

1-1 By: Birdwell, et al. S.B. No. 21
 1-2 (In the Senate - Filed December 6, 2016; January 24, 2017,
 1-3 read first time and referred to Committee on State Affairs;
 1-4 February 21, 2017, reported favorably by the following vote:
 1-5 Yeas 7, Nays 1; February 21, 2017, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12			X	
1-13	X			
1-14	X			
1-15	X			
1-16		X		

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to the qualifications, duties, and limitations of Texas
 1-20 delegates to a convention called under Article V of the United
 1-21 States Constitution.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. Subtitle Z, Title 3, Government Code, is amended
 1-24 by adding Chapter 393 to read as follows:

1-25 CHAPTER 393. DELEGATES TO FEDERAL ARTICLE V CONVENTIONS

1-26 SUBCHAPTER A. GENERAL PROVISIONS

1-27 Sec. 393.001. DEFINITIONS. In this chapter:

1-28 (1) "Alternate delegate" means an individual
 1-29 appointed under Section 393.051 to represent this state as an
 1-30 alternate delegate at an Article V convention.

1-31 (2) "Article V convention" means a convention called
 1-32 by the United States Congress under Article V of the United States
 1-33 Constitution.

1-34 (3) "Delegate" means:

1-35 (A) an individual appointed under Section
 1-36 393.051 to represent this state as a delegate at an Article V
 1-37 convention; or

1-38 (B) an alternate delegate who fills a vacancy in
 1-39 the office of the alternate delegate's paired delegate.

1-40 (4) "Unauthorized vote" means a vote cast by a
 1-41 delegate or alternate delegate at an Article V convention that:

1-42 (A) is contrary to the instructions adopted under
 1-43 Section 393.101 in effect at the time the vote is taken;

1-44 (B) exceeds the scope or subject matter of the
 1-45 Article V convention as authorized by the legislature in the
 1-46 application to the United States Congress to call the convention if
 1-47 the legislature made an application to call the convention; or

1-48 (C) exceeds the scope or subject matter of the
 1-49 Article V convention if the legislature did not make an application
 1-50 to the United States Congress to call the convention.

1-51 Sec. 393.002. RULES AND PROCEDURES. (a) The legislature
 1-52 by concurrent resolution shall provide the rules and procedures
 1-53 necessary to implement this chapter.

1-54 (b) A legislative action relating to the appointment or
 1-55 recall of a delegate or alternate delegate, the filling of a vacancy
 1-56 in the office of a delegate or alternate delegate, or the
 1-57 determination of an unauthorized vote may be accomplished through a
 1-58 resolution adopted by the house that takes the action.

1-59 SUBCHAPTER B. DELEGATES AND ALTERNATE DELEGATES

1-60 Sec. 393.051. APPOINTMENT. (a) As soon as possible
 1-61 following the calling of an Article V convention, the legislature

2-1 shall appoint delegates and alternate delegates to the convention
2-2 as provided by Subsection (b) or (c), as applicable.
2-3 (b) Except as provided by Subsection (c), the legislature
2-4 shall appoint five delegates and five alternate delegates to the
2-5 Article V convention as follows:
2-6 (1) the house of representatives shall appoint three
2-7 members of the house as delegates and three members of the house as
2-8 alternate delegates; and
2-9 (2) the senate shall appoint two members of the senate
2-10 as delegates and two members of the senate as alternate delegates.
2-11 (c) If the number of delegates allocated to represent the
2-12 state at the Article V convention is determined by Congress or by
2-13 agreement among the states to be a number other than five, the
2-14 legislature shall appoint the allocated number of delegates and an
2-15 equal number of alternate delegates as follows:
2-16 (1) if the allocated number of delegates is an odd
2-17 number:
2-18 (A) the house of representatives shall appoint a
2-19 number of members of the house as delegates that is equal to
2-20 three-fifths of the allocated number or as close to that proportion
2-21 as possible and the same number of members of the house as alternate
2-22 delegates; and
2-23 (B) the senate shall appoint a number of members
2-24 of the senate as delegates that is equal to two-fifths of the
2-25 allocated number or as close to that proportion as possible and the
2-26 same number of members of the senate as alternate delegates; and
2-27 (2) if the allocated number of delegates is an even
2-28 number:
2-29 (A) the house of representatives shall appoint a
2-30 number of members of the house as delegates that is equal to
2-31 one-half of the allocated number and the same number of members of
2-32 the house as alternate delegates; and
2-33 (B) the senate shall appoint a number of members
2-34 of the senate as delegates that is equal to one-half of the
2-35 allocated number and the same number of members of the senate as
2-36 alternate delegates.
2-37 (d) Service as a delegate or alternate delegate by a member
2-38 of the legislature is an additional duty of the member's
2-39 legislative office.
2-40 (e) The appointing house shall pair each alternate delegate
2-41 with a delegate at the time each appointment is made.
2-42 Sec. 393.052. VACANCY. (a) An alternate delegate
2-43 automatically fills a vacancy in the office of the alternate
2-44 delegate's paired delegate unless the office of the alternate
2-45 delegate is simultaneously vacated.
2-46 (b) Except as provided by Subsection (a), the house that
2-47 appointed a delegate or alternate delegate shall fill a vacancy in
2-48 the office of the delegate or alternate delegate as soon as possible
2-49 after the vacancy occurs.
2-50 Sec. 393.053. RECALL. (a) The house that appointed a
2-51 delegate or alternate delegate may recall the delegate or alternate
2-52 delegate.
2-53 (b) A vacancy created by the recall of a delegate or
2-54 alternate delegate shall be filled in the manner provided by
2-55 Section 393.052.
2-56 Sec. 393.054. COMPENSATION; REIMBURSEMENT OF EXPENSES.
2-57 (a) A delegate or alternate delegate is not entitled to
2-58 compensation for service as a delegate or alternate delegate.
2-59 (b) A delegate or alternate delegate is entitled to
2-60 reimbursement for necessary expenses incurred in performance of
2-61 official duties, subject to any applicable limitation on
2-62 reimbursement provided by general law or the General Appropriations
2-63 Act.
2-64 Sec. 393.055. OATH. (a) An individual appointed as a
2-65 delegate or alternate delegate must take the following oath before
2-66 voting or taking an action as a delegate or alternate delegate of
2-67 this state: "I do solemnly swear (or affirm) that to the best of my
2-68 abilities, I will, as a delegate (or alternate delegate) to the
2-69 Article V convention, act according to the limits of the authority

3-1 granted to me as a delegate or alternate delegate by Texas law, will
3-2 not consider or vote to approve an amendment to the United States
3-3 Constitution not authorized by the Texas Legislature in its
3-4 application to the United States Congress to call this convention
3-5 or an amendment outside the scope of this convention if the Texas
3-6 Legislature did not make an application to the United States
3-7 Congress to call this convention, and will faithfully abide by and
3-8 execute the instructions to delegates or alternate delegates
3-9 adopted by the Texas Legislature."

3-10 (b) Each delegate and alternate delegate must file the
3-11 executed oath with the secretary of state.

3-12 SUBCHAPTER C. DUTIES OF DELEGATES AND ALTERNATE DELEGATES

3-13 Sec. 393.101. INSTRUCTIONS TO DELEGATES AND ALTERNATE
3-14 DELEGATES. (a) At the time delegates and alternate delegates are
3-15 appointed, the legislature by joint resolution shall adopt
3-16 instructions to the delegates and alternate delegates to govern the
3-17 actions of those officers at the Article V convention.

3-18 (b) The legislature may not adopt instructions for an
3-19 Article V convention called following an application by the
3-20 legislature to the United States Congress for the convention that
3-21 authorize a delegate or alternate delegate to consider or vote to
3-22 approve an amendment to the United States Constitution that is not
3-23 authorized by the legislature in its application for the
3-24 convention.

3-25 (c) The legislature by joint resolution may amend the
3-26 instructions at any time.

3-27 Sec. 393.102. DUTY OF ALTERNATE DELEGATE. An alternate
3-28 delegate shall act in the place of the alternate delegate's paired
3-29 delegate when the delegate is absent from the convention.

3-30 Sec. 393.103. UNAUTHORIZED VOTE. (a) A delegate or
3-31 alternate delegate may not cast an unauthorized vote.

3-32 (b) The determination that a vote is an unauthorized vote
3-33 may only be made by the house that appointed the delegate or
3-34 alternate delegate who cast the vote.

3-35 (c) A vote determined to be an unauthorized vote is invalid.

3-36 (d) A delegate or alternate delegate who casts a vote
3-37 determined to be an unauthorized vote is disqualified to continue
3-38 to serve as a delegate or alternate delegate. A vacancy in the
3-39 office of a delegate or alternate delegate created by the
3-40 disqualification of the delegate or alternate delegate shall be
3-41 filled in the manner provided by Section 393.052.

3-42 (e) The presiding officer of the house that determined that
3-43 a delegate or alternate delegate has cast an unauthorized vote
3-44 shall promptly notify the head of the state delegation and the
3-45 presiding officer of the Article V convention that the delegate or
3-46 alternate delegate has cast an unauthorized vote and is
3-47 disqualified to serve as a delegate or alternate delegate.

3-48 SECTION 2. This Act takes effect immediately if it receives
3-49 a vote of two-thirds of all the members elected to each house, as
3-50 provided by Section 39, Article III, Texas Constitution. If this
3-51 Act does not receive the vote necessary for immediate effect, this
3-52 Act takes effect September 1, 2017.

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