

## **BILL ANALYSIS**

Senate Research Center

H.B. 1110  
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State Affairs  
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Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Given that multiple measures have been filed in Texas regarding a convention under Article V of the United States (U.S.) Constitution, concerns of a runaway convention have been raised. H.B. 1110 seeks to add structure as to how Texas would participate in a convention of states, particularly relating to delegate selection and a delegate's scope of responsibility.

H.B. 1110 amends the Government Code to require the legislature by concurrent resolution to provide the rules and procedures necessary to implement provisions relating to the delegates and alternate delegates to a convention called by the U.S. Congress under Article V of the U.S. Constitution. The bill establishes that a legislative action relating to the appointment or recall of delegates or alternate delegates, the adoption or modification of instructions, or the determination of an unauthorized vote may be accomplished through a joint resolution adopted by each house.

H.B. 1110 establishes that to be eligible to serve as a delegate or alternate delegate at an Article V convention, an individual must be a qualified voter, must not be required to register as a lobbyist, and must not hold an elected federal office. The bill requires the legislature to appoint, as soon as possible following the calling of an Article V convention, the delegates and alternate delegates representing the state at the convention and to pair each alternate delegate with a delegate at the time of appointment. The bill sets out provisions relating to filling a vacancy and recalling a delegate or alternate delegate and requires an alternate delegate to act in the place of the alternate delegate's paired delegate when the delegate is absent from the convention. The bill establishes that a delegate or alternate delegate is not entitled to compensation for service in that office but entitles those delegates to reimbursement for necessary expenses incurred in performance of official duties, subject to any applicable limitation on reimbursement provided by general law or the General Appropriations Act. The bill sets out the required oath for a delegate or alternate delegate and requires each officer to file the executed oath with the secretary of state.

H.B. 1110 requires the legislature, at the time delegates and alternate delegates are appointed, to adopt instructions to govern the actions of those officers at the Article V convention. The bill prohibits the legislature from adopting instructions that authorize those officers to consider or vote to approve an amendment to the U.S. Constitution that is not authorized by the legislature in its application to the U.S. Congress to call the Article V convention. The bill authorizes the legislature to amend the instructions at any time.

H.B. 1110 prohibits a delegate or alternate delegate from casting an unauthorized vote. The bill establishes that the legislature has the exclusive right to determine whether a vote is an unauthorized vote and establishes that a vote determined to be unauthorized is invalid. The bill establishes that a delegate or alternate delegate who casts an unauthorized vote is disqualified from continuing to serve as a delegate or alternate delegate. The bill requires the legislature to promptly notify the head of the state delegation and the presiding officer of the Article V convention if the legislature determines that a delegate or alternate delegate has cast an unauthorized vote.

H.B. 1110 amends current law relating to the qualifications, duties, and limitations of Texas delegates to a convention called under Article V of the United States Constitution.

## **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. Amends Subtitle Z, Title 3, Government Code, by adding Chapter 393, as follows:

### CHAPTER 393. DELEGATES TO FEDERAL ARTICLE V CONVENTIONS

#### SUBCHAPTER A. GENERAL PROVISIONS

Sec. 393.001. DEFINITIONS. Defines "alternate delegate," "Article V convention," "delegate," and "unauthorized vote" in this chapter.

Sec. 393.002. RULES AND PROCEDURES. (a) Authorizes the legislature by concurrent resolution to provide the rules and procedures necessary to implement this chapter.

(b) Authorizes a legislative action relating to the appointment or recall of delegates or alternate delegates, the adoption or modification of instructions, or the determination of an unauthorized vote to be accomplished through a joint resolution adopted by each house.

#### SUBCHAPTER B. DELEGATES AND ALTERNATE DELEGATES

Sec. 393.051. QUALIFICATIONS. Provides that, to be eligible to serve as a delegate or alternate delegate an individual must:

- (1) be a qualified voter as defined by Section 11.002 (Qualified Voter), Election Code;
- (2) not be required to register as a lobbyist under Chapter 305 (Registration of Lobbyists); and
- (3) not hold an elected federal office.

Sec. 393.052. APPOINTMENT. (a) Requires the legislature, as soon as possible following the calling of an Article V convention, to appoint:

- (1) the number of delegates allocated to represent the state at the Article V convention and an equal number of alternate delegates; or
- (2) three delegates and three alternate delegates if no allocation is made.

(b) Requires the legislature to pair each alternate delegate with a delegate at the time each appointment is made.

(c) Requires the governor, lieutenant governor, and speaker of the house of representatives, if the legislature is unable to appoint delegates and alternate delegates under Subsection (a) at least 30 days before the date an Article V convention is scheduled to begin, to each appoint one delegate and one paired alternate delegate to the convention.

(d) Requires the governor, if the number of delegates allocated to represent the state is fewer than three and the legislature is unable to appoint the delegates and alternate delegates under Subsection (a) at least 30 days before the date an Article V convention is scheduled to begin, to appoint all delegates and alternate delegates to the convention.

Sec. 393.053. VACANCY. (a) Provides that an alternate delegate automatically fills a vacancy in the office of the alternate delegate's paired delegate.

(b) Requires the legislature or appointing officer, as applicable, to fill a vacancy in the office of an alternate delegate in the manner provided by Section 393.052.

Sec. 393.054. RECALL. (a) Authorizes the legislature to recall a delegate or alternate delegate.

(b) Requires the legislature to fill a vacancy created by the recall of a delegate or alternate delegate in the manner provided by Section 393.053.

Sec. 393.055. COMPENSATION; REIMBURSEMENT OF EXPENSES. (a) Provides that a delegate or alternate delegate is not entitled to compensation for service as a delegate or alternate delegate.

(b) Entitles a delegate or alternate delegate to reimbursement for necessary expenses incurred in performance of official duties, subject to any applicable limitation on reimbursement provided by general law or the General Appropriations Act.

Sec. 393.056. OATH. (a) Requires an individual appointed as a delegate or alternate delegate to take the following oath before voting or taking an action as a delegate or alternate delegate of this state: "I do solemnly swear (or affirm) that to the best of my abilities, I will, as a delegate or alternate delegate to the Article V Convention, act according to the limits of the authority granted to me as a delegate or alternate delegate by Texas law, will not consider or vote to approve an amendment to the United States Constitution not authorized by the Texas Legislature in its application to the United States Congress to call this convention or an amendment outside the scope of this convention if the Texas Legislature did not make an application to the United States Congress to call this convention, and will faithfully abide by and execute any instructions to delegates or alternate delegates adopted by the Texas Legislature."

(b) Requires each delegate and alternate delegate to file the executed oath with the secretary of state.

#### SUBCHAPTER C. DUTIES OF DELEGATES AND ALTERNATE DELEGATES

Sec. 393.101. INSTRUCTIONS TO DELEGATES AND ALTERNATE DELEGATES. (a) Authorizes the legislature, at the time delegates and alternate delegates are appointed, to adopt instructions to the delegates and alternate delegates to govern the actions of those officers at the Article V convention.

(b) Prohibits the legislature from adopting instructions for an Article V convention called following an application by the legislature to the United States Congress for the convention that authorize a delegate or alternate delegate to consider or vote to approve an amendment to the United States Constitution that is not authorized by the legislature in its application for the convention.

(c) Authorizes the legislature to amend the instructions at any time.

Sec. 393.102. DUTY OF ALTERNATE DELEGATE. Requires an alternate delegate to act in the place of the alternate delegate's paired delegate when the delegate is absent from the convention.

Sec. 393.103. UNAUTHORIZED VOTE. (a) Prohibits a delegate or alternate delegate from casting an unauthorized vote.

(b) Provides that the determination that a vote is an unauthorized vote may only be made by the legislature.

(c) Provides that a vote determined to be an unauthorized vote is invalid.

(d) Provides that a delegate or alternate delegate who casts a vote determined to be an unauthorized vote is disqualified to continue to serve as a delegate or alternate delegate. Requires the legislature to fill a vacancy created by a disqualification under this subsection in the manner provided by Section 393.053.

(e) Requires the legislature to promptly notify the head of the state delegation and the presiding officer of the Article V convention if the legislature determines that a delegate or alternate delegate has cast an unauthorized vote.

SECTION 2. Effective date: upon passage or September 1, 2015.