

By: Flores

H.J.R. No. 18

A JOINT RESOLUTION

1 proposing a constitutional amendment authorizing the state to
2 operate video lottery games at certain racetracks and on Indian
3 lands to provide additional money to fund public education and
4 other governmental programs.

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

6 SECTION 1. Section 47(a), Article III, Texas Constitution,
7 is amended to read as follows:

8 (a) The Legislature shall pass laws prohibiting lotteries
9 and gift enterprises in this State other than those authorized by
10 Subsections (b), (d), and (e) of this section and Section 47-a of
11 this article.

12 SECTION 2. Article III, Texas Constitution, is amended by
13 adding Section 47-a to read as follows:

14 Sec. 47-a. (a) The Legislature by general law in accordance
15 with this section may authorize this state to control and operate a
16 video lottery system under which individuals may play lottery games
17 of chance on video lottery terminals owned and operated by persons
18 licensed or otherwise authorized by this state at locations
19 determined as provided by this subsection in order to generate
20 revenue to provide additional money to fund public education and
21 other governmental programs. The law authorizing a video lottery
22 system must:

23 (1) except as otherwise provided by this section,
24 require this state to continually monitor the activity of each

1 video lottery terminal and remotely terminate the operation of a
2 terminal as necessary to protect the public health, welfare, or
3 safety or the integrity of the state lottery or to prevent financial
4 loss to this state;

5 (2) include a comprehensive registration program to
6 govern a person that manufactures, distributes, sells, or leases
7 video lottery terminals for use or play in this state and a process
8 to approve terminals for use in the video lottery system in
9 accordance with technical standards established by this state;

10 (3) provide for a comprehensive licensing program to
11 govern a person that owns, manages, or maintains video lottery
12 terminals operated in this state;

13 (4) limit the operation of video lottery games on
14 behalf of this state to only the following legal entities:

15 (A) a person that is licensed in this state to
16 operate a racetrack that was licensed to conduct wagering on a horse
17 race or greyhound race on June 1, 2005, or for which a person on or
18 before that date had applied for a license to conduct wagering on a
19 horse race or greyhound race at the racetrack, provided that the
20 person may be licensed to conduct video lottery games only at the
21 location licensed for conducting wagering on horse races or
22 greyhound races; or

23 (B) a federally recognized Indian tribe that,
24 under an agreement with this state in the form prescribed by general
25 law or negotiated by the governor in accordance with general law or
26 under a license granted by this state in accordance with general
27 law, may conduct the games only on land over which the tribe

1 exercises governmental power and:

2 (i) that is held in trust by the United
3 States on January 1, 1998, for the tribe or an individual member of
4 the tribe pursuant to federal law and designated by the tribe for
5 video lottery activity; or

6 (ii) on which Class III gaming is permitted
7 under the Indian Gaming Regulatory Act (18 U.S.C. Section 1166 et
8 seq. and 25 U.S.C. Section 2701 et seq.) and designated by the tribe
9 for video lottery activity;

10 (5) authorize this state to impose and collect state
11 taxes on the purchase, use, or other consumption of a good or
12 service at a video lottery facility on tribal land by a person who
13 is not a member of the Indian tribe operating the facility;

14 (6) prohibit and impose criminal penalties for the
15 possession and operation of all electronic and mechanical gaming
16 devices other than video lottery terminals operated in connection
17 with the video lottery system or a gaming device expressly
18 authorized under other state law;

19 (7) prohibit the operation or possession of a video
20 lottery terminal that is not subject to this state's measures for
21 monitoring and terminating operation of the terminal required by
22 this subsection and does not generate revenue for this state,
23 except that the law may provide for limited storage or transport of
24 video lottery terminals as authorized by this state and for
25 possession of video lottery terminals by this state for testing and
26 evaluation; and

27 (8) provide that, unless otherwise provided by law:

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

3 (i) 65 percent to the racetrack; and

4 (ii) 35 percent to this state; and

5 (B) net revenue generated from video lottery
6 terminals operated by an Indian tribe on Indian lands shall be
7 distributed as set forth in the agreement authorizing the tribe to
8 operate video lottery games or as provided by general law if the
9 tribe operates video lottery games under a license.

10 (b) In the absence of enabling legislation to implement
11 Subsection (a) of this section, the authority of this state to
12 operate lotteries under Section 47(e) of this article includes the
13 authority of the state agency that operates state lotteries to
14 adopt rules to implement video lottery in accordance with
15 Subsection (a) of this section as part of the state lottery.

16 (c) The Legislature may authorize a portion of the revenue
17 received by this state from the operation of video lottery
18 terminals and other forms of gaming to:

19 (1) be distributed to counties and municipalities
20 impacted by those activities; or

21 (2) be used to support purses at horse and greyhound
22 racetracks.

23 (d) All shipments of video lottery terminals or gaming
24 devices into, out of, or within this state authorized under this
25 section or a law enacted under this section are legal shipments of
26 the devices and are exempt from the provisions of 15 U.S.C. Sections
27 1171-1178, prohibiting the transportation of gambling devices.

1 (e) A person may not conduct or promote gambling or wagering
2 using any electronic gaming device in this state unless the device
3 is authorized under this section or under a law enacted under this
4 section or Section 47 of this article. Any exception or defense
5 provided by general law to an offense relating to illegal gambling
6 that permits the operation or possession of electronic gaming
7 devices based on the limited value of a prize that a player of the
8 device may receive constitutes an exception to the prohibition
9 provided by this subsection if the defense or exception does not
10 allow the player to receive a prize consisting of money, a check or
11 other negotiable instrument or cash equivalent, or a certificate or
12 other item that entitles the bearer to receive any thing of value on
13 premises other than the premises where the device is operated. A
14 county or district attorney or the attorney general may enjoin a
15 violation of this subsection.

16 (f) The governing body of a political subdivision of this
17 state may not take any action regarding the repeal or revocation of
18 a previous authorization by the voters of the political subdivision
19 to approve the legalization or conduct of pari-mutuel wagering on
20 horse races or greyhound races at a racetrack in that political
21 subdivision if the racetrack may be authorized under this section
22 to operate video lottery games on behalf of this state.

23 (g) An applicant for a license, registration, or other
24 affirmative regulatory approval under a law enacted under 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 this

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

12 SECTION 3. This proposed constitutional amendment shall be
13 submitted to the voters at an election to be held November 8, 2005.
14 The ballot shall be printed to permit voting for or against the
15 proposition: "The constitutional amendment authorizing a state
16 video lottery system to operate video lottery games at certain
17 horse and greyhound racetracks and on certain Indian lands to
18 provide additional money to fund public education and other
19 governmental programs."