

IN THE SUPREME COURT OF FLORIDA
CASE NO. SC 05-1565

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CLERK SUPREME COURT
FL

ADVISORY OPINION TO THE ATTORNEY GENERAL

RE: INITIATIVE REQUIRING LEGISLATIVE DETERMINATION THAT
SALES TAX EXEMPTIONS SERVE A PUBLIC PURPOSE

**MOTION FOR LEAVE TO FILE SUPPLEMENTAL
BRIEFS ON CHANGED CIRCUMSTANCES
AND NOTICE OF SUPPLEMENTAL AUTHORITY**

Interested Parties Florida Association of Realtors, Inc., Florida Institute of Certified Public Accountants, Florida Retail Federation, et al., in Opposition To The Proposed Initiative (“Interested Parties”), by and through undersigned counsel, move this Court for Leave to File Supplemental Briefs on Changed Circumstances, and serve Notice of Supplemental Authority, pursuant to Rules 9.300 and 9.225, Fla. Rules of Appellate Procedure. In support of this motion, Interested Parties state as follows:

1. The Florida Constitution requires that all initiative petitions which are to be submitted to the electorate for the general election must be filed with the custodian of state records not later than February 1 of the year in which the general election is to be held. Article XI, Section 3; Article XI, Section 5 (b), Fla. Constitution, and Sect. 100.371 (1), Fla. Stat. (2005). All certifications of

signature verification must be received by the Division of Elections, Office of the Florida Department of State, from the supervisors of elections no later than 5:00 p.m. on February 1 of the year in which the general election is held.

2. On or about February 2, 2006, the Secretary of State of the State of Florida had certified all of those initiative petitions which had been filed for submission to the voters. See relevant web pages of the Florida Department of State, Division of Elections, <http://election.dos.state.fl.us/initiatives>, copies of which are attached hereto as “Exhibit A.”

3. The initiative petition entitled “Initiative Requiring Legislative Determination That Sales Tax Exemptions Service A Public Purpose” did not receive certification by the Secretary of State that the initiative supporters had forwarded the petition and had gathered enough valid petition signatures to qualify for placement on the ballot at the next general election to be held November 2006. See Exhibit A. Consequently, the initiative will not appear on the general election ballot in 2006.

4. Initiative petitions may only appear on general election ballots. Section XI, Section 5 (b), Fla. Constitution. The signatures gathered and verified are valid for a four-year period, but the earliest that the proposed amendment in this cause could qualify for placement on the general election ballot is the ballot for the November 2008 general election. Sect. 100.371 (2), Fla. Stat. (2005).

5. The proposed amendment contains dates for completion by the Legislature of a review of exemptions not currently subject to the sales tax. By the express terms of the proposed amendment, that review must be completed prior to July 1, 2008. Under the terms of the proposed amendment, if an exemption is not reenacted by the Legislature prior to July 1, 2008, the exemption automatically lapses and the subject of the exemption becomes taxed as of January 1, 2009.

6. The process contemplated by the proposed amendment would require legislative review of the exemptions prior to the proposed amendment even appearing on the general election ballot in November 2008. As a direct consequence of the proposed amendment not appearing on the general election ballot until November 2008, the Legislature will not have had the opportunity to review the exemptions as contemplated by the amendment prior to the exemption lapsing and being subjected to the sales tax. Because of its specific wording, the timing of potential elector approval of the proposed amendment is critical to its expressed operation, and the Legislature would be precluded by the operation of time from review and reenactment of exemptions as conceived.

7. Additionally, because no effective date is specified in the amendment, the amendment itself will not become effective, if approved by the voters, until the first Tuesday after the first Monday in January 2009. Article XI, Section 5 (e), Florida Constitution. The general effective date applicable to the amendment also follows the date specified in the amendment for the effectiveness of any tax

imposed on the subject of a lapsed exemption when the exemption has not been reenacted by the Legislature prior to July 1, 2008.

8. The Interested Parties have filed briefs in this cause directed to the inadequacy of the notice to the voters and the failure of the proposed amendment to comport with the single-subject requirement. The inclusion in the proposed amendment of specific dates for completion of the amendment-driven legislative review, while allowing for placement only on a general election ballot that falls later than the amendment-specified date for legislative action, are changed factual circumstances that raise additional issues of adequate notice to the voters through the ballot summary. As well, the amendment's violations of the single-subject rule may be exacerbated by these changed circumstances.

9. The additional issues of notice and the single-subject rule impacts that result from the changed circumstances require further briefing by the Interested Parties and the Sponsor – and attention from the Court – so that the Court may be fully informed as to the issues properly before the Court in its review of the proposed amendment.

10. The Interested Parties are prepared to address the issue at oral argument scheduled in this cause for February 6, 2006. The Interested Parties believe, however, that the Court would benefit from the submission of supplemental written briefs directed to the impacts of the changed circumstances.

It is respectfully suggested that such briefs not exceed 10 pages in length and be required to be submitted within 21 days following oral argument in this cause.

11. Additionally, Interested Parties intend to cite and argue the following opinion, *Advisory Opinion to the Attorney General RE: Florida Locally Approved Gaming*, 656 So.2d 1259 (Fla. 1995), as supplemental authority in this cause. A copy of the opinion is attached hereto as “Exhibit B.”

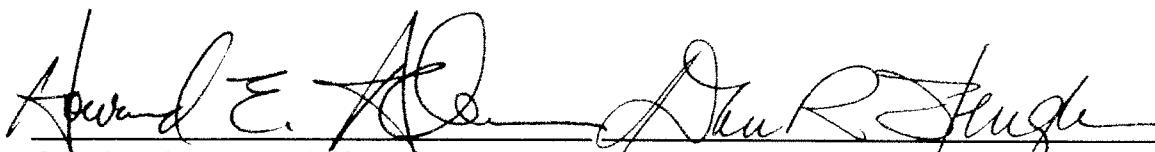
12. The undersigned counsel for the Interested Parties have consulted with counsel for Petitioner, Attorney General Charlie Crist, who has authorized the undersigned to represent that the Petitioner has no objection to further briefing on the limited issues raised by the changed circumstances as outlined herein. Counsel for Petitioner also has requested the undersigned to represent that the Petitioner wishes to reserve the right to file any further response as may be needed or as appropriate following Petitioner’s review of this motion and notice of supplemental authority.

13. The undersigned counsel for the Interested Parties have consulted with counsel for the Sponsor FAIR, who has authorized the undersigned to represent that FAIR objects to further briefing on the issues raised by the changed circumstances as outlined herein, and that counsel for the Sponsor intends to file objections and responses to the motion.

Wherefore the Interested Parties move this Honorable Court:

a. to allow supplemental briefs -- not to exceed 10 pages -- to be filed within 21 days following oral argument Such briefs would be limited to the issues of the changed circumstances wherein the proposed amendment will not appear on the general election ballot in November 2006, based on the lack of certification by the Secretary of State that the sponsor gathered the requisite number of verified signatures for placement of this proposed amendment on the next general election ballot by the February 1, 2006 deadline. Such issues would specifically be directed to the validity of the proposed amendment with respect to the requirement that the ballot summary provide fair and adequate notice to the voters, and that the proposed amendment be limited to a single subject; and

b. to grant such other and further relief as the Court deems just and proper.



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of this Motion to Correct Answer Brief of Interested Parties was provided by United States mail, postage pre-paid, to: CHARLES J. CRIST, JR., Attorney General, The Capitol, PL-01, Tallahassee, Florida 32399, and ROBERT L. NABORS, Nabors, Giblin & Nickerson, P.A., 1500 Mahan Drive, Suite 200, Tallahassee, Florida 32308, on this 2nd day of February, 2006.

CERTIFICATE OF COMPLIANCE

I FURTHER CERTIFY that the corrected page three is presented in 14-point Times New Roman and complies with the font requirements of Rule 9.210.





Initiative directing manner by which sales tax exemptions are granted by the legislature

Sponsor: Floridians Against Inequities in Rates (Fair)

Certified Petition Signatures as of 2/2/2006

(Valid signatures are those less than 4 years old and expired signatures are those more than 4 years old)

DISTRICT	Needed For Review	Needed For Ballot	Valid Signatures	Expired Signatures
1	2,591	25,905	19	0
2	2,701	27,003	52	0
3	1,931	19,302	143	0
4	2,638	26,380	35	0
5	3,066	30,652	4,887	0
6	2,782	27,821	84	0
7	2,896	28,951	95	0
8	2,437	24,363	183	0
9	2,781	27,804	3,480	0
10	2,540	25,395	793	0
11	2,021	20,207	1,858	0
12	2,310	23,100	507	0
13	2,895	28,947	120	0
14	2,903	29,022	1,083	0
15	2,741	27,402	95	0
16	2,693	26,925	268	0
17	1,737	17,361	19,224	0
18	1,902	19,018	5,510	0
19	2,635	26,347	1,993	0
20	2,335	23,345	4,209	0

21	1,806	18,058	6,077	0
22	2,619	26,183	1,077	0
23	1,663	16,627	2,278	0
24	2,729	27,285	130	0
25	1,761	17,606	8,849	0
TOTAL	61,113	611,009	63,049	0

Valid Signatures by County

ADVISORY OPINION TO THE ATTORNEY GENERAL RE FLORIDA LOCALLY APPROVED GAMING.

No. 84165.

Supreme Court of Florida.

June 8, 1995.

State Attorney General petitioned for advisory opinion reviewing proposed initiative to amend Florida Constitution to allow casino gambling. The Supreme Court, Overton, J., advised that: (1) initiative complied with single-subject requirement of Florida Constitution, and (2) ballot title and summary were not misleading.

Initiative approved for placement on ballot.

1. Courts ☞208

In rendering advisory opinion on validity of proposed initiative to amend Florida Constitution, Supreme Court's analysis is limited to whether proposed amendment's title and summary are printed in clear and unambiguous language and whether proposed amendment meets single subject requirements of Florida Constitution; Court has no authority to rule on merits of proposed amendment. West's F.S.A. Const. Art. 4, § 10; Art. 11, § 3; West's F.S.A. §§ 15.21, 16.061, 101.161(1).

2. Constitutional Law ☞9(1)

Ballot title, "Florida Locally Approved Gaming," and summary of proposed initiative to amend Florida Constitution were not misleading; summary stated chief purpose of proposed amendment, namely, authorization of gaming at total of 20 casinos and did not omit material information or mislead public with political rhetoric. West's F.S.A. § 101.161(1).

3. Constitutional Law ☞9(1)

Summary of proposed initiative to amend Florida Constitution, which stated that amendment authorized gaming at 20 casinos aboard riverboats and in hotels of 1000 rooms or more and that gaming would

not be authorized in any county or municipality without local approval, was not misleading, notwithstanding contention that provision of amendment stating that one "casino in a hotel shall be located in every county per each 500,000 residents in each county" removed requirement for local authorization; provision was to be read together with subsection of amendment stating that each local governing body must authorize gaming in its jurisdiction. West's F.S.A. § 101.161(1).

4. Constitutional Law ☞9(1)

Summary of proposed initiative to amend Florida Constitution, which stated that amendment authorized 20 casinos on riverboats and in hotels and determined "number" of casinos in individual counties based on resident population of such counties, was not misleading, notwithstanding contention that summary implied that any county would be allowed to have casino while text of amendment limited casinos to counties with at least 200,000 residents; if number of residents of county was under 200,000, then "number" of casinos allowed for county was zero. West's F.S.A. § 101.161(1).

5. Constitutional Law ☞9(1)

Summary of proposed initiative to amend Florida Constitution, which stated that amendment authorized gaming at 20 casinos aboard riverboats and in hotels and "provided that gaming shall not be authorized in any county or municipality unless approved," was not misleading, even though text of amendment did not state that casinos were prohibited unless authorized; if amendment was approved, only 20 casinos could be authorized, and, once 20 casinos were authorized, no other casinos could be authorized regardless of vote of any local governing body. West's F.S.A. § 101.161(1).

6. Constitutional Law ☞9(1)

Summary of proposed initiative to amend Florida Constitution, which stated that amendment authorized gaming at 20 casinos aboard riverboats and in hotels and that amendment provided for licensing and taxation of gaming, was not misleading, even though deadline in amendment for enactment of licensing and taxation laws had already

passed; critically important aspect of licensure and taxation provision was that legislature was required to implement provision, and, if amendment was adopted, legislature would be required to do so within reasonable time. West's F.S.A. § 101.161(1).

7. Constitutional Law ⇔9(1)

Proposed constitutional amendment meets single-subject requirement when it may be logically viewed as having natural relation and connection as component parts of single dominant plan or scheme; unity of object and plan is universal test. West's F.S.A. Const. Art. 11, § 3.

8. Constitutional Law ⇔9(1)

Proposed constitutional amendment authorizing 20 casinos on riverboats and in hotels in counties with at least 200,000 residents did not violate single-subject requirement, notwithstanding contention that voter who favored casinos would be required to accept their location in metropolitan areas even though he might favor location in rural areas and to accept both riverboat and hotel gambling even though he might favor only one type. West's F.S.A. Const. Art. 11, § 3.

9. Constitutional Law ⇔9(1)

Fact that deadline for legislature's enactment of licensing and taxation laws for casinos had already passed did not void proposed constitutional amendment to allow casinos; deadline did not affect substantive provisions of amendment as intent was clear that legislature was required to act within reasonable time.

Robert A. Butterworth, Atty. Gen., and Louis F. Hubener, III, Asst. Atty. Gen., Tallahassee, for presentor.

Julian Clarkson and Susan L. Turner of Holland & Knight, Tallahassee, and Chester-

field Smith and Mikki Canton of Holland & Knight, Miami, for supporter.

Robert T. Mann, Tarpon Springs, interested party and Richard E. Doran, Asst. Deputy Atty. Gen., Tallahassee, for Governor Lawton Chiles and The Fla. Cabinet, in Opposition.

OVERTON, Justice.

The Attorney General has petitioned this Court for review of an initiative proposed by Florida Locally Approved Gaming, Inc. (FLAG) that would amend the Florida Constitution to allow casino gambling in the State of Florida. We have jurisdiction. Art. IV, § 10; art V, § 3(b)(10), Fla. Const. We find that the initiative petition complies with the single-subject requirement in article XI, section 3, of the Florida Constitution and that the ballot title and summary are not misleading. Consequently, we approve the proposed amendment for placement on the ballot.

I. FACTS

On August 12, 1994, the Attorney General of Florida, in accordance with his constitutional and statutory responsibilities, petitioned this Court for an advisory opinion concerning the validity of an initiative petition circulated by FLAG. In his petition, the Attorney General informed the Court that FLAG had failed to obtain the requisite number of verified signatures for placement on the November 1994 ballot.¹ This Court entered an order directing the parties to show cause why the matter should not be dismissed. FLAG's response to the order to show cause asked for a stay until after the November 1994 election. The response also indicated that, although FLAG had not obtained enough signatures for placement on the ballot, it had obtained a sufficient number of signatures to entitle it to an advisory opinion from this Court under sections 15.21 and 16.061, Florida Statutes (1993),² and arti-

and in the state as a whole in the last preceding election in which presidential electors were chosen."

2. Section 15.21, Florida Statutes (1993), provides:

1. Article XI, section 3, of the Florida Constitution provides that the power to propose an amendment or revision to the state constitution can be invoked only when the proponent has filed with the Secretary of State a petition "signed by a number of electors in each of one half of the congressional districts of the state, and of the state as a whole, equal to eight percent of the votes cast in each of such districts respectively

cle IV, section 10, Florida Constitution. FLAG's response also noted that the verified signatures it had collected were valid for four years pursuant to section 100.371(2), Florida Statutes (1993), and that, should it meet all other legal requirements, its proposed amendment could appear on the 1996 ballot.

The ballot title and summary of the proposed amendment read as follows:

Title: FLORIDA LOCALLY APPROVED GAMING

Summary: This amendment authorizes gaming at twenty casinos; authorizes casinos aboard riverboats and in hotels of one thousand rooms or more; determines the number of casinos in individual counties based on the resident population of such counties; provides that gaming shall not be authorized in any county or municipality unless approved by the respective county or municipal governing body; provides for licensing, regulation and taxation of gaming; and provides definitions and an effective date.

The full text of the proposed amendment reads as follows:

Section 16 of Article X is created to read: Section 16. Local Option Gaming.—

(a) Twenty state-regulated, privately owned casinos are hereby authorized. Of such twenty casinos:

- (1) All shall be located either aboard riverboats or in hotels;
- (2) One casino aboard a riverboat may be located in every county with at least 200,000 residents, provided that there shall be

The Secretary of State shall immediately submit an initiative petition to the Attorney General if the sponsor has:

- (1) Registered as a political committee pursuant to s. 106.03;
- (2) Submitted the ballot title, substance, and text of the proposed revision or amendment to the Secretary of State pursuant to ss. 100.371 and 101.161; and
- (3) Obtained a letter from the Division of Elections confirming that the sponsor has submitted to the appropriate supervisors for verification, and the supervisors have verified, forms signed and dated equal to 10 percent of the number of electors statewide and in at least one-fourth of the congressional districts required by s. 3, Art. XI of the State Constitution.

no more than ten casinos aboard riverboats statewide; and

(3) One casino in a hotel shall be located in every county per each 500,000 residents in each county.

(b) Each county, but only as to the unincorporated area within its boundary, or municipality, by a vote of its governing body, may at any time after the effective date of this section authorize gaming within its jurisdiction as provided by this section.

(c) The following terms shall have the following meanings:

(1) "casino" means a licensed gaming facility aboard a riverboat or located in a hotel.

(2) "gaming" means playing or engaging in, for money or any other thing of value, baccarat, blackjack or twenty-one, craps, keno, poker, roulette, electronic gaming machines, slot machines or such other games of skill or chance as may be authorized by the legislature.

(3) "hotel" means a land-based hotel having at least 1,000 guest rooms.

(4) "riverboat" means a self-propelled, nonstationary excursion vessel which operates regularly within the state and its territorial and adjacent waters.

(d) By general law enacted no later than July 1, 1995, the legislature shall implement this section with legislation to license, regulate and tax gaming.

(e) If any portion of this section is held invalid for any reason, the remaining portion or portions of this section, to the fullest extent possible, shall be severed

Section 16.061, Florida Statutes (1993), provides, in relevant part:

- (1) The Attorney General shall, within 30 days after receipt of a proposed revision or amendment to the State Constitution by initiative petition from the Secretary of State, petition the Supreme Court, requesting an advisory opinion regarding the compliance of the text of the proposed amendment or revision with s. 3, Art. XI of the State Constitution and the compliance of the proposed ballot title and substance with s. 101.161. The petition may enumerate any specific factual issues which the Attorney General believes would require a judicial determination.

from the void portion and be given the fullest possible force and application.

(f) This amendment shall take effect on the date approved by the electors, provided that no casinos shall be authorized to operate before July 1, 1995.

This proposal seeks to amend the state constitution to allow casino gaming under certain qualified and limited circumstances. It provides: (1) an authorization for, and a specific number limitation on, the type of casinos where gaming may occur; and (2) a means by which local governing bodies must authorize certain types of gaming in casinos if the county in which the governing body is located meets the amendment's minimum population requirements.

[1] Our analysis of the proposed amendment is limited to two legal issues: (1) whether the proposed amendment's title and summary are "printed in clear and unambiguous language," section 101.161(1), Florida Statutes (1993);³ and (2) whether the proposed amendment meets the single subject requirements of article XI, section 3, Florida Constitution. As we have stated in previous opinions, we have no authority to rule on the merits of a proposed amendment. *Advisory Op. to the Att'y Gen. re Tax Limitation*, 644 So.2d 486, 489 (Fla.1994).

II. BALLOT TITLE AND SUMMARY

[2] "[S]ection 101.161 requires that the ballot title and summary for a proposed constitutional amendment state in clear and unambiguous language the chief purpose of the measure." *Askew v. Firestone*, 421 So.2d 151, 154-55 (Fla.1982). We find that the summary for FLAG's proposed amendment meets this standard. It properly summarizes the chief purpose of the proposed amendment, which is to authorize gaming at a total of twenty casinos. We conclude that the summary does not omit any material information and does not mislead the public

3. Section 101.161(1), Florida Statutes (1993), states, in relevant part:

Whenever a constitutional amendment or other public measure is submitted to the vote of the people, the substance of such amendment . . . shall be printed in clear and unambiguous language on the ballot. . . . The sub-

stance of the amendment . . . shall be an explanatory statement, not exceeding 75 words in length, of the chief purpose of the measure. The ballot title shall consist of a caption, not exceeding 15 words in length, by which the measure is commonly referred to or spoken of.

[3-5] The Attorney General and others have asserted that the ballot title and summary may be misleading because neither informs the voter of the actual effects of the proposed amendment. For example, the Attorney General notes that subsection (a)(3) of the proposed amendment states that "[o]ne casino in a hotel shall be located in every county per each 500,000 residents in each county." (Emphasis added.) The Attorney General asserts that this language removes the requirement for local authorization and mandates the placement of casinos in the larger counties. We do not interpret this provision in a manner that would lead to this conclusion. Subsection (a)(3) must be read together with subsection (b), which states that each local governing body must authorize gaming in its jurisdiction. In our view, these provisions mandate local governmental authorization. Without such general authorization, neither hotel nor riverboat casinos are permitted in the jurisdiction of a local governmental entity. This is fully consistent with the proponents' construction of the amendment at oral argument. The Attorney General also notes that the summary implies that any county that authorizes gaming will be allowed to have a casino whereas the text limits casinos to counties with at least 200,000 residents. The summary states that the proposed amendment "determines the number of casinos in individual counties based on the resident population of such counties." This statement describes precisely what the proposed amendment does. If the number of residents of a county is under 200,000, then the "number" of casinos that can be authorized for that county is zero. We do not find this statement to be misleading. Next, the Attorney General asserts that the summary could be misleading when it states that the amendment "provides that gaming shall not

be authorized in any county or municipality unless approved . . .” (Emphasis added.) The Attorney General argues that nowhere in the text of the amendment is it stated that casinos are expressly prohibited unless they are authorized pursuant to the amendment. We disagree with this conclusion. If the amendment is approved by the voters, only twenty casinos may be authorized throughout the entire state. Once these twenty casinos have been authorized pursuant to general law enacted by the Legislature, no other casinos may be authorized regardless of the vote of any local governing body.

[6] The Governor and the Cabinet have also filed a brief that challenges the ballot title and summary. The Governor and Cabinet assert that the language in the summary concerning the requirement for legislative regulation and taxation of casinos is misleading because it provides that the Legislature must enact general law concerning the licensure, regulation, and taxation of casinos by July 1, 1995. They argue that, because the proposed amendment will not appear on the ballot until 1996 at the earliest, the deadline for legislative action will be of no effect. The Governor and Cabinet assert that the deadline is critically important to the voter’s evaluation of the text of the proposed amendment. We disagree. We find that the “critically important” aspect of this portion of the proposed amendment is that the Legislature must implement this provision. It clearly is not intended to be self-executing. Under this provision, the Legislature must enact legislation to license, regulate, and tax casinos and, if the amendment is adopted, it will have to do so within a reasonable time after the proposal’s adoption. The fact that the Legislature will not be able to exercise that authority by the specific date noted in the proposed amendment does not, in our view, void the amendment. We conclude that, because the summary includes language that clearly informs the voter that gaming will be licensed, regulated, and taxed by legislative enactment, the summary is not misleading on this issue.

III. SINGLE-SUBJECT REQUIREMENT

[7] Article XI, section 3, of the Florida Constitution provides, in relevant part: “The

power to propose the revision or amendment of any portion or portions of this constitution by initiative is reserved to the people, provided that, any such revision or amendment . . . shall embrace but one subject and matter directly connected therewith.” A proposed amendment meets this test when it “may be logically viewed as having a natural relation and connection as component parts or aspects of a single dominant plan or scheme. Unity of object and plan is the universal test.” *City of Coral Gables v. Gray*, 154 Fla. 881, 883–84, 19 So.2d 318, 320 (1944).

[8] The Attorney General urges this Court to find that the proposed amendment violates the single-subject requirement in two distinct ways. First, the Attorney General invites this Court to “consider whether the proposed amendment, which requires voters to accept or reject the specified locations at which casinos are authorized, may constitute a form of ‘logrolling’ in that a voter who may favor casinos must accept their location in metropolitan areas even though he or she may favor their location in rural areas.” The Attorney General makes a similar argument concerning voters who may disapprove of hotel gaming while approving the authorization of riverboat gaming. Second, the Attorney General states that the proposed amendment violates the single-subject rule because it “encroaches on the powers of local and state government by substantially preempting the regulatory or land use functions of state and local government.” The Governor and Cabinet echo these assertions in their brief. These assertions are essentially the same arguments raised in *Advisory Opinion to the Attorney General re Limited Casinos*, 644 So.2d 71 (Fla.1994). We reject these arguments for the same reasons expressed in *Limited Casinos*.

IV. DEADLINE FOR LEGISLATIVE IMPLEMENTATION

[9] Section (d) of the text of the proposed amendment provides that the Legislature must implement the provisions of the proposed amendment concerning the licensure, regulation, and taxation of gaming by general

law enacted no later than July 1, 1995. As discussed earlier in this opinion, the proposed amendment will not appear on the ballot until 1996 at the earliest. In light of this fact, it appears that the proposed amendment has established an impossible deadline. This is a direct result of the unnecessary use of date-specific deadlines when a more general deadline would suffice. For example, the deadline could have been stated as "within 180 days of the voters' approval of this amendment," or language to that effect. Proponents of amendments to the constitution would be well advised to avoid this type of problem in the future. We find that, in the instant case, this deadline for legislative action does not void the proposal because we conclude that it does not affect the substantive provisions of the proposed amendment requiring the Legislature to implement the proposal. The intent is clear that the Legislature must act within a reasonable time. If the Legislature does not act there is a remedy. See *Dade County Classroom Teachers Ass'n v. Legislature*, 269 So.2d 684 (Fla. 1972). We find that, if adopted, this proposed amendment requires the Legislature to implement this provision within a reasonable time after its adoption.

V. CONCLUSION

We approve the proposed amendment entitled "Florida Locally Approved Gaming" for inclusion on the ballot. As we have stated before, while we find that it meets the constitutional and statutory requirements, our decision should not be construed as a comment on the merits of the proposed amendment.

It is so ordered.

SHAW, KOGAN, HARDING, WELLS
and ANSTEAD, JJ., concur.

GRIMES, C.J., recused.



Joseph J. RUBANO, et al., Petitioners,

v.

DEPARTMENT OF TRANSPORTATION,
Respondent.

No. 83307.

Supreme Court of Florida.

June 22, 1995.

Landowners appealed from order of the Circuit Court, Broward County, Arthur M. Birken, J., entered in favor of Department of Transportation in actions for inverse condemnation. The District Court of Appeal, 636 So.2d 749, affirmed and certified question. The Supreme Court, Anstead, J., held that: (1) severance of interchange between interstate highway and road on which landowners' property fronted did not constitute a taking; (2) elimination of U-turn near entrance to landowners' businesses did not constitute a taking; and (3) temporary conversion of north side of highway which abutted landowners' property to a service road did not constitute a taking.

Question answered in the negative and District Court decision approved.

Wells, J., concurred specially and filed an opinion in which Grimes, C.J., concurred.

1. Eminent Domain ⇔266

Where government agency, by its conduct or activities, has effectively taken private property without formal exercise of power of eminent domain, cause of action for inverse condemnation will lie. West's F.S.A. Const. Art. 10, § 6(a).

2. Eminent Domain ⇔266

Proof that governmental body has effected taking of property is essential element of inverse condemnation action. West's F.S.A. Const. Art. 10, § 6(a).

3. Eminent Domain ⇔2(1), 114.1

Taking may occur in wide variety of circumstances and may be either temporary or permanent. West's F.S.A. Const. Art. 10, § 6(a).