

By: King

S.B. No. 707

A BILL TO BE ENTITLED

AN ACT

relating to the authority of the legislature to determine that certain federal directives are unconstitutional and to prohibit certain government officers and employees from enforcing or assisting in the enforcement of the directive.

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

SECTION 1. Subtitle Z, Title 3, Government Code, is amended by adding Chapter 394 to read as follows:

CHAPTER 394. UNCONSTITUTIONAL FEDERAL DIRECTIVES

Sec. 394.001. DEFINITIONS. In this chapter:

(1) "Federal agency" means a department, agency, authority, commission, council, board, office, bureau, or other administrative unit of the executive branch of the United States.

(2) "Federal directive" means:

(A) a federal law;

(B) an executive order of the president of the United States; or

(C) a federal agency rule, policy, order, or standard.

(3) "Government officer or employee" means:

(A) an elected or appointed officer of this state or a political subdivision, other than the lieutenant governor or a member of the legislature;

(B) an employee of this state or a political

1 subdivision, other than an employee of the lieutenant governor or  
2 of a member of the legislature; or

3 (C) a member of the governing body of an  
4 open-enrollment charter school or an officer or employee of the  
5 school.

6 (4) "Political subdivision" means a county,  
7 municipality, school district, junior college district, special  
8 district, or other subdivision of state government.

9 (5) "Unconstitutional federal directive" means a  
10 federal directive that:

11 (A) infringes on a power or right reserved to the  
12 state by the Tenth Amendment to the United States Constitution; or

13 (B) prohibits or limits the ability of this state  
14 to:

15 (i) provide for the health, safety, and  
16 welfare of the people of this state; or

17 (ii) promote the prosperity of the people  
18 of this state.

19 Sec. 394.002. LEGISLATIVE AUTHORITY. (a) The legislature  
20 by concurrent resolution may:

21 (1) determine that a federal directive is an  
22 unconstitutional federal directive; and

23 (2) prohibit a government officer or employee from  
24 enforcing or assisting in the enforcement of the unconstitutional  
25 federal directive.

26 (b) This section does not apply to a federal directive that  
27 activates the state military forces as defined by Section [431.001](#).

1       Sec. 394.003. REQUIREMENTS TO FILE RESOLUTION. A member of  
2 the legislature may not file a concurrent resolution described by  
3 this section unless the filing is approved by:

4           (1) the speaker of the house of representatives, if  
5 the member is a member of the house;

6           (2) the lieutenant governor, if the member is a member  
7 of the senate; or

8           (3) the vote of two-thirds of the members present in  
9 the house in which the member seeks to file the resolution.

10       Sec. 394.004. CONTENTS OF RESOLUTION. The legislature may  
11 not adopt a concurrent resolution described by Section 394.002  
12 unless the resolution:

13           (1) identifies the federal directive that the  
14 legislature determines is an unconstitutional federal directive;

15           (2) explains the basis for the legislature's  
16 determination;

17           (3) specifies whether a government officer or employee  
18 is prohibited from enforcing or assisting in the enforcement of the  
19 directive, including specific activities or forms of assistance  
20 that the officer or employee may not engage in;

21           (4) specifies the government officers or employees to  
22 whom the concurrent resolution applies, as applicable; and

23           (5) specifies any other requirement the legislature  
24 considers appropriate to impose on a government officer or employee  
25 in order to comply with the legislature's determination.

26       Sec. 394.005. REPEAL OF RESOLUTION. The legislature may  
27 repeal a concurrent resolution adopted under this chapter only by

1 concurrent resolution filed and adopted in the manner prescribed  
2 for the adoption of the resolution being repealed.

3 Sec. 394.006. LEGISLATIVE INACTION. The fact that the  
4 legislature has not considered whether a federal directive is an  
5 unconstitutional federal directive under this chapter does not:

6 (1) imply or create a presumption that the directive  
7 is constitutional; or

8 (2) limit the authority of the attorney general to  
9 challenge the constitutionality of the directive.

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, 2025.