

By: Flores

H.J.R. No. 63

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 governmental programs.

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

5 SECTION 1. Section 47(a), Article III, Texas Constitution,
6 is amended 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), and (e) of this section and Section 47-a of
10 this article.

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

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

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

1 terminal as necessary to protect the public health, welfare, or
2 safety or the integrity of the state lottery or to prevent financial
3 loss to this state;

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

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

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

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

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

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

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

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

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

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

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

27 (A) net revenue generated from video lottery

1 terminals located at a racetrack shall be distributed as follows:

2 (i) 65 percent to the racetrack; and

3 (ii) 35 percent to this state; and

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

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

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

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

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

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

27 (e) A person may not conduct or promote gambling or wagering

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

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

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

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

13 SECTION 3. This proposed constitutional amendment shall be
14 submitted to the voters at an election to be held November 6, 2007.
15 The ballot shall be printed to permit voting for or against the
16 proposition: "The constitutional amendment authorizing a state
17 video lottery system to operate video lottery games at certain
18 horse and greyhound racetracks and on certain Indian lands to
19 provide additional money to fund governmental programs."