



ISSUE NUMBER 5

(Proposed by Petition of the People)

Authorizing three casinos

POPULAR NAME: An amendment to allow three casinos to operate in Arkansas, one each in the following counties: Boone County, operated by Arkansas Gaming and Resorts, LLC; Miller County, operated by Miller County Gaming, LLC; and Washington County, operated by Washington County Gaming, LLC.

BALLOT TITLE: An amendment to the Arkansas Constitution authorizing three casinos to operate in Arkansas, one in Boone County, Arkansas, operated by Arkansas Gaming and Resorts, LLC, an Arkansas Limited Liability Company, one in Miller County, Arkansas, operated by Miller County Gaming, LLC, an Arkansas Limited Liability Company, and one in Washington County, Arkansas, operated by Washington County Gaming, LLC, an Arkansas Limited Liability Company, all being subject to the laws enacted by the General Assembly in accord with this amendment and regulations promulgated by the Arkansas Gaming Commission in accord with laws enacted by the General Assembly; defining casino gaming and gaming as dealing, operating, carrying on, conducting, maintaining, or exposing for play any game played with cards, dice, equipment, or any mechanical, electromechanical, or electronic device or machine for money, property, checks, credit, or any representative value, as well as accepting wagers on sporting events or other events, including, without limiting the generality of the foregoing, any game, device, or type of wagering permitted at a casino operated within any one or more of the states of Louisiana, Mississippi, Missouri, Nevada, Oklahoma, Tennessee, or Texas as of November 8, 2016, or as subsequently permitted thereafter; creating the Arkansas Gaming Commission to regulate casinos in accord with laws enacted by the General Assembly,

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***being challenged in court**

QUICK LOOK: What does your vote mean?

FOR: A FOR vote means you are in favor of authorizing three casino gaming establishments, one each to be located in Boone, Miller and Washington counties.

AGAINST: An AGAINST vote means you are not in favor of authorizing three casino gaming establishments, one each to be located in Boone, Miller and Washington counties.

The following statements are examples of what supporters and opponents have made public either in media statements, campaign literature, on websites or in interviews with Public Policy Center staff. The University of Arkansas System Division of Agriculture does not endorse or validate these statements.

What do supporters say?

- Unless voters pass this amendment, many of these casino jobs will continue to go to our neighboring states and it will be their citizens, not ours, who will benefit from hundreds of millions of dollars in annual gaming tax revenue in the form of new roads, better schools and lower taxes.
- Arkansas already has casino gaming. This amendment would bring needed competition to the marketplace, not only giving Arkansans more choices in gaming, but also new entertainment, hotel and restaurant options that will help drive tourism and economic growth.
- Our intention has been for the casinos authorized by this amendment to be operated by well-established, credible firms in the gaming industry.

What do opponents say?

- Casinos don't lift the economy and the tax benefit is very small relative to the state budget.
- It just opens more roads for people to harm themselves and for people to harm people around them like their spouses and their children. It's just not worth it.
- The proposed amendment dictates specific locations for casino gambling that prevent the people who live there from having control over what type of community they will have in the future.
- It's bad government to write private monopolies with specific companies into the state constitution.

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with the Arkansas Gaming Commission comprised of five (5) commissioners, each appointed by the governor for staggered 5-year terms; providing for the General Assembly to appropriate monies to or for the use of the Arkansas Gaming Commission; requiring each casino to pay to the Arkansas State Treasury as general revenues a net casino gaming receipts tax equal to eighteen percent (18%) of its annual net casino gaming receipts; requiring each casino to pay to the county in which the casino is located a net casino gaming receipts tax equal to one-half of one percent (0.5%) of its annual net casino gaming receipts; requiring each casino to pay to the city or town in which the casino is located a net casino gaming receipts tax equal to one and one-half percent (1.5%) of its annual net casino gaming receipts; defining annual net casino gaming receipts as gross receipts for a 12-month period from casino gaming less amounts paid out or reserved as winnings to casino patrons for that 12-month period; subjecting each casino to the same income, property, sales, use, employment and other taxation as any for-profit business located in the county and city or town in which the casino is located, except that the Arkansas Gross Receipts Act of 1941 and local gross receipts taxes shall not apply to casino gaming receipts; allowing a casino to operate any day for any portion or all of any day; allowing the selling or complimentary serving of alcoholic beverages in casinos during all hours the casino operates but otherwise subject to all applicable Arkansas laws involving the distribution and sale of alcohol; permitting the shipment into Boone, Miller, and Washington counties in Arkansas of gambling devices shipped and delivered in accordance with applicable federal law (15 USC §§ 1171-1178 and amendments and replacements thereto); rendering the provisions of this amendment severable; declaring inapplicable all constitutional provisions and laws to the extent they conflict with this amendment, but not otherwise repealing, superseding, amending, or otherwise affecting Amendment 84 (bingo or raffles) or Amendment 87 (state lottery) to the Arkansas Constitution, or Arkansas Act 1151 of 2005 (Electronic Games of Skill).

Who is the sponsor of this amendment?

Arkansas Wins in 2016/Arkansas Winning Initiative

What is being proposed?

This amendment asks voters to change the Arkansas Constitution to authorize three casinos to operate in the state. If approved by voters, this amendment would:



1. Authorize three casinos to operate in Arkansas, one each in Boone, Miller and Washington counties.
2. Identify the companies that will operate the three casinos.
3. Define what type of casino gaming may occur at the three casinos.
4. Create the Arkansas Gaming Commission to regulate the casinos.
5. Establish tax rates on casino gaming net receipts that casinos must pay the state and local governments.
6. Determine what other taxes would be applicable to the casinos.
7. Allow the casinos to operate any day, all day.
8. Allow the casinos to serve alcohol during all hours they are open.
9. Permit the shipment of gaming devices to the casinos.
10. Establish that the amendment would not affect Amendment 84 rules for bingo or raffles, Amendment 87 rules for the state lottery or Arkansas Code 23-113-201 that allows for electronic games of skill at race tracks.

When was the last time Arkansans voted on this issue?

Voters in 1984 rejected a proposed constitutional amendment to allow casino gambling in Garland County by a vote of 236,625 (29.64%) in favor to 561,825 (70.36%) against. Then in 1996, voters statewide rejected a proposed constitutional amendment that would have established a statewide lottery and allowed voters in Hot Springs to authorize casino gambling in

their county by a vote of 333,297 (38.88%) in favor to 523,986 (61.12%) against.

Voters in 2000 rejected a proposed constitutional amendment to allow a corporation to own and operate six casino establishments in Sebastian, Pulaski, Garland, Miller, Crittenden and Boone counties. The proposal would also have established a state lottery and permitted charitable bingo games and raffles. Voters rejected the amendment by a vote of 309,482 (36.24%) in favor to 544,550 (63.76%) against.

In 2012, the Arkansas Supreme Court struck down a proposed casino ballot measure that would have authorized casinos in four counties after determining the ballot title didn't tell voters that the amendment could affect electronic games of skill at two Arkansas race tracks. The court also ruled that the voter signatures gathered were invalid because the measure's backer changed the wording of the proposal after gathering the signatures. The issue appeared on paper ballots in some counties because the ballots were printed before the court ruling, but votes were not counted.

Aren't casinos already allowed in Arkansas?

There are multiple state laws that, combined, prohibit casinos. Arkansas Code 5-66-103 makes keeping of a "gambling house" a felony. Arkansas Code 5-66-104 prohibits gaming devices and Arkansas Code 5-66-106 says betting on any machines prohibited under the previous law is illegal.

However, in 2005, Arkansas legislators passed a bill that allows race tracks to conduct wagering on "electronic games of skills." The law, Arkansas Code 23-113-201, requires the issue be put before the voters of the city, town or county where the race track is located.

Voters in West Memphis and Hot Springs subsequently approved electronic games of skill at race tracks in their cities. According to the law, in order to constitute an electronic game of skill, the game must not be completely controlled by chance alone. Many gaming websites include these two locations in lists of casinos.

Arkansas Code 23-113-201 would not apply to casinos proposed in Issue 5.

What type of gaming would be allowed at the three casinos?

The proposed amendment defines "casino gaming" as "to deal, operate, carry on, conduct, maintain, or expose for play any game played with cards, dice, equipment, or

any mechanical, electromechanical, or electronic device or machine for money, property, checks, credit or any representative value, as well as to accept wagers on sporting events or other events.”

Casino gaming would also include any game, device or type of wagering permitted at a casino operated in Louisiana, Mississippi, Missouri, Nevada, Oklahoma, Tennessee, or Texas.

What happens if the majority of voters in Boone, Miller and Washington counties vote against this proposal?

The outcome of the proposed amendment depends on if it receives a majority of votes statewide. Voters in Boone, Miller and Washington counties could reject the proposal, but the issue could pass statewide, and the casinos would be allowed to operate.

If approved, where would the casinos be located?

Sponsors have not publicly identified where the three casinos would be built in Boone, Miller and Washington counties.

If approved, who would operate the casinos?

Arkansas Wins in 2016 announced an agreement with Cherokee Nation Entertainment to operate a casino proposed for Washington County in Northwest Arkansas. The company, Washington County Gaming, LLC, will be operated by the Cherokee Nation, which owns and operates nine casinos in Oklahoma.

The amendment’s supporter has not publicly identified

the operators of Arkansas Gaming and Resorts, LLC, in Boone County or Miller County Gaming, LLC, in Miller County. All three companies were registered with the state by Dianne Dalton, one of the campaign supporters.

What is the purpose of the Arkansas Gaming Commission?

If passed, this amendment would create the Arkansas Gaming Commission. The five commission members would be appointed by the governor no later than July 31, 2017. The commission would have the authority to regulate the casinos and administer any laws passed by the legislature related to casino operations.

What are potential economic benefits and costs of casino gaming?

Economic benefits include employment and income generated from spending at the casino and nonlocal visitor spending at local businesses, minus the “displacement effects” of local resident spending at the casinos.

“Nonlocal visitor spending” is money spent by people who come to the area for casino gaming, but also spend money at local businesses. The “displacement effect” is what happens when local residents spend money at casino gaming establishments that they would have otherwise spent on other goods or services in their community.

Economic costs are the social behaviors that impose measurable costs on society, such as increased crime, bankruptcies and problem or pathological gambling.

Net Economic Benefits = Economic Benefits – Social Costs



What are the effects of casinos on public revenue?

The state, county and city/town would receive the following tax revenue from the casino's annual net gaming receipts (gross receipts less winnings paid to patrons):

- State of Arkansas = 18%
- County in which casino is located = 0.5%
- City/town in which casino is located = 1.5%

The casinos would be exempt from paying any state and related local gross receipts taxes on casino gaming receipts other than what is listed above. However, the casinos would be subject to the same income, property, sales, use, employment or other taxation or assessments as other for-profit businesses. The casino's income tax would be based on net income (gross receipts less winnings paid to patrons and less gaming receipts taxes paid). No additional state or local taxes, fees or assessments could be imposed on the casinos.

Some of the public revenue generated by the casinos may be the result of revenue lost from less spending in other businesses. Therefore, the net new revenue could be calculated as:

Net New Public Revenue = Casino Tax Revenue – Revenue Lost From Other Sources

There are also public costs associated with casino gaming including implementing and enforcing the rules and regulations and expanding and maintaining public infrastructure and services to meet the demand created by casinos. Therefore, these costs need to be considered when calculating the net public benefit from casinos.

This may be expressed as:

Net Public Benefit = Net New Public Revenue – Public Costs

The economic and social benefits and costs of casino gaming vary greatly among communities and between state and local governments, with local governments often bearing many of the costs. This is one reason that the National Gambling Impact Study Commission recommended in their 1999 report that "local government agencies should make careful and informed decisions about whether to permit gambling into their respective jurisdictions" (National Gambling Impact Study Commission, 1999).



Who pays the casino gaming taxes?

Many studies have been undertaken to determine who spends money at casinos and, therefore, indirectly pay the casino taxes. An analysis of the many studies, based on site specific data, found that casino tax incidence is regressive and borne disproportionately by lower-income, less educated households (Mallach, 2010).

How would winnings be taxed?

Gambling winnings are fully taxable and must be reported on state and federal income tax returns.

If passed, would this amendment affect Oaklawn in Hot Springs and Southland in Memphis?

The proposed amendment would not alter the law that allows for gaming at Oaklawn and Southland.

If passed, when would the legislation take effect?

The legislation would go into effect 30 days after the election. This amendment could be altered or repealed only by another citizen initiative.

Where can I find more information?

The complete wording of this amendment can be found at <http://ag.arkansas.gov/opinions/docs/2016-058.pdf>.

References

Mallach, Alan (2010.) Economic and Social Impact of Introducing Casino Gambling: A Review and Assessment of the Literature. Discussion Papers – Community Affairs Department, Federal Reserve Bank of Philadelphia.

National Gambling Impact Study Commission (1999). National Impact Study Commission Report.

The following is the proposed constitutional amendment name and title as they will appear on the state's November General Election ballot.

Issue No. 5

(Popular Name)

AN AMENDMENT TO ALLOW THREE CASINOS TO OPERATE IN ARKANSAS, ONE EACH IN THE FOLLOWING COUNTIES: BOONE COUNTY, OPERATED BY ARKANSAS GAMING AND RESORTS, LLC; MILLER COUNTY, OPERATED BY MILLER COUNTY GAMING, LLC; AND WASHINGTON COUNTY, OPERATED BY WASHINGTON COUNTY GAMING, LLC

(Ballot Title)

An amendment to the Arkansas Constitution authorizing three casinos to operate in Arkansas, one in Boone County, Arkansas, operated by Arkansas Gaming and resorts, LLC, an Arkansas Limited Liability Company, one in Miller County, Arkansas, operated by Miller County Gaming, LLC, an Arkansas Limited Liability Company, and one in Washington County, Arkansas, operated by Washington County Gaming, LLC, an Arkansas Limited Liability Company, all being subject to the laws enacted by the General Assembly in accord with this amendment and regulations promulgated by the Arkansas Gaming Commission in accord with laws enacted by the General Assembly; defining casino gaming and gaming as dealing, operating, carrying on, conducting, maintaining, or exposing for play any game played with cards, dice, equipment, or any mechanical, electromechanical, or electronic device or machine for money, property, checks, credit, or any representative value, as well as accepting wagers on sporting events or other events, including, without limiting the generality of the foregoing, any game, device, or type of wagering permitted at a casino operated within any one or more of the states of Louisiana, Mississippi, Missouri, Nevada, Oklahoma, Tennessee, or Texas as of November 8, 2016, or as subsequently permitted thereafter; creating the Arkansas Gaming Commission to regulate casinos in accord with laws enacted by the General Assembly, with the Arkansas Gaming Commission comprised of five (5) commissioners, each appointed by the governor for staggered 5-year terms; providing for the General Assembly to appropriate monies to or for the use of the Arkansas Gaming Commission; requiring each casino to pay to the Arkansas State Treasury as general revenues a net casino gaming receipts tax equal to eighteen percent (18%) of its annual net casino gaming receipts; requiring each casino to pay to the county in which the casino is located a net casino gaming receipts tax equal to one-half of one percent (0.5%) of its annual net casino gaming receipts; requiring each casino to pay to the city or town in which the casino is located a net casino gaming receipts tax equal to one and one-half percent (1.5%) of its annual net casino gaming receipts; defining annual net casino gaming receipts as gross receipts for a 12-month period from casino gaming less amounts paid out or reserved as winnings to casino patrons for that 12-month period; subjecting each casino to the same income, property, sales, use, employment and other taxation as any for-profit business located in the county and city or town in which the casino is located, except that the Arkansas Gross Receipts Act of 1941 and local gross receipts taxes shall not apply to casino gaming receipts; allowing a casino to operate any day for any portion or all of any day; allowing the selling or complimentary serving of alcoholic beverages in casinos during all hours the casino operates but otherwise subject to all applicable Arkansas laws involving the distribution and sale of alcohol; permitting the shipment into Boone, Miller, and Washington counties in Arkansas of gambling devices shipped and delivered in accordance with applicable federal law (15 USC §§ 1171-1178 and amendments and replacements thereto); rendering the provisions of this amendment severable; declaring inapplicable all constitutional provisions and laws to the extent they conflict with this amendment, but not otherwise repealing, superseding, amending, or otherwise affecting Amendment 84 (bingo or raffles) or Amendment 87 (state lottery) to the Arkansas Constitution, or Arkansas Act 1151 of 2005 (electronic games of skill).

FOR

AGAINST