

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Gaming

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BILL: SPB 7050

INTRODUCER: For consideration by the Gaming Committee

SUBJECT: Gambling

DATE: February 28, 2014

REVISED: \_\_\_\_\_

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ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Kraemer	Guthrie		<b>Pre-meeting</b>

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**I. Summary:**

SPB 7050 proposes an amendment to the State Constitution to require that additional authorized gambling—other than what is authorized by the Constitution, by constitutional amendment, or by general law in effect as of January 6, 2015—will not take effect until enacted by the Legislature and approved by a majority of voters statewide.

This joint resolution creates section 28, Article X of the Florida Constitution.

**II. Present Situation:**

Section 7 of Article X of the 1968 State Constitution provides, “Lotteries, other than the types of pari-mutuel pools authorized by law as of the effective date of this constitution, are hereby prohibited in this state.”

Section 15 of Article X of the State Constitution (adopted by the electors in 1986) provides for state operated lotteries:

Lotteries may be operated by the state.... On the effective date of this amendment, the lotteries shall be known as the Florida Education Lotteries. Net proceeds derived from the lotteries shall be deposited to a state trust fund, to be designated The State Education Lotteries Trust Fund, to be appropriated by the Legislature. The schedule may be amended by general law.

Section 23 of Article X of the State Constitution (adopted by the electors in 2004) provides for slot machines in Miami-Dade and Broward Counties:

After voter approval of this constitutional amendment, the governing bodies of Miami-Dade and Broward Counties each may hold a county-wide referendum in their respective counties on whether to authorize slot machines within existing, licensed parimutuel facilities (thoroughbred and harness racing, greyhound racing, and jai-alai) that have conducted live racing or games in that county during each of the last two calendar years before the effective date of this amendment. If the voters of such county approve the

referendum question by majority vote, slot machines shall be authorized in such parimutuel facilities. If the voters of such county by majority vote disapprove the referendum question, slot machines shall not be so authorized, and the question shall not be presented in another referendum in that county for at least two years.

Chapter 285, F.S., provides for the gaming compact with the Seminole Tribe of Florida. Chapter 550, F.S., provides for state regulation of pari-mutuel wagering. Chapter 551, F.S., provides for state regulation of slot machine gaming at the location of certain pari-mutuel facilities in Miami-Dade County or Broward County. Chapter 849, F.S., provides that gaming or gambling is a crime unless specifically authorized, and it authorizes, with conditions, cardrooms at pari-mutuel facilities, penny-ante games, bingo, charitable drawings, game promotions (sweepstakes), bowling tournaments, and amusement games or machines.

### **III. Effect of Proposed Changes:**

This joint resolution proposes an amendment to Article X of the State Constitution (new Section 28) providing that gambling is prohibited unless authorized by the State Constitution, by a constitutional amendment, by a general law in effect on the effective date of the new Section 28 of Article X, or by an act of the Legislature that does not take effect until a public measure is submitted to the electors at the next general election and approved by a majority vote. The proposed new Section 28 of Article X also specifies the language for a statewide referendum: “Shall ... (additional gambling)... be authorized in this state?”

If approved by at least 60% of the electors, the proposed new Section 28 of Article X of the State Constitution will take effect on January 6, 2015 (the first Tuesday after the first Monday in January following the election), as provided in the State Constitution.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

The provisions Article VII, section 18, of the Florida Constitution, do not apply to a joint resolution amending the Constitution.

#### **B. Public Records/Open Meetings Issues:**

None.

#### **C. Trust Funds Restrictions:**

None.

#### **D. Other Constitutional Issues:**

Article XI, section 1, of the State Constitution provides various methods for proposing amendments to the constitution, along with the methods for approval or rejection of proposals. One method by which constitutional amendments may be proposed is by joint

resolution agreed to by three-fifths of the membership of each house of the Legislature.<sup>1</sup> Any such proposal must be submitted to the electors, either at the next general election held more than 90 days after the joint resolution is filed with the Secretary of State, or, if pursuant to law, enacted by the affirmative vote of three-fourths of the membership of each house of the Legislature and limited to a single amendment or revision, at an earlier special election held more than 90 days after such filing.<sup>2</sup>

Article XI, section 5(d) of the State Constitution, requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper is published. The amendment or revision must be published once in the tenth week and again in the sixth week immediately preceding the week the election is held. The Division of Elections (division) within the Department of State estimates the full publication costs for advertising the proposed amendment to be \$108,793.50.<sup>3</sup> The division estimates the cost based on the average cost per word to advertise the proposed constitutional amendment.

Article XI, section 5(e) of the State Constitution, requires approval by 60 percent of voters for a constitutional amendment to take effect. The amendment, if approved, becomes effective on the date specified in the amendment, which is January 1, 2013.

#### **V. Fiscal Impact Statement:**

##### **A. Tax/Fee Issues:**

None.

##### **B. Private Sector Impact:**

None.

##### **C. Government Sector Impact:**

A proposed constitutional amendment must be published in a newspaper of general circulation in each county, once in the sixth week and once in the tenth week preceding the general election.<sup>4</sup> The Department of State (DOS) is responsible for having proposed amendments published in newspapers, and the publication cost depends on length. For a constitutional amendment proposed in the 2013 legislative session, DOS estimated the costs of publishing amendments to be \$67.68 per word.<sup>5</sup> At that rate for a 182-word amendment, the estimated cost to publish is \$12,318.<sup>6</sup> These funds must be spent regardless of whether the amendment passes. Should the amendment be legally

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<sup>1</sup> Fla. Const., art. XI, s. 1.

<sup>2</sup> Fla. Const., art. XI, s. 5(a).

<sup>3</sup> E-mail correspondence with Department of State staff (Jan. 27, 2012) (on file with Senate Judiciary Committee).

<sup>4</sup> Fla. Const., art. XI, s. 5(d).

<sup>5</sup> Fiscal Note on SJR 1740, Florida Department of State, March 22, 2013.

<sup>6</sup> *Id.*

challenged, the DOS is typically the defendant in these suits.<sup>7</sup> Estimates for legal defense range from \$10,000 to \$150,000.<sup>8</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

None.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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<sup>7</sup> *Id.*

<sup>8</sup> *Id.*