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| RESOLUTION ANALYSIS |

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| C.S.H.J.R. 155 |
| By: Geren |
| State Affairs |
| Committee Report (Substituted) |

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| **BACKGROUND AND PURPOSE**  By authorizing a limited number of large-scale destination resorts that include hotel accommodations, meeting space, entertainment facilities, shopping centers, restaurants, casino gaming and sports wagering, and a combination of various other tourism amenities and facilities, Texas may be better equipped to compete with other states in attracting some of the largest conventions and millions of leisure travelers a year. According to testimony by economist Dr. George Zodrow, these destination resorts could also create 48,000 full-time equivalent jobs, labor income of $4.5 billion, an increase in value added or GDP of $8.3 billion, and initial construction expenditures with 25,000 jobs per year. C.S.H.J.R. 155 aims to help the state keep some of the billions of dollars that Texans currently spend on tourism and gaming in neighboring states here in Texas by proposing a constitutional amendment that, if approved by the voters, would authorize casino gaming and sports wagering in Texas. |
| **CRIMINAL JUSTICE IMPACT**  It is the committee's opinion that this resolution does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision. |
| **RULEMAKING AUTHORITY**  It is the committee's opinion that rulemaking authority is expressly granted to the Texas Gaming Commission in SECTION 3 of this resolution. |
| **ANALYSIS**  C.S.H.J.R. 155 proposes an amendment to the Texas Constitution to authorize certain casino gaming and sports wagering in Texas and to establish a framework for the legislature's regulation of such gaming and wagering, among other provisions.  **Authorization of Casino Gaming**  C.S.H.J.R. 155 authorizes casino gaming pursuant to casino licenses for casinos at destination resorts in order to foster economic development and job growth, provide tax relief and funding for education and public safety programs, support the horse racing industry, reform horse racing and greyhound racing, provide support for a new Texas Gaming Commission, and provide for destination resorts in populous metropolitan statistical areas (MSAs) where pari-mutuel wagering was previously approved.  For purposes of this authorization, "casino gaming" means any game of chance or similar activity that involves placing a wager for consideration. The term includes wagering on any type of slot machine or table game, as defined by the legislature, using money, casino credit, or any other representation of value but does not include any of the following:   * bingo, a charitable raffle, or the state lottery; or * placing, receiving, or otherwise knowingly transmitting a wager by a means that requires the use of the Internet, except for offering slot machines, table games, or other devices approved by the Texas Gaming Commission that use the Internet or networking functionality but are played on-site at a casino.   Authorized Casino Gaming Locations  C.S.H.J.R. 155 specifically authorizes casino gaming at eight destination resorts in Texas as follows:   * two resorts in the Dallas-Fort Worth-Arlington MSA; * two resorts in the Houston-The Woodlands-Sugar Land MSA; * one resort in the San Antonio-New Braunfels MSA; * one resort in the Corpus Christi MSA; * one resort in the McAllen-Edinburg-Mission MSA; and * one resort located in an MSA that is not named in this list and in a county that meets the following criteria:   + no part of the county is less than 100 miles from one of the named MSAs; and   + a majority of the county's qualified voters voting on the question voted in favor of the amendment proposed by the resolution.   A destination resort at which casino gaming is conducted in one of the named MSAs may be located anywhere within the MSA for which the license is issued.  Texas Gaming Commission  C.S.H.J.R. 155 requires the legislature by general law to establish the Texas Gaming Commission as a state agency with broad authority to adopt and enforce the rules necessary to strictly regulate casino gaming and sports wagering. The gaming commission is composed of five members appointed by the governor with the advice and consent of the senate to serve staggered six-year terms, as established under general law. To be eligible for appointment and continued service, a member must satisfy the qualifications established by the legislature under that law.  Casino Licenses  C.S.H.J.R. 155 requires the gaming commission to issue a casino license to each initial qualified applicant that:   * is of good moral character, is honest, and has integrity; * demonstrates that the issuance of the license to the applicant will not be detrimental to the public interest or the casino gaming industry; * satisfies the qualifications and any other requirements established under general law; * demonstrates the financial ability to complete the development of and operate the destination resort at which the person will conduct casino gaming; * has adequate experience in resort development, resort management, and casino gaming operations; * provides a detailed estimate of their total new development investment in the destination resort; and * satisfies the applicable additional requirements prescribed by the resolution for the MSA in which the destination resort will be located.   C.S.H.J.R. 155 requires an initial qualified applicant for a casino license in one of the named MSAs to be a racetrack association that, on January 1, 2022, held a license to conduct racing in an eligible area, or the association's designee, and commit to investing a specified minimum amount of money for new development of the destination resort, including land acquisition, as follows:   * for a license in the Dallas-Fort Worth-Arlington MSA, the eligible area is that MSA or the Laredo MSA, and the minimum investment is $2 billion; * for a license in the Houston-The Woodlands-Sugar Land MSA, the eligible area is that MSA or the Brownsville-Harlingen MSA, and the minimum investment is $2 billion; * for a license in the San Antonio-New Braunfels MSA, the eligible area is that MSA, and the minimum investment is $1 billion; and * for a license in the Corpus Christi MSA or McAllen-Edinburg-Mission MSA, the eligible area is the respective MSA, and the minimum investment is $250 million.   For the casino license available for a location outside those named MSAs, the initial qualified applicant must be selected through an open bid process regulated by general law and gaming commission rule consistent with general law and commit to investing for new development of the destination resort an amount equal to at least $1 billion, including land acquisition. The resolution requires a racetrack association holding a license to conduct greyhound racing or a racetrack association holding a license to conduct racing in the Laredo MSA to cease all racing operations and surrender that license as a condition of holding, or designating a person to hold, a casino license.  C.S.H.J.R. 155 authorizes a racetrack association to designate a person to apply for and hold a casino license by providing notice to the gaming commission in the manner prescribed by general law or gaming commission rule consistent with general law. The resolution prohibits an association from changing the person designated in the notice, unless the person declines the designation, or designating more than one person at any time. The resolution makes an association ineligible to hold a casino license itself if the association designates a person for a license unless the person declines the designation. The resolution specifies that these provisions do not affect the duties or rights established by contract or other law.  C.S.H.J.R. 155 requires the legislature, by general law and for purposes of funding and supporting the administration and management of the gaming commission, to establish license application fees in the following amounts:   * $2.5 million for an application to conduct casino gaming at a destination resort in the Dallas-Fort Worth-Arlington MSA or Houston-The Woodlands-Sugar Land MSA; * $1.25 million for an application to conduct casino gaming at a destination resort in the San Antonio-New Braunfels MSA; * $500,000 for an application to conduct casino gaming at a destination resort in the Corpus Christi MSA or McAllen-Edinburg-Mission MSA; and * $1.25 million for an application to conduct casino gaming at a destination resort in a location outside those named MSAs.   C.S.H.J.R. 155 prohibits a person from having an ownership interest in more than two casino license holders. The legislature by general law must define ownership interest and prescribe the consequences of violating this prohibition.  Resort Financing  C.S.H.J.R. 155 prohibits state or local public money or facilities developed or built with state or local public assistance or tax incentives of any kind from being used for the development or operation of a destination resort. The legislature by general law must prescribe procedures and enforcement measures to ensure that a casino license applicant has the financial capability of satisfying, and that each license holder does satisfy, the minimum investment required for the issuance of the license.  **Authorization of Sports Wagering**  C.S.H.J.R. 155 requires the legislature to authorize sports wagering only in a place and manner prescribed by general law, to regulate the conduct of sports wagering by general law, and to direct the gaming commission to adopt rules consistent with general law to regulate sports wagering in Texas. "Sports wagering" means placing a wager on a live sporting event, as defined by general law.  **State Regulation of Casino Gaming, Sports Wagering, and Horse Racing**  C.S.H.J.R. 155 requires the legislature by general law to regulate casino gaming and sports wagering in Texas by prescribing the following:   * additional requirements governing the issuance and continued qualification for holding a casino license; * restrictions on the transfer of casino licenses; * definitions of terms necessary or useful to implement, and consistent with, the resolution's provisions, including the terms casino, casino gaming, casino license, destination resort, location, and sports wagering; * qualifications for the issuance of new casino licenses to persons who are not initial qualified applicants or who, as initial qualified applicants, do not satisfy an applicable requirement for the MSA, provided that the number of active casino licenses, as that term is defined by the legislature, may not at any time exceed the number of casino licenses for destination resorts authorized by the resolution; and * restrictions and penalties for the unlawful conduct of casino gaming and sports wagering.   The resolution authorizes the legislature by general law to delegate to the gaming commission the authority to adopt rules regulating casino gaming and sports wagering.  C.S.H.J.R. 155 also requires the legislature by general law to do the following:   * direct the gaming commission to adopt rules ensuring that a person who holds both a casino license and a license to conduct horse racing at a class 1 racetrack maintains a number of live horse racing dates at least equivalent to the number of such dates held at the racetrack in 2022; and * ensure the Texas Racing Commission regulates the racing operations of each racetrack association that holds a casino license and the gaming commission regulates casino gaming and sports wagering operations of the racetrack association.   **Taxes**  C.S.H.J.R. 155 requires the legislature by general law to impose a 15 percent tax on the gross casino gaming revenue, as defined by general law, of each casino license holder and a tax on gross sports wagering revenue, as defined by general law, in an amount provided by general law. The resolution prohibits the state, a state agency, or a political subdivision from imposing a tax on the casino gaming revenue or sports wagering revenue of a casino license holder or a tax or fee on the non-casino-gaming revenue or non-sports-wagering revenue of a casino license holder's operations at a destination resort, other than the taxes expressly authorized by the resolution or a tax or fee generally applicable to a business operating in Texas. The resolution requires the legislature by law to allocate a portion of the revenues received from taxes imposed on the gross casino gaming revenue of casino license holders to be used as horse racing purse money for the public purpose of promoting the growth and sustainability of the horse racing industry in Texas.  **Tribal-State Compact; Indian Gaming**  C.S.H.J.R. 155 requires the governor, at the request of any of the three federally recognized Indian tribes with Indian lands in Texas, accompanied by or in the form of a duly enacted resolution of the tribe's governing body, to negotiate in good faith, on behalf of the state, a Tribal-State compact as prescribed by the federal Indian Gaming Regulatory Act. On the execution of such a compact, the governor and the elected leader of the requesting Indian tribe must submit the compact to the U.S. secretary of the interior. The resolution establishes that, for the purpose of resolving a tribe's claim that the governor has not negotiated in good faith with the tribe, the state consents to the jurisdiction of the U.S. District Court with jurisdiction in the county where the Indian lands are located or, if the federal court lacks jurisdiction, to the jurisdiction of a district court in Travis County. The resolution waives the state's sovereign immunity for that purpose.  C.S.H.J.R. 155 provides that, if either the Alabama-Coushatta Tribe of Texas or the Ysleta del Sur Pueblo is not authorized to offer gaming under the federal Indian Gaming Regulatory Act at the time the amendment proposed by the resolution takes effect, gaming activities by those tribes are to be governed by the federal Ysleta del Sur Pueblo and Alabama and Coushatta Indian Tribes of Texas Restoration Act.  **Definitions**  C.S.H.J.R. 155 sets out the following definitions, among others:   * "casino" means licensed casino gaming facilities within a destination resort; * "casino license" means a license to conduct casino gaming at a casino; * "destination resort" means a mixed-use development consisting of casino gaming facilities and a combination of tourism amenities and facilities, including hotels, restaurants, meeting facilities, attractions, entertainment facilities, and shopping centers; * "education" means public education; higher education, including the creation of a permanent fund for the benefit of higher education institutions not included in the permanent university fund; and adult education related to responsible gaming; * "Indian lands" means land on which gaming is permitted under the federal Indian Gaming Regulatory Act or that was held in trust by the United States on January 1, 1998, for the benefit of the Indian tribes pursuant to the federal Ysleta del Sur Pueblo and Alabama and Coushatta Indian Tribes of Texas Restoration Act; * "metropolitan statistical area" means a metropolitan statistical area designated by the U.S. Office of Management and Budget as of July 1, 2021; * "person" includes an individual and any legal entity, including a corporation, organization, partnership, or association; * "public safety program" means a program for crime prevention and law enforcement, including a program designed to prevent and prosecute crimes involving human trafficking and money laundering; * "racetrack association" means a person who holds a license to conduct a horse race meeting or greyhound race meeting with pari-mutuel wagering in Texas; and * "racing" means a horse race meeting or greyhound race meeting with pari-mutuel wagering.   **Legislative Findings**  C.S.H.J.R. 155 includes legislative findings stating that the qualified voters of Texas should have the opportunity to decide whether to authorize casino gaming at destination resorts and, if authorized by those voters, casino gaming at destination resorts should, as follows:   * serve the public interest by fostering economic development and job growth and providing tax relief and funding for education and public safety programs; * be strictly regulated by a newly created state agency empowered to adopt rules governing who may obtain a casino license and the conduct of casino gaming in Texas; * be limited to areas of Texas where the voters approve a constitutional amendment authorizing casino gaming or in which pari-mutuel wagering was previously approved; * be limited to areas of Texas where the greatest positive economic impact from destination resort development can be realized; * use existing pari-mutuel racing licenses to allow more immediate development of destination resorts and to more quickly realize the related job growth and economic development; * encourage participation by and competition between multiple casino license holders; and * result in the reform and revitalization of the horse racing industry in Texas and the industry's benefits to agricultural businesses in Texas.   **Severability**  C.S.H.J.R. 155 includes a severability clause establishing that, if any provision of the amendment proposed by the resolution or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications that can be given effect without the invalid provision or application, and to this end the provisions are declared to be severable. |
| **ELECTION DATE**  The constitutional amendment proposed by this joint resolution will be submitted to the voters at an election to be held November 7, 2023. |
| **COMPARISON OF INTRODUCED AND SUBSTITUTE**  While C.S.H.J.R. 155 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the resolution.  The substitute requires the legislature by general law to prescribe qualifications for the issuance of new casino licenses to persons who are not initial qualified applicants or who, as initial qualified applicants, do not satisfy an applicable requirement for the MSA, whereas the introduced required the legislature by general law to prescribe qualifications for the issuance of new casino licenses only to persons who are not initial qualified applicants.  With respect to a casino license issued for a casino in an MSA that is not in the list of named MSAs otherwise allocated a casino license under the resolution, the substitute replaces the provision in the introduced requiring that the county in the MSA in which the casino will be licensed contain no point that is less than 100 miles from a point in one of the named MSAs with a provision requiring that no part of the county be less than 100 miles from a named MSA.  The substitute includes a clarification absent from the introduced that the tax on gross sports wagering revenue is to be set by the legislature in the amount provided by general law.  Both the substitute and the introduced provide for the legislature to prescribe definitions of terms necessary or useful to implement the applicable resolution provisions, but the substitute clarifies that those definitions must be consistent with applicable resolution provisions.  The introduced defined the term "casino" as licensed facilities located at a destination resort at which casino gaming is conducted, whereas the substitute defines the term as licensed casino gaming facilities within a destination resort.  The introduced defined "casino gaming" as any game of chance or similar activity that involves placing a bet for consideration. The substitute replaces the word "bet" with the word "wager" in that definition. |
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