

Gaming at Florida Pari-Mutuels: Racinos Are a Sure Bet for the Sunshine State

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JUST FOUR DAYS into the new year, the State of Florida finally joined the casino party, overcoming decades of failed constitutional amendments and legislative initiatives that had sought to win approval for casino-type gaming. Under legislation authorized with a stroke of the pen of Gov. Jeb Bush, four pari-mutuel facilities in the cities of Hallandale Beach, Dania Beach, and Pompano Beach in South Florida's Broward County were given the green light to move forward with Las Vegas-style, Class III slot machine gaming.

With July 1, 2006, set as the deadline for finalization of administrative rules governing their day-to-day operations, the four Broward pari-mutuel facilities—Pompano Park Harness Track, Hollywood Dog Track, Gulfstream Park Thoroughbred Track, and the Dania Jai-Alai Fronton—are effectively first out of the gate, leaving behind other pari-mutuel facilities in neighboring Miami-Dade County not yet authorized to have slots. Their first-mover status positions them to reclaim some of the gaming customers previously lost to unregulated competition at Indian casinos in Florida. All four Broward facilities already have either begun substantial facilities upgrades, have plans on the table awaiting governmental review, or are in the strategic planning process.

The newly enacted slot machine legislation, effective on Jan. 4, 2006, is found in Chapter 551

of the Florida Statutes. The salient features of the law are as follows:

1. Slot machine gaming is authorized only at existing and operating pari-mutuel facilities in Miami-Dade and Broward Counties, "provided that a majority of voters in a countywide referendum have approved slot machines at such facility in the respective county."¹
2. The facility may be operated 365 days per year, 16 hours per day.
3. The maximum number of machines is 1,500 Vegas-style (Class III) slot machines per facility.
4. There is an annual license fee of \$3 million per year.
5. The tax payable to the State of Florida is 50 percent of net slot revenue.
6. The machines will not accept coins or currency, but will be ticket in/ticket out.
7. The minimum age to play the machines is 21 years.
8. If the administrative rules governing the day-to-day operations of the facilities are not finalized by July 1, 2006, then the facilities would be entitled to temporary licenses so as not to delay further the operation of the slot machines.

This new legislation authorizing gaming in Broward County comes as a result of the statewide passage by voters of Florida's Constitutional Amendment 4² in November 2004—

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¹ FLA. STAT. § 551.101 (2005).

² FLA. CONST. art. 10, § 23.

an admittedly scaled-back version of unsuccessful casino gambling initiatives of the past, but nevertheless a monumental achievement given the crushing defeats suffered in the three prior attempts over as many decades. Specifically, Amendment 4 limited gaming to slot machine gaming only and limited the potential gaming venues to the seven operating pari-mutuel facilities in Broward County and Miami-Dade County—provided that local voters in these counties approved slot machines via a referendum.

In a special local option election in March 2005, the voters in the two counties split on the authorization issue. While Broward voters approved the addition of slots at the four pari-mutuel facilities in their county, the voters in Miami-Dade—who had strongly approved Amendment 4 just five months earlier in the 2004 general election—rejected the addition of slots to three pari-mutuels located in their county, Flagler Dog Track, Calder Race Course, and Miami Jai-Alai Fronton.

The unsuccessful special “slots” election in Miami-Dade was marked by a paltry 10 percent voter turnout—in contrast to the 80 percent turnout generated by the hotly contested presidential election in the November 2004 general election. Clearly, the lesson learned is that elections involving issues with potentially emotional or religious overtones should be exposed to the largest number of voters possible, to avoid a disproportionate turnout of single-issue voters with an emotionally negative reaction to the issue. Under Amendment 4, the slot machine issue cannot be put on the ballot again in Miami-Dade County until March 2007.

While the three Miami-Dade pari-mutuels address the pros and cons of a renewed campaign to secure local approval, the four Broward pari-mutuels face other challenges, even as they move forward with their expansion plans under the new legislation. The biggest challenge facing Broward operators is how they can best achieve a return on their new and substantial investment, given some restrictions in the new law—including a 50 percent tax on net slots revenue.

The pari-mutuel operators are confident that, notwithstanding the restrictions, the demand for this new gaming product in Florida will be

so overwhelming that their ventures will enjoy unmitigated success. While each of the operators has a slightly different developmental concept, it is clear that a metamorphosis from a traditional pari-mutuel design to entertainment complexes will occur at all of the facilities—made necessary in part by the need to leverage entertainment and tourism revenue to build a bottom line that cannot be sustained solely through slot revenues burdened by heavy taxation.

As the Broward operators build out their facilities, they are in close contact with the State’s Division of Pari-Mutuel Wagering, which is tasked with the job of writing the implementing rules and regulations for the new law. The Division is basing its proposed regulatory framework on those in place in other gaming jurisdictions, including Nevada, and New Jersey, and is taking into consideration issues such as licensure for permit holders, manufacturers, and distributors; testing processes and criteria for slot machines; occupational licensing issues; and hiring standards for employees.

These issues and others will be considered as part of the State’s public rulemaking process, which has a legislatively imposed goal of finalizing the rules by July 1, 2006. State legislators also will be revisiting the implementing legislation, passed during the 2005 special session of the Florida Legislature, to clarify various issues that were either not addressed or need further review and guidance. The new law provides for temporary licenses to be issued to permit holders for the operation of slot machines if the administrative rulemaking process by the Division is not completed by the July 1 deadline.

Meanwhile, the four pari-mutuel operators in Broward have the opportunity to reclaim some of the gaming customers lost to unregulated Indian casinos that have continued their build out in South Florida. All eyes are on Gov. Bush, who has indicated his willingness to enter into good-faith negotiations with the Indian tribes of Florida to arrive at a compact that would allow Indian casinos to offer Vegas-style (Class III) gaming, now that it is authorized in the state of Florida under the recently enacted legislation.

All this has left the Broward pari-mutuels feeling flush and optimistic about the future of

their new slots businesses. While they know that no law is ever carved in stone, they appreciate the important milestone just achieved and are solidly committed to establishing gaming and entertainment meccas as the first step on the road to bringing Vegas-style gaming and

entertainment to the Sunshine State—long known as a tourist destination for its weather and attractions, and now one of the country's most populated and fastest growing states, with an estimated 1,000 new residents arriving each day.