Voter Control of Gambling

Number: PETITION

Date: May 09, 2016

The Honorable Jorge Labarga
Chief Justice, and Justices of
The Supreme Court of Florida
The Supreme Court Building
Tallahassee, Florida 32399-1925

Dear Chief Justice Labarga and Justices:

In accordance with the provisions of Article IV, section 10, Florida Constitution, and section 16.061, Florida Statutes, it is my responsibility as Attorney General to petition this Honorable Court for a written opinion as to the validity of an initiative petition circulated pursuant to Article XI, section 3, Florida Constitution.

On April 7, 2016, this office received a letter from the Secretary of State (a copy of which is attached) advising that the initiative petition entitled "Voter Control of Gambling in Florida" had met the registration, submission, and signature criteria set forth in section 15.21, Florida Statutes.

The full text of the proposed amendment, which adds a new section 29 to Article X of the Florida Constitution, states:

"ARTICLE X, FLORIDA CONSTITUTION, is amended to include the following new section:
Voter Control of Gambling in Florida.
(a) This amendment ensures that Florida voters shall have the exclusive right to decide whether to authorize casino gambling in the State of Florida. This amendment requires a vote by citizens' initiative pursuant to Article XI, section 3, in order for casino gambling to be authorized under Florida law. This section amends this Article; and also affects Article XI, by making citizens' initiatives the exclusive method of authorizing casino gambling.
(b) As used in this section, 'casino gambling' means any of the types of games typically found in casinos and that are within the definition of Class III gaming in the Federal Indian Gaming Regulatory Act, 25 U.S.C. § 2701 et seq. ('IGRA'), and in 25 C.F.R. §502.4, upon adoption of this amendment, and any that are added to such definition of Class III gaming in the future. This includes, but is not limited to, any house banking game, including but not limited to card games such as baccarat, chemin de fer, blackjack (21), and pai gow (if played as house banking games); any player-banked game that simulates a house banking game, such as California black jack; casino games such as roulette, craps, and keno; any slot machines as defined in 15 U.S.C. 1171(a)(1); and any other game not authorized by Article X, section 15, whether or not defined as a slot machine, in which outcomes are determined by random number generator or are similarly assigned randomly, such as instant or historical racing. As used herein, 'casino gambling' includes any electronic gambling devices, simulated gambling devices, video lottery devices, internet sweepstakes devices, and any other form of electronic or electromechanical

facsimiles of any game of chance, slot machine, or casino-style game, regardless of how such devices are defined under IGRA. As used herein, 'casino gambling' does not include pari-mutuel wagering on horse racing, dog racing, or jai alai exhibitions. For purposes of this section, 'gambling' and 'gaming' are synonymous.
(c) Nothing herein shall be deemed to limit the right of the Legislature to exercise its authority through general law to restrict, regulate, or tax any gaming or gambling activities. In addition, nothing herein shall be construed to limit the ability of the state or Native American tribes to negotiate gaming compacts pursuant to the Federal Indian Gaming Regulatory Act for the conduct of casino gambling on tribal lands, or to affect any existing gambling on tribal lands pursuant to compacts executed by the state and Native American tribes pursuant to IGRA.
(d) This section is effective upon approval by the voters, is self-executing, and no Legislative implementation is required.
(e) If any part of this section is held invalid for any reason, the remaining portion or portions shall be severed from the invalid portion and given the fullest possible force and effect."

The ballot title for the proposed amendment is: "Voter Control of Gambling in Florida." The ballot summary for the proposed amendment states:

"This amendment ensures that Florida voters shall have the exclusive right to decide whether to authorize casino gambling by requiring that in order for casino gambling to be authorized under Florida law, it must be approved by Florida voters pursuant to Article XI, Section 3 of the Florida Constitution. Affects articles X and XI. Defines casino gambling and clarifies that this amendment does not conflict with federal law regarding state/tribal compacts."

Pursuant to Rule 9.510(b), Florida Rules of Appellate Procedure, this petition provides the following information:

1. The name and address of the sponsor of the initiative petition: Mr. John Sowinski, Chairperson, Voters in Charge, 2640-A Mitcham Drive, Tallahassee, Florida 32308.

2. The name and address of the sponsor's attorney, if the sponsor is represented: Unknown.

3. A statement as to whether the sponsor has obtained the requisite number of signatures to have the initiative placed on the ballot: As of April 5, 2016, the sponsor has not obtained the requisite number of signatures to have the proposed amendment placed on the ballot. A total of 683,149 valid signatures were required for placement on the 2016 general election ballot. The total number of signatures required to have an item placed on the 2018 general election ballot will not be known until after the 2016 general election.

4. The current status of the signature collection process: As of March 28, 2016, the Supervisors of Elections have certified a total of 73,760 valid petition signatures to the Division of Elections for this initiative petition. This number represents more than 10% of the total number of valid signatures needed from electors statewide and in at least one-fourth of the congressional districts in order to have the initiative placed on the 2016 general election ballot.

5. The date of the election during which the sponsor is planning to submit the proposed amendment: The initiative does not specify the date of the election at which the proposed

amendment is to be submitted to the voters. The earliest date this proposed amendment can be placed on the ballot is November 6, 2018, provided the sponsor successfully obtains the requisite number of valid signatures by February 1, 2018.

6. The last possible date that the ballot for the target election can be printed in order to be ready for the election: Unknown.

7. A statement identifying the date by which the Financial Impact Statement will be filed, if the Financial Impact Statement is not filed concurrently with the request: The coordinator of the Financial Impact Estimating Conference has advised the Attorney General that the Financial Impact Statement required by section 100.371(5)(a), Florida Statutes, will be filed by no later than May 20, 2016.

8. The names and complete mailing addresses of all of the parties who are to be served: Unknown at the time. Section 16.061(2), Florida Statutes, requires that a copy of the petition be provided to the Secretary of State and to the principal officer of the sponsor:

Mr. Ken Detzner Mr. John Sowinski, Chairperson
Secretary of State Voters in Charge
Florida Department of State 2640-A Mitcham Drive
R.A. Gray Building, Room 316 Tallahassee, Florida 32308
500 South Bronough Street
Tallahassee, Florida 32399-0250

While not required by law, this office provides copies of the petition to:

The Honorable Rick Scott The Honorable Andy Gardiner
Governor, State of Florida President, The Florida Senate
The Capitol Senate Office Building, Room 312
400 South Monroe Street 404 South Monroe Street
Tallahassee, Florida 32399-0001 Tallahassee, Florida 32399-1100

The Honorable Steve Crisafulli
Speaker, Florida House of Representatives
The Capitol, Room 420
402 South Monroe Street
Tallahassee, Florida 32399-1300

In accordance with the provisions of Article IV, section 10, Florida Constitution, I respectfully request this Honorable Court’s opinion as to whether the proposed amendment “Voter Control of Gambling in Florida” complies with the single-subject requirement of Article XI, section 3, Florida Constitution, and whether the ballot title and summary of the amendment complies with the substantive and technical requirements in section 101.161(1), Florida Statutes.

Respectfully submitted,

Pamela Jo Bondi

Attorney General