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Paving the Streets in Gold: A Comparative Analysis of the 2012 Florida Gaming Bill

TODD FRIEDMAN*

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I. INTRODUCTION: RESORT-CASINOS IN FLORIDA

An epic battle mounting opposing forces will decide the fate of gambling in Florida.¹ On the pro-gaming side, the Malaysian conglomerate known as the Genting Group,² Las Vegas casino magnates,³ members of the established pari-mutuel industry,⁴ and the Miami Chamber of

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1. Mary Ellen Klas, *Resort casino debate could become epic battle*, MIAMI HERALD, Jan. 7, 2012, available at <http://www.miamiherald.com/2012/01/07/2578585/resort-casino-debate-could-become.html>; Andres Viglucci & Charles Rabin, *Vegas company looking to build Miami gambling resort*, MIAMI HERALD, Oct. 3, 2011, <http://www.miamiherald.com/2011/10/03/2437320/vegas-company-looking-to-build.html>.

2. Genting is pronounced with a hard 'g' sound, like 'gambling' or 'gallup,' as opposed to the soft 'g' sound in words like 'general' or 'generate.'

3. Douglas Hanks, *Two Vegas magnates disagree on Miami's casino potential*, MIAMI HERALD, Oct. 28, 2011, available at <http://www.miamiherald.com/2011/10/28/2477160/two-vegas-magnates-disagree-on.html>.

4. See DIVISION OF PARI-MUTUEL WAGERING, <http://www.myfloridalicense.com/dbpr/pmwl/index.html> (last visited Jan. 22, 2012). Mary Ellen Klas, *Resort casino debate could become epic battle*, MIAMI HERALD, Jan. 7, 2012, available at <http://www.miamiherald.com/2012/01/07/2578585/resort-casino-debate-could-become.html>.

Commerce⁵ hired a team of lobbyists seeking to bring Las Vegas-style gaming to Florida. In opposition to the gaming coalition, representatives of the Florida Seminole Tribe and Disney World teamed up with religious groups,⁶ prominent local and state politicians,⁷ and small business owners⁸ to defeat the bill. In fact, five months before the commencement of the 2012 Florida legislative session commenced, Florida gaming insiders estimated that these parties had spent over \$2 million on lobbying fees.⁹

In October 2011, Florida State Senator Elyn Bogdanoff¹⁰ and State Representative Erik Fresen¹¹ filed identical bills proposing a maximum of three mega-casino licenses in Florida.¹² The bill aimed to gain popular support by capping the number of first-class, resort-casinos at three, gradually squeezing out the competition, and by achieving a “net reduction” in Florida gaming.¹³

Shepard Broad Law Center Professor and South Florida’s leading academic voice on gaming-related issues, Robert M. Jarvis, opined that the pro-gaming coalition mistakenly underestimated the strength of the opposition movement.¹⁴ Anti-casino lobbyists forced Senator Bogdanoff to cripple her bill with an amendment that would enable pari-mutuels¹⁵

5. Douglas Hanks, *Miami Chamber of Commerce endorses casinos*, MIAMI HERALD, Jan. 4, 2012, available at <http://www.miamiherald.com/2012/01/04/2573298/miami-chamber-of-commerce-endorses.html>.

6. Michael Vasquez, *Seminole expand casino operations*, MIAMI HERALD, Oct. 5, 2011, available at <http://www.miamiherald.com/2011/10/04/2440619/seminoles-expand-casino-operations.html>; Mary Ellen Klas, *Resort casino debate could become epic battle*, MIAMI HERALD, Jan. 7, 2012, available at <http://www.miamiherald.com/2012/01/07/2578585/resort-casino-debate-could-become.html>.

7. Mary Ellen Klas, *Opponents line up against new casino bill*, MIAMI HERALD, Oct. 28, 2011, available at <http://www.miamiherald.com/2011/10/28/2477242/opponents-line-up-against-new.html>.

8. Elaine Walker, *Would casino mega resort hurt existing Miami restaurants and shops? Opinion is split*, THE MIAMI HERALD, Jan. 28, 2012, available at http://www.miamiherald.com/2012/01/19/2612257_p2/would-casino-mega-resort-hurt.html.

9. Mary Ellen Klas, *Legislators are counting on rare moment to bring resort casinos to Florida*, MIAMI HERALD, Sep. 10, 2011, available at <http://www.miamiherald.com/2011/09/10/2400167/legislators-are-counting-on-rare.html>.

10. Republican-Fort Lauderdale.

11. Republican-Miami.

12. Mary Ellen Klas, *Casino bill would help mega resorts, hurts racetracks*, MIAMI HERALD, Oct. 26, 2011, available at <http://www.miamiherald.com/2011/10/26/2472429/casino-bill-sacrifices-horse-and.html>.

13. Mary Ellen Klas, *Legislators are counting on rare moment to bring resort casinos to Florida*, MIAMI HERALD, Sep. 10, 2011, available at <http://www.miamiherald.com/2011/09/10/2400167/legislators-are-counting-on-rare.html>.

14. Telephone Interview with Robert M. Jarvis, Professor, Nova Southeastern University Shepard Broad Law Center, January 31, 2012; Email from Robert M. Jarvis, Professor, Nova Southeastern University Shepard Broad Law Center, March 14, 2012.

15. Pari-mutuels, also known as “racinos,” refer to a particular type of betting based upon the

to compete with the casino-resorts by installing Las Vegas-style casino slots.¹⁶ Senator Bogdanoff admitted that the amendment would expand gaming in Florida contrary to her express policy goal.¹⁷ Shortly after the amendment, Representative Fresen removed the gaming bill from the floor, effectively killing it.¹⁸

Despite an early defeat in 2012, gaming fever has spread through the veins, and pockets, of Florida and its citizens. In May 2011, for example, the Genting Group acquired the Miami Herald's iconic, 14-acre, waterfront downtown headquarters for \$236 million.¹⁹ Since then, Genting has purchased about sixteen additional acres of property adjacent to the *Herald* building for an estimated \$206 million.²⁰ Meanwhile, the owner of Caesar's Palace was rumored to be in negotiations to buy a racetrack in Hallandale Beach,²¹ and Las Vegas Sands executives²² awaited the nod from owner Sheldon Adelson to purchase the Miami World Center.²³ Elsewhere, residents of two northern Florida counties voted in favor of installing slot machines at pari-mutuels, and another senate bill would hold referendums in three central Florida counties to authorize slot machine gaming.²⁴

collective odds of all bettors. Florida permits pari-mutuel horse racing, harness horse racing, greyhound racing, jai alai games, and cardroom poker games.

16. In effect, if a majority of a county votes in favor of permitting gaming, then any licensed pari-mutuel situated inside that voting county may introduce additional slot machines and other gaming devices. See Mary Ellen Klas, *Pari-mutuels gain parity in gambling bill*, MIAMI HERALD, Jan. 10, 2012, available at <http://www.miamiherald.com/2012/01/09/2581343/senate-committee-approves-pari.html>; see also S.B. 710c1, 2012 Reg. Sess. (Fla. 2012) (proposing section 551.304(1)(f), Florida Statutes); S.B. 710c1, 2012 Reg. Sess. (Fla. 2012) (proposing section 551.307, Florida Statutes).

17. Mary Ellen Klas, *Pari-mutuels gain parity in gambling bill*, THE MIAMI HERALD, Sep. 1, 2011, available at <http://www.miamiherald.com/2012/01/09/2581343/senate-committee-approves-pari.html>.

18. *Casino bill all but dies as Fresen asks for postponed vote*, MIAMI HERALD BLOG (Feb. 3, 2012, 3:23 PM), available at <http://miamiherald.typepad.com/nakedpolitics/2012/02/casino-bill-all-but-dies-as-fresen-asks-for-postponed-vote.html>.

19. Elaine Walker, *Owner of Herald property buys more land*, MIAMI HERALD, Sep. 1, 2011, available at <http://www.miamiherald.com/2011/09/01/2386165/owner-of-herald-property-buys.html>.

20. Elaine Walker, *Buying distressed real estate debt remains growth area*, MIAMI HERALD, Jan. 31, 2012, available at <http://www.miamiherald.com/2011/10/30/2479542/buying-distressed-real-estate.html>.

21. Mary Ellen Klas, *Legislators are counting on rare moment to bring resort casinos to Florida*, MIAMI HERALD, Sep. 10, 2011, available at <http://www.miamiherald.com/2011/09/10/2400167/legislators-are-counting-on-rare.html>.

22. Las Vegas Sands is perhaps most famously known for owning The Venetian in Las Vegas.

23. Douglas Hanks, *Sands CEO backs Gingrich and a Miami Casino*, MIAMI HERALD, Jan. 31, 2012, available at <http://www.miamiherald.com/2012/01/27/2612070/sands-ceo-backs-gingrich-and-a.html>.

24. Mary Ellen Klas, *Voters approve slot machines in two rural counties, but legal battle*

Given the escalating interest in Florida gaming, the question is not, “Will the legislature legalize resort-casino gaming in Florida?” Rather, the more appropriate question is, “When will resort-casino gaming come to Florida?” In most states with resort-casinos, like Ohio, Pennsylvania, or New Jersey, it took years and multiple trips to the polls before voters approved gaming.²⁵ For example, citizens voted against casino gaming in New Jersey three times before they amended the state constitution in 1976.²⁶ Consequently, it is merely a matter of time before resort-casinos break ground on Floridian turf.

II. THESIS: SUGGESTED REFORMS TO FLORIDA’S GAMING BILL

This article analyzes the 2012 Florida gaming bill by cross-referencing key components of the bill with the Nevadan and New Jersey counterparts. The Nevada model distributes regulatory power among state and local government bodies. In contrast, the New Jersey model consolidates regulatory power in the hands of state government officials. Beginning with the Nevada regulatory model, I argue that the distribution of regulatory power between state and local government officials forces casino-license applicants to heed the demands of local populations, which facilitates orderly and organic gaming growth and regulation. Next, I review the New Jersey model and identify the undesired consequences of centralizing regulatory power in the hands of state government officials. I also argue that the policy goal pursued by the legislature—subsidizing various senior citizen living expenses with gaming tax revenues—would be better achieved by investing gaming tax revenues in public infrastructure to empower the general public to generate more Social Security revenues.

After examining those models, this article transitions toward the Florida gaming bill and suggests reforms to better serve the interests of Florida residents, gaming entrepreneurs, and state and local governments. I argue two main points: first, the Florida legislature should require casino-resort license holders to offer a minority partnership interest to the public (with a preference toward members of Florida’s established gaming industry); and second, the Florida legislature should delegate even more power to local governmental bodies. These reforms would achieve a net reduction in Florida gaming, preserve the invest-

looms, *MIAMI HERALD*, Oct. 4, 2011, available at <http://www.miamiherald.com/2012/01/31/2618018/voters-approve-slot-machines-in.html>.

25. See, e.g., Suzette Parmley, *States go all in to get a shot at gambling gold: Delaware, Ohio, and others look to challenge Pa. and Atlantic City for a share of a shrinking pot*, *PHILADELPHIA INQUIRER*, Dec. 6, 2009, at A1.

26. GEORGE STERNLIEB & JAMES W. HUGHES, *THE ATLANTIC CITY GAMBLE*, 31 (1st ed. 1983).

ments made by the established Florida gaming industry, and give prospective casino-resort licensees a desired monopoly over the Florida gaming market.

III. AN EXAMINATION OF ESTABLISHED REGULATORY SCHEMES: NEVADA AND NEW JERSEY

The criteria that generally establish competitive advantages, like climate, land, labor, or skill, do not constrain the gaming industry.²⁷ Without regulation, a savvy management team with a deep pocket would be able to establish a gaming enterprise virtually anywhere in the world. Questions relating to regulation are only of degree; regulation is critical to ensure the orderly development of modern Florida gaming.

Still, bigger—or more extensive regulation—is not always better. In 2010, the New Jersey gaming regulatory agency, the New Jersey Casino Control Commission (“NJCCC”), employed approximately 1,110 employees on a \$68 million operating expense budget.²⁸ That year, New Jersey gaming-related industries generated nearly \$3.6 billion in taxable gaming revenues,²⁹ and the NJCCC collected about \$385 million in taxes.³⁰ By comparison, the Nevada Gaming Control Board employed 443 salaried agents³¹ on a \$32.5 million operating budget.³² In 2010, Nevadan gaming-related industries generated \$9.7 billion in taxable revenues³³ and the Nevada gaming agency collected \$835 million in taxes.³⁴ Even though Nevada’s gaming industry generates three times the amount of taxable revenues than New Jersey’s industry, Nevada employs less than half the amount of employees.

Evidently, Florida does not necessarily need burgeoning amounts of bureaucracy to regulate a newly established gaming industry. Florida

27. Tomer Broude & Doron Teichman, *Outsourcing and Insourcing Crime: The Political Economy of Globalized Criminal Activity*, 62 VAND. L. REV. 795, 818 (2009).

28. NEW JERSEY CASINO CONTROL COMMISSION: 2010 ANNUAL REPORT, at 21 (2010), available at www.state.nj.us/casinos/about/commrepo/.

29. *Id.* at 29 (showing gaming tax revenues fell nearly \$400 million from 2009).

30. *Id.* at 21.

31. Howard Stutz, *Nevada Gaming Control board escapes cuts*, CASINO CITY TIMES, Jul. 28, 2009, available at <http://www.casinocitytimes.com/article/nevada-gaming-control-board-escapes-cuts-57253>.

32. Howard Stutz, *Gaming Control Board cuts won't lead to job losses*, LAS VEGAS REVIEW-JOURNAL, Mar. 9, 2010, available at <http://www.lvrj.com/news/gaming-control-board-cuts-won-t-lead-to-job-losses-87142452.html>.

33. NEVADA STATE GAMING CONTROL BOARD: 2010 GAMING REVENUE REPORT, at A-1, available at http://gaming.nv.gov/documents/pdf/1g_10dec.pdf; see also GAMING REVENUE REPORT: 2011 INDEX, at 48; NEVADA GAMING COMMISSION AND STATE GAMING CONTROL BOARD QUARTERLY STATISTICS REPORT FOR THE QUARTER ENDED DECEMBER 31, 2010, at 2.

34. See NEVADA GAMING COMMISSION AND STATE GAMING CONTROL BOARD QUARTERLY STATISTICS REPORT FOR THE QUARTER ENDED DECEMBER 31, 2010, at 4.

simply needs effective regulation³⁵ to facilitate healthy, sustainable growth and eradicate the undesired elements often associated with gaming,³⁶ including fraud, pathological addiction, and organized crime.³⁷ These goals can be accomplished by including the critical components of an effective regulatory model: licensing, operational controls, enforcement, tax, and accounting and audit.³⁸

a. NEVADA

Nevada gaming regulations aim to build public trust and confidence in the gaming industry.³⁹ Maintaining legitimacy is paramount in Nevada due in large part to the association of people like Meyer Lansky, the Genovese crime family, and other mobsters who once called Nevada home.⁴⁰ Florida has much to learn from Nevada. Indeed, Meyer Lansky once operated a thriving pari-mutuel business in South Florida.⁴¹

The success of Nevada regulatory model lends itself toward enlisting local governmental effort in legitimizing gaming entrepreneurs. Nevada state officials focus their attention on licensing standards, compliance issues, conducting thorough audit-and-accounting, and collecting tax revenues. Meanwhile, the legislature empowered local governmental bodies to manage local issues. Nevada regulations force prospective licensees to build trust with local citizens, which in turn, lead to the achievement of Nevada's public policy goals. Ultimately, the symbiotic cohesion between state and local government officials results in effective regulation.

35. Telephone Interview with Kenneth Goodman, Professor, University of Miami Ethics Department Chair, Jan. 16, 2012.

36. See, e.g., J. Weaver, *Calder Race Course supervisor, 2 contractors charged in alleged kickback scheme*, MIAMI HERALD, Feb. 2., 2012, <http://www.miamiherald.com/2012/02/02/2621421/calder-race-course-supervisor.html>.

37. Jack Goldsmith, *What Internet Gambling Legislation Teaches About Internet Regulation*, 32 INT'L. LAW. 1115, 1116 (1998); K. Alexa Koenig, *Prohibition's Pending Demise: Internet Gambling & United States Policy*, 10 U. PITT. J. TECH. L. & POL'Y 3, 3-4 (2009); Noe Hamra Carbajales, *No More Bets: The United States Rolls the Dice One More Time Regarding International Relations and Foreign Internet Gambling Services*, 19 TUL. J. INT'L & COMP. L. 397, 401, 415 (2010).

38. Cory Aronovitz, *The Regulation of Commercial Gaming*, 5 CHAP. L. REV. 181, 189 (2002).

39. See NEV. REV. STAT. § 463.0129(1)(b), (c) (2011); see also EDWARD A MORSE & ERNEST P. GOSS, *GOVERNING FORTUNE: CASINO GAMBLING IN AMERICA*, 100 (1st ed. 2007).

40. EDWARD A MORSE & ERNEST P. GOSS, *GOVERNING FORTUNE: CASINO GAMBLING IN AMERICA*, 100 (1st ed. 2007).

41. See, e.g., Fred Grimm, *Where's Meyer Lansky when you need him?*, MIAMI HERALD, Nov. 28, 2011, available at <http://www.miamiherald.com/2011/11/28/2522527/wheres-meyer-lansky-when-you-need.html>.

1. CLEARLY DEFINED REGULATORY ROLE FOR STATE OFFICIALS

Nevada regulates gaming through two overlapping agencies: the Nevada Gaming Commission⁴² (“Gaming Commission”) and the State Gaming Control Board (“Control Board”).⁴³ The Gaming Commission wields the most significant power, executing the final word over licensing and regulatory policy decisions.⁴⁴ It consists of five members,⁴⁵ appointed by the governor⁴⁶ on a part-time basis.⁴⁷ The Control Board consists of three full-time members,⁴⁸ also appointed by the governor.⁴⁹ Together, the Gaming Commission and Control Board are responsible for compiling all information and data on licensees and applicants relating to finances, earnings, revenues, criminal record, background, government records, audits, investigations, and public hearings.⁵⁰ The Gaming Commission and Control Board have the authority to inspect, and even seize or impound, any gaming premise in its entirety, gaming equipment, documents and any other record for examination.⁵¹

If the Gaming Commission is the brain of the operation, then the Control Board is the muscle. Six divisions carry out the duties of the Control Board. The Audit Division audits casinos with more than \$3 million in revenue to ensure compliance with applicable gaming laws and proper reporting. The Investigation and Enforcement Divisions carry out background investigations on prospective licensees and employees, and investigate and monitor suspected criminal activity and organized crime. The Tax and License Division is responsible for collecting all taxes imposed on gambling. The Corporate Securities Division monitors publicly traded companies and their subsidiaries operating gaming businesses in Nevada. Last, the Technology Division provides the laboratory and field-testing for electronic devices and software to ensure their integrity for gaming patrons.⁵²

All of these divisions work together toward assuring the public of the legitimacy of the industry. For example, the Licensing Division conducts background checks on all applicants to determine whether newcomers are legitimate businesspeople. The Audit Division accounts for every dollar of gaming revenues to verify that revenues are generated

42. NEV. REV. STAT. § 463.022 (2011).

43. NEV. REV. STAT. § 463.030 (2011).

44. NEV. REV. STAT. § 463.1405(4) (2011); NEV. REV. STAT. § 463.145(1) (2011).

45. NEV. REV. STAT. § 463.022 (2011).

46. NEV. REV. STAT. § 463.024(1) (2011).

47. NEV. REV. STAT. § 463.025(1) (2011).

48. NEV. REV. STAT. § 463.030; N.R.S. 463.060(1) (2011).

49. NEV. REV. STAT. § 463.050(2) (2011).

50. NEV. REV. STAT. § 463.120(4) (2011).

51. NEV. REV. STAT. § 463.140(2) (2011).

52. See MORSE & GOSS, *supra* note 40, 100–02.

from gaming, rather than criminal enterprise. In the event that criminal activity is suspected, the Investigation and Enforcement Division aims to discover and expose any illicit activity.⁵³

2. DELEGATION OF POWER TO LOCAL AUTHORITIES

Nevada gaming regulations aim to sustain the economic lifeline of the state,⁵⁴ while garnering the cooperation of local communities housing gaming facilities.⁵⁵ When the Nevada legislature enacted the Nevada Gaming Control Act, it recognized that the well-being and prosperity of the State of Nevada as a whole is necessarily dependent on the orderly, responsible growth of the gaming industry.⁵⁶ In 2010, the State of Nevada Economic Forum estimated that nearly thirty-two percent of future state revenues would come from gaming-related taxes, constituting the single largest concentration of revenue.⁵⁷ This is an increase from twenty percent in 2004.⁵⁸

Perhaps the ubiquitous presence of gaming in Nevada compelled the state legislature to confer concurrent authority between the state and local governments over the licensure and regulation of gaming.⁵⁹ It is my contention that local elected officials in Nevada are vested with significant powers⁶⁰ because vesting local authorities with power forces gaming entrepreneurs to heed the concerns and demands of local citizens. If gaming entrepreneurs heed the concerns and demands of local citizens (through their local governmental bodies), gaming expands with the support of the local communities.

To be clear, Nevada gaming regulations put towns, cities, and counties on equal footing with the state government: each governmental body can require a gaming enterprise to satisfy reasonable requirements before acquiring a town, city, county, or state license.⁶¹ Presumably as a matter of administrative efficiency, the state must approve the licensee first.⁶² After receiving state approval, a holder of a valid state license

53. *Id.*

54. *See generally* NEV. REV. STAT. § 463.0129 (2011).

55. NEV. REV. STAT. § 463.3072 (2011).

56. NEV. REV. STAT. § 463.3072(4)(a) (2011).

57. JOHN RESTREPO, REPORT TO THE GOVERNOR AND THE LEGISLATURE ON FUTURE STATE REVENUES, 12-13, (2010) (combining gaming and live entertainment taxes for the 2011-2013 fiscal years).

58. MORSE & GOSS, *supra* note 40, 102.

59. All concurrent jurisdictions must approve a casino license. NEV. REV. STAT. § 463.190(1) (2011); *see generally* NEV. REV. STAT. §§ 463.160-463.240 (2011).

60. *See, e.g.*, N.R.S. 463.190(1) (2011) (stating “a person is not permitted to engage in gaming operations in any city or town in this state, unless the person has in force valid state and county licenses, as well as any licenses required by the city or town”).

61. *Id.*

62. *See* NEV. REV. STAT. § 463.240 (2011) (“No county, city or town may grant a gaming

must comply with the qualifications required by county ordinance to obtain a county license.⁶³ Once the state and county have given approval, an applicant must continue down the chain and meet the requirements imposed by municipal ordinance.⁶⁴ Thus, the Nevada legislature grants significant power to local government bodies to ensure license holders acknowledge the concerns and meet the demands of local communities.

Specifically, local governing bodies vote on whether to convert their locales into “gaming enterprise districts.”⁶⁵ A gaming enterprise district is a county, city, or town that permits gaming facilities to operate with non-restricted licenses.⁶⁶ A non-restricted license permits a gaming facility to operate more than fifteen slot machines and other authorized games.⁶⁷ Ultimately, Nevada law requires that an individual seeking to open an establishment with a non-restricted license must petition the county, city, or town with having jurisdiction over the location of the proposed establishment to hold a public hearing.⁶⁸ Next, the petitioner must mail notice of the hearing to all owners and tenants of real property within 2,500 feet of the property line of the proposed establishment.⁶⁹ At the hearing, the petitioner has a burden to prove that the local utilities are adequate, that the proposed establishment will not unduly impact public services or the local quality of life, and that the operation will stabilize and enhance the local economy among other considerations.⁷⁰ Ultimately, a local license requires three-fourths of the commissioners to vote in favor of the gaming enterprise district petition.⁷¹

Despite a tendency to rank near the bottom fifty states in municipal discretion, Nevada courts also have repeatedly upheld the discretionary power of municipal and county government officials over gaming-related issues.⁷² In *State ex. Rel. Grimes v. Board*, the Nevada Supreme

license to any applicant unless the applicant holds a valid state gaming license . . . the state gaming license imposes no requirements upon any such county, city, or town to issue a gaming license to the applicant”).

63. NEV. REV. STAT. § 463.180(1) (2011); *see also* NEV. REV. STAT. § 463.230(1) (2011).

64. NEV. REV. STAT. § 463.190(1) (2011).

65. *See generally* NEV. REV. STAT. § 463.3086 (2011).

66. NEV. REV. STAT. § 463.0158 (2011).

67. NEV. REV. STAT. § 463.0177 (2011).

68. NEV. REV. STAT. § 463.3086(2) (2011).

69. NEV. REV. STAT. § 463.3086(3) (2011).

70. NEV. REV. STAT. § 463.3086(6) (2011).

71. NEV. REV. STAT. § 463.3086(8) (2011).

72. *Compare* *State ex. Rel. Grimes v. Board*, 1 P.2d 570, 572 (Nev. 1931) (allowing greater discretion in gaming matters); *State v. Rosenthal*, 559 P.2d 830, 833 (Nev. 1977), *with*, Louis V. Csoka, *The Dream of Greater Municipal Autonomy: Should The Legislature or the Courts Modify Dillon's Rule, A Common Law Restraint on Municipal Power?*, 29 N. CAR. CENT. L. J. 194, 208 (2007).

Court held that the power of the Las Vegas board of city commissioners to regulate gambling, and even prohibit it within city limits, was undeniable.⁷³ Writing for the majority Justice Ducker explained, “The power to restrict the number of licenses in the city is we think a very necessary implication from the power to license and regulate gambling.”⁷⁴ Nearly sixty years later, the Nevada Supreme Court reaffirmed the discretion of local government officials to license, regulate, and prohibit gaming.⁷⁵

To be sure, local governments are not given *carte blanche*. Local licensing power is subject to state control.⁷⁶ Most significantly, the Control Board—as opposed to the local government—investigates the information required by a city or county that licenses gaming.⁷⁷ Furthermore, the Act places a ceiling on the amount of fees and taxes county and city governments may exact from licensees.⁷⁸ For example, incorporated cities with large populations may only levy property taxes equivalent to twenty percent of licensing fees assessed in that particular incorporated city.⁷⁹

Nevertheless, Nevada local government officials have significant regulatory control. Proceeding forward, I will emphasize the absence of similar regulatory power delegated to Florida and New Jersey municipal and county officials. Although Florida citizens are given the opportunity to vote in countywide referendums on whether to allow casino-resorts in the respective county,⁸⁰ all other significant licensing and regulatory power remains in the hands of Florida state officials.

b. NEW JERSEY

In 1976, New Jersey voters approved of casino gambling as a “unique tool of urban redevelopment” to facilitate the revitalization of Atlantic City and other distressed municipalities throughout the State.⁸¹ The Casino Control Act intended to restore the legacy of Atlantic City as a premiere tourist destination⁸² and confined the establishment of

73. *Grimes*, 1 P.2d at 572.

74. *Id.*

75. *Clark Cnty. Liquor & Gaming Licensing Bd. v. Simon & Tucker, Inc.*, 787 P.2d 782, 783 (Nev. 1990) (holding that “the power to license, regulate, and prohibit gambling is within the discretion of the municipal agency empowered to govern gambling and such agency has a wide margin of discretion.”); *See also* NEV. REV. STAT. §§ 244.335, 244.345 (1990).

76. NEV. REV. STAT. § 463.242(1) (2011).

77. *Id.*

78. *See* NEV. REV. STAT. §§ 463.323, 463.325 (2011); *see also* NEV. REV. STAT. § 463.395 (2011) (“The license fee or tax imposed by a local government . . . must not exceed: the amount . . . or . . . the rate . . . which was in effect for that purpose on or before April 27, 1981.”)

79. NEV. REV. STAT. § 463.327 (2011); *see also* NEV. REV. STAT. § 463.325(4) (2011).

80. S.B. 710c1, 2012 Reg. Sess. (Fla. 2012) (proposing section 551.307, Florida Statutes).

81. N.J. STAT. ANN. § 5:21-173.10(a) (2001).

82. N.J. STAT. ANN. § 5:21-1 (2011).

casino-hotels in New Jersey to Atlantic City.⁸³ In 2011, however, the legislature called the commercial viability of New Jersey casinos into question.⁸⁴ This section argues that the problems plaguing of New Jersey's gaming industry is due, in part, to the centralization of regulatory power in the hands of state government officials, not the proliferation of casinos in neighboring states like Pennsylvania, New York, and Ohio.⁸⁵ In addition, I will argue that the public policy goals pursued by these state officials are also hindering New Jersey's gaming industry.

1. CENTRALIZED REGULATORY MODEL

Gaming is a means to an end in New Jersey. It is a means to raise the revenues that enable the state government to subsidize the reduction of property taxes, rentals, and telephone, gas, electric, utility and transportation costs for senior citizens.⁸⁶ Presumably, the New Jersey legislature crafted a regulatory scheme that consolidates power in the hands of the state government, because the intended beneficiaries are constituents of the state.⁸⁷

Much like the Nevada Gaming Commission and Control Board, the New Jersey Casino Control Commission ("Commission") regulates casino operations. Five members serve five-year terms⁸⁸ and direct five Divisions: Administration; Financial Evaluation; Licensing; Compliance; and Legal.⁸⁹ The New Jersey legislature requires all casino operators to obtain an "operation certificate" prior to opening to the public.⁹⁰ To obtain the certificate, a casino operator must jump through several hoops. For example, the Commission scrutinizes the prospective licensee during an indefinite test run period under terms and conditions prescribed unilaterally by the Commission.⁹¹ Once approved, the

83. N.J. STAT. ANN. § 5:12-1(b)(4), (5) (2011).

84. N.J. STAT. ANN. § 5:12-1(b)(18) (2011) ("as recognized in the July 2010 Report of the Governor's Advisory Commission on New Jersey Gaming, Sports, and Entertainment, and as confirmed in subsequent legislative hearings held throughout the state, legalized casino gaming in New Jersey presently stands at a crossroads, facing critical challenges that jeopardize its important role in the State economy.").

85. See, e.g., Suzette Parmley, *States go all in to get a shot at gambling gold: Delaware, Ohio, and others look to challenge Pa. and Atlantic City for a share of a shrinking pot*, PHILADELPHIA INQUIRER, Dec. 6, 2009, at A1.

86. N.J. STAT. ANN. § 48:2-29.30 (2011); N.J. CONST. art. IV §7, ¶2(D) (2011).

87. Telephone Interview with Robert M. Jarvis, Professor, Nova Southeastern University Shepard Broad Law Center, Dec. 5, 2011.

88. As of Feb. 6, 2012, there were only three active Commissioners. See also N.J. ADMIN. CODE 19:40-2.1(a) (2011).

89. N.J. ADMIN. CODE 19:40-2.1(c) (2011).

90. N.J. ADMIN. CODE 19:43-7.1(a) (2011).

91. See, e.g., N.J. ADMIN. CODE 19:43-7.2(b) ("The evaluation or test period shall commence on such date and at such time as the Commission shall establish, and shall continue thereafter until further order of the Constitution.").

Commission has the authority to revoke, suspend or limit an operation certificate if the licensee fails to strictly comply with the terms of its certificate.⁹²

New Jersey regulations seek to protect individual consumers and society at large from the harms of gaming.⁹³ For example, limiting gaming to Atlantic City makes gambling less convenient for New Jersey residents. Rather, compacting competing casino-hotels in one single space helps to target visitors and those who are inclined to travel.⁹⁴ In addition, New Jersey imposes betting and loss limits, requires casino-hotels to fund educational and rehabilitative programs, and enforces exclusionary and self-exclusionary lists (individuals may fill out requests to indefinitely exclude themselves from casinos).⁹⁵

In contrast to Nevada, the rationale for bestowing local government with power is absent in New Jersey. The citizens of New Jersey approved the lawful establishment of casino-hotels only within the jurisdictional limits of Atlantic City.⁹⁶ Therefore, casino gaming cannot spread to other locales like in the case of Nevada. As a result, there is less of a need to vest local governments with extensive regulatory powers.

However, extensive regulatory power consolidated in the hands of the state has often damaged the individuals the regulations purport to protect. Less egregious abuses examples include the authority of the Commission to engage municipal and county employees for services, sometimes without reimbursing local governing bodies for costs.⁹⁷ More extreme abuses include a 2007 incident when former Governor Jon Corzine shut down all twelve casino-hotels in Atlantic City when a political impasse prevented legislators from agreeing on the state budget.⁹⁸ Flexing his extensive regulatory muscle, however, gave the governor more than he bargained for when he brought his opposition to their knees. The emergency shutdown led to a downturn in casino revenues, taxable revenues, confidence of tourists and investors, and subsidies paid out to senior citizens.⁹⁹ In addition, the shutdown created serious social costs on families dependent upon casino-employees who

92. N.J. ADMIN. CODE 19:43-7.5(b) (2011).

93. *Tose v. Greate Bay Hotel & Casino, Inc.*, 819 F.Supp. 1312, 1319 (D. N.J. 1993).

94. MORSE & GOSS, *supra* note 40, 119.

95. *Id.* at 119–122.

96. *See Tose*, 819 F.Supp. at 1319; *see also* N.J. CONST. art. IV, §7, ¶2(D).

97. *See* N.J. STAT. ANN. § 5:12-145.6 (2011).

98. Kelly Cooper, Comment, *The New Jersey Casino Shutdown: The Litigation and Costs to the Industry and Atlantic City's Poor*, 9 RUTGERS RACE & L. REV. 209, 209-10 (2007) (explaining that Gov. Corzine suspended all casino operations pursuant to the Disaster Control Act that vested the governor with emergency power).

99. *Id.* at 211.

live paycheck-to-paycheck.¹⁰⁰

2. PUBLIC POLICY & TAX REVENUES

As mentioned above, New Jersey citizens voted in 1976 in favor of amending the New Jersey Constitution to authorize casino gaming.¹⁰¹ In order to garner popular support for the amendment, the legislature restricted the use of gaming revenues to “aiding lofty goals” such as reducing property taxes, rental, telephone, gas, electric, and municipal utility charges for eligible senior citizens and the disabled as well as expanded health services.¹⁰²

Ultimately, a vast amount of casino revenues have been spent on subsidizing senior citizens’ living expenses. Meanwhile, the casino revenues reinvested in the local community have been largely unsuccessful at providing the local community with the infrastructure to produce taxable income that could also subsidize senior citizen costs. Unfortunately, the lofty goals that persuaded New Jersey citizens to legalize gaming undermine the state’s ability to allocate capital to achieve the aspired goals in a sustainable manner.¹⁰³

In 1984, for example, the legislature created the Casino Reinvestment Development Authority (“CDRA”) to oversee the investment of casino gambling revenues for development projects in Atlantic City and promote job creation and business expansion throughout New Jersey.¹⁰⁴ In twenty-six years of operation, the CRDA reinvested \$1.5 billion of \$1.8 billion back into Atlantic City.¹⁰⁵ In other words, the CRDA reinvests approximately 83 percent of its revenues back into the source. Nevertheless, these reinvestment efforts have not succeeded at building low-income housing and bridging the gap between low-income neighborhoods and local opportunities. In fact, local governments have frustrated efforts to introduce low-income housing and expanding opportunities to the poor through the proliferation of exclusionary zoning practices.¹⁰⁶ In summation, it would appear that New Jersey casino

100. *Id.*

101. N.J. CONST. art. IV, §7, ¶2(D).

102. MORSE & GOSS, *supra* note 40, 118.

103. *See generally* Sheryll D. Cashin, *Localism, self-Interest, and the Tyranny of the Favored Quarter: Addressing the Barriers to New Regionalism*, 88 GEO L. J. 1985 (2000).

104. N.J. STAT. ANN. § 5:12-173.10(b)(2001); *see also* CASINO REINVESTMENT DEVELOPMENT AUTHORITY, <http://www.njcrda.com/pages/Home.aspx> (last visited Feb. 2, 2012). According to its mission statement, the CDRA strives to “encourage business development and permanent job creation, promote opportunities for business expansion, and commit to facilitating a vibrant economic investment.” CASINO REINVESTMENT DEVELOPMENT AUTHORITY, <http://www.njcrda.com/pages/Home.aspx> (last visited Feb. 2, 2012).

105. *Id.*

106. Cashin, *supra* note 103, 2031-32.

revenues could be utilized more efficiently by the state.

IV. FLORIDA'S GAMING BILL: AN ANALYSIS

The Florida legislature should create a single regulatory agency to develop a comprehensive policy and cohesive regulatory scheme.¹⁰⁷ Florida, considered the fourth largest gambling state in the nation,¹⁰⁸ has a state lottery, sweepstakes, cruises to nowhere, Seminole Tribe casinos, pari-mutuel gaming, and online betting. Mirroring the mixed bag of Florida gaming enterprises, five different state agencies regulate gaming and applicable laws, regulations, and tax rates vary depending on the location and type of gaming enterprise conducted.¹⁰⁹

The particular ingredients of a regulatory scheme and policy goals sought affect whether local populations support or reject the gaming industry.¹¹⁰ For example, Nevada modeled its regulatory tools to ensure the expansion of its gaming industry developed lawfully and with the support of the public. Meanwhile, New Jersey voted in favor of gaming after the legislature expressed the intent to use gaming funds to subsidize senior citizen living expenses. Florida legislators seek to affect a net reduction in gaming¹¹¹ and want to complement the Florida economy with gaming, not supplement it.¹¹² On account of these moving parts, the legislature ought to develop clearer policy goals. As of January 2012, Florida voters were split on supporting or opposing gaming.¹¹³ Indeed, depending on who conducted the poll, responses varied widely.¹¹⁴

107. Gregg Fields & Paola Isupa-Abbott, *Covering all bets*, DAILY BUSINESS REVIEW, Feb. 27, 2012, at A8.

108. Mary Ellen Klas, *Casino bill would help mega resorts, hurts racetracks*, MIAMI HERALD, Oct. 26, 2011, available at <http://www.miamiherald.com/2011/10/26/2472429/casino-bill-sacrifices-horse-and.html>.

109. Gregg Fields & Paola Isupa-Abbott, *Covering all bets*, DAILY BUSINESS REVIEW, Feb. 27, 2012, at A8.

110. MORSE & GOSS, *supra* note 40, 118.

111. Mary Ellen Klas, *Legislators are counting on rare moment to bring resort casinos to Florida*, MIAMI HERALD, Sep. 10, 2011, <http://www.miamiherald.com/2011/09/10/2400167/legislators-are-counting-on-rare.html>.

112. In geometry, the difference between a complementary and supplementary angle is vast. The sum of two complementary angles is 90 degrees, whereas the sum of two supplementary angles is 180 degrees. Therefore, I use the word 'complementary' to connote a lesser degree of presence.

113. Mary Ellen Klas, *Poll: Let voters—not lawmakers—decide future of casinos in Florida*, MIAMI HERALD, Jan. 29, 2012, available at <http://www.miamiherald.com/2012/01/29/2615116/poll-let-voters-not-lawmakers.html>.

114. Compare Mary Ellen Klas, *Polls show strong local support for casinos in Miami-Dade, but statewide reluctance*, THE MIAMI HERALD, Oct. 18, 2011, available at <http://www.miamiherald.com/2011/10/18/2459679/polls-show-strong-local-support.html>, with Mary Ellen Klas, *Poll: Let voters – not lawmakers – decide future of casinos in Florida*, THE MIAMI HERALD, Jan. 29, 2012, available at <http://www.miamiherald.com/2012/01/29/2615116/poll-let-voters-not-lawmakers.html>.

This section examines the defeated Florida gaming bill: amended Senate Bill 710, entitled, “A bill to be entitled.”¹¹⁵ I argue that the Florida legislature should delegate more power to municipal governments to ensure that local citizens will be amenable to the introduction of casino-resorts. Before arguing for the delegation of more power to local governmental bodies, I begin with a viable solution to the conflicting economic interests at stake: require casino-resort license holders to make a good faith effort at entering into a partnership with Florida gaming entrepreneurs.

a. *Navigating the Resort-Casino Legislative Impasse*

The most challenging problem facing the passage of the Florida gaming bill centers on balancing the conflicting interests of Florida’s diversified gaming industry. Leaving aside religious and moral interest groups opposed to gaming, opposition to gaming includes powerful and established members of Florida’s gaming and entertainment industries, such as Disney World, the Florida Seminole Tribe, gaming cruises, and the twenty-eight pari-mutuel facilities, among others.¹¹⁶ Casino-resorts would compete directly with these parties and create adverse economic effects. Consequently, the Florida legislature should develop a plan to alleviate these economic repercussions.

Florida legislators should require casino-resort licensees to offer these groups the opportunity to enter into a partnership with the casino-resort licensee as a condition upon acquiring a license. First, casino-resort licensees will benefit from co-opting the competition. Second, members of Florida’s gaming industry will have a meaningful opportunity to transition into Florida’s new age of gaming. Third, the public at large will benefit from having members of their local community involved in managing the casino-resorts. Fourth, this arrangement will achieve the desired net reduction in Florida gaming. Altogether, this arrangement could benefit members of the public at-large, the Florida legislature, the established Florida gaming and entertainment industries, and gaming magnates new to Florida.

Using the Genting Group as an example, the Florida legislature awarded Genting a casino-resort license, the Florida legislature could condition the award of a resort-casino license upon whether Genting offered the purchase of a minority interest in Genting’s Florida resort-

115. Given the extensive attention surrounding the bill, leaving the bill untitled as “A bill to be entitled” is amusingly ironic. S.B. 710, 2011 Reg. Sess. (Fla. 2011); *see also* S.B. 710c1, 2012 Reg. Sess. (Fla. 2012).

116. FLORIDA DEPARTMENT OF BUSINESS & PROFESSIONAL REGULATION, STATISTICAL INFORMATION, DIVISION OF PARI-MUTUEL WAGERING, <http://www.myfloridalicense.com/dbpr/pmww/index.html>.

casino. For example, Genting could enter into negotiations with the Florida Seminole Tribe, Disney World, pari-mutuel owners, or other members of Florida's gaming industry for a twenty percent interest in its \$3 billion, downtown Miami casino-resort. Competitive negotiations among these parties would ensure that the appraised value of the minority interest is fair and appropriate.

In all likelihood, a loose requirement like "good faith negotiations" might cause dissatisfied parties to bring contentious litigation. The Florida legislature could facilitate a finding of good faith by enacting a safe harbor statute. For example, the purchase of twenty percent minority interest by a Florida corporation or Indian Tribe could constitute irrefutable proof of good faith negotiations by the holder of a casino-resort license. Therefore, if the Florida Seminole Tribe purchases a ten percent interest in Genting's casino-resort, and the Havenick family, owners of the Magic City Casino, purchase a ten percent interest in the same casino-resort, then Genting satisfies the requirement of good faith negotiations. Meanwhile, even if Genting did not invite Disney to negotiate a minority interest, Genting still satisfies the good faith requirement if the sale to the Seminole Tribe and Havenick family was for value.

This arrangement creates the net reduction in gaming sought by Senator Bogdanoff and Representative Fresen.¹¹⁷ Pari-mutuel owners, for example, could protect their interests by transferring their investments into Florida's new stage of gaming. These owners could secure the financing necessary to acquire an interest in a casino-resort by offering the pari-mutuel's equipment, inventory, and accounts receivable as collateral. Rather than competing with the casino-resorts, pari-mutuel owners can maximize their investment by relinquishing control of the pari-mutuel market in exchange for entry into the casino-resort market. Pari-mutuel owners located closest to the three casino-resorts would be most inclined to enter into these partnerships. Moreover, if Florida corporations generate a portion of gaming revenues, then there is a greater likelihood that a larger portion of gaming revenues will remain in Florida.

With respect to license holders, the perceived short end of the bargain is illusory. License holders would effectively co-opt their competition if they were required to enter into partnerships with members of Florida's current gaming establishment. Over time, license holders would make up perceived losses because they would be able to eliminate their competition. In the event that pari-mutuels are unwilling to negoti-

117. Mary Ellen Klas, *Pari-mutuels gain parity in gambling bill*, MIAMI HERALD, Jan. 10, 2012, available at <http://www.miamiherald.com/2012/01/09/2581343/senate-committee-approves-pari.html>.

ate with license holders, gaming magnates might be willing to enter into limited partnerships with competitors.

Most importantly, this proposal would best serve the interests of the public at large. By enlisting Florida residents as partners in this new age of gaming, casino-resorts will be directed and managed by people who can be held accountable as members of the local community.

Ultimately, the first step toward shaping the future of Florida gaming requires Florida legislators to take control of gaming expansion. Representative Fresen and Senator Bogdanoff must come to terms with legislators, like Senator Sachs, to cease all ongoing, collateral expansions of Florida gaming. Most importantly, legislators must come together to develop a comprehensive vision for the future of Florida gaming, whether continuing with the status quo or adopting a new platform.

It is critical that the Florida legislature resolve contentious conflicting interests between anti- and pro-gaming groups to promulgate the gaming bill into law. As the 2012 legislative session proved, the lobbying power of Disney, Seminole Tribe, and other anti-gaming interest groups was highly effective at defeating the bill's passage.¹¹⁸ Even though Representative Fresen drafted a bill that would lead to a net reduction of gaming in Florida,¹¹⁹ pari-mutuel lobbyists forced Senator Bogdanoff to amend the gaming bill with provisions that would in fact expand gaming.¹²⁰ The amendments would authorize pari-mutuels to host full-scale casino games on their premises, and in effect, operate businesses that could compete, and survive, with newly introduced resort-casinos.

Florida gaming expanded despite the efforts of Senator Bogdanoff and Representative Fresen in Tallahassee. For example, Florida's First District Court of Appeal held in October 2011 that any entrepreneur who met certain requirements could open new pari-mutuel facilities in Miami-Dade and Broward Counties; established pari-mutuel owners had wanted the First District to hold that only established pari-mutuels could

118. See Jarvis *supra*, note 14.

119. Mary Ellen Klas, *Pari-mutuels gain parity in gambling bill*, THE MIAMI HERALD, Jan. 10, 2012, available at <http://www.miamiherald.com/2012/01/09/2581343/senate-committee-approves-pari.html>.

120. Specifically, the proposed legislation states that any licensed pari-mutuel as of July 1, 2012 may operate slot machines and other games if, by a majority, the county votes in favor of permitting casino-resort gaming. See S.B. 710c1, at 49, 2012 Reg. Sess. (Fla. 2012)(enacting section 551.304(1)(f), Florida Statutes); S.B. 710c1, at 59-60, 2012 Reg. Sess. (Fla. 2012)(enacting section 551.307, Florida Statutes); see also Mary Ellen Klas, *Pari-mutuels gain parity in gambling bill*, THE MIAMI HERALD, Jan. 10, 2012, available at <http://www.miamiherald.com/2012/01/09/2581343/senate-committee-approves-pari.html>.

expand gaming operations.¹²¹ The residents of two northern Florida counties also voted in favor of authorizing slot machines at established pari-mutuels.¹²² Another senate bill proposed by Boca Raton Senator Maria Sachs would have voters in three additional Florida counties decide whether to permit slot machines at pari-mutuel facilities.¹²³ Ultimately, leadership must maintain vision and direction for any real change to the future of gaming in Florida.

b. *Amended Senate Bill 710: An Overview*

Amended Senate Bill 710, the Florida gaming bill, establishes the Florida Department of Gaming Control (the “Department”) to orchestrate a comprehensive regulatory scheme.¹²⁴ The Department is composed of three divisions: Enforcement; Licensure; and Revenue and Audits.¹²⁵ The Department is vested with broad jurisdiction over all gaming-related issues.¹²⁶ For example, the bill strips the Department of Business and Professional Regulation of jurisdiction over pari-mutuels¹²⁷ and assigns that regulatory power to the Department.¹²⁸

The State Gaming Commission¹²⁹ (the “Commission”), comprised of seven Florida residents serving four-year terms¹³⁰ directs the Depart-

121. Article X, Section 23 of the Florida Constitution authorized slot machine gaming in Miami-Dade and Broward Counties if approved by countywide referendum, which occurred in Miami-Dade and Broward in 2008 and 2005, respectively. In 2009, the legislature amended the definition of facilities eligible to conduct gaming in the original statute. Consequently, the First District held that any establishment—including newly founded pari-mutuel facilities—that met the amended definition of an “eligible facility” could open gaming operations in Miami-Dade and Broward. *See generally* Fla. Gaming Ctrs., Inc. v. Fla. Dep’t of Bus. & Prof. Reg., 71 So.3d 226 (Fla. Dist. Ct. App. 2011); *see also* FLA. CONST., art. X, §23 (2004); Fla. Stat. § 551.102(4) (2005); Ch. 09-170, §19, Laws of Fla.

122. Mary Ellen Klas, *Voters approve slot machines in two rural counties, but legal battle looms*, MIAMI HERALD, Oct. 4, 2011, available at <http://www.miamiherald.com/2012/01/31/2618018/voters-approve-slot-machines-in.html>.

123. *Id.*

124. S.B. 710c1, 2012 Reg. Sess. (Fla. 2012)(proposing section 20.318, Florida Statutes).

125. *Id.* (proposing section 20.318(2), Florida Statutes).

126. *Id.* (proposing section 20.318(k)(4) which grants the Department the “sole authority and power to make, adopt, amend, or repeal rules relating to gaming operations, to enforce and to carry out the provisions of chapters 550 and 551 and to regulate authorized gaming activities in the state”).

127. *Id.* (striking section 20.165(2)(f), Florida Statutes) and S.B. 710c1, 2012 Reg. Sess. (Fla. 2012)(striking section 120.80(4)(a), Florida Statutes).

128. *Id.* (proposing section 551.304(f), Florida Statutes, authorizing the State Gaming Commission to license pari-mutuel gaming facilities); *see* S.B. 710c1, 2012 Reg. Sess. (Fla. 2012)(transferring power from Department of Business and Professional Regulation to the Department of Gaming Control by replacing section 120.80(4)(a), Florida Statutes with section 120.80(19)).

129. S.B. 710c1, 2012 Reg. Sess. (Fla. 2012)(proposing section 551.003, Florida Statutes).

130. *Id.* (proposing section 551.003(2), Florida Statutes).

ment.¹³¹ The Governor appoints all seven members, subject to the consent of the Senate.¹³² The Governor's appointment power is subject to the limitations imposed by a six-member State Gaming Commission Nominating Committee.¹³³ Each member earns an annual salary of \$125,000, except for the Chair, who earns \$135,000.¹³⁴ The Department unilaterally adopts the rules and procedure for license holders operating gaming facilities in Florida, enforces those rules and procedures,¹³⁵ and suspends any permit or license when the holder has violated any provision of Florida law or the rules adopted by the Department.¹³⁶

The Governor also designates the Chair, while the Commission elects the Vice Chair.¹³⁷ The Commission appoints and removes the executive director and general counsel of the Department.¹³⁸ The Chair decides all questions of order and assigns duties to each member.¹³⁹ On a day-to-day basis, however, the Executive Director serves as the agency head of the Department.¹⁴⁰ The Executive Director is a full-time employee appointed to carry out the duties assigned by the Commission and hire all assistants and employees necessary to conduct the business of the Commission.¹⁴¹

The Department may train and employ sworn law enforcement officers to enforce any criminal law, conduct any criminal investigation, or enforce any statute within the Department's jurisdiction.¹⁴² These officers are vested with arrest authority and the right to carry arms.¹⁴³

According to the Department's self-imposed Code of Ethics,¹⁴⁴ the Executive Director, Commissioners, and all Department employees and agents are prohibited from gaining any employment or commercial interest in any license applicant or holder for three years following service in the Department.¹⁴⁵ Former Department employees are also prohibited from representing any license applicant or holder before the Commission, which may be extremely inconvenient for any professional

131. *Id.* (proposing section 20.318(1), Florida Statutes).

132. *Id.* (proposing section 551.003(2)(b)(4)(c), Florida Statutes).

133. *Id.* (proposing section 551.004, Florida Statutes).

134. S.B. 710c1, 2012 Reg. Sess. (Fla. 2012)(proposing section 551.006, Florida Statutes).

135. *Id.* (proposing section 20.318(4)(k), Florida Statutes).

136. *Id.* (proposing section 20.318(4)(a), (e), Florida Statutes).

137. *Id.* (proposing section 551.003(3)(a), Florida Statutes).

138. *Id.* (proposing section 20.318(1), Florida Statutes, and section 551.006, Florida Statutes).

139. S.B. 710c1, 2012 Reg. Sess. (Fla. 2012)(proposing section 551.003(3)(a), Florida Statutes).

140. *Id.* (proposing section 551.003(7), Florida Statutes).

141. *Id.* (proposing section 551.006, Florida Statutes).

142. *Id.* (proposing section 551.007(1), Florida Statutes).

143. *Id.* (proposing section 551.007(1)(b), (c), Florida Statutes).

144. S.B. 710c1, 2012 Reg. Sess. (Fla. 2012)(proposing section 551.008(1), Florida Statutes).

145. *Id.* (proposing section 551.008(2), (3), Florida Statutes).

looking to transfer from public to private practice within the industry.¹⁴⁶ The death knell, however, is that the prohibition also extends to the entire business entity that employs a former Commissioner, Executive Director, or Department employee.¹⁴⁷ For example, a former Department employee cannot seek employment at a law firm's Orlando office if that same law firm's Miami office employs attorneys who represent a license holder. The strict codes of ethics imposed on the Department also include extensive disclosure filings,¹⁴⁸ procedures for dealing with ex parte communications,¹⁴⁹ and severe penalties for noncompliance.¹⁵⁰

c. *The Destination Resort Act*

Amended Senate Bill 710 would enact the Destination Resort Act,¹⁵¹ which gives the Commission three critical decisions to make; that is, to whom to grant three Florida gaming licenses.¹⁵² At first glance, it would appear that Florida is establishing a gaming regime similar to the New Jersey model: limiting gaming to a particular jurisdiction. However, casino magnates are contemplating building resorts in heavily populated and thriving South Florida metropolises. Unlike South Florida, at the time casino gaming was legalized in New Jersey, Atlantic City was in a deplorable state of disrepair and in desperate need of revitalization.¹⁵³ New Jersey lawmakers envisioned the construction of multiple casinos ushering a new age of New Jersey tourism. By comparison, Florida lawmakers do not need resort-casinos to fill a void in South Florida's tourist industry; it is already thriving.¹⁵⁴ Florida lawmakers simply recognize an opportunity to enhance tourism in South Florida. The introduction of resort-casino presents the serious threat of disman-

146. *Id.* (proposing section 551.008(4), Florida Statutes).

147. *Id.* (proposing section 551.008(5), Florida Statutes) (defining "business entity" as a corporation, limited liability company, partnership, limited liability partnership association, trust, or "other form of legal entity").

148. *Id.* (proposing section 551.009(1), Florida Statutes) (commissioners must file a financial disclosure statement pursuant to Fla. Stat. 112.3145 which requires disclosure of all sources of gross income exceeding \$2,500 or 5 percent of gross income received during a specified disclosure period, locations or descriptions of real property exceeding \$10,000, and all liabilities in excess of \$10,000, among other information).

149. S.B. 710c1, 2012 Reg. Sess. (Fla. 2012) (proposing section 551.011(1), (2), Florida Statutes).

150. *Id.* (proposing section 551.012, Florida Statutes).

151. *Id.* (proposing section 551.301, *et seq.*, Florida Statutes).

152. *Id.* (proposing section 551.304(1)(a), Florida Statutes); *see also* S.B. 710c1, 2012 Reg. Sess. (Fla. 2012) (proposing section 551.307, Florida Statutes).

153. STERNLIEB & HUGHES, *supra* note 26, 9–14.

154. *See e.g.*, Douglas Hanks, *Casinos want to boost Miami tourism, but does it need the help?*, MIAMI HERALD, Jan. 12, 2012, available at <http://www.miamiherald.com/2012/01/04/2587296/casinos-want-to-boost-miami-tourism.html>.

tling Florida's most prized attractions and events.¹⁵⁵ The Florida legislature, therefore, should cede more regulatory power to the local governmental bodies to provide additional perspective on how to protect and preserve burgeoning South Florida communities.

Under the bill, the Commission is charged with the task of investigating each prospective licensee and selecting the licensee that best serves the interests of the residents of Florida with respect to economic development, infrastructure investment, and revenue generation.¹⁵⁶ To begin an application, the Commission must invite applicants to begin the negotiation process "based on minimum requirements established by . . . the department."¹⁵⁷ Any prospective licensee should carefully navigate the "minimum requirements" set by the Department to ensure that negotiations and communications between members and applicants do not violate the code of ethics.

Each applicant would submit a nonrefundable \$1 million application fee to cover the administrative costs associated with the extensive background investigation.¹⁵⁸ For example, the Department would interrogate corporate officers as well as audit books and records to verify an applicant's assets, financial backing, investors, and indebtedness.¹⁵⁹ The bill also calls upon the Department of Law Enforcement to perform background checks and investigate suspected criminal activity.¹⁶⁰ For example, international and United States law enforcement officials identified a former Genting partner, Stanley Ho Hung-Sun, as a money launderer in 2007, which stalled Genting developments in Singapore and New York until the company cut ties with Ho.¹⁶¹ As a result, state and local law enforcement agencies are granted unrestricted access to gaming facilities to conduct criminal investigations, inspections, and monitor compliance.¹⁶² However, local governing authorities have little to no role in this process.

155. See e.g., Douglas Hanks, *Art Basel signs on through 2015, despite casino worries*, MIAMI HERALD, Dec. 6, 2011, available at <http://www.miamiherald.com/2011/12/06/2534295/art-basel-signs-on-through-2015.html>.

156. *Id.* (proposing section 551.304(1)(b), (d), (e) Florida Statutes).

157. S.B. 710c1, 2012 Reg. Sess. (Fla. 2012)(proposing section 551.304(1)(c), Florida Statutes).

158. *Id.* (proposing section 551.310(4)(a), Florida Statutes).

159. *Id.* (proposing section 551.304(1)(g)-(i), Florida Statutes).

160. *Id.* (proposing section 551.304(3), (5), Florida Statutes).

161. Francisco Alvarado, *Three Miami mayors block Genting casino*, Sep. 29, 2011, THE MIAMI NEW TIMES, NEWS BLOG, available at <http://www.miaminewtimes.com/2011-09-29/news/three-miami-mayors-block-genting-casino/>.

162. S.B. 710c1, 2012 Reg. Sess. (Fla. 2012)(proposing section 551.304(2), (3), Florida Statutes).

d. *Centralization of Power under the Destination Resort Act*

The Department is given broad discretion to develop the rules and procedures to administer and regulate gaming.¹⁶³ For example, the Department would unilaterally impose time, place, and structure restrictions on gaming operations, authorize the types of gaming activities permitted, and craft the rules governing those games.¹⁶⁴ Additionally, the Department would unilaterally craft the procedures and qualifications regarding the issuance and revocation of licenses, inspections, accounting of gaming revenues, collecting taxes and fees, as well as more invasive regulations like minimum employee training standards, size and color requirements for gaming chips, and “any other rules the department finds necessary.”¹⁶⁵ Although the Department is vested with significantly broad powers, these regulatory powers do not significantly vary from those extended to the Nevada or New Jersey regulatory agencies.

However, the Florida gaming bill grants the Department additional powers and authority that should, at a minimum, demand serious contemplation before enacting a bill with identical provisions into law. Reminiscent of New Jersey Governor Corzine’s 2007 shutdown powers,¹⁶⁶ the Department is authorized to adopt emergency rules “at any time” to preserve the rights and welfare of the people in order to provide additional funds to benefit the public.¹⁶⁷ In the interest of taking swift action, unelected Department agents need not make any required findings before “respond[ing]” as quickly as [] practicable” to any emergency issue.¹⁶⁸ Depending on the degree of “emergency” action taken by these agents, the Department could seriously endanger the vitality of gaming industry and subject the Florida Department of Treasury to compensate stiff damages.

In addition, the bill makes it explicitly clear that the State of Florida has the unilateral authority to enact rules and laws related to gaming: “a county, municipality, or other political subdivision of the state may not enact any ordinance relating to limited gaming.”¹⁶⁹ Rather, “[o]nly the [D]epartment . . . may administer this part and regulate limited gaming.”¹⁷⁰ Therefore, the cities and counties hosting licensees, who are arguably most significantly affected by gaming, do not have a meaningful opportunity to contribute to the regulation of casino-resorts.

163. *Id.* (proposing section 551.305(1), Florida Statutes).

164. *Id.* (proposing section 551.305(1)(a), Florida Statutes).

165. *Id.* (proposing section 551.305(1)(f), (g), Florida Statutes).

166. *See* Cooper, *supra* note 98, at 210.

167. S.B. 710c1, 2012 Reg. Sess. (Fla. 2012)(proposing section 551.305(2), Florida Statutes).

168. *Id.* (proposing section 551.305(2), Florida Statutes).

169. *Id.* (proposing section 551.306, Florida Statutes).

170. *Id.* (proposing section 551.306, Florida Statutes).

Amended Senate Bill 710 provides local populations with one pivotal opportunity to have its voice heard: a countywide referendum.¹⁷¹ The Commission may only award a license to an applicant if a majority of the county electorate at the proposed location votes in favor of allowing gaming.¹⁷² In addition, ten percent of the application contemplates the likelihood that the licensee will enhance the local community through partnership programs, increased employment, and public service.¹⁷³ In addition, the Commission may specify the particular county where the facility would be located, and accordingly, hold public hearings to discuss proposals and receive public comments during the application phase of licensing.¹⁷⁴ Regardless, the bill makes no mention of whether the Commissioner should heed any comments.

e. Need for Delegating More Power to Local Government Bodies

Ultimately, Amended Senate Bill 170 does not grant local governments sufficient powers to protect the interests of local residents. Subsequent Florida gaming bills should empower local populations and better serve the interests of Florida residents and casino-resort licensees by enacting legislation that would bring these parties face-to-face. Following Nevada's lead,¹⁷⁵ Florida should require prospective licensees to stand before municipal and county boards and engage community leaders on the issues that matter. Local residents want to have a say in the construction and development of a \$2 billion destination resort built in their own backyard.¹⁷⁶ Sharon Wynne, who lives within a mile of the proposed Genting site said, "We can't have this giant complex right here. It is too big. It will overwhelm the neighborhood and it will depreciate our property values."¹⁷⁷

The Genting Group took the initiative itself to schedule meetings with local residents, businesspeople, and civic leaders in an effort to fine-tune its plan.¹⁷⁸ Under the Amended Senate Bill 170, local residents, businesspeople, and civic leaders can only hope that other applicants take the time to address local concerns and follow through on addressing those issues. As mentioned, Nevada's regulatory model required applicants to seek licenses at the state, county and municipal

171. S.B. 710c1, 2012 Reg. Sess. (Fla. 2012) (proposing section 551.307, Florida Statutes).

172. *Id.* (Fla. 2012)(proposing section 551.307, Florida Statutes).

173. *Id.* (proposing section 551.309(2)(a)(4), Florida Statutes).

174. S.B. 710c1, 2012 Reg. Sess. (Fla. 2012) (enacting section 551.308(2), Florida Statutes).

175. *See generally* NEV. REV. STAT. § 463.3086.

176. Paola Iuspa-Abbott, *Genting's Lobbying Power Worries Residents, Activists: Traffic, parking chief among the concerns*, Jan. 12, 2012, DAILY BUSINESS REVIEW, at A7.

177. *Id.*

178. *Id.* at A10.

level.¹⁷⁹ Empowering municipal boards brings applicants face-to-face with local communities and forges bonds of familiarity from one party to another, which is conducive toward satisfying Nevada's public policy goal: building public trust and confidence in the gaming industry.¹⁸⁰ The Florida legislature should reconsider the extent to which it limits municipal government's voice in the new era of Florida gaming.

However, with good reason, the legislature may wary of delegating too much discretionary power to local government officials. In December 2011, the Securities & Exchange Commission opened an investigation into the newly constructed Miami Marlins' ballpark that left the county and city responsible for almost 80 percent of the \$634 million bottom line.¹⁸¹ Furthermore, almost a year after Miami-Dade County and City officials promised transit improvements to facilitate traffic to the new stadium, city and county officials have failed to ensure that Marlins officials to follow through on funding any of those commitments.¹⁸² Kenneth Goodman, the co-director of the University of Miami Ethics Program said, "The responsibility of government is to ensure development proceeds according to a plan that serves the need of a community."¹⁸³ Accordingly, Professor Goodman lamented that Miami and South Florida have a storied history of failing to take action "to ensure proper growth and development in our community."¹⁸⁴ Professor Goodman argued city and county officials should be equipped with sufficient regulatory muscle to get developers to post bonds to fund the engineering projects that will address air quality issues, increased traffic, storm water runoff, hurricane protection, sewage, crime control, and impact fees.¹⁸⁵ "These are not reasons not to do this project," Professor Goodman said, "We just have to make sure the bolts are in tight when we build."¹⁸⁶

Currently, the only leverage local officials have is site plan

179. See NEV. REV. STAT. § 463.180(1) (2011); NEV. REV. STAT. § 463.190(1) (2011); NEV. REV. STAT. § 463.230(1) (2011).

180. See NEV. REV. STAT. § 463.0129(1)(b), (c) (2011); see also MORSE & GOSS, *supra* note 40, at 100.

181. Charles Rabin et al., *Feds open SEC probe into Miami Marlins stadium deal*, THE MIAMI HERALD, Dec. 3, 2011, available at <http://www.miamiherald.com/2011/12/02/2529191/feds-open-sec-probe-into-miami.html>.

182. Charles Rabin & Andres Viglucci, *Transit plans stalled to ease traffic flow to new Miami Marlins ballpark*, THE MIAMI HERALD, Jan. 15, 2012, available at <http://www.miamiherald.com/2012/01/15/2591407/transit-plans-stalled-to-ease.html>.

183. Paola Iuspa-Abbott, *Genting's Lobbying Power Worries Residents, Activists: Traffic, parking chief among the concerns*, Jan. 12, 2012, DAILY BUSINESS REVIEW, at A10.

184. Telephone Interview, Kenneth Goodman, Professor, University of Miami Ethics Program, Jan. 16, 2012.

185. *Id.*

186. *Id.*

approval.¹⁸⁷ The city and county will be jointly responsible for approving a development agreement with Genting and the project's site plan, which has to comply with traffic, environmental, and infrastructure requirements for the area.¹⁸⁸

f. *Developing a Sound Policy Goal*

Learning from New Jersey's experience with appropriating gaming tax revenues, subsequent Florida gaming bills should specify how the Florida legislature should appropriate gaming tax revenues to stimulate the state economy and develop local markets. On top of an annual \$5 million licensing fee,¹⁸⁹ each licensee must pay a ten percent tax on gross revenues¹⁹⁰ and \$125 initial licensing fee.¹⁹¹ The Commission must deposit 97 percent of those taxes in the state's General Revenue Fund.¹⁹² By conservative estimates, Florida will generate \$100 million in state taxes from the casino-resorts annually.¹⁹³ The Florida gaming bill co-sponsor, Representative Fresen, claimed that the gaming bill is not about generating tax revenues; rather, the bill aims to spur economic development and job creation.¹⁹⁴ Regardless, Florida will have a hefty chunk of change on its hands from these casinos. Keeping in mind the legislator's intent, appropriation of gaming tax revenues should aim to spur economic development and job creation across the state. Accordingly, the legislature should invest gaming tax revenues in public infrastructure.

In counties like Miami-Dade, Broward, and Palm Beach, income inequality ranks among the highest in the nation.¹⁹⁵ Gaming tax revenues can narrow that gap by spurring economic development and job growth. Ultimately, the legislature can induce municipal governments to agree to permit low-cost housing, public transportation, and road improvements by funding those improvements entirely from gaming tax

187. See Iuspa-Abbott, *supra* note 183.

188. *Id.* at A7.

189. S.B. 710c1, 2012 Reg. Sess. (Fla. 2012)(proposing section 551.318(1), Florida Statutes).

190. *Id.* (proposing section 551.318(2)(a), Florida Statutes).

191. *Id.* (proposing section 551.310(4)(b), Florida Statutes).

192. *Id.* (proposing section 551.318(2)(b)(1), Florida Statutes).

193. Douglas Hanks, *Florida's proposed 10% casino tax called jackpot for industry*, MIAMI HERALD, Nov. 19, 2011, available at <http://www.miamiherald.com/2011/11/19/2509891/floridas-proposed-10-casino-tax.html>.

194. Douglas Hanks, *Florida's proposed 10% casino tax called jackpot for industry*, MIAMI HERALD, available at <http://www.miamiherald.com/2011/11/19/2509891/floridas-proposed-10-casino-tax.html>.

195. Donna Gehrke-White, *Wealth gap in South Florida second-widest in US*, THE SUN-SENTINEL, Oct. 28, 2011, available at http://articles.sun-sentinel.com/2011-10-28/business/fl-income-inequality-20111028_1_wealth-gap-income-disparity-south-florida.

revenues.¹⁹⁶

Unlike municipal governments in New Jersey, the metropolitan government that consolidates the Miami-Dade County and City of Miami governments presents the rare occasion where city and county governments maintain tax-sharing agreements “designed to reduce the fiscal inequities that flow from uneven patterns of growth and public investment in metropolitan areas.”¹⁹⁷ In anticipation of elevated municipal property taxes, Miami-Dade County Mayor Carlos Gimenez explained that City officials would “be able to pave the streets in that area in gold.”¹⁹⁸ Consequently, Miami-Dade County officials implemented the proper mechanisms to appropriate a larger share of city taxes in October 2011.¹⁹⁹ Representative Fresen estimated that municipal and county governments would likely reap another \$100 million based on the assessment of real property taxes. Thus, the careful expenditure of gaming tax revenues will present South Florida with the opportunity to level the playing field for its citizenry by catalyzing economic development and stimulating job growth.

V. CONCLUSION: AN HISTORICAL OBSERVATION

For the most part, sound regulatory policy tends to focus upon the goal of developing public confidence in gaming as a legitimate form of entertainment.²⁰⁰ Regulations need to address consumer concerns about fraudulent, unfair, or otherwise dangerous practices that potentially affect patrons, disassociate criminal elements from state-sanctioned gambling establishments, and protect patrons from unscrupulous gaming operators and threats of violence due to losses.²⁰¹ Amended Senate Bill 710 grants sufficient powers to the Department of Gaming Control to monitor, regulate, and legitimize the future Florida gaming industry.

The main unresolved issue is whether the lack of power and authority delegated to local government bodies is wise. However, history has shown that limiting local regulatory power has produced picture perfect results for Florida.

The Walt Disney World Resort Complex first opened to the public

196. Cashin, *supra* note 103, 2028-32.

197. *Id.*

198. Charles Rabin & Martha Branniga, *Miami-Dade to Miami: Give us a share of city's casino windfall*, MIAMI HERALD, Oct. 4, 2011, available at <http://www.miamiherald.com/2011/10/04/2438895/miami-dade-to-miami-give-us-a.html>.

199. *Id.*

200. MORSE & GOSS, *supra* note 40, at 97-98.

201. *Id.* at 97-99.

on October 1, 1971.²⁰² Within ten years, Disney World attracted an estimated \$4 billion from tourists alone,²⁰³ and by 1997, the total value of the Walt Disney Company skyrocketed to \$50 billion.²⁰⁴ Before Disney World came to town, central Florida was an agricultural wilderness full of cattle ranches, citrus groves, and wild animals.²⁰⁵ It was prone to economic boom-and-bust-cycles; for example, the occasional citrus freeze devastated the local economy and constricted the growth of the agricultural industry.²⁰⁶

In 1993, a master's in planning student at University of Tennessee claimed that Disney "tested the authority of government."²⁰⁷ Disney executives made a final strategic push in February 1967 before Governor Claude Kirk, his cabinet, the state legislature, business leaders, and media and laid out plans for an amusement park, motels, sports and recreational areas and promises to take advantage and preserve the natural beauty of the area²⁰⁸ Although Walt Disney died in December 1966 from lung cancer, he pitched EPCOT from the grave by video, making a strong impression on his audience with his conviction and sincerity.²⁰⁹

We must have flexibility . . . to work in cooperation with American industry, and to make decisions based on standards of performance. If we have this kind of freedom, I'm confident we can create a world showcase for American free enterprise that will bring new industry to the state of Florida from all over the country.²¹⁰

In May 1967, Governor Kirk signed the bill that established Reedy Creek Improvement District, which gave Disney the authority govern itself.²¹¹ Under the Reedy Creek Improvement District, Walt Disney World Resort was able to go over the heads of Osceola and Orange County local governments, to zone, develop, tax and administer itself. It had the authority to levy taxes to pay for utilities, roads, and infrastructure, issue bonds, make zoning decisions, and have a strict set of building codes. Disney hired Army chief engineer and former Panama Canal Zone governor Major General William to lead the team of engineers

202. REEDY CREEK IMPROVEMENT DISTRICT, http://www.rcid.org/AboutUS_main.cfm (last visited Jan. 30, 2012).

203. EVE ZIBART, *THE UNOFFICIAL DISNEY COMPANION: THE INSIDE STORY OF WALT DISNEY WORLD AND THE MAN BEHIND THE MOUSE*, 29 (1st ed. 1997).

204. *Id.* at 2.

205. *Id.* at 21–22.

206. See FLORIDA CITRUS MUTUAL available at http://flcitrusmutual.com/industry-issues/weather/freeze_timeline.aspx (last visited (Jan 28, 2012)

207. See ZIBART, *supra* note 203, at 11.

208. *Id.* at 27.

209. *Id.* at 28.

210. *Id.*

211. *Id.* at 29.

whose work rivaled the ingenuity of the Dutch. Disney engineers instituted an innovative system of water reclamation to prevent excessive flooding and drainage characteristic of the central Florida wetlands; carefully planned for public transportation, including by rail; and installed a compacting trash collection system that uses pneumatic tubes. Disney has been an undeniable economic boom to Orlando, turning the entire region into a prime investment market and one of the top tourist destinations; its property taxes add millions to local budgets annually, and each time a new park is built, thousands of construction and permanent jobs are added.²¹²

Albeit on a smaller scale, casino-resorts in Florida have a similar potential to that of Disney World. The success of Disney World is owed to its careful, precise, and thoughtful planning. However, careful, precise, and thoughtful planning is owed to sophisticated judgment and extensive power exercised at the local level of government.

Florida casino-resorts have incredible potential to uplift Florida and local communities alike. However, the Florida legislature must first empower local government bodies with sufficient regulatory powers to ensure responsible growth. In addition, the Florida legislature should develop a detailed plan for reinvesting gaming tax revenues in public infrastructure investments.

As one hotel manager in central Florida once said, "This is a capitalistic society. I look at it this way: If Disney wasn't here, we'd all be sitting in orange groves."²¹³ South Floridians may not be sitting in orange groves at the moment, but if organized and regulated responsibly, South Floridians will have an opportunity to uplift themselves, their family, and their communities.

212. *Id.* at 24–31.

213. See ZIBART, *supra* note 203, 32.