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## Is Gambling Expansion in the Cards for Texas?

With a projected \$27 billion budget deficit that has Texas lawmakers scrambling to avoid deep cuts to key services including public education and Medicaid, gambling may have new life in a state that has long opposed any expansion of betting and gaming. Numerous resolutions were recently filed in the Texas legislature that could signal a near-term expansion of gambling and new revenue for state coffers. These resolutions focus on two types of gambling – video gaming and casino games. This alert focuses on five of these resolutions – HJR 111, 112, 119, 151 and 152 – and highlights some key aspects of these resolutions (and related bills) and of the procedural hurdles that must be surmounted for the constitutional amendments they propose to reach the ballot. The alert also looks at some factors that may impact the odds of the resolutions making the ballot.

### Video Gaming

**HJR 111**, authored by Beverly Woolley (R-Brenham) who is Speaker Pro Tem of the Texas House, provides for a constitutional authorization procedure whereby a constitutional amendment is presented to Texas voters that, if approved, would amend the Texas Constitution to permit the legislature to authorize "this state to control and operate a video lottery system." Under this system, individuals would be permitted to "play lottery games of chance" on video lottery terminals ("VLTs") owned and operated by persons licensed to do so. The only persons who would be allowed to be licensed to operate VLTs are persons licensed to operate a horse or greyhound racetrack, and the VLTs could only be operated at those racetracks. A companion bill – HB 2111 authored by Rep. Woolley and Rep. Naomi Gonzalez (D-El Paso) – contains the authorization for the state to control and operate a video lottery system. As drafted, HB 2111 provides for the Texas Lottery Commission to be responsible for operating the video lottery system, including the responsibility for licensure and regulation of licensees. The bill also provides that 30% of the net terminal income generated by the VLTs is to go to the state, with some of those funds to be used (1) to treat compulsive gamblers and promote responsible gambling, and (2) to enforce existing regulations designed to eliminate illegal eight-liner video gambling machines.

Texas Senators Juan "Chuy" Hinojosa (D-McAllen) and Jeff Wentworth (R-San Antonio) filed an identical resolution (SJR 33) and bill (SB 1118) in the Senate. Senator Hinojosa is reported to have said that the proposal for the state video lottery system is designed to help keep "the money we lose to other states" in Texas.<sup>1</sup>

**HJR 119**, authored by Rep. Senfronia Thompson (D-Houston) and Rep. Mike Hamilton (R-Mauriceville), provides for a similar constitutional authorization procedure which would ultimately allow "the operation of video gaming" in Texas by "persons and organizations licensed to conduct bingo or lease bingo premises."

<sup>1</sup> <http://www.chron.com/disp/story.mpl/metropolitan/7456339.html>

It would also require that 20% of the gross gaming revenue generated from video gaming go to the state. The amendment would also provide that neither it nor the authorizing legislation would "prohibit a federally recognized Indian tribe from conducting video gaming on land in this state that was held in trust or recognized as tribal land of the tribe by the United States on January 1, 1998." A companion bill authored by Thompson and Hamilton – HB 2424 – would give the authority to license and regulate video gaming to the Texas Lottery Commission.

Texas Senator Leticia Van de Putte (D-San Antonio), Chair of the Senate Democratic Caucus, filed an identical resolution (SJR 35) and bill (SB 1212) in the Senate.

### Casino Gambling

[HJR 112](#), co-authored by Rep. Jose Menendez (D-San Antonio) and Rep. Hamilton, provides for a similar constitutional authorization procedure which would ultimately allow casino gambling in a county where it was approved by a majority vote of those voting for a proposition to permit it. The amendment would establish a Texas Gambling Commission to issue licenses and regulate casino gambling. The Texas Gambling Commission would be authorized to issue a specified number of licenses for slot establishments at racetracks and for casino-related destinations in urban areas of the state and on islands in the Gulf of Mexico. The amendment would require licensed slot establishments to pay a gross slot revenue tax of 15% and licensed casino establishments to pay a gross gaming revenue tax of 35%. A portion of the tax revenue generated would be used for property tax relief and college education aid. In addition, the amendment would allow "an Indian tribe" meeting certain requirements to conduct casino gaming.

Texas Senators Rodney Ellis (D-Houston) and Eddie Lucio, Jr. (D-San Benito) filed an identical resolution (SJR 34) in the Senate.

[HJR 152](#), authored by Rep. Thompson, is similar to HJR 112 in that it provides for a similar constitutional authorization procedure which would ultimately allow casino gaming by licensed operators at horse and greyhound tracks and other licensed locations and by federally recognized

Indian tribes. Unlike the constitutional amendment proposed by HJR 112, the one proposed by HJR 152 would authorize the legislature to provide for the licensure and regulatory scheme so long as it included specified items. A companion bill authored by Rep. Thompson – HB 3576 – would give the authority to license and regulate casino gaming to the Texas Lottery Commission. It also sets forth the terms for the compact between Texas and a federally recognized Indian tribe, pursuant to which a tribe could conduct casino gaming.

[HJR 151](#), authored by Rep. Thompson, provides for a similar constitutional authorization procedure which would ultimately allow casino gaming only by federally recognized Indian tribes "operating under state law or under a compact with this state in the form prescribed by general law or negotiated by the secretary of state." A companion bill authored by Rep. Thompson – HB 3575 – would authorize the casino gaming permitted by the constitutional amendment proposed by HJR 151 and provide the Texas Lottery Commission with the power and duty to establish standards for, and to monitor, the casino gaming, including the issuance of certificates to gaming vendors, managers, and employees. The bill also sets forth the terms for the compact between Texas and a federally recognized Indian tribe, pursuant to which a tribe could conduct casino gaming.

Companion resolutions and bills in the Senate for HJR 151, HJR 152, HB 3573 and HB 3576 have not been filed as of March 29, 2011.

### Procedural Steps to be Hurdled for Placement on the Ballot

Several hurdles face the House resolutions before the forms of gambling they would permit can appear on a ballot for voter approval. HJR 111, 112, 119, 151 and 152 have been assigned to the Licensing & Administrative Procedures Committee. If "reported" from this committee, the resolutions would likely go to the Calendars Committee, where approval would be required before going to the full Texas House. Because the resolutions propose constitutional amendments, a 2/3rds "yes" vote by the Texas House would be required before moving to the State Senate, where a 2/3rds "yes" vote would also be needed. Should the State Senate approve the House resolutions without amendment, the proposed

constitutional amendments would be presented to Texas voters at the next statewide election. This could be as early as November 2011. Unlike bills proposing legislation, resolutions proposing constitutional amendments that require voter approval do not need to go to the Governor.

### What are the Odds for Legislative Approval?

In the past, the required 2/3rds vote has been too high a hurdle for resolutions proposing constitutional amendments that would expand gambling in Texas. But these are different times. Some observers are reported as believing the potential exists for a win this time around. New revenues to the state would help offset the expected budget deficit. Polls show Texas voters are in favor

of expanding certain forms of gambling. As evidenced by the party affiliations of the resolutions' authors, there appears to be some level of bipartisan cooperation in moving forward with gaming in Texas. These factors make for better odds than have been seen in a while for at least one of the resolutions, in some form, being able to overcome the 2/3rds threshold. However, if the measures are stalled in committee for too long in the House or the Senate, then all bets are off for this session.

The Texas legislative landscape for gambling may well be changing and those involved in the prospect of gambling expansion in Texas would do well to stay tuned, especially developers, vendors and owners of racetracks, hotels and other areas that may be affected by such changes.

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