

By: King of Parker, Burns, Huberty, Price,
Phillips, et al.

H.B. No. 1110

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the qualifications, duties, and limitations of Texas
3 delegates to a convention called under Article V of the United
4 States Constitution.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Subtitle Z, Title 3, Government Code, is amended
7 by adding Chapter 393 to read as follows:

8 CHAPTER 393. DELEGATES TO FEDERAL ARTICLE V CONVENTIONS

9 SUBCHAPTER A. GENERAL PROVISIONS

10 Sec. 393.001. DEFINITIONS. In this chapter:

11 (1) "Alternate delegate" means an individual
12 appointed under Section 393.052 to represent this state as an
13 alternate delegate at an Article V convention.

14 (2) "Article V convention" means a convention called
15 by the United States Congress under Article V of the United States
16 Constitution.

17 (3) "Delegate" means:

18 (A) an individual appointed under Section
19 393.052 to represent this state as a delegate at an Article V
20 convention; or

21 (B) an alternate delegate who fills a vacancy in
22 the office of the alternate delegate's paired delegate.

23 (4) "Unauthorized vote" means a vote cast by a
24 delegate or alternate delegate at an Article V convention that:

1 (A) is contrary to any instructions adopted under
2 Section 393.101 in effect at the time the vote is taken;

3 (B) exceeds the scope or subject matter of the
4 Article V convention as authorized by the legislature in the
5 application to the United States Congress to call the convention if
6 the legislature made an application to call the convention; or

7 (C) exceeds the scope or subject matter of the
8 Article V convention if the legislature did not make an application
9 to the United States Congress to call the convention.

10 Sec. 393.002. RULES AND PROCEDURES. (a) The legislature by
11 concurrent resolution may provide the rules and procedures
12 necessary to implement this chapter.

13 (b) A legislative action relating to the appointment or
14 recall of delegates or alternate delegates, the adoption or
15 modification of instructions, or the determination of an
16 unauthorized vote may be accomplished through a joint resolution
17 adopted by each house.

18 SUBCHAPTER B. DELEGATES AND ALTERNATE DELEGATES

19 Sec. 393.051. QUALIFICATIONS. To be eligible to serve as a
20 delegate or alternate delegate an individual must:

21 (1) be a qualified voter as defined by Section [11.002](#),
22 Election Code;

23 (2) not be required to register as a lobbyist under
24 Chapter 305; and

25 (3) not hold an elected federal office.

26 Sec. 393.052. APPOINTMENT. (a) As soon as possible
27 following the calling of an Article V convention, the legislature

1 shall appoint:

2 (1) the number of delegates allocated to represent the
3 state at the Article V convention and an equal number of alternate
4 delegates; or

5 (2) three delegates and three alternate delegates if
6 no allocation is made.

7 (b) The legislature shall pair each alternate delegate with
8 a delegate at the time each appointment is made.

9 (c) If the legislature is unable to appoint delegates and
10 alternate delegates under Subsection (a) at least 30 days before
11 the date an Article V convention is scheduled to begin, the
12 governor, lieutenant governor, and speaker of the house of
13 representatives shall each appoint one delegate and one paired
14 alternate delegate to the convention.

15 (d) If the number of delegates allocated to represent the
16 state is fewer than three and the legislature is unable to appoint
17 the delegates and alternate delegates under Subsection (a) at least
18 30 days before the date an Article V convention is scheduled to
19 begin, the governor shall appoint all delegates and alternate
20 delegates to the convention.

21 Sec. 393.053. VACANCY. (a) An alternate delegate
22 automatically fills a vacancy in the office of the alternate
23 delegate's paired delegate.

24 (b) The legislature or appointing officer, as applicable,
25 shall fill a vacancy in the office of an alternate delegate in the
26 manner provided by Section 393.052.

27 Sec. 393.054. RECALL. (a) The legislature may recall a

1 delegate or alternate delegate.

2 (b) The legislature shall fill a vacancy created by the
3 recall of a delegate or alternate delegate in the manner provided by
4 Section 393.053.

5 Sec. 393.055. COMPENSATION; REIMBURSEMENT OF EXPENSES. (a)
6 A delegate or alternate delegate is not entitled to compensation
7 for service as a delegate or alternate delegate.

8 (b) A delegate or alternate delegate is entitled to
9 reimbursement for necessary expenses incurred in performance of
10 official duties, subject to any applicable limitation on
11 reimbursement provided by general law or the General Appropriations
12 Act.

13 Sec. 393.056. OATH. (a) An individual appointed as a
14 delegate or alternate delegate must take the following oath before
15 voting or taking an action as a delegate or alternate delegate of
16 this state: "I do solemnly swear (or affirm) that to the best of my
17 abilities, I will, as a delegate or alternate delegate to the
18 Article V Convention, act according to the limits of the authority
19 granted to me as a delegate or alternate delegate by Texas law, will
20 not consider or vote to approve an amendment to the United States
21 Constitution not authorized by the Texas Legislature in its
22 application to the United States Congress to call this convention
23 or an amendment outside the scope of this convention if the Texas
24 Legislature did not make an application to the United States
25 Congress to call this convention, and will faithfully abide by and
26 execute any instructions to delegates or alternate delegates
27 adopted by the Texas Legislature."

1 (b) Each delegate and alternate delegate must file the
2 executed oath with the secretary of state.

3 SUBCHAPTER C. DUTIES OF DELEGATES AND ALTERNATE DELEGATES

4 Sec. 393.101. INSTRUCTIONS TO DELEGATES AND ALTERNATE
5 DELEGATES. (a) At the time delegates and alternate delegates are
6 appointed, the legislature may adopt instructions to the delegates
7 and alternate delegates to govern the actions of those officers at
8 the Article V convention.

9 (b) The legislature may not adopt instructions for an
10 Article V convention called following an application by the
11 legislature to the United States Congress for the convention that
12 authorize a delegate or alternate delegate to consider or vote to
13 approve an amendment to the United States Constitution that is not
14 authorized by the legislature in its application for the
15 convention.

16 (c) The legislature may amend the instructions at any time.

17 Sec. 393.102. DUTY OF ALTERNATE DELEGATE. An alternate
18 delegate shall act in the place of the alternate delegate's paired
19 delegate when the delegate is absent from the convention.

20 Sec. 393.103. UNAUTHORIZED VOTE. (a) A delegate or
21 alternate delegate may not cast an unauthorized vote.

22 (b) The determination that a vote is an unauthorized vote
23 may only be made by the legislature.

24 (c) A vote determined to be an unauthorized vote is invalid.

25 (d) A delegate or alternate delegate who casts a vote
26 determined to be an unauthorized vote is disqualified to continue
27 to serve as a delegate or alternate delegate. The legislature shall

1 fill a vacancy created by a disqualification under this subsection
2 in the manner provided by Section 393.053.

3 (e) The legislature shall promptly notify the head of the
4 state delegation and the presiding officer of the Article V
5 convention if the legislature determines that a delegate or
6 alternate delegate has cast an unauthorized vote.

7 SECTION 2. This Act takes effect immediately if it receives
8 a vote of two-thirds of all the members elected to each house, as
9 provided by Section 39, Article III, Texas Constitution. If this
10 Act does not receive the vote necessary for immediate effect, this
11 Act takes effect September 1, 2015.