

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:

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

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

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."