

**Constitution Revision Commission
Executive Committee
Proposal Analysis**

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

Proposal #: CS/P 67

Relating to: MISCELLANEOUS, creates new section; SCHEDULE, creates new section

Introducer(s): General Provisions Committee and Commissioner Lee and others

Article/Section affected: Article X, creates new section; Article XII, creates new section

Date: January 31, 2018

	REFERENCE	ACTION
1.	<u>GP</u>	<u>Fav/CS</u>
2.	<u>EX</u>	<u>Pre-meeting</u>

I. SUMMARY:

The proposal creates new sections in Article X and Article XII of the State Constitution to prohibit wagering on greyhound or other dog races on or after December 31, 2019. The proposal also provides that the failure to conduct live greyhound racing after December 31, 2019, does not constitute grounds to revoke or deny other gaming licenses.

Currently operating greyhound facilities will be required to cease wagering on greyhound races after December 31, 2019, but may continue other gaming activities, including operating cardrooms and slot machines.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Gambling in Florida

In general, gambling is illegal in Florida. Chapter 849, F.S., prohibits keeping a gambling house, running a lottery, or the manufacture, sale, lease, play, or possession of slot machines.

The 1968 State Constitution provides that “Lotteries, other than the types of pari-mutuel pools authorized by law as of the effective date of this constitution . . .”¹ are prohibited.

¹ The pari-mutuel pools that were authorized by law on the effective date of the Florida Constitution, as revised in 1968, include horseracing, greyhound racing, and jai alai games.

A constitutional amendment approved by the voters in 1986 authorized state-operated lotteries. Net proceeds are paid by the lottery to the Educational Enhancement Trust Fund (EETF) for uses pursuant to annual appropriations of the Legislature. Lottery operations are self-supporting and function as an entrepreneurial business enterprise.²

In 2010, a Gaming Compact between the Seminole Tribe of Florida and the State of Florida was ratified. Pursuant to Chapter 285, F.S., it is not a crime for a person to participate in raffles, drawings, slot machine gaming, or banked card games (e.g., blackjack or baccarat) at a tribal facility operating under the compact.³

The following gaming activities are authorized by law and regulated by the state:

- Pari-mutuel wagering⁴ at licensed greyhound and horse tracks and jai alai frontons;⁵
- Slot machine gaming at certain licensed pari-mutuel locations in Miami-Dade County and Broward County;⁶ and
- Cardrooms at certain pari-mutuel facilities.⁷

A license to offer pari-mutuel wagering, slot machine gambling, or a cardroom at a pari-mutuel facility is a privilege granted by the state.⁸

Pari-Mutuel Wagering in Florida

Section 550.002(22), F.S., defines “pari-mutuel wagering” as “a system of betting on races or games in which the winners divide the total amount bet, after deducting management expenses and taxes, in proportion to the sums they have wagered individually and with regard to the odds assigned to particular outcomes.” The pari-mutuel wagering occurs at a pari-mutuel facility, which is a racetrack or fronton used to run horse or greyhound racing or to play jai-alai games.⁹ Authorized pari-mutuel events

² The Department of the Lottery is authorized by Art. X, s. 15, FLA. CONST. Chapter 24, F.S., was enacted by ch. 87-65, L.O.F., to establish the state lottery. Section 24.102, F.S., provides the legislative purpose and intent for the operations of the state lottery.

³ The seven tribal locations where gaming is authorized by the compact are: (1) Seminole Hard Rock Hotel & Casino—Hollywood (Broward); (2) Seminole Indian Casino—Coconut Creek (Broward); (3) Seminole Indian Casino—Hollywood (Broward); (4) Seminole Hard Rock Hotel & Casino—Tampa (Hillsborough); (5) Seminole Indian Casino—Immokalee (Collier); (6) Seminole Indian Casino—Brighton (Glades); and (7) Seminole Indian Casino—Big Cypress (Hendry).

⁴ Pari-mutuel” is defined in Florida law as “a system of betting on races or games in which the winners divide the total amount bet, after deducting management expenses and taxes, in proportion to the sums they have wagered individually and with regard to the odds assigned to particular outcomes. *See* s. 550.002(22), F.S.

⁵ *See* ch. 550, F.S.

⁶ *See* ch. 551, F.S.

⁷ *See* s. 849.086, F.S.

⁸ *See* s. 550.1625(1), F.S., “...legalized pari-mutuel betting at dog tracks is a privilege and is an operation that requires strict supervision and regulation in the best interests of the state.” *See also Solimena v. State*, 402 So.2d 1240, 1247 (Fla. 3d DCA 1981), review denied, 412 So.2d 470, which states “Florida courts have consistently emphasized the special nature of legalized racing, describing it as a privilege rather than as a vested right”, citing *State ex rel. Mason v. Rose*, 122 Fla. 413, 165 So. 347 (1936).

⁹ *See* s. 550.002(23), F.S.

include harness racing, quarter horse racing, thoroughbred racing, greyhound racing, and jai alai. Pari-mutuel wagering was originally authorized by the Legislature in 1931.

The Division of Pari-Mutuel Wagering (division), which is housed within the Department of Business and Professional Regulation (DBPR), is responsible for regulating pari-mutuel wagering and has issued 50 wagering permits and seven non-wagering permits.¹⁰ There are 39 pari-mutuel permitholders currently operating at facilities throughout Florida,¹¹ 19 of those are greyhound permitholders. Several locations have multiple permits that operate at a single facility. Twenty-six pari-mutuel facilities are licensed to operate cardrooms. Eight pari-mutuel facilities within Miami-Dade County and Broward County are licensed to operate slot machine gaming.

Live Racing Requirements

In order for a pari-mutuel permitholder to continue to conduct pari-mutuel wagering, the permitholder must conduct a full schedule of live racing or games. The number of races and games is set by law and varies among the types of pari-mutuel events (harness racing, thoroughbred racing, greyhound racing, and jai alai).¹²

The conduct of a full schedule of live racing or games is a condition of licensure for a slot machine licensee,¹³ and the conduct of a minimum number of live races is a condition of renewal for a cardroom license.¹⁴ The continued operation of pari-mutuel wagering, cardrooms, and in the case of some facilities, slot machines, is tied to conducting a statutory mandated number of races or games regardless of market demand.

B. EFFECT OF PROPOSED CHANGES:

The proposal creates new sections in Article X and Article XII of the State Constitution to prohibit wagering on greyhound or other dog races on or after December 31, 2019.

Article X, Miscellaneous, provides a prohibition of wagering on greyhound or other dog races. A person that is licensed to conduct gaming or pari-mutuel operations may not race greyhounds or any other member of *Canis Familiaris* subspecies in connection with any wager of money or other value in this state.

The proposal provides that by general law, the Legislature shall specify civil or criminal penalties for violations of this section and for activities that aid or abet violations.

The proposal provides that all greyhound and dog racing in connection with any wager is prohibited on or after December 31, 2019.

¹⁰ For a list of all permitholders see <http://www.myfloridalicense.com/dbpr/pmw/documents/CurrentPermitholdersList.pdf> (last visited 11/22/17).

¹¹ For a list of all operating permitholders see <http://www.myfloridalicense.com/dbpr/pmw/PMW-PermitholderOperatingLicenses--2017-2018.html> (last visited 11/22/17).

¹² See s. 550.002(11), F.S., for complete list of required races and games.

¹³ See s. 551.104(4)(c), F.S.

¹⁴ See s. 849.086(5)(b), F.S.

The proposal provides that failure to conduct live greyhound racing after December 31, 2019, does not constitute grounds to revoke or deny other gaming license to a person that is a greyhound permitholder on November 6, 2018.

By December 31, 2019, the 19 currently operating greyhound pari-mutuel permitholders must cease the wagering on racing of greyhounds, but may continue to operate a cardroom, or if the permitholder has a slot machine license, operate slots even though the permitholder has not conducted a full schedule of live racing as required by current law.

C. FISCAL IMPACT:

DBPR projects the following fiscal impact:¹⁵ the prohibition on wagering of dog racing may result in a projected loss of tax revenue and fee revenue associated with greyhound pari-mutuel permitholders as follows:

- FY 2019-2020, approximately \$1.1 million;
- FY 2020-2021, approximately \$1.3 million.

A portion of this projected loss may be mitigated if patrons of greyhound wagering move to wagering on horse racing or jai alai.

Department of Education – escheated tickets from greyhound racing. DBPR estimates that beginning in FY 2020-2021, there would likely be a decrease of approximately \$400,000 to the Department of Education from escheated tickets associated with greyhound racing.

Other Personnel Services (OPS) – Due to the proposed prohibition of wagering on greyhound or dog racing, a reduction may be achieved in the OPS portion dedicated to licensing and sample collection at greyhound permitholder facilities of up to approximately \$325,000 to \$400,000 when the prohibition is implemented on December 31, 2019.

III. Additional Information:

A. Statement of Changes:

(Summarizing differences between the current version and the prior version of the proposal.)

General Provisions Committee on November 30, 2017:

The amendment removed the three year schedule of reduced greyhound racing and revised the prohibition on greyhound racing from July 1, 2021 to December 31, 2019.

B. Amendments:

None.

¹⁵ See DBPR updated fiscal analysis of Proposal 67 (on file with CRC staff).

C. Technical Deficiencies:

None.

D. Related Issues:

None.