

By: Grusendorf

H.J.R. No. 1

Substitute the following for H.J.R. No. 1:

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C.S.H.J.R. No. 1

A JOINT RESOLUTION

1 proposing a constitutional amendment providing for funding public  
2 education, providing for school district property tax rate  
3 limitation and reduction, authorizing a school district ad valorem  
4 tax for educational program enrichment, creating the Texas  
5 education fund, dedicating certain sales and use tax revenue to  
6 funding public education, authorizing the legislature to establish  
7 a five percent limit on annual increases in the appraised value for  
8 ad valorem tax purposes of residence homesteads and other  
9 owner-occupied residential real property, and authorizing the  
10 state to operate video lottery games at racetracks and on Indian  
11 lands.

12 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF TEXAS:

13 SECTION 1. Section 47, Article III, Texas Constitution, is  
14 amended by amending Subsection (a) and adding Subsections (f) and  
15 (g) to read as follows:

16 (a) The Legislature shall pass laws prohibiting lotteries  
17 and gift enterprises in this State other than those authorized by  
18 Subsections (b), (d), [~~and~~ (e)], and (f) of this section. This  
19 section does not authorize any entity to operate a casino gaming  
20 operation in this State or a gaming operation substantially similar  
21 to a casino and does not authorize the Legislature to enact a law  
22 allowing the operation of casino gaming.

23 (f) The Legislature by general law in accordance with this  
24 section may authorize the State to control and operate a video

1 lottery system under which individuals may play lottery games of  
2 chance on video lottery terminals owned and operated by persons  
3 licensed or otherwise authorized by this State in order to generate  
4 revenue solely to fund public education and the administration of  
5 the video lottery system. The law must:

6 (1) except as otherwise provided by this section,  
7 require the State to continually monitor the activity of each video  
8 lottery terminal and remotely terminate the operation of a terminal  
9 as necessary to protect the public health, welfare, or safety or the  
10 integrity of the State lottery or to prevent financial loss to the  
11 State;

12 (2) include a comprehensive registration program to  
13 govern a person that manufactures, distributes, sells, or leases  
14 video lottery terminals for use or play in this State and a process  
15 to approve terminals for use in the video lottery system in  
16 accordance with technical standards established by the State;

17 (3) provide for a comprehensive licensing program to  
18 govern a person that owns, manages, or maintains video lottery  
19 terminals operated in this State;

20 (4) allow only the following legal entities to operate  
21 video lottery games on behalf of the State:

22 (A) a person licensed in this State on May 1,  
23 2004, to conduct wagering on a horse race or greyhound race that  
24 conducted not fewer than 20 days of live racing in 2003 and that  
25 annually conducts at least the same number of live racing days as  
26 the person conducted in 2003 at a location licensed by the person to  
27 conduct a horse race or greyhound race;

1                   (B) the Ysleta del Sur Pueblo and  
2 Alabama-Coushatta Indian tribes, which, under an agreement with  
3 this State in the form prescribed by general law or negotiated by  
4 the governor and ratified by the Legislature, operate the games on  
5 lands held in trust by the United States for such tribes on May 1,  
6 2004, pursuant to the Restoration Acts, 25 U.S.C. Section 731 and 18  
7 U.S.C. Section 1166 et seq., and 25 U.S.C. Section 2701 et seq. and  
8 designated by the tribes for video lottery activity; and

9                   (C) the Kickapoo Traditional Tribe of Texas,  
10 which, under an agreement with this State in the form prescribed by  
11 general law or negotiated by the governor and ratified by the  
12 Legislature, operates the games on lands held in trust by the United  
13 States for the benefit of the tribe on which Class III gaming is  
14 permitted under the Indian Gaming Regulatory Act of 1988 (P.L.  
15 100-497, codified at 18 U.S.C. Section 1166 et seq. and 25 U.S.C.  
16 Section 2701 et seq.) and designated by the tribe for video lottery  
17 activity;

18                   (5) prescribe the method for allocating video lottery  
19 terminals that may be operated by an entity listed under  
20 Subdivision (4) of this subsection, and the method must include  
21 consideration of demographics, public health and safety, and  
22 optimization of State revenue;

23                   (6) allow the State to impose and collect State taxes  
24 on the sale, use, or other consumption of a good or service at a  
25 video lottery facility on tribal land by a person who is not a  
26 member of the Indian tribe operating the facility;

27                   (7) prohibit and impose criminal penalties for the

1 possession and operation of all electronic and mechanical gaming  
2 devices other than video lottery terminals operated in connection  
3 with the video lottery system or otherwise authorized by this  
4 section;

5 (8) prohibit the operation or possession of a video  
6 lottery terminal that is not subject to the State's measures for  
7 monitoring and terminating operation of the terminal required by  
8 this subsection and does not generate revenue for the State, except  
9 that the law may provide for limited storage of video lottery  
10 terminals as authorized and supervised by the State and for  
11 possession of video lottery terminals by the State for testing and  
12 evaluation; and

13 (9) provide that:

14 (A) net revenue generated from video lottery  
15 terminals located at a racetrack shall be distributed as follows:

16 (i) 40 percent to the racetrack; and

17 (ii) 60 percent to the State; and

18 (B) net revenue generated from video lottery  
19 terminals operated by an Indian tribe on Indian lands shall be  
20 distributed as set forth in the agreement authorizing the tribe to  
21 operate video lottery games, provided that the State must receive  
22 not less than 25 percent of the net revenue.

23 (g) An applicant for a license, registration, or other  
24 affirmative regulatory approval under Subsection (f) of this  
25 section does not have any right to the license, registration, or  
26 approval. A license or registration issued or other approval  
27 granted to a person in accordance with a law enacted under

1 Subsection (f) of this section is a revocable privilege, and the  
2 person does not acquire any vested right in or under the privilege.  
3 The courts of this State do not have jurisdiction to review a  
4 decision to deny, limit, or condition a license, registration, or  
5 request for approval unless the judicial review is sought on the  
6 ground that the denial, limitation, or condition is based on a  
7 suspect classification, such as race, color, religion, sex, or  
8 national origin, in violation of the Equal Protection Clause of the  
9 Fourteenth Amendment to the United States Constitution. The court  
10 must affirm the denial, limitation, or condition unless the  
11 violation is proven by clear and convincing evidence.

12 SECTION 2. Article VII, Texas Constitution, is amended by  
13 adding Section 3A to read as follows:

14 Sec. 3A. (a) In this section:

15 (1) "Available state revenue" means state revenue from  
16 any source other than federal funds. The term does not include  
17 revenue that, under another provision of this constitution, may be  
18 used only for a particular purpose.

19 (2) "Increase in available state revenue" means the  
20 amount by which the estimate made by the comptroller of public  
21 accounts under Section 49a(a), Article III, of this constitution of  
22 available state revenue for the succeeding fiscal biennium exceeds  
23 the estimate made by the comptroller under that section of  
24 available state revenue for the current fiscal biennium.

25 (b) In each fiscal biennium, an amount of general revenue  
26 equal to one-third of any increase in available state revenue for  
27 the biennium must be used to reduce, as provided by general law, the

1 rate of the school district maintenance tax authorized by Section  
2 3(e) of this article.

3 SECTION 3. Section 3, Article VII, Texas Constitution, is  
4 amended by amending Subsections (d) and (e) and adding Subsections  
5 (f)-(j) to read as follows:

6 (d) The Legislature may provide for the formation of school  
7 districts by general laws, and all such school districts may  
8 embrace parts of two or more counties.

9 [~~(e)~~] The Legislature by general law may provide [~~shall be~~  
10 ~~authorized to pass laws for the assessment and collection of taxes~~  
11 ~~in all school districts and~~] for the management and control of the  
12 public [~~school or~~] schools of such districts.

13 (e) A school district may impose an ad valorem tax on  
14 taxable property in the district for the maintenance of public free  
15 schools. The rate of the maintenance tax may not exceed \$1.05 for  
16 each \$100 of taxable value.

17 (f) The Legislature may provide for school districts to  
18 impose an additional ad valorem tax on all taxable property in the  
19 district for the purpose of providing an enriched educational  
20 program. The rate of the enrichment tax may not exceed \$0.10 for  
21 each \$100 of taxable value.

22 (g) The Legislature may provide for school districts to  
23 impose an additional ad valorem tax on all taxable property in the  
24 district [~~, whether such districts are composed of territory wholly~~  
25 ~~within a county or in parts of two or more counties, and the~~  
26 ~~Legislature may authorize an additional ad valorem tax to be levied~~  
27 ~~and collected within all school districts for the further~~

1 ~~maintenance of public free schools, and]~~ for the erection and  
2 equipment of school buildings.

3 (h) A school district may not impose a tax under Subsection  
4 (e), (f), or (g) of this section unless the tax is approved by  
5 ~~[therein, provided that]~~ a majority of the qualified voters of the  
6 district voting at an election to be held for that purpose~~[, shall~~  
7 ~~approve the tax]~~. A tax imposed under Subsection (e) or (f) of this  
8 section is not a state ad valorem tax for purposes of Section 1-e,  
9 Article VIII, of this constitution.

10 (i) The Legislature may pass laws for the creation of junior  
11 college districts, the management and control of those districts,  
12 and the imposition of ad valorem taxes in those districts. A junior  
13 college district may not impose a tax under this subsection unless  
14 the tax is approved by a majority of the qualified voters of the  
15 district voting at an election held for that purpose. A junior  
16 college district is not a school district for purposes of this  
17 section.

18 (j) An ad valorem tax approved by the voters of a junior  
19 college district under this section on or before November 2, 2004,  
20 is not affected by the amendment of this section approved by the  
21 voters at an election held on November 2, 2004, and the junior  
22 college district is not required to hold a new election to authorize  
23 the existing tax. This subsection expires January 1, 2005.

24 SECTION 4. Section 3-b, Article VII, Texas Constitution, is  
25 amended to read as follows:

26 Sec. 3-b. (a) A [No] tax for the maintenance of public free  
27 schools voted in any independent school district or a [and no] tax

1 for the maintenance of a junior college voted by a junior college  
2 district, and ~~[nor]~~ any bonds voted in any such district, but  
3 unissued, are not ~~[shall be]~~ abrogated, cancelled, or invalidated  
4 by change of any kind in the boundaries of the district ~~[thereof]~~.

5 (b) After any change in boundaries, the governing body of  
6 any such district may, without the necessity of an additional  
7 election, ~~[shall have the power to]~~ assess, levy, and collect ad  
8 valorem taxes on all taxable property within the boundaries of the  
9 district as changed, for the purposes of the maintenance of public  
10 free schools or the maintenance of a junior college, as the case may  
11 be, and for the payment of principal of and interest on all bonded  
12 indebtedness outstanding against, or attributable, adjusted, or  
13 allocated to, such district or any territory in the district  
14 ~~[therein]~~, in the amount, at the rate, or not to exceed the rate,  
15 and in the manner authorized in the district before ~~[prior to]~~ the  
16 change in its boundaries~~[,]~~ and ~~[further]~~ in accordance with the  
17 laws under which all such bonds, respectively, were voted. The~~[,]~~  
18 ~~and such~~ governing body of the district may ~~[also shall have the~~  
19 ~~power]~~, without the necessity of an additional election, ~~[to]~~ sell  
20 and deliver any unissued bonds voted in the district before ~~[prior~~  
21 ~~to]~~ any such change in boundaries, and may ~~[to]~~ assess, levy, and  
22 collect ad valorem taxes on all taxable property in the district as  
23 changed, for the payment of principal of and interest on such bonds  
24 in the manner permitted by the laws under which such bonds were  
25 voted.

26 (c) If ~~[In those instances where]~~ the boundaries of any such  
27 independent school district are changed by the annexation of, or

1 consolidation with, one or more whole school districts, the taxes  
2 to be levied for the purposes [~~hereinabove~~] authorized by this  
3 article may be in the amount or at not to exceed the rate previously  
4 [~~theretofore~~] voted in the district having at the time of such  
5 change the greatest scholastic population according to the latest  
6 scholastic census, and only the unissued bonds of such district  
7 voted before [~~prior to~~] such change[~~7~~] may be subsequently sold and  
8 delivered. Unissued [~~and any voted, but unissued,~~] bonds of the  
9 other school districts involved in such annexation or consolidation  
10 may [~~shall~~] not [~~thereafter~~] be issued after the annexation or  
11 consolidation.

12 SECTION 5. Article VII, Texas Constitution, is amended by  
13 adding Section 5A to read as follows:

14 Sec. 5A. (a) The Texas education fund consists of:

15 (1) certain proceeds of the sales and use tax imposed  
16 by a political subdivision of this state as provided by Section 25,  
17 Article VIII, of this constitution; and

18 (2) other funds transferred or dedicated to the fund  
19 by general law.

20 (b) The fund may be used only for public education.

21 SECTION 6. Section 1(i), Article VIII, Texas Constitution,  
22 is amended to read as follows:

23 (i) Notwithstanding Subsections (a) and (b) of this  
24 section, the Legislature by general law may limit the maximum  
25 average annual percentage increase in the appraised value [~~of~~  
26 ~~residence homesteads~~] for ad valorem tax purposes of residence  
27 homesteads and of other real property that is designed or adapted

1 for residential purposes and used primarily for residential  
2 purposes by the owner of the property to five [10] percent, or a  
3 greater percentage, for each year since the most recent tax  
4 appraisal. A limitation on appraisal increases for property  
5 authorized by this subsection:

6 (1) takes effect in the tax year following the first  
7 tax year in which the owner owns the property on January 1 and in  
8 which the owner qualifies the property as a residence homestead or  
9 uses the property primarily for the owner's residential purposes,  
10 or, if the property qualifies for an exemption as the [to a]  
11 residence homestead of the owner under Section 1-b of this article  
12 in the tax year in which the owner acquires the property, in [on the  
13 later of the effective date of the law imposing the limitation or  
14 January 1 of] the tax year following the [first] tax year in which  
15 the owner acquires [qualifies] the property [for an exemption under  
16 Section 1-b of this article]; and

17 (2) expires on January 1 of the [first] tax year  
18 following the tax year in which [that neither] the owner of the  
19 property when the limitation took effect ceases to own the property  
20 or ceases to qualify the property as a residence homestead or to use  
21 the property primarily for the owner's residential purposes, except  
22 that the Legislature by general law may provide for the limitation  
23 to continue during ownership of the property by [nor] the owner's  
24 spouse or surviving spouse who qualifies the property for an  
25 exemption under Section 1-b of this article.

26 SECTION 7. Section 1, Article VIII, Texas Constitution, is  
27 amended by adding Subsection (i-1) to read as follows:

1       (i-1) Temporary Provision. (a) This temporary provision  
2 applies to the constitutional amendment proposed by the 78th  
3 Legislature, 4th Called Session, 2004, to authorize the legislature  
4 to limit the maximum average annual increase in the appraised value  
5 for ad valorem tax purposes of residence homesteads and other  
6 owner-occupied residential real property and expires January 1,  
7 2006.

8       (b) The amendment to Section 1(i), Article VIII, of this  
9 constitution takes effect January 1, 2005, and applies only to a tax  
10 year that begins on or after that date.

11       SECTION 8. Article VIII, Texas Constitution, is amended by  
12 adding Section 25 to read as follows:

13       Sec. 25. The net revenue derived from the imposition of a  
14 sales and use tax by a political subdivision of this state on the  
15 sale or use of an item, including a service, that was not a taxable  
16 item on December 31, 2004, and that becomes subject to the sales and  
17 use tax after that date, shall be deposited to the credit of the  
18 Texas education fund created by Section 5A, Article VII, of this  
19 constitution.

20       SECTION 9. This proposed constitutional amendment shall be  
21 submitted to the voters at an election to be held November 2, 2004.  
22 The ballot shall be printed to permit voting for or against the  
23 proposition: "The constitutional amendment providing financial  
24 support for public education, limiting and reducing school property  
25 tax rates, authorizing a school district property tax for  
26 educational program enrichment, authorizing a five percent  
27 limitation on annual increases in the appraised value for ad

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1 valorem tax purposes of residence homesteads and other  
2 owner-occupied residential real property, and authorizing the  
3 state to operate video lottery games at racetracks and on Indian  
4 lands."