

By: Armbrister

S.J.R. No. 34

A JOINT RESOLUTION

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

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

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

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

14 (f) The Legislature by general law in accordance with this
15 section may authorize this state to control and operate a video
16 lottery system under which individuals may play lottery games of
17 chance on video lottery terminals owned and operated by persons
18 licensed or otherwise authorized by this state in order to generate
19 revenue for public purposes and to fund the administration of the
20 video lottery system. The law must:

21 (1) except as otherwise provided by this section,
22 require this state to continually monitor the activity of each
23 video lottery terminal and remotely terminate the operation of a
24 terminal as necessary to protect the public health, welfare, or

1 safety or the integrity of the state lottery or to prevent financial
2 loss to this state;

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

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

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

13 (A) a person that is licensed in this state to
14 conduct wagering on a horse race or greyhound race, provided that
15 the person may be licensed to conduct video lottery games only at a
16 location licensed for conducting horse races or greyhound races;

17 (B) the Ysleta del Sur Pueblo and
18 Alabama-Coushatta Indian tribes, which, under an agreement with
19 this state in the form prescribed by general law or negotiated by
20 the governor and ratified by the Legislature, may conduct the games
21 only on land held in trust by the United States for such tribes on
22 January 1, 1998, pursuant to the Restoration Acts, 25 U.S.C.
23 Section 731 and 18 U.S.C. Section 1166 et seq., and 25 U.S.C.
24 Section 2701 et seq. and designated by the applicable tribe for
25 video lottery activity; and

26 (C) the Kickapoo Traditional Tribe of Texas,
27 which, under an agreement with this state in the form prescribed by

1 general law or negotiated by the governor and ratified by the
2 Legislature, may conduct the games only on land held in trust by the
3 United States for the benefit of the tribe on which Class III gaming
4 is permitted under the Indian Gaming Regulatory Act of 1988 (P.L.
5 100-497, codified at 18 U.S.C. Section 1166 et seq. and 25 U.S.C.
6 Section 2701 et seq.) and designated by the tribe for video lottery
7 activity;

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

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

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

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

1 possession of video lottery terminals by this state for testing and
2 evaluation; and

3 (9) provide that:

4 (A) net revenue generated from video lottery
5 terminals located at a racetrack shall be distributed as provided
6 by general law; 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 racetracks
6 and on Indian lands."