

STATE OF COLORADO

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MEMORANDUM

May 4, 2004

TO: Roberta Morgan and Jill McNeil

FROM: Legislative Council Staff and Office of Legislative Legal Services

SUBJECT: Proposed initiative measure 2003-2004 #160, concerning gambling at horse and dog tracks

Section 1-40-105 (1), Colorado Revised Statutes, requires the directors of the Colorado Legislative Council and the Office of Legislative Legal Services to "review and comment" on initiative petitions for proposed laws and amendments to the Colorado Constitution. We hereby submit our comments to you regarding your proposed amendment, a copy of which is attached.

The purpose of this statutory requirement of the Legislative Council and the Office of Legislative Legal Services is to provide comments intended to aid proponents in drafting the language of their proposal and to make the public aware of the contents of the proposal. Our first objective is to be sure we understand your intent and objective in proposing the amendment. We hope that the statements and questions in this memorandum will provide a basis for discussion and understanding of the proposal.

Special note

An earlier version of this amendment (proposed initiative measure 2003-2004 #150, concerning gambling at horse and dog tracks) was the subject of a previous memorandum, dated April 20, 2004. The comments and questions raised in this memorandum will be limited so as not to duplicate comments and questions that were addressed at the earlier hearing on this amendment.

Purposes

The purposes of the new and revised provisions of the proposed amendment appear to be as follows:

1. To define the "local jurisdiction", for purposes of the local vote authorizing new gambling activity at a horse or dog racing track, as the county in which the track is located;
2. To require both the local vote and the statewide vote authorizing new gambling activity at a horse or dog racing track to be at general elections;
3. To substitute the term "video gambling terminal" for "video lottery terminal", and include in the definition of "video gambling terminal" a device that replays or depicts a previously run pari-mutuel race; and
4. To specifically authorize the Colorado General Assembly to enact implementing legislation.

Comments and Questions

The form and substance of the new and revised provisions of the proposed amendment raise the following questions:

Technical questions:

1. In paragraph (a), the last line of subparagraph (II) contains a cross-reference to subparagraph (I) of "this paragraph." The style followed in publication of the Colorado constitution and statutes is to include the paragraph letter in such situations, for example, by referring to "this paragraph (a)." Would the proponents consider following this style?
2. Similarly, when cross-referencing other subsections within an article of the constitution, it is customary to give a full citation and specify "this" article. Therefore, in the definition of "slot machine", the cross-reference would be to "section 9 (4) (c) of this article XVIII." (The phrase "of the constitution" is not necessary.) Would the proponents consider making this change?

Substantive questions:

1. If both the local vote and the statewide vote required by this measure must take place at general elections, that effectively imposes a two-year delay between the local approval and the statewide approval for any gambling activity subject to this measure. Does this correctly reflect the proponents' intent?
2. The revised definition of a "video gambling terminal" includes a device that "replays or depicts a previously run pari-mutuel race."
 - a. Is this intended to include any device used in the activity commonly known as "instant racing"?

- b. Would a "previously run pari-mutuel race" include either a horse race or a dog race?
 - c. Would a "previously run pari-mutuel race" include a horse or dog race on which pari-mutuel wagering did *not* take place when the race was originally run?
 - d. Is a "video gambling terminal" intended to include a television screen or other device used in simulcasting, as permitted under current Colorado law?
3. New paragraph (c) authorizes the general assembly to enact implementing legislation, yet paragraph (d) makes this proposal effective on January 1, 2005. If the proposal is adopted by the voters in November, 2004, the general assembly will not have had an opportunity to enact any legislation to implement it before it takes effect. Do the proponents foresee any problems with implementation that might arise as a result of this timing?