

By: Flores

H.J.R. No. 5

A JOINT RESOLUTION

1 proposing a constitutional amendment authorizing the state to  
2 operate video lottery games and the operation of other games of  
3 chance to supplement the video lottery games at certain horse and  
4 greyhound racetracks and on Indian lands.

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

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

9 (a) The Legislature shall pass laws prohibiting lotteries  
10 and gift enterprises in this State other than those authorized by  
11 Subsections (b), (d), [~~and~~ (e), and (f) of this section. This  
12 section does not authorize any entity to operate a casino gaming  
13 operation in this state or a gaming operation substantially similar  
14 to a casino and does not authorize the Legislature to enact a law  
15 allowing the operation of casino gaming.

16 (f) The Legislature by general law in accordance with this  
17 section may authorize this state to control and operate a video  
18 lottery system under which individuals may play lottery games of  
19 chance on video lottery terminals owned and operated by persons  
20 licensed or otherwise authorized by this state, and may authorize  
21 other games of chance to be conducted to supplement lottery games at  
22 licensed or authorized locations, in order to generate revenue for  
23 public purposes. The law authorizing a video lottery system must:

24 (1) except as otherwise provided by this section,

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

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

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

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

16 (A) a person that is licensed in this state on  
17 June 1, 2005, to conduct wagering on a horse race or greyhound race  
18 or that has previously submitted a application that is pending on  
19 that date to be licensed by this state to conduct wagering on a  
20 horse race or greyhound race, provided that the person may be  
21 licensed to conduct video lottery games only at a location licensed  
22 for conducting horse races or greyhound races; or

23 (B) a federally recognized Indian tribe, which,  
24 under an agreement with this state in the form prescribed by general  
25 law or negotiated by the governor and ratified by the Legislature,  
26 may conduct the games only on land:

27 (i) held in trust by the United States for

1 the tribe pursuant to federal law and designated by the applicable  
2 tribe for video lottery activity; or

3 (ii) held in trust by the United States for  
4 the benefit of the tribe on which Class III gaming is permitted  
5 under the Indian Gaming Regulatory Act of 1988 (P.L. 100-497,  
6 codified at 18 U.S.C. Section 1166 et seq. and 25 U.S.C. Section  
7 2701 et seq.) and designated by the tribe for video lottery  
8 activity;

9 (5) prescribe the method for allocating video lottery  
10 terminals that may be operated by an entity listed under  
11 Subdivision (4) of this subsection, which method must include  
12 consideration of demographics, public health and safety, and  
13 optimization of state revenue;

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

18 (7) prohibit and impose criminal penalties for the  
19 possession and operation of all electronic and mechanical gaming  
20 devices other than video lottery terminals operated in connection  
21 with the video lottery system or gaming devices authorized by a law  
22 enacted under this section;

23 (8) prohibit the operation of a video lottery terminal  
24 that is not subject to this state's measures for monitoring and  
25 terminating operation of the terminal required by this subsection  
26 and does not generate revenue for this state, except that the law  
27 may permit possession of video lottery terminals as authorized and

1 supervised by this state; and

2 (9) provide that:

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

5 (i) 70 percent to the racetrack; and

6 (ii) 30 percent to this state; and

7 (B) net revenue generated from video lottery  
8 terminals operated by an Indian tribe on Indian lands shall be  
9 distributed as set forth in the agreement authorizing the tribe to  
10 operate video lottery games.

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

1           SECTION 2. This proposed constitutional amendment shall be  
2 submitted to the voters at an election to be held November 8, 2005.  
3 The ballot shall be printed to permit voting for or against the  
4 proposition: "The constitutional amendment authorizing a state  
5 video lottery system to operate video lottery games at certain  
6 horse and greyhound racetracks and on Indian lands."