (p.104)
 45. Expands the definition of fraudulent operation of coin-operated or similar devices to include operation based upon the insertion of a coin, bill, ticket, token or similar object or payment of any consideration whatsoever, including any electronic payment. (p.106)
 46. Provides that the manufacture of devices operating based upon the insertion of a coin, bill, ticket, token or similar object or payment of any consideration whatsoever, including any electronic payment are prohibited. (p.107)
 47. Expands the prohibition on the manufacture, sale, possession etc. of coin-operated devices to include other gambling apparatus or any part thereof and exempts destination resorts and slot machine licenses from s. 849.15, F.S., which would otherwise make possessing a slot machine illegal. (p.108)
 48. Destination resorts and slot machine licensees are exempted from s. 849.231, F.S., which would otherwise make possessing gambling devices illegal. (p.110)
 49. Transfers all powers of the Division of Pari-Mutual Wagering to the Department of Gaming Control. (p.111)
 50. Replaces “Division of Pari-Mutuel Wagering” with “Department of Gaming Control” and/or replace “Licensure” and statutory references when appropriate. (p.112)
 51. Replaces “Division of Pari-Mutuel Wagering” with “Department of Gaming Control” and/or replace “Licensure” and statutory references when appropriate and amends the definitions of “greyhound racing,” “harness racing,” “horseracing,” “jai alai,” “quarter horse racing,” and “thoroughbred racing.” (p.113)
 52. Replaces “Division of Pari-Mutuel Wagering” with “Department of Gaming Control” and/or replace “division” with “department” or “Licensure” and statutory references when appropriate. (p.115)
 53. Prohibits any pari-mutuel permit from being issues after July 1, 2012. (p.119)
 54. Repeals s. 550.0745, F.S. (p.119)

55. Provides for conditions for a jai alai permit to become void and escheat to the state. (p.119)
56. Provides for conditions for a harness racing permit to become void and escheat to the state. (p.119)
57. Provides for conditions for a greyhound racing permit to become void and escheat to the state. (p.120)
58. Provides for conditions for a thoroughbred racing permit to become void and escheat to the state. (p.121)
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63. Replaces “Division of Pari-Mutuel Wagering” with “Department of Gaming Control” and/or replace “division” with “department” or “Licensure” and statutory references when appropriate. (p.122-125)
64. Specifically approves barrel racing for quarterhorse permitholders in Gadsden County subject to a referendum vote. (p.126)
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66. Replaces “Division of Pari-Mutuel Wagering” with “Department of Gaming Control” and/or replace “division” with “department” or “Licensure” and statutory references when appropriate. (p.122-125)
67. Permits slot machine gaming at any licensed pari-mutuel facility where a county referendum is approved prior to December 31, 2014. (p.127)
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77. Replaces “Division of Pari-Mutuel Wagering” with “Department of Gaming Control” and/or replace “division” with “department” or “Licensure” or “chapter” with “part” and statutory references when appropriate. (p.128-143)
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84. Replaces “Division of Pari-Mutuel Wagering” with “Department of Gaming Control” and/or replace “division” with “department” or “Licensure” or “chapter” with “part” and statutory references when appropriate. (p.144-148)
85. Provides for regulation and provisions relating to simulated gambling devices, i.e. “grey-market” slot machines. (p.148)
86. Prohibits charitable organizations from engaging in game promotions from using simulated gambling devices. (p.151)
87. Places the operation of game promotions and sweepstakes under the jurisdiction of the Department of Gaming Control. (p.152)
88. Includes within the definition of a slot machine under s. 849.16, F.S., a system or network of computers or other devices operated by money, a code, account number, credit, or other method of activation. (p.160)
89. Adds a statutory cross-reference to the newly created s. 849.162, F.S. (p.160)
90. Corrects a game promotion statutory cross-reference under s. 721.111, F.S. (p.164)
91. Creates a severability clause for the bill. (p.164)
92. Requires the appropriate state agency and judicial branch to identify to the Department of Gaming Control any debts to a state agency, including child support debts, to permit the Department the authority to withhold winnings of \$600 or more to settle said debts. (p.165)
93. Provides for referendum language for any referendum required under the bill. (p.166)
94. Provides for an effective date of July 1, 2012. (p.166)