

By: Flores

H.J.R. No. 4

A JOINT RESOLUTION

1 proposing a constitutional amendment authorizing the state to  
2 operate video lottery games at racetracks and on Indian lands and  
3 authorizing casino gaming in this state.

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

5 SECTION 1. Section 47, Article III, Texas Constitution, is  
6 amended by amending Subsection (a) and adding Subsections (f), (g),  
7 and (h) 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), (f), and (h) of this section.

11 (f) The Legislature by general law in accordance with this  
12 section may authorize this state to control and operate a video  
13 lottery system under which individuals may play lottery games of  
14 chance on video lottery terminals owned and operated by persons  
15 licensed or otherwise authorized by this state at locations, as  
16 authorized by this subsection, in order to generate revenue for  
17 public purposes. The law authorizing a video lottery system must:

18 (1) except as otherwise provided by this section,  
19 require this state to continually monitor the activity of each  
20 video lottery terminal and remotely terminate the operation of a  
21 terminal as necessary to protect the public health, welfare, or  
22 safety or the integrity of the state lottery or to prevent financial  
23 loss to this state;

24 (2) include a comprehensive registration program to

1 govern a person that manufactures, distributes, sells, or leases  
2 video lottery terminals for use or play in this state and a process  
3 to approve terminals for use in the video lottery system in  
4 accordance with technical standards established by this state;

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

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

10 (A) a person that is licensed in this state on  
11 June 1, 2005, to conduct wagering on a horse race or greyhound race  
12 or that has submitted on or before that date an application to be  
13 licensed by this state to conduct wagering on a horse race or  
14 greyhound race, provided that the person may be licensed to conduct  
15 video lottery games only at a location licensed for conducting  
16 horse races or greyhound races; or

17 (B) a federally recognized Indian tribe that,  
18 under an agreement with this state in the form prescribed by general  
19 law or negotiated by the governor and ratified by the Legislature or  
20 under a license granted by this state in accordance with general  
21 law, may conduct the games only on land:

22 (i) held in trust by the United States for  
23 the tribe pursuant to federal law and designated by the applicable  
24 tribe for video lottery activity; or

25 (ii) held in trust by the United States for  
26 the benefit of the tribe on which Class III gaming is permitted  
27 under the Indian Gaming Regulatory Act of 1988 (P.L. 100-497,

1 codified at 18 U.S.C. Section 1166 et seq. and 25 U.S.C. Section  
2 2701 et seq.) and designated by the tribe for video lottery  
3 activity;

4 (5) prescribe the method for allocating video lottery  
5 terminals that may be operated by an entity listed under  
6 Subdivision (4) of this subsection;

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

11 (7) prohibit and impose criminal penalties for the  
12 possession and operation of all electronic and mechanical gaming  
13 devices other than video lottery terminals operated in connection  
14 with the video lottery system or gaming devices authorized by a law  
15 enacted under this section;

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

24 (9) provide that:

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

27 (i) 70 percent to the racetrack; and

1                   (ii) 30 percent to this state; and

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

7                   (g) An applicant for a license, registration, or other  
8 affirmative regulatory approval under a law enacted under  
9 Subsection (f) of this section does not have any right to the  
10 license, registration, or approval. A license or registration  
11 issued or other approval granted to a person in accordance with a  
12 law enacted under Subsection (f) of this section is a revocable  
13 privilege, and the person does not acquire any vested right in or  
14 under the privilege. The courts of this state do not have  
15 jurisdiction to review a decision to deny, limit, or condition a  
16 license, registration, or request for approval unless the judicial  
17 review is sought on the ground that the denial, limitation, or  
18 condition is based on a suspect classification, such as race,  
19 color, religion, sex, or national origin, in violation of the Equal  
20 Protection Clause of the Fourteenth Amendment to the United States  
21 Constitution. The court must affirm the denial, limitation, or  
22 condition unless the violation is proven by clear and convincing  
23 evidence.

24                   (h) The Legislature by general law may authorize and  
25 regulate casino gaming conducted:

26                   (1) by the holder of a license or permit issued by this  
27 state for that purpose at not more than 12 tourist destination

1 locations specified by the Legislature;

2 (2) at a racetrack described by Subsection (f) of this  
3 section at the location provided by that subsection; or

4 (3) by a federally recognized Indian tribe described  
5 in Subsection (f) of this section on Indian land described by that  
6 subsection under a license or permit issued by this state for that  
7 purpose that serves as an agreement between the tribe and this state  
8 or under an agreement between the tribe and this state in the form  
9 prescribed by law or negotiated by the governor in accordance with  
10 general law.

11 SECTION 2. This proposed constitutional amendment shall be  
12 submitted to the voters at an election to be held November 8, 2005.  
13 The ballot shall be printed to permit voting for or against the  
14 proposition: "The constitutional amendment authorizing a state  
15 video lottery system to operate video lottery games at certain  
16 horse and greyhound racetracks and on Indian lands and authorizing  
17 casino gaming at 12 tourist destination locations, at certain horse  
18 and greyhound racetracks, and on Indian lands."