

**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**

**REGULATED INDUSTRIES**  
**Senator Jones, Chair**  
**Senator Sachs, Vice Chair**

**MEETING DATE:** Monday, February 7, 2011  
**TIME:** 10:15 a.m.—12:15 p.m.  
**PLACE:** *Toni Jennings Committee Room*, 110 Senate Office Building

**MEMBERS:** Senator Jones, Chair; Senator Sachs, Vice Chair; Senators Altman, Dean, Diaz de la Portilla, Hill, Norman, Rich, Siplin, Thrasher, and Wise

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>SB 418</b> Flores (Identical H 103)	State Lotteries; Requires each retailer of lottery tickets to provide assistance to any individual who is blind or visually impaired and has requested assistance in filling out his or her lottery ticket. Provides that a retailer or an employee of the retailer is not liable under certain circumstances, etc.  RI     02/07/2011 Favorable CM RC	Favorable Yeas 10 Nays 0
2	Presentation by the Florida Irrigation Society concerning irrigation regulatory issues in Florida		Presented
	Presentation by Representatives of the Pari-Mutuel Industry		Presented
3	<b>Monitor Project 2011-372</b> (Remediation of Homes with Imported Drywall) Presentation		Presented

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Regulated Industries Committee

BILL: SB 418

INTRODUCER: Senator Flores

SUBJECT: State Lotteries

DATE: February 3, 2011      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Young/Harrington	Imhof	RI	<b>Pre-meeting</b>
2.	_____	_____	CM	_____
3.	_____	_____	RC	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

The bill requires that lottery retailers must provide assistance in filling out a lottery ticket to a blind or visually impaired person who has requested the assistance. The bill also provides that a retailer or a retailer’s employee will not be held liable for a scrivener’s error absent intentional fraud or malice.

The bill shall take effect July 1, 2011.

The bill amends the following section of the Florida Statutes: 24.112.

**II. Present Situation:**

The Department of the Lottery (department) is authorized by s. 15, Art. X, Florida Constitution. Chapter 24, F.S., was enacted by ch. 87-65, L.O.F., to establish the state lottery. Section 24.102, F.S., provides legislative purpose and intent in regard to the lottery.

It provides, in part:

The purpose of this act is to implement s. 15, Art. X of the State Constitution in a manner that enables the people of the state to benefit from significant additional moneys for education and also enables the people of the state to play the best lottery games available.

That section provides that the intent of the Legislature was “[t]hat the lottery games be operated by a department of state government that functions as much as possible in the manner of an

entrepreneurial business enterprise.” It also requires the department to be a self-supporting revenue-producing enterprise.

Section 24.104, F.S., requires the department to operate the state lottery “so as to maximize revenues in a manner consonant with the dignity of the state and the welfare of its citizens.”

### **Assistance for Disabled**

Section 24.112(13), F.S., currently provides that lottery retailers must make their retail location accessible for disabled persons. It provides that there must be ramps, wide aisles, turnaround areas, parking spaces, and other such items to ensure accessibility for disabled persons to participate in the Florida Lottery.

Inspections and enforcement of the provisions of s. 24.112(13), F.S., are under the enforcement authority of the Florida Building Code under s. 553.80, F.S.

The department indicated that currently department game rules specify that tickets in terminal-generated games—those that can be initiated by means of a play slip—can also be initiated by the player verbally giving his or her desired numbers to the retailer. The verbally requested numbers can then be manually selected on the ticket terminal by the retailer to produce a ticket with the player’s desired numbers. Retailers are expected by the department to comply with applicable accessibility requirements and these requirements are included in the department’s contracts with the retailers. State programs are subject to the federal American with Disabilities Act.

There are approximately 13,200 lottery retailers in Florida according to the department’s estimates.

### **Americans with Disabilities Act**

The Americans with Disabilities Act (ADA) was enacted in 1990. In passing the act, Congress indicated that the act was enacted in part to address the finding that “historically, society has tended to isolate and segregate individuals with disabilities, and, despite some improvements, such forms of discrimination against individuals with disabilities continue to be a serious and pervasive social problem” and that disabled individuals were relegated to “lesser services, programs, activities, benefits, jobs, or other opportunities.”<sup>1</sup>

The purpose of the ADA was to provide a “national mandate” to end discrimination based on disabilities, provide a national and enforceable standard that addresses discrimination, to ensure that the Federal Government plays a central role in enforcement against discrimination, and to invoke the power of the United State Congress to address the areas of discrimination against disabled persons.<sup>2</sup>

Section 12132 of the ADA provides: “[s]ubject to the provisions of this subchapter, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of services, programs, or activities of a public entity, or be subjected to

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<sup>1</sup> 42 U.S.C. s. 12101(a)

<sup>2</sup> 42 U. S. C. s. 12101(b).

discrimination by any such entity.” Under this provision, disabled persons are not to be discriminated against and retailers who sell Florida Lottery tickets must be accessible to customers who have disabilities, including visual impairments.

### **III. Effect of Proposed Changes:**

The bill amends s. 24.112(13), F.S., to expand the accessibility requirements beyond physical access to include help in filling out and purchasing tickets for the visually impaired who request such actions. The bill further provides that neither the retailer nor the employee of a retailer will be liable for any actual or alleged scrivener’s error unless there is a finding of intentional fraud or malice.

The bill provides an effective date of July 1, 2011.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

#### **B. Public Records/Open Meetings Issues:**

None.

#### **C. Trust Funds Restrictions:**

None.

### **V. Fiscal Impact Statement:**

#### **A. Tax/Fee Issues:**

None.

#### **B. Private Sector Impact:**

The department does not anticipate any impact on the private sector because lottery retailers must already comply with the applicable provisions of the ADA. Further, many of the lottery game rules specify that a purchaser may play the game by verbally telling the retailer their selections, amount, and other pertinent info.<sup>3</sup>

The bill also provides a limited amount of protection for the retailers from liability if there is a scrivener’s error with the ticket.

#### **C. Government Sector Impact:**

None.

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<sup>3</sup> The Florida Department of Lottery rule 532 ER 10-39 (1)(c)(1), F.A.C., states that a person may choose to play by making a verbal communication to the retailer instructing them on which selections to make.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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**SOUTH FLORIDA  
VOTER APPROVED  
CASINOS**

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**Brett Hale**

**Dania Jai Alai (Boyd Gaming)**

**Tom McPherson**

**Flagler Dog Track (Magic City Casino)**

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**Donn Mitchell**

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**Benny Collette**

# **SOUTH FLORIDA VOTER APPROVED CASINOS**

- ✓ **Miami Dade and Broward County pari-mutuels voter approved by state-wide and local referendums to operate class III slots**
- ✓ **Received overwhelming local support to operate class III slots**
- ✓ **Joint presentation to express our mutual interests and concerns over the proposed resort casino legislation**

# LONG-TIME FLORIDA BASED BUSINESSES

- ✓ Investing in Florida
- ✓ Creating jobs
- ✓ Contributing to Florida's tax base
- ✓ For over 80 years, since 1926



# INVESTING IN FLORIDA



The South Florida Voter-Approved Casinos have invested over **\$1 Billion** in Florida to date.

# JOBS FOR FLORIDIANS



**4,000** Direct current full-time and part-time Florida jobs (\$100+ million in total current annual payroll)\*

**2,000** Directly affiliated pari-mutuel Florida jobs\*

**9,000** Indirect Florida jobs (est. based on a conservative 1.5 multiplier)

**15,000** Total Jobs related to South Florida pari-mutuels

\*Approximate numbers and includes estimates for Gulfstream Park.

# STATE AND LOCAL GAMING REVENUES PAID 2009 AND 2010

	<u>2009</u>	<u>2010</u>
GAMING TAXES PAID	\$108 MILLION	\$145 MILLION
SLOT LICENSURE FEES	\$ 13 MILLION	\$ 14 MILLION
CITY AND COUNTY	<u>\$ 7 MILLION</u>	<u>\$ 11 MILLION</u>
TOTALS	\$128 MILLION	\$170 MILLION

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**33%** *Year over year increase in gaming  
and related taxes paid to Florida*

*Revenue from gaming operations paid and accrued over Calendar Years 2009 and 2010.*

# STATE AND LOCAL GAMING REVENUES PAID SINCE 2006

**\$477 MILLION** IN GAMING TAXES PAID TO THE STATE

**\$ 36 MILLION** IN SLOT LICENSURE FEES PAID TO THE STATE

**\$ 29 MILLION** IN CITY AND COUNTY LOCAL CONTRACTUAL GAMING  
REVENUE SHARING

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**TOTAL: \$540 MILLION** AND COUNTING

*Revenue from slot operations paid and accrued over Fiscal Years 2006-07, 2007-08, 2008-09, 2009-10 and through December of the fiscal year 2010-11.*

# FLORIDA BENEFITS FROM CASINOS

- **Capital Investment**
- **Jobs**
- **Tax Revenues**
- **To maximize all the benefits from Gaming, Florida should take a comprehensive approach to overall Gaming industry structure (Casinos, Tribal, Pari-mutuels)**

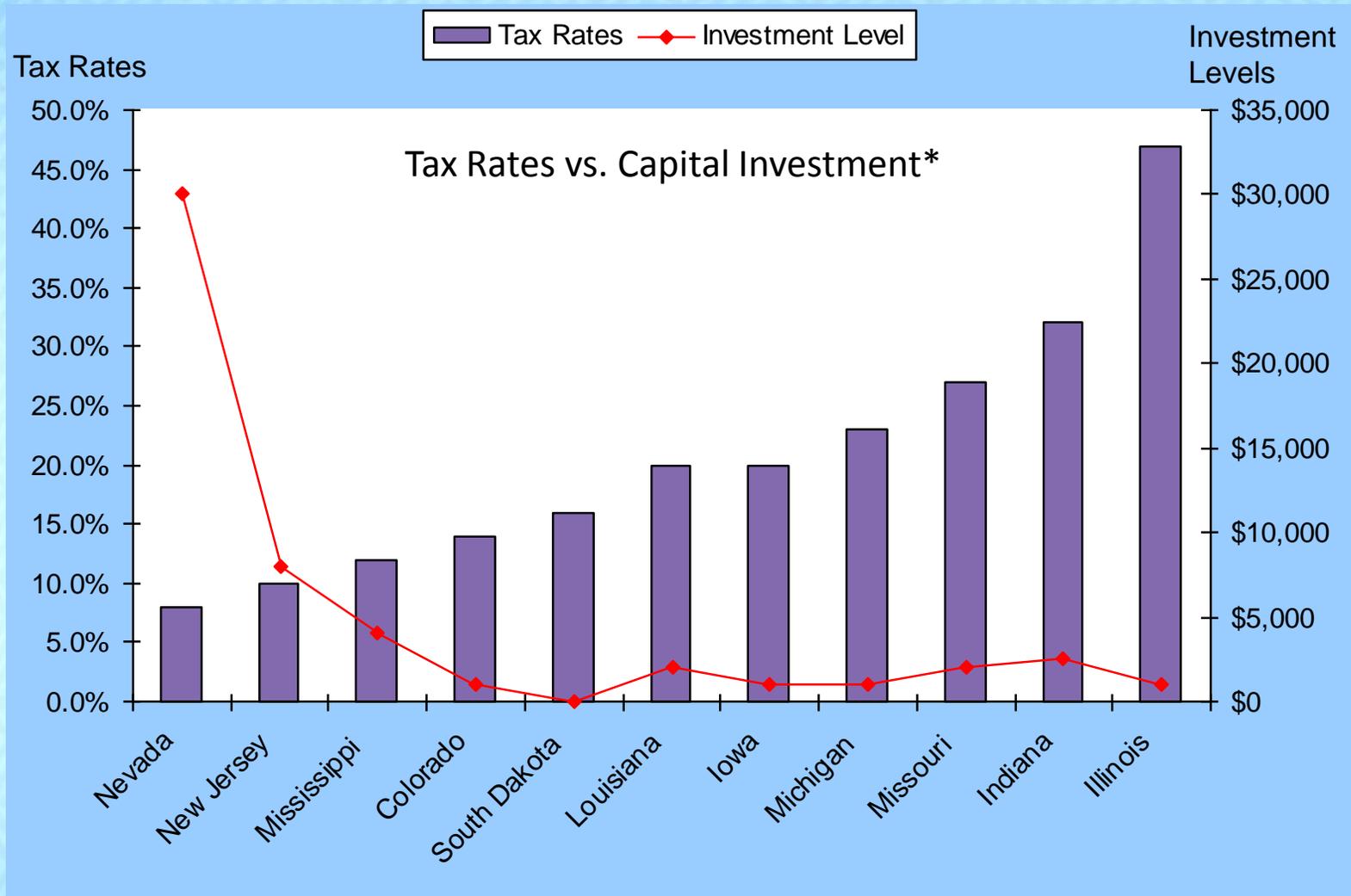
# **MAXIMIZE BENEFITS FROM GAMING**

- **Create PARITY for all Florida Casinos**
- **Equal Gaming products**
- **Equal Tax Rates**
- **A fair and level competitive playing field will maximize the benefits from Gaming for Florida**

# CONSIDER IMPACT OF GAMING TAX RATE TO MAXIMIZE BENEFITS FOR FLORIDA

- **Inverse relationship between gaming tax rate & capital investment**
  - **High tax rate = Low capital investment**
  - **Low tax rate = High capital investment**
- **Inverse relationship between gaming tax rate and jobs**
  - **Higher Tax Rate = Fewer Jobs**
  - **Lower Tax Rate = More jobs**

# Lower Tax Rate = Higher Investment

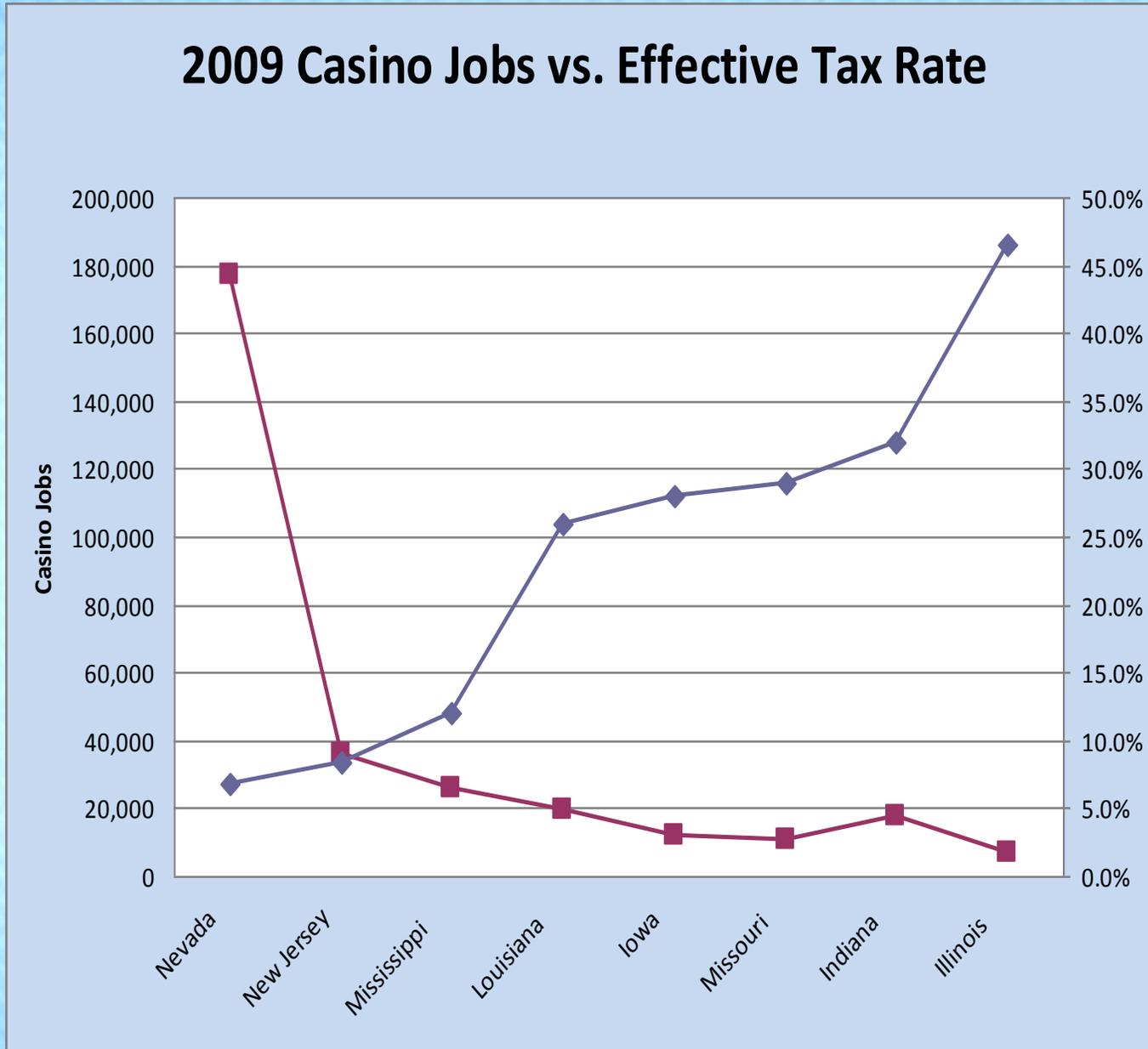


*\*Excerpt from AGA's 2005 Study - "Impacts of Gaming Taxation in the United States"*

*Note: Racetrack casinos are not included in this exhibit.*

*Source: Christiansen Capital Advisors, LLC; State Regulatory Agencies*

# Lower Tax Rate = More Jobs



-Casino Jobs -Effective Tax Rate

# Proposed Expansion of Gaming Footprint

**Expanding the current gaming footprint without including Pari-mutuels, WILL NOT maximize the benefits of Gaming to Florida**

- ✘ Eliminates guaranteed annual revenue share from Seminoles**
- ✘ Will devastate the South Florida Pari-mutuel Casino Operations, causing lost jobs and lost taxes for Florida**
- ✘ Will severely impact overall Pari-mutuel industry in Florida, causing lost jobs and lost taxes for Florida**
- ✘ Florida should not take action to expand gaming while there is litigation pending regarding Constitutionality of gaming expansion**

# Current Benefits of Gaming at RISK

**✘ Potential loss of annual tax revenues to Florida  
from Seminoles and South Florida Casinos**

**\$300 – 400 million**

**✘ Potential loss of existing Florida jobs from South  
Florida Casinos**

**8,000 – 10,000**

# FLORIDA'S PARI-MUTUEL INDUSTRY

**MULTI-BILLION DOLLAR** Annual Economic Impact



- Provides tens of thousands Floridians Jobs
- Annual purse and breeders awards of over \$100 million paid by Florida Pari-mutuels

# **One Option: Allow full casinos at ALL existing Pari-mutuel facilities**

- ✓ **Florida can benefit from Casinos without expanding beyond the current Pari-mutuel footprint**
- ✓ **Full parity in Gaming product and a more reasonable tax rate for all pari-mutuel facilities**
- ✓ **Maximize jobs, capital investment and taxes in up to 23 locations across the state**
- ✓ **Revenue share from the Seminoles will be eliminated and would have to be recaptured through the new casinos**

# **Another Option: Develop resort casinos within existing casino footprint**

- ✓ **Incentivize capital investment at the existing South Florida Casino Operations to develop into Resort Casinos**
- ✓ **Lower tax rate or Capital Investment Tax Credits**
- ✓ **Parity of Gaming product**
- ✓ **Florida can benefit from Resort Casinos without losing existing tax revenues and existing jobs**

# **Resort Casinos developed at existing South Florida Casinos WILL NOT “take away” from Florida**

- ✓ **WILL NOT be an expansion of gaming**
- ✓ **WILL NOT eliminate annual Seminole revenues**
- ✓ **WILL NOT devastate South Florida Pari-mutuel Casinos, causing lost jobs and lost tax revenues**
- ✓ **WILL NOT severely impact overall Pari-mutuel industry, causing lost jobs and lost tax revenues**
- ✓ **WILL NOT be open to Constitutionality issues**

# MAXIMIZE BENEFITS FROM GAMING

Resort Casinos developed at the existing South Florida Casinos WILL help maximize Florida's benefits from Gaming

- ✓ WILL maximize revenues to Florida from both the South Florida Casinos and Seminoles
- ✓ WILL result in new capital investment for Florida
- ✓ WILL result in more jobs for Floridians

# WE BELIEVE



**Florida should take comprehensive approach to maximize its benefits from Gaming (Casinos, Pari-mutuels, Tribal)**



**Parity in product and a reasonable tax rate will maximize Florida's benefits from Gaming**



**Any expansion of Gaming must include the Pari-mutuel industry in order to maximize the benefits for Florida**

**MAXIMIZE THE  
BENEFITS OF  
CASINO GAMING  
FOR FLORIDA**



**Irrigation  
Construction  
Regulation**

*An integral piece of the puzzle*



**Florida Irrigation**  
**Society**  Managing Every Drop™

# The Florida Irrigation Society

- 💧 Florida Non-Profit Organization 501(c)6
- 💧 Founded in 1966
- 💧 Representing
  - Irrigation Installation & Service Contractors
  - Design Professionals
  - Irrigation Consultants
  - Agricultural Irrigation
  - Academic, Scientific, and Regulatory Agencies



# Importance of Irrigation

- 💧 Establish Planted Landscape
- 💧 Sustain Landscape Function
  - Cooling Effects
  - Erosion and Dust Control
  - Athletic Field Safety
  - Tourism Aesthetics
  - Property and Community Values
  - Quality of Life
  - Crops
  - Wildlife Food and Habitat



# Consumers of Irrigation Services

- 💧 Individual Homeowners
- 💧 H.O.A.'s, P.O.A.'s, and C.D.D.'s
- 💧 Commercial and Residential Developers
- 💧 FDOT
- 💧 County and City Agencies
  - Facilities
  - Roads
  - Parks
  - Water Utilities
- 💧 State Agencies
  - Water Management Districts



# Economic Impact of Landscape Irrigation Statewide

- 💧 Green Industry
  - \$15 Billion Revenue in 2005
- 💧 Landscape Irrigation Construction
  - \$600 Million in 2010



# Resource Impact of Landscape Irrigation Statewide

- 💧 50% of Potable Water Used is for Landscape Irrigation
- 💧 Poor Quality Irrigation Systems Create
  - Wasted Water
  - Wasted Electricity
  - Runoff and increased use of Fertilizer, Pesticides, and Herbicides
  - Increased Landscape Waste



# Long Term Problems

- 💧 State Growth could be restricted by lack of inexpensive quality water
- 💧 High cost of alternative water supply hurts Florida's competitiveness



# Recommended Solution

- 💧 Landscape Irrigation Water Conservation
  - Cost effective
  - Savings typically exceed 30%



# Current Landscape Irrigation Business & Contractor Regulations are Redundant

- 💧 31 counties require certificate of competency
- 💧 4 counties require continuing education credits
- 💧 Most counties and cities require occupational license/tax receipt
- 💧 Costly and time consuming for businesses to comply
- 💧 Regulatory environment fosters poor workmanship



# Recommended Solution

- ◆ Adopt a statewide irrigation contractor certificate of competency



# Current Irrigation Construction Requirements are Conflicting

- ◆ FLORIDA Building Code Appendix “F”
- ◆ County Irrigation Codes
- ◆ City Irrigation Codes
- ◆ Water Management District Regulations
- ◆ Plumbing Backflow Prevention Codes
- ◆ FDEP and IFAS Best Management Practices
- ◆ Code variations add risk for contractors
- ◆ Many parts of Florida have no requirements or they are not enforced



# Recommended Solution

- ◆ Adopt statewide irrigation construction code that industry and regulators can focus on optimizing



# Irrigation Construction Permitting is Inconsistent

- ◆ Permits are not required in many areas of the state
- ◆ Permit inspections often not done
- ◆ Training of plan reviewers hindered by conflicting codes
- ◆ Design and construction requirements are inconsistent



# Recommended Solutions

- ◆ Uniform code will simplify design, construction, and building department enforcement



# Results of Ineffective Irrigation Construction Regulations

- 💧 Financial harm to consumers
- 💧 Loss of landscape material
- 💧 Potential for backflow contamination a health hazard
- 💧 Distribution of water-borne pathogens
- 💧 Building and infrastructure damage
- 💧 Unsafe roadways due to overspray and undermining
- 💧 Water and energy waste
- 💧 Excess demand on Aquifers, surficial water, and utilities



# Recommended Solution

- The irrigation industry and regulatory agencies can work toward adoption of effective regulations and implementation
  - As has been achieved with most construction trades



# Summary

- ◆ Benefits of Statewide Regulations
  - Reduce regulatory burden on small Florida irrigation businesses
  - Ensures consumer receives value
  - Protect the public from safety and health hazards
  - Extend the limited state water resources

*How can we work together?*

  
**Florida Irrigation**  
**Society** Managing Every Drop™



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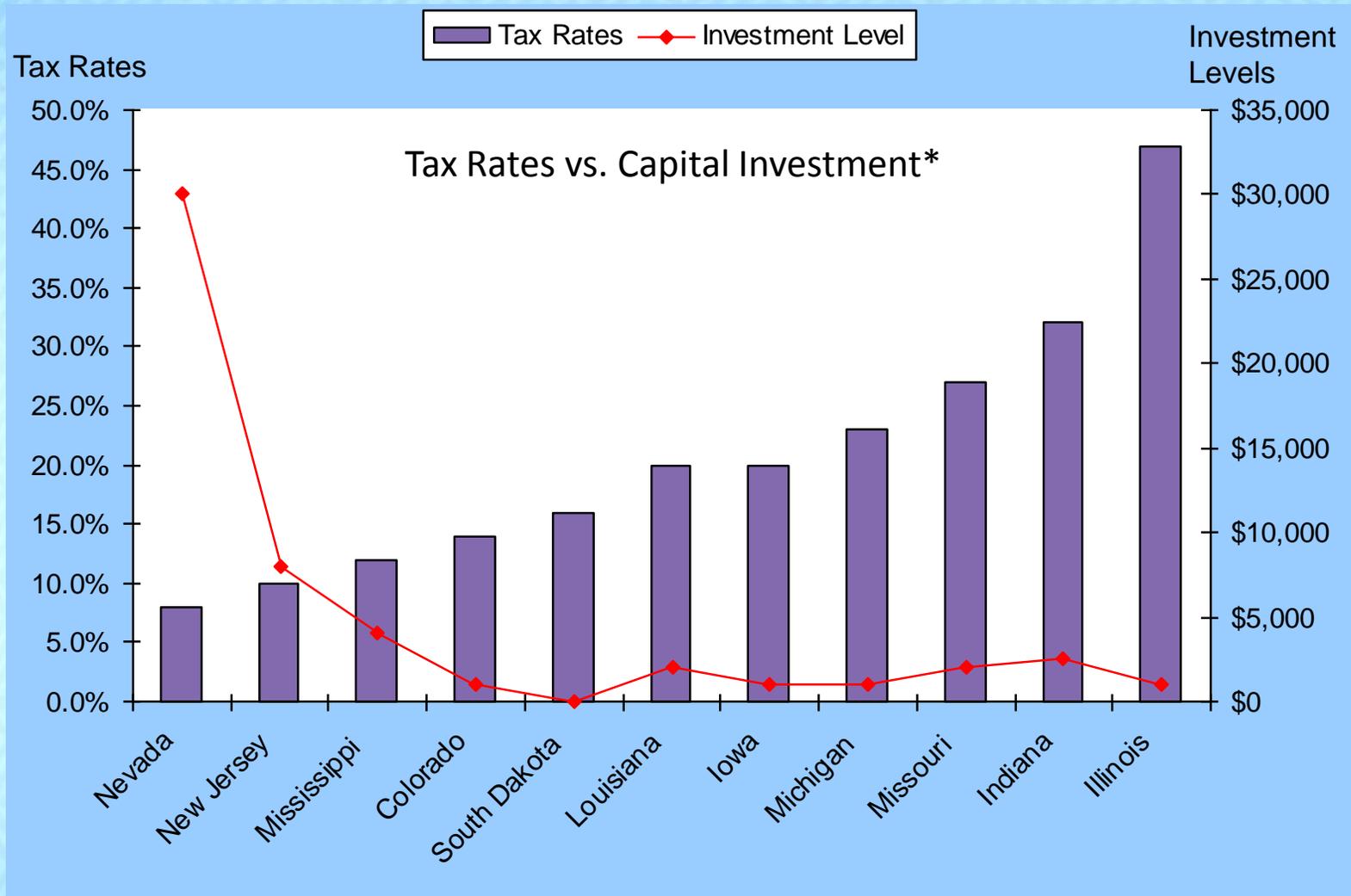
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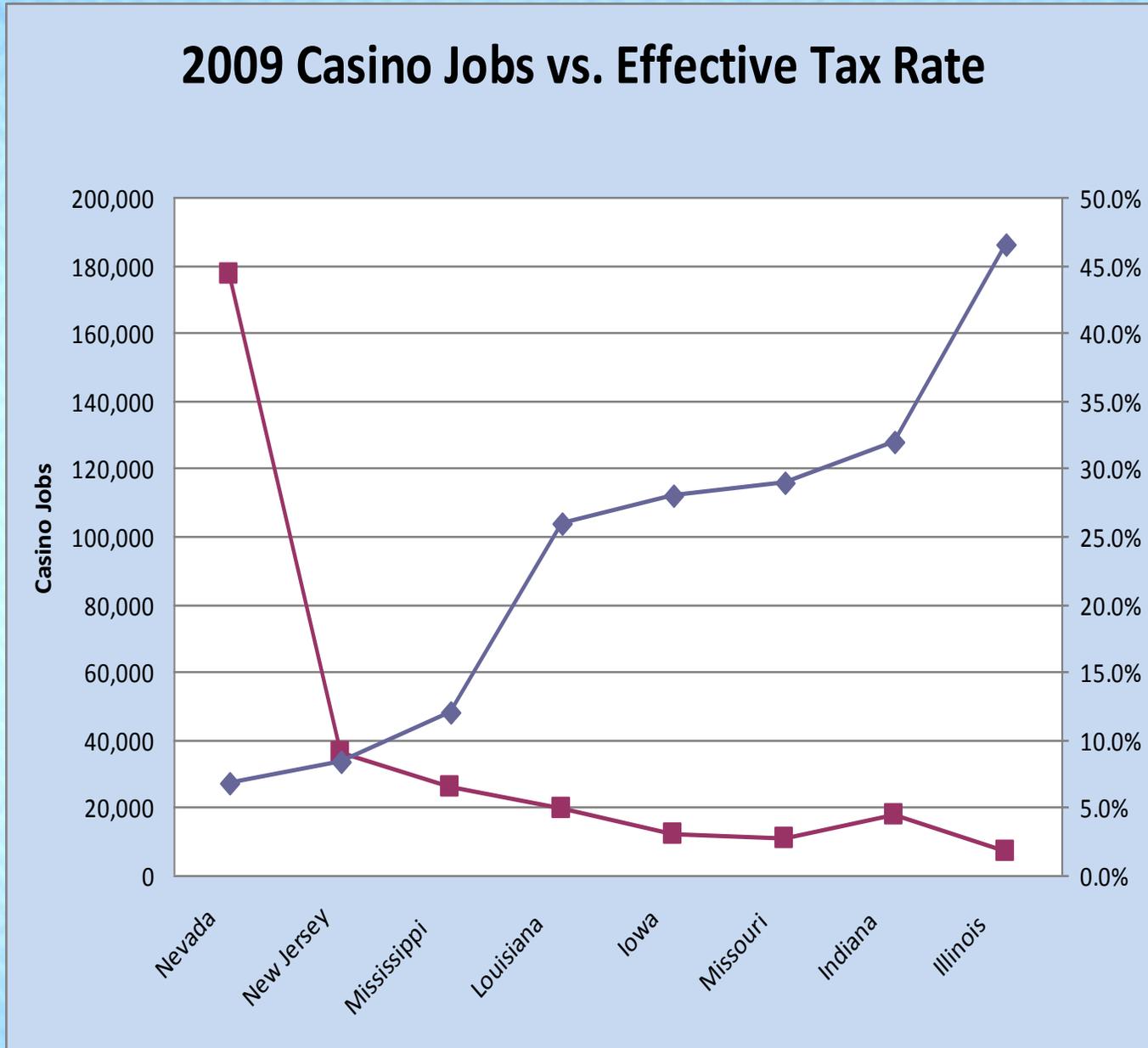


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**MAXIMIZE THE  
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# Gulfstream Regulated Industries Presentation 2-7-11



# Old Gulfstream Park

- Highest taxed thoroughbred facility in the state
- Fewest number of race days on calendar
- Prohibited from starting a race after 7 p.m.
- No year-round simulcasting
- No poker room
- No slot machines

14 8:58 AM

# New Gulfstream Park



# Palm Meadows – Boynton Beach



# The future of Gulfstream Park



# Level Playing Field?

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## Seminole Tribe v. Pari-mutuel Casinos

- Blackjack exclusivity
  - Significant Tax rate advantage
  - Equipment and machine lease deductions
-

# Level Playing Field?

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## Pari-mutuel v. Pari-mutuel

- Disparity purse levels and tax rates
    - Different purse requirements between permit holders
    - More than 20 effective tax rates
  - Different relocation and conversion privileges
  - Different operating privileges
    - Different levels of live racing required for non-pari-mutuel operations
    - Different curfews - Thoroughbreds after 7 pm, Harness before 7 p.m., Jai Alai/Greyhound have none
    - Different simulcasting privileges
-

# Statewide Handle

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*Since 2005, statewide handle has decreased from \$1,514.8 million to \$957.6 million.*

- Greyhounds - \$853.8 million to \$565.9 million
  - Jai Alai - \$83.9 million to \$43.1 million
  - Harness \$99.1 million to \$55 million.
  - Gulfstream - \$228.2 million to \$151.4 million.
-

# Horse Racing Industry Economic Impact

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- The Florida horse industry annually generates product valued at \$2.2 Billion, and has a total annual economic impact estimated at around \$7 Billion.
  - Over 240,000 Floridians are involved in the horse industry as owners, service providers and employees.
  - There are over 900 horse farms in Florida with over 72,000 employees.
  - Florida horsemen spend more than \$1.2 Billion in annual maintenance costs, including \$185 million on feed and hay. *(1996 Study Dept. of Agriculture)*
-

# 2010 Breeding Statistics

STATE	2010 LIVE FOALS	PERCENT CHANGE
-------	-----------------	----------------

Kentucky	12,931	-9.3
<b>Florida</b>	<b>2,097</b>	<b>-27.5</b>
California	1,891	-25.2
Louisiana	1,678	-11.5
New York	908	-15.9
<b>Pennsylvania</b>	<b>844</b>	<b>+22.0</b>

# Recommendations

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- Stable, balanced regulatory environment.
  - Level, competitive playing field.
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**INTERIM MONITOR PROJECT TITLE:**

*Remediation of Homes with Imported Drywall*

**DATE DUE:** N/A

**PROJECT NUMBER:** 2011-372

**ISSUE DESCRIPTION and BACKGROUND:**

Many homes around the nation have been affected by imported drywall. During the 2010 Regular Session, several bills were introduced in the Senate dealing with the imported drywall problem. The bills ranged from a limitation of liability for imported drywall remediators (SB 2196 by Senator Bennett) to creating a task force to study the issue (SB 1044 by Senator Aronberg) to providing for various regulatory and licensing provisions (SBs 498, 500, and 1042 by Senator Aronberg). These bills died in the Committee on Regulated Industries. The chair of the committee, Senator Jones, believed that no action should be taken on these bills until the results of the various activities across the nation had been determined. The Committee on Community Affairs prepared an Issue Brief on the subject, *Imported Drywall*, Issue Brief 2010-311. The brief identified action being taken at the federal level through the U.S. Consumer Product Safety Commission, the U.S. Environmental Protection Agency, and the U.S. Centers for Disease Control.

In addition, there were several federal lawsuits filed relating to imported drywall manufactured in China, four in the U.S. Southern District of Florida, three in the U.S. Middle District of Florida, and one each in the U.S. Eastern District of Louisiana, the U.S. Northern District of Florida, and the U.S. Southern of Ohio. All of these lawsuits were transferred to the U.S. Eastern District of Louisiana and assigned to the Honorable Eldon E. Fallon for consolidated hearing, *see In re: Chinese-Manufactured Drywall Products Liability Litigation*, 626 F.Supp.2d 1346, 2009 WL 1725973 (U.S.Jud.Pan.Mult.Lit.). The judge has awarded damages and ordered remediation in some of the cases.

The Federal Interagency Task Force on Problem Drywall has issued *Interim Remediation Guidance for Homes with Corrosion from Problem Drywall*, by the Consumer Product Safety Commission and the Department of Housing and Urban Development, April 2, 2010. According to the National Homebuilders Association, the Department of Housing and Urban Development may provide some financial relief for home owners. The department has stated that it would make Community Development Block Grant funds available for this purpose, although no money has been dispensed yet (*see* [http://www.nahb.org/news\\_details.aspx?newsID=10490](http://www.nahb.org/news_details.aspx?newsID=10490), last visited, May 14, 2010).

**OBJECTIVE:**

To monitor the status of remediation and funding efforts for homes that are affected by the problem of imported drywall.

**METHODOLOGY:**

Senate Professional Staff will review the status of the ongoing litigation in the U.S. Eastern District of Louisiana. The status of drywall remediation regulations and funding from the federal government will also be monitored. Senate Professional Staff will also contact affected homebuilders and other interested parties to monitor the problem, and will coordinate with the Senate Professional Staff of the Senate Committee on Community Affairs.