

By: Bell of Montgomery

H.B. No. 384

A BILL TO BE ENTITLED

AN ACT

relating to the Texas Sovereignty Act.

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

SECTION 1. (a) This Act may be cited as the Texas Sovereignty Act.

(b) The legislature finds that:

(1) The people of the several states forming the United States of America created the federal government to be their agent for certain enumerated powers delegated by the states and the people to the federal government through the United States Constitution.

(2) The Tenth Amendment to the United States Constitution confirms the intent and understanding of the people of the United States that all powers not delegated to the United States by the Constitution, or prohibited by it to the states, are reserved to the states respectively, or to the people.

(3) Each power delegated to the federal government by the United States Constitution is constitutionally limited to that power as it was understood and exercised at the time it was delegated. An amendment to the Constitution as ratified by the states is required to expand or limit a constitutionally delegated power.

(4) The United States Constitution authorizes the United States Congress to exercise only those specific powers

1 enumerated in Section 8, Article I, United States Constitution, and
2 those other powers as may be delegated to Congress through
3 amendments to the Constitution as ratified by the states.

4 (5) Article VI, United States Constitution, makes
5 supreme the Constitution and federal laws enacted pursuant to the
6 Constitution, further requiring that public officials at all levels
7 and in all branches of government support the Constitution.

8 (6) The power delegated to the United States Congress
9 to regulate commerce among the several states under Section 8,
10 Article I, United States Constitution, is limited to federal
11 regulation of actual commerce between the states and among foreign
12 nations. Regulation of intrastate commerce is reserved to the
13 states and to the people of the states. The Commerce Clause of the
14 Constitution constrains the legislative, executive, and judicial
15 branches of the federal government.

16 (7) The power delegated to the United States Congress
17 to make all necessary and proper federal laws under Section 8,
18 Article I, United States Constitution, allows Congress to enact
19 only those laws necessary and proper to execute the
20 constitutionally delegated powers vested in the federal
21 government, all other powers being reserved to the states and to the
22 people of the states.

23 (8) The power delegated to the United States Congress
24 to provide for the general welfare of the United States under
25 Section 8, Article I, United States Constitution, in the General
26 Welfare Clause constitutionally constrains Congress when
27 exercising a delegated power to act in a manner that serves the

1 states and the people of the states well and uniformly.

2 (9) Sections 1 and 2, Article I, Texas Constitution,
3 provide that this state and the people of this state retain the
4 sovereign power to regulate the affairs of Texas, subject only to
5 the United States Constitution.

6 (c) The federal government does not have the power to take
7 any legislative, executive, or judicial action that violates the
8 United States Constitution.

9 (d) The contract with the State of Texas has been willfully
10 violated by the federal government and must be constitutionally
11 restored.

12 (e) This Act calls on all officials in federal, state, and
13 local government, in all branches and at all levels, to honor their
14 oaths to preserve, protect, and defend the United States
15 Constitution and its ratified amendments against any federal action
16 that:

17 (1) would unconstitutionally undermine, diminish, or
18 disregard the balance of powers between the sovereign states and
19 the federal government established by the United States
20 Constitution and its ratified amendments; or

21 (2) is outside the scope of the power delegated to the
22 federal government by the United States Constitution.

23 SECTION 2. Subtitle Z, Title 3, Government Code, is amended
24 by adding Chapter 394 to read as follows:

25 CHAPTER 394. ENFORCEMENT OF UNITED STATES CONSTITUTION

26 Sec. 394.001. DEFINITIONS. In this chapter:

27 (1) "Committee" means the Joint Legislative Committee

1 on Constitutional Enforcement.

2 (2) "Federal action" includes:

3 (A) a federal law;

4 (B) a federal agency rule, policy, or standard;

5 (C) an executive order of the president of the
6 United States;

7 (D) an order or decision of a federal court; and

8 (E) the making or enforcing of a treaty.

9 (3) "Unconstitutional federal action" means a federal
10 action enacted, adopted, or implemented without authority
11 specifically delegated to the federal government by the people and
12 the states through the United States Constitution.

13 Sec. 394.002. JOINT LEGISLATIVE COMMITTEE ON
14 CONSTITUTIONAL ENFORCEMENT. (a) The Joint Legislative Committee
15 on Constitutional Enforcement is established as a permanent joint
16 committee of the legislature. The committee is established to
17 review federal actions that challenge the sovereignty of the state
18 and of the people for the purpose of determining if the federal
19 action is unconstitutional.

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

21 (1) six members of the house of representatives
22 appointed by the speaker of the house; and

23 (2) six members of the senate appointed by the
24 lieutenant governor.

25 (c) Not more than four house members of the committee may be
26 members of the same political party. Not more than four senate
27 members of the committee may be members of the same political party.

1 (d) Members of the committee serve two-year terms beginning
2 with the convening of each regular legislative session.

3 (e) If a vacancy occurs on the committee, the appropriate
4 appointing officer shall appoint a member of the house or senate, as
5 appropriate, to serve for the remainder of the unexpired term.

6 (f) The speaker of the house and the lieutenant governor
7 shall each designate one member of the committee as a joint chair of
8 the committee.

9 (g) The committee shall meet at the call of either joint
10 chair.

11 (h) A majority of the members of the committee constitute a
12 quorum.

13 Sec. 394.003. COMMITTEE REVIEW OF FEDERAL ACTION. (a) The
14 committee may review any federal action to determine whether the
15 action is an unconstitutional federal action.

16 (b) When reviewing a federal action, the committee shall
17 consider the plain reading and reasoning of the text of the United
18 States Constitution and the understood definitions at the time of
19 the framing and construction of the Constitution by our forefathers
20 before making a final declaration of constitutionality, as
21 demonstrated by:

22 (1) the ratifying debates in the several states;

23 (2) the understanding of the leading participants at
24 the constitutional convention;

25 (3) the understanding of the doctrine in question by
26 the constitutions of the several states in existence at the time the
27 United States Constitution was adopted;

1 (4) the understanding of the United States
2 Constitution by the first United States Congress;

3 (5) the opinions of the first chief justice of the
4 United States Supreme Court;

5 (6) the background understanding of the doctrine in
6 question under the English Constitution of the time; and

7 (7) the statements of support for natural law and
8 natural rights by the framers and the philosophers admired by the
9 framers.

10 (c) Not later than the 180th day after the date the
11 committee holds its first public hearing to review a specific
12 federal action, the committee shall vote to determine whether the
13 action is an unconstitutional federal action.

14 (d) The committee may determine that a federal action is an
15 unconstitutional federal action by majority vote.

16 Sec. 394.004. LEGISLATIVE DETERMINATION. (a) If the
17 committee determines that a federal action is an unconstitutional
18 federal action, the committee shall report the determination to the
19 house of representatives and to the senate during:

20 (1) the current session of the legislature if the
21 legislature is convened when the committee makes the determination;
22 or

23 (2) the next regular or special session of the
24 legislature if the legislature is not convened when the committee
25 makes the determination.

26 (b) Each house of the legislature shall vote on whether the
27 federal action is an unconstitutional federal action. If a

1 majority of the members of each house determine that the federal
2 action is an unconstitutional federal action, the determination
3 shall be sent to the governor for approval or disapproval as
4 provided by Section 14, Article IV, Texas Constitution, regarding
5 bills.

6 (c) A federal action is declared by the state to be an
7 unconstitutional federal action on the day:

8 (1) the governor approves the vote of the legislature
9 making the determination; or

10 (2) the determination would become law if presented to
11 the governor as a bill and not objected to by the governor.

12 (d) The secretary of state shall forward official copies of
13 the declaration to the president of the United States, to the
14 speaker of the House of Representatives and the president of the
15 Senate of the Congress of the United States, and to all members of
16 the Texas delegation to Congress with the request that the
17 declaration of unconstitutional federal action be entered in the
18 Congressional Record.

19 Sec. 394.005. OTHER DETERMINATIONS OF UNCONSTITUTIONAL
20 FEDERAL ACTS. (a) This chapter does not limit or alter the
21 authority of the governor, the attorney general, a statewide
22 elected official, a state or federal court, a judge or justice, a
23 state or local appointed or elected official, or the governing body
24 of a political subdivision of this state to issue a verbal or
25 written opinion determining a federal action to be
26 unconstitutional.

27 (b) An opinion issued under Subsection (a) may be referred

1 to the committee for review under this chapter.

2 Sec. 394.006. EFFECT OF DECLARED UNCONSTITUTIONAL FEDERAL
3 ACTION. (a) A federal action declared to be an unconstitutional
4 federal action under Section 394.004 has no legal effect in this
5 state and may not be recognized by this state or a political
6 subdivision of this state as having legal effect.

7 (b) The state and a political subdivision of the state may
8 not spend public money or resources or incur public debt to
9 implement or enforce a federal action declared to be an
10 unconstitutional federal action.

11 (c) A person authorized to enforce the laws of this state
12 may enforce those laws, including Section 39.03, Penal Code,
13 against a person who attempts to implement or enforce a federal
14 action declared to be an unconstitutional federal action.

15 (d) This chapter does not prohibit a public officer who has
16 taken an oath to defend the United States Constitution from
17 interposing to stop acts of the federal government which, in the
18 officer's best understanding and judgment, violate the United
19 States Constitution.

20 (e) Texas officials in federal, state, and local government
21 shall honor their oaths to preserve, protect, and defend the United
22 States Constitution and shall act to constitutionally defend this
23 state and the people of this state.

24 Sec. 394.007. AUTHORITY OF ATTORNEY GENERAL. (a) The
25 attorney general may defend the state to prevent the implementation
26 and enforcement of a federal action declared to be an
27 unconstitutional federal action.

1 (b) The attorney general may prosecute a person who attempts
2 to implement or enforce a federal action declared to be an
3 unconstitutional federal action using Section 39.03, Penal Code, or
4 another provision of law.

5 (c) The attorney general may appear before a grand jury in
6 connection with an offense the attorney general is authorized to
7 prosecute under Subsection (b).

8 (d) The authority to prosecute prescribed by this chapter
9 does not affect the authority derived from other law to prosecute
10 the same offenses.

11 SECTION 3. Chapter 37, Civil Practice and Remedies Code, is
12 amended by adding Section 37.0056 to read as follows:

13 Sec. 37.0056. DECLARATIONS RELATING TO UNCONSTITUTIONAL
14 ACTS OF THE FEDERAL GOVERNMENT. (a) In this section, "federal
15 action" and "unconstitutional federal action" have the meanings
16 assigned by Section 394.001, Government Code.

17 (b) Any court in this state has original jurisdiction of a
18 proceeding seeking a declaratory judgment that a federal action
19 effective in this state is an unconstitutional federal action.

20 (c) A person is entitled to declaratory relief if the court
21 determines that a federal action is an unconstitutional federal
22 action.

23 (d) In determining whether to grant declaratory relief to a
24 person under this section, a court:

25 (1) may not rely solely on the decisions of other
26 courts interpreting the United States Constitution; and

27 (2) must rely on the plain meaning of the text of the

1 United States Constitution and any applicable constitutional
2 doctrine as understood by the framers of the constitution.

3 (e) Section 37.008 does not apply to relief sought under
4 this section.

5 SECTION 4. (a) Not later than the 30th day following the
6 effective date of this Act:

7 (1) the speaker of the house of representatives and
8 the lieutenant governor shall appoint the initial members of the
9 Joint Legislative Committee on Constitutional Enforcement
10 established under Section 394.002, Government Code, as added by
11 this Act; and

12 (2) the secretary of state shall forward official
13 copies of this Act to the president of the United States, to the
14 speaker of the House of Representatives and the president of the
15 Senate of the Congress of the United States, and to all members of
16 the Texas delegation to Congress with the request that this Act be
17 officially entered in the Congressional Record.

18 (b) Not later than the 45th day following the effective date
19 of this Act, the speaker of the house of representatives and the
20 lieutenant governor shall forward official copies of this Act to
21 the presiding officers of the legislatures of the several states.

22 SECTION 5. This Act takes effect immediately if it receives
23 a vote of two-thirds of all the members elected to each house, as
24 provided by Section 39, Article III, Texas Constitution. If this
25 Act does not receive the vote necessary for immediate effect, this
26 Act takes effect September 1, 2023.