

By: Birdwell, et al.
(King of Parker)

S.B. No. 21

Substitute the following for S.B. No. 21:

By: Paddie

C.S.S.B. No. 21

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) the governor;

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

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

24 (4) "Unauthorized vote" means a vote cast by a

1 delegate or alternate delegate at an Article V convention that:

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

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

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

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

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

19 SUBCHAPTER B. DELEGATES AND ALTERNATE DELEGATES

20 Sec. 393.051. GOVERNOR AS EX OFFICIO DELEGATE. (a) The
21 governor shall serve as a delegate to an Article V convention.

22 (b) The governor is the head of the state delegation of
23 delegates to the convention.

24 (c) Service as a delegate by the governor is an additional
25 duty of the governor's office.

26 Sec. 393.052. APPOINTMENT. (a) The legislature shall
27 appoint delegates and alternate delegates to the convention, other

1 than the governor, as provided by this section.

2 (b) If the difference between the number of delegates
3 allocated to represent the state at the Article V convention and one
4 is an even number:

5 (1) the house of representatives shall appoint a
6 number of individuals as delegates that is equal to one-half of that
7 number and the same number of individuals as alternate delegates;
8 and

9 (2) the senate shall appoint a number of individuals
10 as delegates that is equal to one-half of that number and the same
11 number of individuals as alternate delegates.

12 (c) If the difference between the number of delegates
13 allocated to represent the state at the Article V convention and one
14 is an odd number greater than one:

15 (1) the house of representatives shall appoint a
16 number of individuals as delegates that is equal to three-fifths of
17 that number or as close to that proportion as possible and the same
18 number of individuals as alternate delegates; and

19 (2) the senate shall appoint a number of individuals
20 as delegates that is equal to two-fifths of that number or as close
21 to that proportion as possible and the same number of individuals as
22 alternate delegates.

23 (d) If the number of delegates allocated to represent the
24 state at the Article V convention is two, the house of
25 representatives shall appoint one individual as a delegate and one
26 individual as an alternate delegate.

27 (e) If applicable, service as a delegate or alternate

1 delegate by a member of the legislature is an additional duty of the
2 member's legislative office.

3 (f) The appointing house shall pair each alternate delegate
4 with an appointed 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 unless the office of the alternate
8 delegate is simultaneously vacated.

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

13 Sec. 393.054. RECALL. (a) The house that appointed a
14 delegate or alternate delegate may recall the delegate or alternate
15 delegate.

16 (b) A vacancy created by the recall of a delegate or
17 alternate delegate shall be filled in the manner provided by
18 Section 393.053.

19 Sec. 393.055. COMPENSATION; REIMBURSEMENT OF EXPENSES.
20 (a) A delegate or alternate delegate is not entitled to
21 compensation for service as a delegate or alternate delegate.

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

27 Sec. 393.056. OATH. (a) The governor and an individual

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

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

17 Sec. 393.057. PROHIBITION ON ACCEPTANCE OF BENEFIT. A
18 delegate or alternate delegate may not accept a gift, a loan, food
19 or beverages, entertainment, lodging, transportation, or another
20 benefit from a person, including a corporation, nonprofit
21 organization, or individual, if that person is required to register
22 as a lobbyist under Chapter 305 or under other law.

23 SUBCHAPTER C. DUTIES OF DELEGATES AND ALTERNATE DELEGATES

24 Sec. 393.101. INSTRUCTIONS TO DELEGATES AND ALTERNATE
25 DELEGATES. (a) The legislature by joint resolution shall adopt
26 instructions to the delegates and alternate delegates to govern the
27 actions of those officers at the Article V convention.

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

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

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

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

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

20 (c) A vote cast by an appointed delegate or alternate
21 delegate and determined to be an unauthorized vote is invalid.

22 (d) An appointed delegate or alternate delegate who casts a
23 vote determined to be an unauthorized vote is disqualified to
24 continue to serve as a delegate or alternate delegate. A vacancy in
25 the office of a delegate or alternate delegate created by the
26 disqualification of the delegate or alternate delegate shall be
27 filled in the manner provided by Section 393.053.

1 (e) The presiding officer of the house that determined that
2 an appointed delegate or alternate delegate has cast an
3 unauthorized vote shall promptly notify the head of the state
4 delegation and the presiding officer of the Article V convention
5 that the delegate or alternate delegate has cast an unauthorized
6 vote and is disqualified to serve as a delegate or alternate
7 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
11 393.052.

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 an appointed
2 delegate or alternate delegate is an unauthorized vote.

3 (e) A vote cast by an appointed delegate or alternate
4 delegate is an unauthorized vote if seven or more members of the
5 committee determine by committee vote that the vote cast was an
6 unauthorized vote.

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

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