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GAMBLING PROPOSALS ON ELECTION DAY

OCTOBER 27, 2004



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Albany, NY 12208
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Gambling Proposals on Election Day

Next Tuesday, November 2, 2004, there will be eight significant gambling propositions on the ballot across the United States. (ten if you count referenda in several Virginia counties and in Tioga County in New York State on whether to authorize OTB's.) Many of these positions involve internecine fights within the gambling industry. Others make you wonder at the political acumen of the leaders of the gambling community. Most of these election campaigns are massively funded, and the only certain winners of these elections are political consultants. The election battles are being held in California, Florida, Iowa, Michigan, Nebraska, Oklahoma, Washington, and Wisconsin. This note reviews the issues in each of the states.

California

California has two initiatives on the ballot concerning gambling. Conventional wisdom has both of these measures failing badly. In fact, the proponents of Proposition 68 have largely conceded defeat and have stopped their campaign contributions to this measure. They had spent over \$24 million with a month left before the election.

California currently has 64 tribes with compacts with 53 casinos offering 54,000 slot machines. Earlier this year, the state reached agreement with five tribes under which the tribes would be able to expand their slot machine operations without limits in return for greatly expanded payments to the State.

Proposition 68 is a thinly disguised attempt to bring slot machines to racetracks and card rooms. If all the Indian tribes agreed to pay the State 25% of their net revenue, that would resolve all matters. If, however, not all tribes agreed to this measure, then this would open up 30,000 slot machines for commercial racetracks and card rooms in five largely urban counties. There would be 16 establishments in toto, five racetracks and 11 card rooms. They would pay 30% of their net revenue to the State. The bulk of the funds would be paid to local governments. The racetracks (Santa Anita, Hollywood, Bay Meadows, Golden Gate, and Los Alamitos) would also pay an additional 20% for payments to the racing industry.)

Proposition 70 is a tribal sponsored measure which would largely prevent competition from private gambling interests. Tribes would agree to pay in net revenue to the State the equivalent of the State's corporate tax rate, currently 8.84%. In return, they would have unlimited expansion rights for slot machines, additional casino games, and the State would agree to give them 99 year leases. The payments would cease if the tribes lost casino exclusivity. The primary sponsor of Proposition 70 is The Agua Caliente Band Of Cahuilla Indians who have spent in excess of \$20 million in support of this measure.

Supporters of both measures argue that they are based on fairness. Prop 68 would treat private interests in the same manner as Indian tribes. Prop. 70, according to its supporters, would treat Indian casinos in the same manner as other State businesses and raise additional income for the State of California.

Both measures have been vigorously opposed by Governor Schwarzenegger who argues that they will effectively destroy his agreement with the five tribes. His opposition to Proposition 68 is based on its expansion of casino gambling to urban areas and to the fact that none of the money from this expansion can go to the State to reduce its deficit. Opposition to Proposition 70 is premised on the fact that the tribes are locked in with a 99 year deal under which they make minimal payments to the State. Most all government officials have joined Governor Schwarzenegger in opposition to Proposition 70. Much like Proposition 68, Proposition 70 is trailing badly in the election polls.

California Documents

Text of Prop 68 <http://www.voterguide.ss.ca.gov/propositions/prop68text.pdf>

Analysis of Prop 68 http://www.ss.ca.gov/elections/bp_nov04/prop_68_entire.pdf

Text of Prop. 70 <http://www.voterguide.ss.ca.gov/propositions/prop70text.pdf>

Analysis of Prop. 70 http://www.ss.ca.gov/elections/bp_nov04/prop_70_entire.pdf

Campaign Finance Activity on Prop 68, <http://cal-access.ss.ca.gov/Campaign/Measures/Detail.aspx?id=1263263&session=2003>

Campaign Finance Activity on Prop 70, <http://cal-access.ss.ca.gov/Campaign/Measures/Detail.aspx?id=1264620&session=2003>

Florida

Amendment 4 is an initiative petition which would authorize slot machines in pari-mutuel facilities in Miami-Dade and Broward Counties. These two counties are the large counties in southeastern Florida. They are the two largest counties in Florida. Miami-Dade has over 2.25 million residents, and Broward has 1.6 million residents. The existing facilities in those counties are at Calder, Gulfstream, Pompano, Dania Jai Alai, Hollywood Greyhound, Miami Jai Alai, and Flagler Greyhound. These are two thoroughbred tracks (no Hialeah), one harness track, two jai alai frontons, and two dog tracks. The proposal to be voted on in November state-wide amends the State Constitution to allow for slot machines at pari-mutuel facilities in the two counties. If approved by the full state, it awaits further legislative action in 2005. After the legislative action, it would then be voted on in separate authorization elections held in the two counties.

The main carrot in the amendment is that any revenue from the State taxing the slot machines is supposed to supplement public education statewide. Thus, in more culturally conservative areas of Florida, the taxpayers could conceivably have their cake and eat it too. They get added revenue for education and no gambling in their areas. Clearly the pari-mutuel facilities in Florida outside of the two counties would not stand to benefit from this amendment. There are 14 dog tracks, one thoroughbred track, and three jai alai frontons in Florida outside these two counties. Most clearly hurt would be the Palm Beach Kennel Club in Palm Beach County, which is the county adjacent to Broward County. Also if slot machines are authorized in Broward County, there would be no reason to relocate Magna Entertainment's Gulfstream Park from Broward County to its Palm Meadows training facility in Palm Beach County.

Previous referenda to allow casinos on Florida's Gold Coast have been unsuccessful. However, this amendment has been endorsed by the teachers' union in Florida. The landscape has also been changed in Florida with the advent of large untaxed Indian casinos in Florida (There are now three Indian casinos in Broward and Miami-Dade Counties.) plus a considerable number of untaxed casino cruises to nowhere. Governor Bush opposes the measure since he believes it unnecessarily expands gambling, and its most visible opponents have been the animal rights activists who oppose greyhound racing. Recent polls showed the Amendment with a slight lead. Ten years ago, a similar amendment lost by 62% to 38%. It should be noted that the proponents of this amendment are far better funded than the opponents.

Florida Documents

Website for Proponents <http://www.yesforlocalcontrol.com/main.cfm>

Website for Opponents, <http://www.nocasinosfl.com/>

Amendment 4 Text, <http://election.dos.state.fl.us/initiatives/fulltext/30910-2.htm>

Financial Impact Statement,

<http://www.state.fl.us/edr/conferences/constitutionalimpact/a1impact.pdf>

Election Information on Floridians for a Fair Playing Field,

<http://www.state.fl.us/edr/conferences/constitutionalimpact/a1impact.pdf>

<http://election.dos.state.fl.us/cgi-bin/comhtml.exe?account=30910>

Iowa

Voters in Dallas, Madison and Warren counties in central Iowa will decide whether to authorize casinos in their communities. The proponents are lead by Isle of Capri which would have a 49% stake in the new casino and local businessman Gary Kirke. Isle of Capri already operates three casinos in Iowa. Major opposition to these proposal comes from nearby gambling interests, the racino at Prairie Meadows and the Lakeside Casino

and Resort in Osceola. One of the opposing groups – Bail Out? No Dice! – is actually lead by the lobbyist for Prairie Meadows. There is also considerable local opposition to a proposal that would change the rural character of these communities. In short, will the bridges of Madison County turn into the casinos of Madison County?

Michigan

Michigan has Proposal 1 on the ballot. This initiative is largely an effort by the organizations with current casinos (Detroit casinos and Indian tribes) to block other groups from obtaining casinos. Voter approval of any gambling expansion would be required for racinos, new casinos, and lottery games involving table games or player operated mechanical or electronic devices. If passed, the State could not add VLT's without a referendum.

Michigan has 11 tribes operating 17 casinos. There are also three large private casinos in Detroit. Racino legislation come close to passage in Michigan, and this proposal would subject any racino legislation to a statewide referendum.

While early polls showed the proposal sailing towards easy approval, more recent polls have put the proposal in major difficulty. Part of the reason for the movement towards disapproval has been due to Governor Granholm's active campaigning against the proposal. She has viewed the measure as a grave threat to the lottery, and she and education officials have spoken out against the measure. In the latest poll, 52% still support the measure, but that is a significant drop from where support was before Granholm's involvement. \$12 million has already been spent by the tribes and casinos in support of this measure. Michigan's racetracks have raised several million in opposition to this measure.

This may be a case where the proponents should not have put a ballot measure on the ballot unless they were certain it would win. A loss by the proponents will make it far easier for the State legislature to enact racino legislation in Michigan.

Michigan Documents

Proponents Website <http://www.letvotersdecideyes.com>

Opponents Website <http://www.NoOnProp1.com>

Citizens Research Council Analysis

<http://crcmich.org/PUBLICAT/2000s/2004/memo1076.pdf>

Ballot Language http://michigan.gov/documents/PROP_04-1_101307_7.pdf

Nebraska

In perhaps the oddest election, two gambling propositions are on the ballot. Nebraska has no casino gaming, but there is plenty of gambling in neighboring South Dakota and Iowa. Iowa presents significant problems since there are three casinos in Council Bluffs (including one at a dog track) which is located directly across the Missouri River from Nebraska's largest city, Omaha.

One proposal advanced by the legislature (Amendment 3) would amend the Nebraska Constitution to allow the legislature to authorize two casinos in the State, subject to a local referendum. One would presumably be in Omaha. There has been talk that the other casino might be located in Lincoln.

The second proposal added by an initiative is a series of four separate ballot issues. (Initiatives 417 – 420). Some of these specific proposals make it difficult for the legislature to alter initiatives passed by the people. The substantive gambling proposals would establish two casinos in Omaha within two miles of the Iowa border, plus slot machines at racetracks and mini-casinos termed "strategic premises," and video lottery terminals at establishments which serve alcoholic beverages for on-premises consumption. According to the proponents (Keep the Money in Nebraska), there would be a maximum of 4,900 gambling devices in the State outside the two Omaha casinos. The wording of these Initiatives is particularly obtuse.

The legislative amendment is principally supported and backed by the Venetian Casino. Since the Initiative would spread the benefits across the entire state, it has a wider group of supporters. The main supporter has been Coast Casinos, but when you see the Nebraska HBPA contributing \$250,000 to the fight, you recognize that this is a major funded effort.

Opposition has come from a group termed Gambling with the Good Life. This group has received support from the Council Bluffs casino owners. It has also received vocal support from high-profile Nebraskans like Warren Buffet and football coach turned Congressman Tom Osborne. The opponents point out that passage of either gambling proposal would authorize the Indian tribes in Nebraska to put up an unlimited number of their own casinos.

Complicating matters in this election is the fact that there are some contradictions between the legislative proposal and the Initiative. If both pass, the ballot measure which receives the most votes will control on those issues that are contradictory.

Nebraska Documents:

Constitutional amendment text: Amendment 3

http://www.sos.state.ne.us/elec/prev_elec/2004/pdf/leg_amd_txt.pdf

Text of Initiatives -

http://www.sos.state.ne.us/elec/prev_elec/2004/pdf/2004_gen_ca_init.pdf

Venetian contributions <http://nadc.nol.org/ccdb/findfilings.cgi?idno=99CUA03073>

Gambling with the Good Life contributions
<http://nadc.nol.org/ccdb/findfilings.cgi?idno=99BQC00074>

Keep the Money in Nebraska contributions
<http://nadc.nol.org/ccdb/findfilings.cgi?idno=99BQC00090>

Proponents of the 4 Propositions <http://www.keepthemoneyinnebraska.com/>

Proponents of Amendment 3 <http://www.yesonamendment3.com/>

Opponents <http://www.gamblingwiththegoodlife.com/>

Oklahoma

Oklahoma voters are presented with two ballot questions concerning gambling. Question 706 would establish a State lottery in Oklahoma. The proceeds from the lottery would be used to supplement financial aid to education.

Also on the ballot is Question 712 which would establish a State-Tribal Gaming Act for in Oklahoma. Tribes that agree to the model compact authorized by the act will receive newer and faster electronic gaming machines. The state would receive additional funds from the tribes for education. If more than four tribes sign on – and there are 80 tribes in Oklahoma with 27 tribes operating casinos - to the model compact, then three of the state’s four racetracks (Blue Ribbon, Remington, and Blue Ribbon) could utilize the same electronic gaming machines. Since more than four tribes are certain to sign on, this is in no small measure a proposal to bring racinos to Oklahoma. Blue Ribbon and Will Rogers are already owned by Indian tribes. Remington Park is owned by Magna Entertainment. Remington will have a maximum of 650 machines, and the other tracks will have 250. The fourth track, Fair Meadows in Tulsa, will receive revenue from the Indian tribes. A poll in early October showed strong voter approval of this racino ballot question. The proponents with over \$3 million in contributions are clearly outspending the opposition. There is significant money significant money coming from the tribes that support 712 plus the makers and distributors of gaming devices. The measure is supported by Governor Henry and was placed on the ballot by the state legislature. The Baptist General Convention of Oklahoma is the major opponent of the measure. Some of the smaller Indian tribes are also opposed to the ballot question.

Oklahoma Documents

Text of Ballot Questions, <http://www.elections.state.ok.us/sqgen04.pdf>

S.B. 553 <http://www.sos.state.ok.us/documents/Legislation/49th/2004/2R/SB/553.pdf>

Washington

Washington State has a major gambling initiative on its ballot. I-892 would allow electronic scratch off ticket machines in neighborhood bars, restaurants, horse racing tracks(which is Emerald Downs), cardrooms, charities and bingo halls all over the state — anywhere with a gambling license. The proposal has been the work of Tim Eyman, who is the guru of initiatives in Washington. Taxes on the proceeds of these machines would pay for a state property tax cut. Currently, the State allows mini-casinos to offer house-banked games. There are at present 18,225 electronic scratch off machines at 23 Indian gaming facilities in Washington, and this proposal would cap the number of private scratch off ticket machines at the number of tribal scratch off machines. Sixty-five percent of the revenue would go to the licenses with 35% to the State. After the administrative costs are accounted for, 99% of the remaining State funds will go to property tax relief. The remaining 1% of the funds will go to a problem gambling program.

Proponents argue that this initiative will put private taxable organizations on the same level playing field as the Indian tribes. They argue that there is no expansion of gambling since this form of gambling is currently present at the tribal casinos throughout the State, and they believe that there will be a significant reduction(\$400 million) in the State's property taxes.

Opponents argue that this is major blow to Indian casinos, and constitutes a major expansion of gambling. They also argue that this measure will lower revenue to local governments. Local governments in Washington tax much of the current legalized gambling activities. Since electronic machines are bound to decrease wagering on these types of games (principally pull tabs and bingo), the revenue to local governments will decrease. The Indian tribes have been the major opponents of this initiative, and the Governor's office in Washington has also taken sides against the proposal. It should be noted that the opposition to this proposal is far better funded than the proponents.

Washington Documents

Text of I-892

<http://www.secstate.wa.gov/elections/initiatives/text/i892.pdf>

I-892 Information from the Washington State Gambling Commission

<http://www.wsgc.wa.gov/I-892.htm>

Summary of Potential Impacts, <http://www.ofm.wa.gov/initiatives/2004/892/>

Opponents Website <http://www.permanentdefense.homestead.com/Endorsements.html>

Proponents Website <http://www.permanent-offense.org/>

Opponents' Spending

<http://hera.pdc.wa.gov/wx/getpage.asp?batchnumber=100103511&formtype=C4>

Proponents' Spending

<http://hera.pdc.wa.gov/wx/getpage.asp?batchnumber=100103450&formtype=C4>

Wisconsin

There is a significant advisory referendum in Racine County Wisconsin. The Menominee tribe in partnership with the Mohegan Tribe of Connecticut – Wants to establish an \$808 million casino at the location of Dairyland Greyhound Park in Kenosha. Voters in 1998 had supported a similar Menominee plan.

The Forest County Potawatomi tribe is fighting the plan because it would cut into the Potawatomi's Milwaukee casino, which raked in nearly \$260 million in gambling revenue last year. Similarly, Chicago area casinos are opposed to the plan since Kenosha which is on the Illinois border is about 50 miles from Chicago.

The problem here is that this is ballot is merely an advisory referendum to help support the Menominee's efforts to put Dairyland in trust. A land in trust application needs approval of both the Governor and the federal Bureau of Indian Affairs. Governor Doyle in Wisconsin has already stated that he would look to the results of the election as a factor as to whether he would approve the application. One of the factors that the Bureau of Indian Affairs is supposed to look to is the support the proposal has with local residents. Even then, the Bureau of Indian Affairs has been exceedingly reluctant to grant approval to land in trust applications. The Bureau might simply deny all land in trust applications or simply delay its decision for years by studying the matter to death. Unless the proposal passes by a large margin, it will not be of significant benefit to the Menominees.