

- SUBJECT:** Post-ratifying 24th Amendment to the U.S. Constitution
- COMMITTEE:** Elections — favorable, without amendment
- VOTE:** 8 ayes — T. Smith, Peña, Allen, Anchia, Bohac, Bonnen, B. Brown, Heflin
- 0 nays
- 1 absent — Harper-Brown
- WITNESSES:** For — (*Registered, but did not testify:* Ken Bailey, Common Cause of Texas; Luis Figueroa, Mexican American Legal Defense and Education Fund; Anthony Gutierrez, Texas Democratic Party; Rene Lara, Texas AFL-CIO; Dustin Ryners, Advocacy, Inc.; Joe Sanchez, AARP; Sonia Santana, ACLU-Texas)
- Against
- On — (*Registered, but did not testify:* Elizabeth Winn, Secretary of State)
- BACKGROUND:** Article 5 of the U.S. Constitution sets forth procedures for its amendment. The U.S. Constitution has been amended 27 times. The first 10 amendments, which constitute the Bill of Rights, were added in 1791. The last constitutional amendment was ratified in 1992.
- State ratification of a proposed amendment adopted by Congress requires a majority vote in each legislative chamber. A state legislature may make no changes to the language, or its ratification is invalid. A state legislature that has rejected an amendment may return subsequently to it and vote favorably for the ratification. On the other hand, it is generally held that once a state legislature has voted affirmatively, it cannot rescind ratification. A governor's signature on the resolution technically is not necessary.
- Post-ratification is considered symbolic and requires a similar procedure to ratification, although there are no federal statutory requirements. Both chambers of a legislature would have to approve the amendment's

language and follow procedures for submitting it to the Federal Register at the National Archives.

The 87th Congress on August 27, 1962, in S.J.R. 29, proposed an amendment to the states prohibiting the denial or abridgement of the right to vote for failure to pay any poll tax or other tax. The 38th state, constituting three-fourths of the several states, ratified the amendment on January 23, 1964. By proclamation dated February 4, 1964, published at *29 Federal Register* 1715-16 and *78 Statutes at Large* 1117-18, the amendment was declared ratified, becoming the 24th Amendment to the U.S. Constitution pursuant to Article 5.

Virginia post-ratified the 24th Amendment in 1977. North Carolina approved the ceremonial post-ratification in 1989, and Alabama approved post-ratification in 2002. Each of these actions was reflected in the *Congressional Record* shortly after adoption.

DIGEST:

HJR 39 would post-ratify the 24th Amendment to the U.S. Constitution prohibiting the denial or abridgment of the right to vote for failure to pay any poll tax or other tax. The amendment reads as follows:

“SECTION 1. The right of citizens of the United States to vote in any primary or other election for President or Vice President, for electors for President or Vice President, or for Senator or Representative in Congress, shall not be denied or abridged by the United States or any State by reason of failure to pay any poll tax or other tax.

“SECTION 2. The Congress shall have power to enforce this article by appropriate legislation.”

HJR 39 would authorize post-ratification of the 24th Amendment and direct the Texas secretary of state to notify the national archivist of the action by the 81st Legislature by forwarding to the archivist an official copy of the resolution. The joint resolution would instruct the secretary of state also to forward official copies of the resolution to both U.S. senators from Texas, all U.S. representatives from Texas, the U.S. vice president as presiding officer of the U.S. Senate, and the speaker of the U.S. House of Representatives with the request that it be printed in full in the *Congressional Record*.

The joint resolution relates congressional history associated with the proposed amendment, the ratification process and proclamation, and post-ratification by three states. The resolution would maintain that clear precedent would grant Texas the opportunity to post-ratify the amendment similar to the actions of lawmakers in three other states.

**SUPPORTERS  
SAY:**

HJR 39 would allow Texas to post-ratify the 24th Amendment to the U.S. Constitution, an official gesture that is long overdue.

In August 1962, while Congress was deliberating the poll tax amendment, President John F. Kennedy urged the U.S. House of Representatives to propose the amendment for consideration by the states, “to finally eliminate this outmoded and arbitrary bar to voting. American citizens should not have to pay to vote.”

When the proclamation on ratification of the 24th Amendment was declared on February 4, 1964, in his presence, President Lyndon B. Johnson, the first Texan to be president, said that abolishing the poll tax requirement “reaffirmed the simple but unbreakable theme of this Republic. Nothing is so valuable as liberty, and nothing is so necessary to liberty as the freedom to vote without bans or barriers. . . . A change in our Constitution is a serious event. . . . There can now be no one too poor to vote.”

Eleven Southern states, including Texas in 1902, enacted poll taxes after Reconstruction as a measure to prevent poor black and white people from voting. In 1964, Texas was one of only five states still levying a poll tax. Following the recommendation of Gov. John B. Connally, the Legislature had proposed an amendment in 1963 repealing the poll tax provision in the Texas Constitution, but it was rejected by the voters. The Legislature submitted another amendment repealing the poll tax in 1966, which voters approved, although the issue had been rendered moot by ratification of the 24th Amendment and the 1966 U.S. Supreme Court decision in *Harper v. Virginia Board of Elections*, 383 U.S. 663, invalidating poll taxes for state and local elections. The Legislature still has never approved the 24th Amendment. Officially supporting ratification of the amendment would be a gesture that would help Texas put its discriminatory past behind it.

**OPPONENTS  
SAY:**

No apparent opposition.

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NOTES:

During the 2007 regular session, the House by 138-0 adopted an identical resolution, HJR 39 by Allen, which was reported favorably by the Senate State Affairs Committee, but died when no further action was taken.

The companion joint resolution, SJR 27 by Ellis, has been referred to the Senate State Affairs Committee.