

BILL ANALYSIS

Senate Research Center

H.B. 796
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State Affairs
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 796 amends current law relating to the authority of the legislature or a state court to declare certain federal actions to be unconstitutional federal actions, including the effect and enforcement of such a declaration.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. (a) Authorizes this Act to be cited as the Texas Sovereignty Act.

(b) Provides that 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 enumerated in Section 8, Article I, United States Constitution, and those other powers as may be delegated to Congress through amendments to the Constitution as ratified by the states.
- (5) Article VI, United States Constitution, makes supreme the Constitution and federal laws enacted pursuant to the Constitution, further requiring that public officials at all levels and in all branches of government support the Constitution.
- (6) The power delegated to the United States Congress to regulate commerce among the several states under Section 8, Article I, United States Constitution, is limited to federal regulation of actual commerce between the states and among foreign nations. Regulation of intrastate commerce is reserved to the states and to the people of the states. The Commerce Clause of the Constitution constrains the legislative, executive, and judicial branches of the federal government.

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

(8) The power delegated to the United States Congress to provide for the general welfare of the United States under Section 8, Article I, United States Constitution, in the General Welfare Clause constitutionally constrains Congress when exercising a delegated power to act in a manner that serves the states and the people of the states well and uniformly.

(9) Sections 1 (Freedom and Sovereignty of State) and 2 (Inherent Political Power; Republican Form of Government), Article I (Bill of Rights), Texas Constitution, provide that this state and the people of this state retain the sovereign power to regulate the affairs of Texas, subject only to the United States Constitution.

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

(d) Provides that the contract with the State of Texas has been wilfully violated by the federal government and is required to be constitutionally restored.

(e) Provides that this Act calls on all officials in federal, state, and local government, in all branches and at all levels, to honor their oaths to preserve, protect, and defend the United States Constitution and its ratified amendments against any federal action that meets certain criteria.

SECTION 2. Amends Subtitle Z, Title 3, Government Code, by adding Chapter 394, as follows:

CHAPTER 394. ENFORCEMENT OF UNITED STATES CONSTITUTION

Sec. 394.001. DEFINITIONS. Defines "committee," "federal action," and "unconstitutional federal action."

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

(b) Provides that the committee consists of the following 12 members six members of the house of representatives appointed by the speaker of the house and six members of the senate appointed by the lieutenant governor.

(c) Provides that not more than four house members of the committee are authorized to be members of the political party that constitutes the majority of the house. Provides that not more than four senate members of the committee are authorized to be members of the political party that constitutes the majority of the senate.

(d) Provides that members of the committee serve two-year terms beginning with the convening of each regular legislative session.

(e) Requires the appropriate appointing officer, if a vacancy occurs on the committee, to appoint a member of the house or senate, as appropriate, to serve for the remainder of the unexpired term.

(f) Requires the speaker of the house and the lieutenant governor to each designate one member of the committee as a joint chair of the committee.

(g) Requires the committee to meet at the call of either joint chair.

(h) Provides that a majority of the members of the committee constitutes a quorum.

Sec. 394.003. COMMITTEE REVIEW OF FEDERAL ACTION. (a) Authorizes the committee to review any federal action to determine whether the action is an unconstitutional federal action.

(b) Requires the committee, when reviewing a federal action, to consider the plain reading and reasoning of the text of the United States Constitution and the understood definitions at the time of the framing and construction of the Constitution by our forefathers before making a final declaration of constitutionality, as demonstrated by certain contextual criteria.

(c) Requires the committee, not later than the 180th day after the date the committee holds its first public hearing to review a specific federal action, to vote to determine whether the action is an unconstitutional federal action.

(d) Authorizes the committee to determine that a federal action is an unconstitutional federal action by majority vote.

Sec. 394.004. LEGISLATIVE DETERMINATION. (a) Requires the committee, if the committee determines that a federal action is an unconstitutional federal action, to report the determination to the house of representatives and to the senate during the current session of the legislature if the legislature is convened when the committee makes the determination or the next regular or special session of the legislature if the legislature is not convened when the committee makes the determination.

(b) Requires each house of the legislature to vote on whether the federal action is an unconstitutional federal action. Provides that, if a majority of the members of each house determine that the federal action is an unconstitutional federal action, the determination is required to be sent to the governor for approval or disapproval as provided by Section 14 (Approval or Veto of Bills; Return and Reconsideration; Failure to Return; Veto of Items of Appropriation), Article IV (Executive Department), Texas Constitution, regarding bills.

(c) Provides that a federal action is declared by the state to be an unconstitutional federal action on the day the governor approves the vote of the legislature making the determination or the determination would become law if presented to the governor as a bill and not objected to by the governor.

(d) Requires the Secretary of State (SOS) to forward official copies of the declaration to the president of the United States, to the speaker of the House of Representatives and the president of the Senate of the Congress of the United States, and to all members of the Texas delegation to Congress with the request that the declaration of unconstitutional federal action be entered in the Congressional Record.

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

(b) Authorizes an opinion issued under Subsection (a) to be referred to the committee for review under this chapter.

Sec. 394.006. EFFECT OF DECLARED UNCONSTITUTIONAL FEDERAL ACTION.

(a) Provides that a federal action declared to be an unconstitutional federal action under Section 394.004 has no legal effect in this state and is prohibited from being recognized by this state or a political subdivision of this state as having legal effect.

(b) Prohibits the state and a political subdivision of the state from spending public money or resources or incurring public debt to implement or enforce a federal action declared to be an unconstitutional federal action.

(c) Authorizes a person authorized to enforce the laws of this state to enforce those laws, including Section 39.03 (Official Oppression), Penal Code, against a person who attempts to implement or enforce a federal action declared to be an unconstitutional federal action.

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

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

Sec. 394.007. AUTHORITY OF ATTORNEY GENERAL. Authorizes the attorney general to defend the state to prevent the implementation and enforcement of a federal action declared to be an unconstitutional federal action.

SECTION 3. Amends Chapter 37, Civil Practice and Remedies Code, by adding Section 37.0056, as follows:

Sec. 37.0056. DECLARATIONS RELATING TO UNCONSTITUTIONAL ACTS OF THE FEDERAL GOVERNMENT. (a) Defines "federal action" and "unconstitutional federal action."

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

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

(d) Provides that, in determining whether to grant declaratory relief to a person under this section, a court is prohibited from relying solely on the decisions of other courts interpreting the United States Constitution and required to rely on the plain meaning of the text of the United States Constitution and any applicable constitutional doctrine as understood by the framers of the constitution.

(e) Provides that the Section 37.008 (Court Refusal to Render) does not apply to relief sought under this section.

SECTION 4. (a) Provides that, not later than the 30th day following the effective date of this Act:

(1) the speaker of the house of representatives and the lieutenant governor are required to appoint the initial members of the committee established under Section 394.002, Government Code, as added by this Act; and

(2) SOS is required to forward official copies of this Act to the president of the United States, to the speaker of the House of Representatives and the president of the Senate of the Congress of the United States, and to all members of the Texas delegation to Congress with the request that this Act be officially entered in the Congressional Record.

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

SECTION 5. Effective date: upon passage or September 1, 2025.