



MEMORANDUM

AGENDA ITEM IV. B.1.

DATE: JANUARY 9, 2012

TO: COUNCIL MEMBERS

FROM: STAFF

SUBJECT: GAMING LEGISLATION ADDENDUM

Since the preparation of the initial staff Memorandum on this issue, there have been a couple of developments: (1) Senator Ellyn Bogdanoff has filed a "strike all" amendment to SB 0710 (officially noted as 06 January 2012); staff learned that the Miami-Dade County Board of County Commissioners approved and sent a letter to the Legislature regarding the gaming legislation (a copy is provided); and the Greater Miami Chamber of Commerce voted to support the approval of gaming legislation.

The amended bill will be considered by the Senate's Regulated Industries Committee on 09 January 2012, which is scheduled to convene at 3:15 pm.

Council staff conducted a keyword search of the amendment to determine how it addresses the role that local governments and citizens may play in the process in the event the legislation passes. The keywords used were: city(ies), county(ies), municipality(ies), local government(s), citizen(s), voters, electors, and referendum(a). In summary, with respect to local governments, the amended bill still contains the following:

- A county, municipality, or other unit of government is prohibited from applying for a resort license.
- The regulation of the conduct of limited gaming activity at a licensee is preempted to the state and a county, municipality, or other political subdivision of the state may not enact any ordinance relating to limited gaming
- The destination resort applicant must demonstrate that it has received conceptual approval for the destination resort proposal from the municipality and county in which the resort will be located. There are no explicit guidelines for what constitutes conceptual approval; however an applicant does need to provide (1) a map documenting the location of the facility within the specific county or counties; (2) a statement regarding the compliance of the applicant with state, regional, and local planning and zoning requirements; (3) a description of the economic benefit to the community in which the facility would be located; (4) the anticipated number of jobs generated by construction of the facility; the anticipated number of employees; (5) a statement regarding how the applicant would comply with federal and state affirmative action guidelines; (6) a projection of admissions or attendance at the limited gaming facility; a projection of gross receipts; scientific market research pertaining to the proposed facility, if any; and (7) how it will integrate with local businesses in host and surrounding communities, including local restaurants, hotels, retail outlets, and impacted live entertainment venues

The amended bill now requires a referendum before 31 December 2014, to authorize a gaming in a county. It also includes the language for the referendum.

While Council staff focused its review on the potential impacts to local governments, Miami-Dade County staff conducted a cursory review of the amendment and noted the following changes:

1. Removed “promotional credits” from being exempt from gaming revenue/gross receipts calculation that is taxed. (requires promotional credits to be taxed, removing “tax free enticements” to gambling).
Removed from bill
2. Exemptions from s. 120 for the issuance and denial of licensure have been removed.
Removed from bill
3. Removes the allowance of bookmaking.
Removed from bill
4. Clarifies that the department has authority over the various provisions in Ch. 849, however it does not require a license for penny-ante poker, arcades, bingo (etc.) not currently licensed, except for the sweepstakes parlors.
Removes Section 43 from the bill
References Ch. 849 on lines: 73, 103, 108, 112, 115, 130
5. Removes the requirement that the annual lottery audit “make recommendations to enhance the earning capability of the state lottery...”
Line: 168
6. Exemption from s. 120.541(3) for rulemaking has been inserted, which would have otherwise required certain rules of the commission to be ratified by the Legislature.
Lines: 234-235
7. Headquarters in Leon County (must choose a location for the purposes of court challenges).
Lines: 380-381
8. Executive Director appointed by chair and removed by majority vote of the commission.
Lines: 482-518
9. Resort Location - Allows each county to call a referendum to allow for a Resort License in that County.
 - a. Deletes exemption on referendum for counties that have previously passed a slot machine referendum and authorizes every county to call a referendum to allow a destination resort in that county.
Lines: 893-896, 1314-1319
 - b. Requires the voters of a county to approve a referendum “prior to the application deadline” before the commission is allowed to issue a license for a destination resort in that county.
Lines: 1648-1651
10. Rulemaking authorization was expanded to ensure that adequate rules are in place regarding, among other things, table game operations, employee training, and count room security.
Lines: 1145-1300
 - a. Provides that the department has rulemaking authority over internal components of devices, including the placement of random number generators in slot machines (per DOAH decision).
Lines: 1176-1179

11. Contains a provision that requires a Destination Resort to segregate the casino area so that a person could visit the resort without entering the casino.
Lines: 1327-1331, 1902-1918, 2019-2022
12. Provides flexibility to the commission on timelines.
Lines: 1360-1365
13. Clarifies that the commission may restart the bid process for a destination resort license if less than three licenses are awarded in the first process – provides flexibility to the commission. No more than three destination resorts may be issued in total.
Lines: 1366-1372
14. Clarifies that the \$2 billion minimum investment for destination resorts includes gaming equipment and furnishings but does not include any impact fees or property costs.
Lines: 1418-1427
15. Requires the commission to consider each resort licensee's plans to integrate with the surrounding community, including the resort's plan to work with surrounding restaurants and attractions.
Lines: 1437-1508
16. Licensing fee increased from \$50 million to \$125 million (this is a onetime fee).
Line: 1715
17. Requires the department to purchase up to 4 active pari-mutuel permits with part of the \$125 million license fee, void the permit, and donate the land to the municipality for public use (reduces the total number of active pari-mutuel permits around the state).
Lines: 1722-1753
18. Requires the resort licensee to report suspicious activity at the facility to the department or law enforcement, as appropriate.
Lines: 2112-2114
19. **Crimes** - Creates s. 551.317 related to prohibited acts. Contains prohibitions against cheating, deceiving, and using counterfeit equipment or devices. Violations are first degree misdemeanors and subsequent violations are third degree felonies.
Lines: 2140-2250
20. Annual license fee increased from \$2 million to \$5 million (for resort licensees).
Lines: 2256-2257
21. Increases the tax rate for resort licensees from 10% to 18%.
Line: 2270
22. Distribution of revenue from 18% tax on gross receipts.
Lines: 2273-2297
 - a. **97.5 percent** of all tax revenues shall be deposited to the General Revenue Fund.
Line: 2274-2275
 - b. **2 percent** of all tax revenues collected shall be paid to the Florida Thoroughbred Breeders and Owners Association.
Lines: 2276-2293
 - c. **One-half percent** of all tax revenues collected shall be deposited to the Veteran's Trust Fund.
Lines: 2294-2297
23. All revenues deposited in the Destination Resort Trust Fund (primarily license fees) will be swept annually, except \$10 million will be left in the fund to cover operating expenses.
Lines: 2312-2318

24. Requires manufacturers of gaming equipment to obtain a license from the commission.
Lines: 2468-2583
25. **Compulsive Gambling** - provides that all resort licensees, limited gaming licensees, and slot racino licensees must pay .25% of the gross revenues generated at the facility to the department for the use of compulsive gambling programs. The department must contract for direct services for the treatment of compulsive or addictive gambling. (No longer a set \$250,000 per licensee).
Lines: 2790-2810, 4112-4143
26. Increases the alcohol license fee from \$50,000 to \$250,000 for destination resorts.
Line: 2986
27. **Crimes** - Amended s. 817.32 and 817.33 (fraud related to coin operated devices) to include devices that accept other forms of compensation or that may be activated by a ticket, token, or other object.
Lines: 3043-3096
28. Definitions for pari-mutuel racing types have been inserted (closes the loophole that allowed barrel racing to be authorized at Gretna quarter horse facility).
Lines: 3243-3307
 - a. Allows Gretna to continue barrel racing if Gadsden County approves barrel racing in a county referendum. No other barrel racing is allowed to operate in the state.
Lines: 3609-3625
29. Prohibits any new pari-mutuel permit from being issued after July 1, 2012 (prevents additional pari-mutuel permits from being issued – stops expansion of pari-mutuel gaming).
Lines: 3409-3414
30. Repeals s. 550.0745, Fla.Stat., which created summer jai alai permits in certain areas (closes loophole for additional permits to be issued).
Lines: 3415-3416
31. All inactive pari-mutuel permits escheat to the state on the effective date of the bill – all permits escheat to the state for failure to pay taxes in any one fiscal year.
Lines: 3417-3503
32. **Parity – Provides for various forms of parity, depending on the will of the voters in that county.**
 - a. Tax Rate of 18% for slot machine licensees.
Line: 3946
 - b. Allows any pari-mutuel facility to pass a referendum (no later than December 14, 2014) to obtain slot machine gaming at its facility.
Lines: 3659-3666, 3883-3885
 - c. In the alternative, any pari-mutuel facility can pass a referendum (no later than December 14, 2014) to obtain a license to conduct limited gaming (same games and same regulations as a destination resort). In order to qualify, the pari-mutuel facility must pass the referendum and must invest a minimum of \$100 million in the pari-mutuel facility after the effective date of this act, but no later than 3 years after initial licensure.
Lines: 1836-1922
33. **Electronic game promotions and electronic drawings by chance are prohibited** (stops sweepstakes cafes) – definition also modifies slot machine definition to include a network of computers or devices (what is commonly used in Internet cafes).
Lines: 4267-4736

34. Collection of debts – requires licensees to submit winnings to the department for repayment of outstanding debts.
Lines: 4743-4781
35. Ballot question language is included in the amendment.
Lines: 4782-4793
36. Increases the gross receipts tax rate on destination resort casinos from 10 percent to 18 percent.
Line: 3852
37. Provides tax parity to pari-mutuels, reducing the pari-mutuel tax rate from 35 percent to 18 percent.
Line: 3852
38. Continues to distribute 97.5 percent of revenue from the 18 percent gross receipts tax on destination resort casino gaming to state general revenue and not to local governments, 2 percent goes to the Florida Thoroughbred Breeders & owners Association and ½ percent goes to the Veterans’ Trust Fund.
Lines: 2290-2313
39. Requires the Gaming Commission to consider how each destination resort applicant’s plans to integrate with the surrounding community, including neighboring restaurants and attractions.
Lines: 1416-1419
40. Requires a destination resort to separate the casino area from the rest of the resort so that a person could visit the resort without entering the casino.
Lines: 1324-1328
41. Increases one-time destination resort casino licensing fees from \$50 million to \$125 million per facility, the added revenue is intended to offset state losses from the Seminole Compact and to buy out up to four pari-mutuels permits in an effort to offset increases in gaming facilities.
Lines: 1763-1770
42. Continues to envision a total of three (3) destination resort casinos (while the intent is for these casinos to be located in Miami-Dade and/or Broward, they could be in any county in the state that passes a referendum on casino gaming), the Gaming Commission does have the authority to specify the county in which the facility would be located in its invitation to negotiate.
Line: 1027

Recommendation

Information Only

MEMORANDUM

Agenda Item No. 6(B)(1)

TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

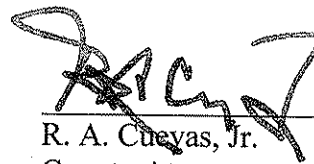
DATE: December 19, 2011

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Discussion item regarding
destination resort casinos

Attached is a 3rd draft of the letter to the Dade Delegation on destination casinos and Commissioner Bovo's memorandum related thereto. These are included for your consideration as part of the discussion on this matter.

This matter was placed on the agenda at the request of Chairman Joe A. Martinez.



R. A. Cuevas, Jr.
County Attorney

RAC/jls

The Honorable Carlos Lopez-Cantera, Chairman, and Members of the Miami-Dade State
Legislative Delegation; The Honorable Ellyn Bogdanoff; The Honorable Erik Fresen
The Capitol
Tallahassee, Florida 32399

Re: SB 710, HB 487 and related bills re: destination resort casinos

On the morning of October 26th, the Economic Development & Social Services Committee of the Miami-Dade County Board of County Commissioners held a discussion regarding destination resort casinos in Miami-Dade County. On December 6, 2011, the full Board of County Commissioners held a follow-up discussion.

The discussion on October 26 took testimony from the public and included comments by commissioners on the committee. The meeting proved timely as the House destination resort casino package of bills, HB 487, HB 489 and HB 491 were filed as the meeting unfolded, and the Senate companion bills were filed later in the day. Our discussion yielded concerns raised by the bills as written, rules to be adopted by the Gaming Commission, and the proper structure to obtain local approval. The Cities of Miami, Miami Beach and others may have additional concerns that I am certain will be communicated to you. Our discussion on December 6 further refined the concerns we have with the destination resort casino legislation.

The Miami-Dade Board of County Commissioners has not yet taken a formal position on the destination resort casino proposal. Nonetheless, it was clear from the discussions, that commissioners share many of the same priorities related to destination resort casinos in Miami-Dade County. Particularly in light of language in HB 487 that requires the County to provide "conceptual approval" for any destination resort casinos (page 55 at lines 1518 to 1521), we thought it would be beneficial to share these comments with you at this early stage of the legislative process.

Here are some of the priorities that were expressed during discussions:

1. Local residents must be first in line for jobs that are created related to both the construction and operation of destination resort casinos, particularly given the current high unemployment rate in Miami-Dade County;
2. Job training programs for local residents need to be put in place well in advance of projected destination resort casino opening dates, so that local residents have the skills and training necessary to fill the jobs that destination resort casinos would create;
3. The people of Miami-Dade County will experience the direct day-to-day affects from destination resort casinos, both positive including jobs and economic development, and potentially negative, such as increased traffic congestion; as such, Miami-Dade County voters should have the ability to choose whether or not to have destination resort casinos by way of referendum;

4. The taxpayers of Miami-Dade County must receive their fair share of revenues generated from destination resort casinos and must enjoy benefits from having destination resort casinos located here by way of revenues generated here staying here and through reductions in property taxes;
5. Destination resort casinos will have regional impacts in Miami-Dade County and South Florida, so decisions should not be preempted to state officials in Tallahassee, but destination resort casinos will have impacts beyond municipal borders; as such, legislation must make it clear that approval of destination resort casinos should be made at the county level, whether destination resort casinos are located in a municipality, multiple municipalities or the unincorporated area;
6. Destination resort casino legislation should include revenue sharing for both the county and applicable municipalities to address impacts to public safety, transportation (including both roads and transit) and water & sewer infrastructure for which current taxpayers should not have to pay;
7. Consideration must be given to existing businesses, both in the direct vicinity of destination resort casinos as well as throughout the County, so that existing businesses are not adversely affected by destination resort casinos, put another way, we don't want to see destination resort casinos siphon business from other hotels, restaurants and attractions here, but instead generate new economic development for this County;
8. Compensation and assistance should be provided for existing residents that are displaced and required to relocate by the development of destination resort casinos.
9. Existing pari-mutuels must have parity with destination resort casinos in regards to games and tax rates given the substantial investments they have already made in this community;
10. Issues related to the continuing viability of the Miami Beach Convention Center and the Performing Arts Center must be addressed;
11. Destination resort casinos shall only be permitted to build a live entertainment venue that has less than 1,000 seats or more than 5,000 seats;
12. Destination resort casinos must be developed in a responsible way, and should be subject to an integrated use planning process, so that destination resort casinos function together with existing businesses, public and private facilities, transit, roads and other infrastructure; destination resort casinos should be integrated into the existing landscape through a planning process, rather than be isolated and apart from it;
13. Legislation must provide a clear process for local government approval of destination resort casinos, not just "conceptual approval", that consists of the state qualifying potential operators of destination resort casinos, both the county and applicable

municipalities approving and having oversight over the development of destination resort casinos, and the operator then returning to the state for final approval;

14. Destination resort casino legislation should address the proliferation of maquinitas/internet cafes/video gaming machines.

If done right, destination resort casinos can provide substantial benefits to the people of Miami-Dade County, particularly during these challenging economic times filled with unemployment and hardship. We look forward to working with you as your destination resort casino proposal moves through the legislative process in Tallahassee.

Sincerely,

cc: Governor Rick Scott
Senate President Mike Haridopolos
House Speaker Dean Cannon

DRAFT



MEMORANDUM
COMMISSIONER ESTEBAN BOVO, JR.

111 NW First Street, Suite 320 Miami, Florida 33128 Tel. (305) 375-4831 Fax (305) 375-2011

TO: HONORABLE CHAIRMAN JOE A. MARTINEZ
BOARD OF COUNTY COMMISSIONERS

DATE: DECEMBER 9, 2011

FROM: COMMISSIONER BOVO

RE: LEGISLATIVE LETTER
DESTINATION RESORTS/GAMING

The discussion by the BCC on December 6, 2011 regarding which important issues the county would like to emphasize with our state delegation on the topic of resort destinations was very fruitful. Thinking further on the subject a very important stakeholder in our community is the Adrienne Arsht Center for the Performing Arts of Miami-Dade County. The close proximity of one of the proposed sites may be an issue of concern on the impact of the center.

I would like to offer the following language to be included in our letter to Tallahassee to ensure that any attempt to approve destination resorts as currently being presented protect the interest of Miami-Dade County and the Performing Arts Center:

- **A gaming licensee shall only be permitted to build a live entertainment venue that has less than 1,000 seats or more than 5,000 seats**

Thank you for your time and consideration on this very important issue.

c: R.A. Cuevas, County Attorney
Honorable Mayor Carlos Gimenez
Harvey Ruvim, Clerk of the Courts

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