

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 393.051 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  
19 393.051 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;

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  
11 by concurrent resolution shall provide the rules and procedures  
12 necessary to implement this chapter.

13         (b) A legislative action relating to the appointment or  
14 recall of a delegate or alternate delegate, the filling of a vacancy  
15 in the office of a delegate or alternate delegate, or the  
16 determination of an unauthorized vote may be accomplished through a  
17 resolution adopted by the house that takes the action.

18           SUBCHAPTER B. DELEGATES AND ALTERNATE DELEGATES

19         Sec. 393.051. APPOINTMENT. (a) As soon as possible  
20 following the calling of an Article V convention, the legislature  
21 shall appoint delegates and alternate delegates to the convention  
22 as provided by Subsection (b) or (c), as applicable.

23         (b) Except as provided by Subsection (c), the legislature  
24 shall appoint five delegates and five alternate delegates to the  
25 Article V convention as follows:

26           (1) the house of representatives shall appoint three  
27 members of the house as delegates and three members of the house as

1 alternate delegates; and

2 (2) the senate shall appoint two members of the senate  
3 as delegates and two members of the senate as alternate delegates.

4 (c) If the number of delegates allocated to represent the  
5 state at the Article V convention is determined by agreement among  
6 the states to be a number other than five, the legislature shall  
7 appoint the allocated number of delegates and an equal number of  
8 alternate delegates as follows:

9 (1) if the allocated number of delegates is an odd  
10 number:

11 (A) the house of representatives shall appoint a  
12 number of members of the house as delegates that is equal to  
13 three-fifths of the allocated number or as close to that proportion  
14 as possible and the same number of members of the house as alternate  
15 delegates; and

16 (B) the senate shall appoint a number of members  
17 of the senate as delegates that is equal to two-fifths of the  
18 allocated number or as close to that proportion as possible and the  
19 same number of members of the senate as alternate delegates; and

20 (2) if the allocated number of delegates is an even  
21 number:

22 (A) the house of representatives shall appoint a  
23 number of members of the house as delegates that is equal to  
24 one-half of the allocated number and the same number of members of  
25 the house as alternate delegates; and

26 (B) the senate shall appoint a number of members  
27 of the senate as delegates that is equal to one-half of the

1 allocated number and the same number of members of the senate as  
2 alternate delegates.

3 (d) Service as a delegate or alternate delegate by a member  
4 of the legislature is an additional duty of the member's  
5 legislative office.

6 (e) The appointing house shall pair each alternate delegate  
7 with a delegate at the time each appointment is made.

8 Sec. 393.052. VACANCY. (a) An alternate delegate  
9 automatically fills a vacancy in the office of the alternate  
10 delegate's paired delegate unless the office of the alternate  
11 delegate is simultaneously vacated.

12 (b) Except as provided by Subsection (a), the house that  
13 appointed a delegate or alternate delegate shall fill a vacancy in  
14 the office of the delegate or alternate delegate as soon as possible  
15 after the vacancy occurs.

16 Sec. 393.053. RECALL. (a) The house that appointed a  
17 delegate or alternate delegate may recall the delegate or alternate  
18 delegate.

19 (b) A vacancy created by the recall of a delegate or  
20 alternate delegate shall be filled in the manner provided by  
21 Section 393.052.

22 Sec. 393.054. COMPENSATION; REIMBURSEMENT OF EXPENSES.

23 (a) A delegate or alternate delegate is not entitled to  
24 compensation for service as a delegate or alternate delegate.

25 (b) A delegate or alternate delegate is entitled to  
26 reimbursement for necessary expenses incurred in performance of  
27 official duties, subject to any applicable limitation on

1 reimbursement provided by general law or the General Appropriations  
2 Act.

3 Sec. 393.055. OATH. (a) An individual appointed as a  
4 delegate or alternate delegate must take the following oath before  
5 voting or taking an action as a delegate or alternate delegate of  
6 this state: "I do solemnly swear (or affirm) that to the best of my  
7 abilities, I will, as a delegate (or alternate delegate) to the  
8 Article V convention, act according to the limits of the authority  
9 granted to me as a delegate or alternate delegate by Texas law, will  
10 not consider or vote to approve an amendment to the United States  
11 Constitution not authorized by the Texas Legislature in its  
12 application to the United States Congress to call this convention  
13 or an amendment outside the scope of this convention if the Texas  
14 Legislature did not make an application to the United States  
15 Congress to call this convention, and will faithfully abide by and  
16 execute the instructions to delegates or alternate delegates  
17 adopted by the Texas Legislature."

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

20 Sec. 393.056. PROHIBITION ON ACCEPTANCE OF BENEFIT. A  
21 delegate or alternate delegate may not accept a gift, a loan, food  
22 or beverages, entertainment, lodging, transportation, or another  
23 benefit from a person, including a corporation, nonprofit  
24 organization, or individual, if that person is required to register  
25 as a lobbyist under Chapter 305 or under other law.

26 SUBCHAPTER C. DUTIES OF DELEGATES AND ALTERNATE DELEGATES

27 Sec. 393.101. INSTRUCTIONS TO DELEGATES AND ALTERNATE

1 DELEGATES. (a) The legislature by joint resolution shall adopt  
2 instructions to the delegates and alternate delegates to govern the  
3 actions of those officers at the Article V convention.

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

11 (c) The legislature by joint resolution may amend the  
12 instructions at any time.

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

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

18 (b) Except as provided by Section 393.104, the  
19 determination that a vote is an unauthorized vote may only be made  
20 by the house that appointed the delegate or alternate delegate who  
21 cast the vote.

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

23 (d) A delegate or alternate delegate who casts a vote  
24 determined to be an unauthorized vote is disqualified to continue  
25 to serve as a delegate or alternate delegate. A vacancy in the  
26 office of a delegate or alternate delegate created by the  
27 disqualification of the delegate or alternate delegate shall be

1 filled in the manner provided by Section 393.052.

2 (e) The presiding officer of the house that determined that  
3 a delegate or alternate delegate has cast an unauthorized vote  
4 shall promptly notify the head of the state delegation and the  
5 presiding officer of the Article V convention that the delegate or  
6 alternate delegate has cast an unauthorized vote and is  
7 disqualified to serve as a delegate or alternate delegate.

8 Sec. 393.104. OVERSIGHT COMMITTEE. (a) The legislature  
9 shall appoint an Article V Oversight Committee at the time  
10 delegates and alternate delegates are appointed under Section  
11 393.051.

12 (b) The committee consists of the following 10 members:

13 (1) the lieutenant governor;  
14 (2) the speaker of the house of representatives;  
15 (3) the chair of the senate state affairs committee;  
16 (4) the chair of the house state affairs committee;  
17 (5) three members of the senate appointed by the  
18 lieutenant governor; and

19 (6) three members of the house of representatives  
20 appointed by the speaker of the house of representatives.

21 (c) The lieutenant governor and the speaker of the house of  
22 representatives are joint chairs of the committee.

23 (d) If the legislature is not convened in regular or special  
24 session at any time during which an Article V convention is  
25 convened, the members of the committee shall:

26 (1) meet at the call of either joint chair at the State  
27 Capitol; and

1           (2) determine whether a vote cast by a delegate or  
2 alternate delegate is an unauthorized vote for the purposes of  
3 Section 393.103.

4           (e) A vote cast by a delegate or alternate delegate is an  
5 unauthorized vote for the purposes of Section 393.103 if seven or  
6 more members of the committee determine by committee vote that the  
7 vote cast was an unauthorized vote.

8           (f) The committee is not authorized to take any action when  
9 the legislature is convened in regular or special session.

10           SECTION 2. This Act takes effect immediately if it receives  
11 a vote of two-thirds of all the members elected to each house, as  
12 provided by Section 39, Article III, Texas Constitution. If this  
13 Act does not receive the vote necessary for immediate effect, this  
14 Act takes effect September 1, 2017.



\_\_\_\_\_  
President of the Senate

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Speaker of the House

I hereby certify that S.B. No. 21 passed the Senate on February 28, 2017, by the following vote: Yeas 21, Nays 10; May 10, 2017, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 19, 2017, House granted request of the Senate; May 27, 2017, Senate adopted Conference Committee Report by the following vote: Yeas 21, Nays 10.

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Secretary of the Senate

I hereby certify that S.B. No. 21 passed the House, with amendments, on May 4, 2017, by the following vote: Yeas 119, Nays 20, two present not voting; May 19, 2017, House granted request of the Senate for appointment of Conference Committee; May 25, 2017, House adopted Conference Committee Report by the following vote: Yeas 113, Nays 31, one present not voting.

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor