

By: Birdwell

S.B. No. 729

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the qualifications, duties, and limitations of Texas  
3 delegates to a constitutional convention called under Article V of  
4 the United 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 constitutional  
15 convention called by the United States Congress under Article V of  
16 the United States 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 the instructions adopted under  
2 Section 393.101 in effect at the time the vote is taken; or

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.

6           Sec. 393.002. RULES AND PROCEDURES. (a) The legislature by  
7 concurrent resolution shall provide the rules and procedures  
8 necessary to implement this chapter.

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

14           SUBCHAPTER B. DELEGATES AND ALTERNATE DELEGATES

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

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

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

21           (3) not hold an elected federal office.

22           Sec. 393.052. APPOINTMENT. (a) As soon as possible  
23 following the calling of an Article V convention, the legislature  
24 shall appoint:

25           (1) the number of delegates allocated to represent the  
26 state at the Article V convention and an equal number of alternate  
27 delegates; or

1           (2) two delegates and two alternate delegates if no  
2 allocation is made.

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

5           Sec. 393.053. VACANCY. (a) An alternate delegate  
6 automatically fills a vacancy in the office of the alternate  
7 delegate's paired delegate.

8           (b) The legislature shall fill a vacancy in the office of an  
9 alternate delegate in the manner provided by Section 393.052.

10          Sec. 393.054. RECALL. (a) The legislature may recall a  
11 delegate or alternate delegate.

12          (b) The legislature shall fill a vacancy created by the  
13 recall of a delegate or alternate delegate in the manner provided by  
14 Section 393.053.

15          Sec. 393.055. COMPENSATION; REIMBURSEMENT OF EXPENSES. (a)  
16 A delegate or alternate delegate is not entitled to compensation  
17 for service as a delegate or alternate delegate.

18          (b) A delegate or alternate delegate is entitled to  
19 reimbursement for necessary expenses incurred in performance of  
20 official duties, subject to any applicable limitation on  
21 reimbursement provided by general law or the General Appropriations  
22 Act.

23          Sec. 393.056. OATH. (a) An individual appointed as a  
24 delegate or alternate delegate must take the following oath before  
25 voting or taking an action as a delegate or alternate delegate of  
26 this state: "I do solemnly swear (or affirm) that to the best of my  
27 abilities, I will, as a delegate or alternate delegate to the

1 Article V Convention, act according to the limits of the authority  
2 granted to me as a delegate or alternate delegate by Texas law, will  
3 not consider or vote to approve an amendment to the United States  
4 Constitution not authorized by the Texas Legislature in its  
5 application to the United States Congress to call this convention,  
6 and will faithfully abide by and execute any instructions to  
7 delegates or alternate delegates adopted by the Texas Legislature."

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

10 SUBCHAPTER C. DUTIES OF DELEGATES AND ALTERNATE DELEGATES

11 Sec. 393.101. INSTRUCTIONS TO DELEGATES AND ALTERNATE  
12 DELEGATES. (a) At the time delegates and alternate delegates are  
13 appointed, the legislature shall adopt instructions to the  
14 delegates and alternate delegates to govern the actions of those  
15 officers at the Article V convention.

16 (b) The legislature may not adopt instructions that  
17 authorize a delegate or alternate delegate to consider or vote to  
18 approve an amendment to the United States Constitution that is not  
19 authorized by the legislature in its application to the United  
20 States Congress to call the Article V convention.

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

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

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

27 (b) The determination that a vote is an unauthorized vote

1 may only be made by the legislature.

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

3 (d) A delegate or alternate delegate who casts a vote  
4 determined to be an unauthorized vote is disqualified to continue  
5 to serve as a delegate or alternate delegate. The legislature shall  
6 fill a vacancy created by a disqualification under this subsection  
7 in the manner provided by Section 393.053.

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

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