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Seminole gaming compact smells unconstitutional, but do Florida politicians care? | Editorial

By ORLANDO SENTINEL EDITORIAL BOARD
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Florida politicians have given up even trying to hide their contempt for citizen-led amendments to the state Constitution.

Voting rights for ex-felons. Class sizes in schools. Medical marijuana. Fair voting districts. Buying conservation land.

All have been convincingly approved by voters and then either ignored or undermined by the GOP-run Legislature.

Now it's Amendment 3's turn.

Florida's voters approved the gambling amendment in 2018 with a remarkable **71.5%** of the vote.

Yes, seven out of every 10 voters wanted to give Floridians the "exclusive right to decide whether to authorize casino gambling in the State of Florida" through a citizen-initiated, statewide referendums.

Florida has a stunningly complex gambling landscape, a patchwork of lotteries, pari-mutuel tracks, card rooms and casinos confined to specific locations and created through a jumble of laws and constitutional amendments. Sorting through it makes the head spin.

Amendment 3 was supposed to bring some simplicity and certainty to the process by requiring that gambling expansion go straight through the people.

The business community agreed. Florida Chamber of Commerce CEO Mark Wilson wrote a guest column for the Sentinel on Oct. 31, 2018, that read in part, “Rather than introduce anything new, the amendment simply reinforces language already in the constitution — a provision that gives voters the final say on gambling decisions. Florida voters inserted that protection in 1968 and it’s important we don’t let politicians work around it.”

Now comes Gov. Ron DeSantis’ proposed gambling deal with the Seminole Tribe, which the Legislature will consider during a special session starting May 17.

Parts of the deal, known as a compact, appear to be unconstitutional under Amendment 3 — an attempt by politicians to work around the 2018 amendment.

One **provision** could allow people with licenses for slot machines in Miami-Dade and Broward counties to move their casino operations. A South Florida real estate mogul operating out of an old dog track wants to move his casino to the Fontainebleau in Miami Beach. Eric Trump is drooling over the prospect of a casino at his daddy’s Trump National Doral Resort in Miami.

The state can’t do that without approval from voters.

The compact also envisions launching online sports betting. But it probably can’t do that without the voters’ OK, either.

Sports betting falls within a legal category that includes games played in casinos, like blackjack and craps. That could mean, under Amendment 3, that Florida needs to ask the voters’ permission to authorize sports betting.

The proposed compact, however, attempts an end-run around that requirement in two ways.

First, the compact assumes that sports betting doesn’t need voter approval if it’s done on tribal property. Second, all of the sports betting would be routed through computer servers on Seminole property.

That second part means — and here’s where things get really crazy — you could place a bet on the Bucs versus Dolphins game from your Barcalounger in Orlando, but the state would view the bet as being placed at the computer server on tribal land.

What utter, rationalized nonsense. If that’s how Florida sees things, it can’t possibly justify charging a state sales tax on Amazon orders placed in Florida. Why? Because the order probably went through an out-of-state server, which means the sale was actually made in Virginia or

Washington or wherever the server is located.

No, the reason you now pay state sales tax is because you ordered those new yoga pants from *home*, just like you would place a Bucs-Dolphins bet from *home*.

This is simple: Sports betting **is Class III gambling**, a form of gambling found in casinos, and the Florida Constitution very likely requires a vote of the people.

DeSantis and others reason that illegal sports betting is already taking place, so why not make it legal in Florida? That might resemble a good faith argument if it weren't for the governor's steadfast opposition to recreational pot, which, last we checked, also was taking place illegally.

Other portions of the deal probably wouldn't need voter approval. For example, it authorizes the tribe to build more casinos on its property. Amendment 3 didn't place limits on how many casinos the tribe could build.

The Orlando Sentinel's Editorial Board has a long history of opposing more gambling in Florida, partly because it's at odds with the family-friendly tourism economy that's fueled this region's growth. That's why theme park companies like Disney backed Amendment 3 back in 2018.

We're feeling more agnostic about gambling these days because it's so pervasive.

Our ambivalence toward it now is centered more on the futility of building up yet another industry — gambling — whose wages are only slightly better than tourism.

An analysis of **hourly incomes** in the nation's 50 largest metro regions a few years ago found Orlando (tourism) at the bottom of the heap. Las Vegas (gambling) was the fourth worst in the country.

And for *this* the Florida Legislature is calling a special session, after refusing to call one last year to deal with the pandemic? Priorities, man.

But more important than the dubious economic benefits of gambling is the fact that much of this proposed deal could be a direct violation of the voter-approved, constitutional mandate that casino gambling expansion must be approved through referendum.

Not by the Legislature. Not by Ron DeSantis.

By the voters.

Following the constitution isn't optional. It's not something politicians have to do when they feel like it or when it's convenient.

Officeholders swore an oath to uphold the constitution, not to game it.

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