

By: Flores

H.J.R. No. 100

A JOINT RESOLUTION

1 proposing a constitutional amendment authorizing video lottery
2 games and casino gaming at certain racetracks, at certain tourist
3 destination locations, and on Indian lands to provide additional
4 money to fund governmental programs and regulating the locations at
5 which gambling may be conducted in this state.

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

7 SECTION 1. Section 47(a), Article III, Texas Constitution,
8 is amended 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) of this section and Section 47-a of
12 this article.

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

15 Sec. 47-a. (a) The Legislature by general law in accordance
16 with this section may authorize this state to control and operate a
17 video lottery system under which individuals may play lottery games
18 of chance on video lottery terminals owned and operated by persons
19 licensed or otherwise authorized by this state at locations
20 determined as provided by this subsection in order to generate
21 revenue to provide additional money to fund governmental programs.
22 The law authorizing a video lottery 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, 2007, 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;

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,
26 may conduct the games only on land over which the tribe exercises
27 governmental power and;

1 (i) that is 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; or

9 (C) a person licensed or permitted to conduct
10 casino gaming at a tourist destination in accordance with
11 Subsection (b)(1) of this section;

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

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

22 (7) 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 or transport of
27 video lottery terminals as authorized by this state and for

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

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

4 (A) net revenue generated from video lottery
5 terminals located at a racetrack or tourist destination shall be
6 distributed as follows:

7 (i) 65 percent to the racetrack or tourist
8 destination; and

9 (ii) 35 percent to this state; and

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

15 (b) The Legislature by general law shall authorize and
16 regulate casino gaming conducted:

17 (1) by the holder of a license or permit issued by this
18 state for that purpose at 12 urban or coastal tourist destination
19 locations specified by the Legislature or determined in accordance
20 with law;

21 (2) at a racetrack described by Subsection (a)(4)(A)
22 of this section at the location at which video lottery terminals may
23 be operated under that subsection; or

24 (3) by a federally recognized Indian tribe described
25 by Subsection (a)(4)(B) of this section on Indian land described by
26 that subsection under a license or permit issued by this state for
27 that purpose that serves as an agreement between the tribe and this

1 state or under an agreement between the tribe and this state in the
2 form prescribed by law or negotiated by the governor in accordance
3 with general law.

4 (c) In the absence of enabling legislation to implement
5 Subsection (a) of this section, the authority of this state to
6 operate lotteries under Section 47(e) of this article includes the
7 authority of the state agency that operates state lotteries to
8 adopt rules to implement video lottery in accordance with
9 Subsection (a) of this section as part of the state lottery.

10 (d) The Legislature may authorize a portion of the revenue
11 received by this state from the operation of casino gaming, video
12 lottery terminals, and other forms of gaming to:

13 (1) be distributed to counties and municipalities
14 impacted by those activities; or

15 (2) be used to support purses at horse and greyhound
16 racetracks.

17 (e) All shipments of video lottery terminals or gaming
18 devices into, out of, or within this state authorized under this
19 section or a law enacted under this section are legal shipments of
20 the devices and are exempt from the provisions of 15 U.S.C. Sections
21 1171-1178, prohibiting the transportation of gambling devices.

22 (f) A casino licensed under a law authorized by this section
23 other than a casino operated by an Indian tribe is subject to all
24 applicable taxes imposed by this state or a political subdivision
25 of this state, including ad valorem taxation. A political
26 subdivision of this state may not offer or award a tax abatement,
27 tax credit, tax subsidy, tax exemption, or any other form of

1 publicly funded incentive to assist, develop, or aid in the
2 establishment, development, or operation of casino gaming by a
3 person licensed to conduct casino gaming.

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

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

26 (i) An applicant for a license, certificate of
27 registration, or other affirmative regulatory approval under a law

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

16 SECTION 3. This proposed constitutional amendment shall be
17 submitted to the voters at an election to be held November 6, 2007.
18 The ballot shall be printed to permit voting for or against the
19 proposition: "The constitutional amendment authorizing the
20 operation of video lottery games and casino gaming at certain horse
21 and greyhound racetracks, at 12 tourist destination locations, and
22 on certain Indian lands to provide additional money to fund
23 governmental programs."