By:  Geren H.J.R. No. 155

A JOINT RESOLUTION

proposing a constitutional amendment to foster economic development and job growth, provide tax relief and funding for education and public safety programs, support the horse racing industry, and reform horse racing and greyhound racing by authorizing casino gaming at destination resorts, creating the Texas Gaming Commission, authorizing sports wagering, requiring a license to conduct casino gaming, requiring the imposition of casino gaming and sports wagering taxes, requiring license application fees, and authorizing Tribal-State compacts related to gaming.

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

SECTION 1.  The Legislature finds that:

(1)  the qualified voters of this state should have the opportunity to decide whether to authorize casino gaming at destination resorts; and

(2)  if authorized by those voters, casino gaming at destination resorts should:

(A)  serve the public interest by fostering economic development and job growth and providing tax relief and funding for education and public safety programs;

(B)  be strictly regulated by a newly created state agency empowered to adopt rules regulating who may obtain a casino license and the conduct of casino gaming in this state;

(C)  be limited to areas of this state in which the voters approve a constitutional amendment authorizing casino gaming or in which pari-mutuel wagering has previously been approved;

(D)  be limited to areas of this state in which the greatest positive economic impact from destination resort development can be realized;

(E)  utilize some 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;

(F)  encourage participation by and competition between multiple casino license holders; and

(G)  result in the reform and revitalization of the horse racing industry in this state and the industry's benefits to agricultural businesses in this state.

SECTION 2.  Section 47(a), Article III, Texas Constitution, is amended to read as follows:

(a)  The Legislature shall pass laws prohibiting lotteries and gift enterprises in this State other than those authorized by Subsections (b), (d), (d-1), and (e) of this section and Section 47a of this article.

SECTION 3.  Article III, Texas Constitution, is amended by adding Section 47a to read as follows:

Sec. 47a.  (a) In this section:

(1)  "Casino" means licensed facilities located at a destination resort at which casino gaming is conducted.

(2)  "Casino gaming" means any game of chance or similar activity that involves placing a bet 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. The term does not include:

(A)  bingo, a charitable raffle, or the state lottery authorized under Section 47 of this article; or

(B)  placing, receiving, or otherwise knowingly transmitting a bet or wager by a means that requires the use of the Internet, except for offering slot machines, table games, or other devices the Texas Gaming Commission approves that use the Internet or networking functionality but are played onsite at a casino.

(3)  "Casino license" means a license to conduct casino gaming at a casino.

(4)  "Destination resort" means a mixed-use development consisting of casino gaming facilities and a combination of various tourism amenities and facilities, including hotels, restaurants, meeting facilities, attractions, entertainment facilities, and shopping centers.

(5)  "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 established by Article VII, Texas Constitution, and adult education related to responsible gaming.

(6)  "Indian lands" means land:

(A)  on which gaming is permitted under the Indian Gaming Regulatory Act (Pub. L. No. 100-497); or

(B)  that was held in trust by the United States on January 1, 1998, for benefit of the Indian tribe pursuant to the Ysleta del Sur Pueblo and Alabama and Coushatta Indian Tribes of Texas Restoration Act (Pub. L. No. 100-89).

(7)  "Metropolitan statistical area" means a metropolitan statistical area designated by the United States Office of Management and Budget as of July 1, 2021.

(8)  "Person" includes an individual and any legal entity, such as a corporation, organization, partnership, or association.

(9)  "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.

(10)  "Racetrack association" means a person who holds a license to conduct racing in this state.

(11)  "Racing" means a horse race meeting or greyhound race meeting with pari-mutuel wagering.

(12)  "Sports wagering" means placing a wager on a live sporting event, as defined by general law.

(b)  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 the Texas Gaming Commission, and provide for destination resorts in populous metropolitan statistical areas in which pari-mutuel wagering previously has been approved, casino gaming is authorized pursuant to casino licenses for casinos at destination resorts as follows:

(1)  two destination resorts in the Dallas-Fort Worth-Arlington metropolitan statistical area;

(2)  two destination resorts in the Houston-The Woodlands-Sugar Land metropolitan statistical area;

(3)  one destination resort in the San Antonio-New Braunfels metropolitan statistical area;

(4)  one destination resort in the Corpus Christi metropolitan statistical area;

(5)  one destination resort in the McAllen-Edinburg-Mission metropolitan statistical area; and

(6)  one destination resort at a location in:

(A)  a metropolitan statistical area not specified in Subdivisions (1) through (5); and

(B)  a county:

(i)  no point of which is less than 100 miles from a point in a metropolitan statistical area specified in Subdivisions (1) through (5); and

(ii)  in which a majority of the qualified voters voting on the question voted in favor of the amendment that added this section to the Constitution.

(c)  The legislature shall:

(1)  authorize sports wagering only in a place and manner prescribed by general law;

(2)  regulate by general law the conduct of sports wagering; and

(3)  direct the Texas Gaming Commission to promulgate rules consistent with general law to regulate sports wagering in this state.

(d)  The legislature by general law shall 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 in accordance with this section.

(e)  Notwithstanding any other provision of this constitution, the Texas Gaming Commission is composed of five members appointed by the governor with the advice and consent of the senate to serve staggered terms of six years each, 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.

(f)  Notwithstanding any other provision of this constitution, a racetrack association may designate a person to apply for and hold a casino license under Subsection (g) of this section by providing notice to the Texas Gaming Commission in the manner prescribed by general law or commission rule consistent with general law. A racetrack association may not change the person designated in the provided notice unless the person declines the designation. A racetrack association may not at any time designate more than one person under this subsection. A racetrack association is ineligible to hold a casino license if the racetrack association designates a person for a license under this subsection unless the designation is declined by the person. Nothing in this subsection affects duties or rights established by contract or other law.

(g)  Subject to this section, and notwithstanding any other provision of this constitution, the Texas Gaming Commission shall issue a casino license to each initial qualified applicant. An initial qualified applicant must:

(1)  be of good moral character, be honest, and have integrity;

(2)  demonstrate that issuance of the casino license to the applicant will not be detrimental to the public interest or the casino gaming industry;

(3)  satisfy the qualifications and any other requirements established under general law;

(4)  demonstrate the financial ability to complete the development of and operate the destination resort at which the person will conduct casino gaming;

(5)  have adequate experience in resort development, resort management, and casino gaming operations;

(6)  provide a detailed estimate of the applicant's total new development investment in the destination resort; and

(7)  satisfy the applicable requirements provided in Subsection (h) of this section.

(h)  An initial qualified applicant for a casino license must satisfy the following requirements for the metropolitan statistical area in which the destination resort will be located:

(1)  for a casino license in the Dallas-Fort Worth-Arlington metropolitan statistical area, the initial qualified applicant must:

(A)  be a racetrack association that on January 1, 2022, held a license to conduct racing anywhere in the Dallas-Fort Worth-Arlington metropolitan statistical area or the Laredo metropolitan statistical area or be the person designated by the racetrack association under Subsection (f) of this section; and

(B)  commit to investing for new development of the destination resort an amount equal to at least $2 billion, including land acquisition;

(2)  for a casino license in the Houston-The Woodlands-Sugar Land metropolitan statistical area, the initial qualified applicant must:

(A)  be a racetrack association that on January 1, 2022, held a license to conduct racing anywhere in the Houston-The Woodlands-Sugar Land metropolitan statistical area or the Brownsville-Harlingen metropolitan statistical area or be the person designated by the racetrack association under Subsection (f) of this section; and

(B)  commit to investing for new development of the destination resort an amount equal to at least $2 billion, including land acquisition;

(3)  for a casino license in the San Antonio-New Braunfels metropolitan statistical area, the initial qualified applicant must:

(A)  be a racetrack association that on January 1, 2022, held a license to conduct racing anywhere in the San Antonio-New Braunfels metropolitan statistical area or be the person designated by the racetrack association under Subsection (f) of this section; and

(B)  commit to investing for new development of the destination resort an amount equal to at least $1 billion, including land acquisition;

(4)  for a casino license in the Corpus Christi metropolitan statistical area, the initial qualified applicant must:

(A)  be a racetrack association that on January 1, 2022, held a license to conduct racing anywhere in the Corpus Christi metropolitan statistical area or be the person designated by the racetrack association under Subsection (f) of this section; and

(B)  commit to investing for new development of the destination resort an amount equal to at least $250 million, including land acquisition;

(5)  for a casino license in the McAllen-Edinburg-Mission metropolitan statistical area, the initial qualified applicant must:

(A)  be a racetrack association that on January 1, 2022, held a license to conduct racing anywhere in the McAllen-Edinburg-Mission metropolitan statistical area or be the person designated by the racetrack association under Subsection (f) of this section; and

(B)  commit to investing for new development of the destination resort an amount equal to at least $250 million, including land acquisition; and

(6)  for a casino license authorized in Subsection (b)(6), the initial qualified applicant must:

(A)  be selected through an open bid process regulated by general law and commission rule consistent with general law; and

(B)  commit to investing for new development of the destination resort an amount equal to at least $1 billion, including land acquisition.

(i)  A destination resort at which casino gaming is conducted under a casino license authorized in Subdivisions (1) through (5) of Subsection (b) may be located anywhere within the metropolitan statistical area for which the license is issued.

(j)  Consistent with this section, the legislature by general law:

(1)  shall regulate casino gaming and sports wagering in this state by prescribing:

(A)  additional requirements governing the issuance and continued qualification for holding a casino license;

(B)  restrictions on the transfer of casino licenses;

(C)  definitions of terms necessary or useful to implement this section, such as the terms casino, casino gaming, casino license, destination resort, location, and sports wagering;

(D)  qualifications for the issuance of new casino licenses to persons that are not initial qualified applicants under Subsection (g) of this section, provided that the number of active casino licenses, as defined by the legislature, may not at any one time exceed the number of casino licenses for destination resorts authorized in Subsection (b) of this section; and

(E)  restrictions and penalties for the unlawful conduct of casino gaming and sports wagering; and

(2)  may delegate to the Texas Gaming Commission the authority to prescribe rules regulating casino gaming and sports wagering in accordance with this section.

(k)  State or local public money or facilities developed or built with state or local public assistance or tax incentives of any kind may not be used for the development or operation of a destination resort. The legislature by general law shall prescribe procedures and enforcement measures to ensure that:

(1)  a casino license applicant has the financial capability of satisfying the minimum investment specified in Subsection (h) of this section; and

(2)  each casino license holder satisfies the investment required under Subsection (h) of this section.

(l)  A person may not have an ownership interest in more than two casino license holders. The legislature by general law shall:

(1)  define ownership interest for purposes of this subsection; and

(2)  prescribe the consequences of violating this subsection.

(m)  The legislature by general law shall direct the Texas Gaming Commission to adopt rules to ensure that a person who holds a casino license and a license to conduct horse racing at a class 1 racetrack, as that term is defined by general law, maintains a number of live horse racing dates that is at least equivalent to the number of live horse racing dates held at the racetrack in 2022.

(n)  A racetrack association that holds a license to conduct greyhound racing shall cease all racing operations and surrender that license as a condition of holding, or designating a person to hold, a casino license. A racetrack association that holds a license to conduct racing in the Laredo metropolitan statistical area shall cease all racing operations and surrender that license as a condition of holding, or designating a person to hold, a casino license.

(o)  The legislature by general law shall ensure the Texas Racing Commission or its successor regulates the racing operations of each racetrack association that holds a casino license and the Texas Gaming Commission regulates casino gaming and sports wagering operations of the racetrack association.

(p)  The legislature by general law shall:

(1)  impose a 15 percent tax on the gross casino gaming revenue, as defined by general law, of each casino license holder; and

(2)  impose a tax on gross sports wagering revenue, as defined by general law.

(q)  The state or a state agency or political subdivision of this state may not impose 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 authorized by this section or a tax or fee generally applicable to a business operating in this state.

(r)  To fund and support the administration and management of the Texas Gaming Commission, the legislature by general law shall establish casino license application fees in the amount of:

(1)  $2.5 million for an application to conduct casino gaming at a destination resort in the Dallas-Fort Worth-Arlington or Houston-The Woodlands-Sugar Land metropolitan statistical areas;

(2)  $1.25 million for an application to conduct casino gaming at a destination resort in the San Antonio-New Braunfels metropolitan statistical area;

(3)  $1.25 million for an application to conduct casino gaming at a destination resort pursuant to a casino license authorized in Subsection (b)(6); and

(4)  $500,000 for an application to conduct casino gaming at a destination resort in the Corpus Christi or McAllen-Edinburg-Mission metropolitan statistical areas.

(s)  Notwithstanding any other provision of this constitution, the legislature by law shall 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 this state.

(t)  At the request, accompanied by or in the form of a duly enacted resolution of the tribe's governing body, of any of the three federally recognized Indian tribes with Indian lands in this state, the governor shall negotiate in good faith, on behalf of this state, a Tribal-State compact as prescribed by the Indian Gaming Regulatory Act (Pub. L. 100-479), consistent with the provisions in 25 U.S.C. Section 2710(d). Upon the execution of a Tribal-State compact, the governor and the elected leader of the requesting Indian tribe shall submit the compact to the United States Secretary of the Interior.

(u)  For the purpose of resolving a tribe's claim that the governor has not negotiated in good faith with the tribe as required by Subsection (t), this state consents to the jurisdiction of the District Court of the United States 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, and the sovereign immunity of the state is waived for that purpose.

(v)  If either the Alabama-Coushatta Tribe of Texas or the Ysleta del Sur Pueblo are not authorized to offer gaming under the Indian Gaming Regulatory Act (Pub. L. 100-479) at the time this section takes effect, gaming activities by those Tribes shall be governed by the Ysleta Del Sur Pueblo and Alabama and Coushatta Indian Tribes of Texas Restoration Act (Pub. L. No. 100-89).

(w)  If any provision of this section or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this section that can be given effect without the invalid provision or application, and to this end the provisions of this section are declared to be severable.

SECTION 4.  This proposed constitutional amendment shall be submitted to the voters at an election to be held November 7, 2023. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment to foster economic development and job growth, provide tax relief and funding for education and public safety programs, support the horse racing industry, and reform horse racing and greyhound racing by authorizing casino gaming at destination resorts, authorizing sports wagering, authorizing Tribal-State compacts with federally recognized Indian tribes, creating the Texas Gaming Commission to regulate casino gaming and sports wagering, requiring a license to conduct casino gaming, and requiring the imposition of a casino gaming tax, sports wagering tax, and license application fees."