

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 shall be known as the Texas Sovereignty Act.

(b) The legislature finds that:

(1) The people of the several states comprising the United States of America created the federal government to be their agent for certain enumerated purposes and nothing more.

(2) The Tenth Amendment to the United States Constitution defines the total scope of federal power as including only those powers specifically delegated by the people to the federal government. Those powers not delegated to the federal government are reserved to the states or to the people themselves.

(3) Each power delegated to the federal government by the United States Constitution encompasses only that power as it was understood at the time it was delegated, subject only to an expansion or limitation of that power by a subsequent amendment to the constitution.

(4) The United States Constitution authorizes the United States Congress to exercise only those powers enumerated in Article I, Section 8, of the Constitution, as well as certain other powers delegated to Congress by subsequent amendments to the constitution. Article VI makes supreme the Constitution and only laws in pursuance to the Constitution and requires the individuals at all levels and in all branches of government to support the Constitution.

(5) The power delegated to the United States Congress to regulate commerce among the several states under Article I, Section 8, of the United States Constitution was not intended by its drafters or understood by those who ratified it as an authorization for the federal government to assume vast powers not directly related to or merely affecting interstate commerce, thereby infringing on the sovereignty of the states and the liberties of the people. The Commerce Clause only allows regulation of actual commerce among the states or between foreign nations. Under color of the Commerce Clause, the legislative, executive, and judicial branches of the federal government have adopted and implemented countless measures not authorized by the language or original intent of the clause, many of which usurp the duties and responsibilities reserved to the states by the Tenth Amendment.

(6) The power delegated to the United States Congress to make all necessary and proper laws under Article I, Section 8, of the United States Constitution was not intended by its drafters or understood by those who ratified it to be a delegation of unlimited power to the federal government to do anything it considers necessary and proper. Instead, the Necessary and Proper Clause was intended and understood to authorize Congress to only enact laws actually necessary and proper to execute a power specifically vested in the federal

government by the Constitution, without which the vested power would be impossible to exercise.

(7) The power delegated to the United States Congress to provide for the general welfare of the United States under Article I, Section 8, of the United States Constitution was not intended by its drafters or understood by those who ratified it to authorize Congress to enact any legislation that it considers good or desirable. Instead, the General Welfare Clause was intended and understood to ensure that Congress, when exercising an enumerated power, does so in a manner that serves all citizens well and equally.

(8) In addition to the limitations imposed on the power of the federal government by the United States Constitution as originally ratified, the powers delegated to the federal government were further restricted at the insistence of the people through the ratification of the Bill of Rights. As such, this state specifically rejects any federal claim that any provision of the Bill of Rights authorizes new or expanded authority that may be exercised by the federal government.

(9) The federal government has acted in a manner inconsistent with the language, intent, and spirit of the United States Constitution in direct violation of the Constitution and the contract between this state and its people, and the United States. This state rejects the unauthorized and excessive abuse of power by the federal government that infringes on the rights of this state and its people and that unconstitutionally undermines, diminishes, and disregards the balance of powers between the states and the federal government established by the Constitution.

(c) In accordance with the United States Constitution, the federal government is denied by this state the power to take any legislative, executive, or judicial action that violates the Constitution, specifically including those actions that unconstitutionally undermine, diminish, or disregard the balance of powers between the states and the federal government established by the Constitution.

(d) This Act serves as notice from this state to the federal government to cease and desist any and all unconstitutional activities that are outside the scope of the power delegated to it by the United States Constitution, including those activities that unconstitutionally undermine, diminish, or disregard the balance of powers between the states and the federal government established by the Constitution.

(e) This Act calls upon all officials in state and local government, in all branches and at all levels, especially law enforcement, prosecutors, local legislative bodies, the judiciary, the attorney general, and the governor to honor their oaths to preserve, protect, and defend the constitution, and to therefore stop unconstitutional federal actions, enforcing the Texas Penal Code, including the Official Oppression Act (Texas Penal Code 39.03), against federal agents acting under the color of unconstitutional federal acts.

(f) As stated in the Texas Constitution, Art. 1, Sections 1 and 2, this state and its people retain their sovereign power to regulate the affairs of this state, subject only to the limitations prescribed by the United States Constitution.

SECTION 2. Subtitle Z, Title 3, Government Code, is amended by adding Chapter 393 to read as follows:

CHAPTER 393. ENFORCEMENT OF THE CONSTITUTION

Sec. 393.001. DEFINITIONS. In this chapter:

(1) "Committee" means the joint legislative committee on constitutional enforcement.

(2) "Federal action" includes:

(A) a federal law;

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

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

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

(E) enforcement of a treaty.

(3) "Unconstitutional federal action" means a federal action enacted, adopted, or implemented without authority specifically delegated to the federal government by the states through the United States Constitution. Those analyzing a federal action to determine constitutionality shall not rely upon federal judicial precedent in the determination of whether a federal action is unconstitutional. Rather, they shall use in their reasoning the plain meaning of the text in light of the definitions at the time of the framing and the overall structure of the Constitution. Where meaning is ambiguous, they should use contemporaneous understandings of the Constitutional doctrine in question, as evidenced by:

(1) the ratifying debates in the states;

(2) the understanding of the leading participants in the Constitutional Convention;

(3) the understanding of the doctrine in question by the various state constitutions in existence when the Constitution was adopted;

(4) the understanding of the first Congress;

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

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

(4) "Declared unconstitutional federal action" means an unconstitutional federal action declared to be such by the joint legislative committee on constitutional enforcement or legislature, the governor, the attorney general, district or county attorneys, county commissioner courts, city councils, sheriffs, or the Texas judiciary.

Sec. 393.002. JOINT LEGISLATIVE COMMITTEE ON CONSTITUTIONAL ENFORCEMENT. (a) The joint legislative committee on constitutional enforcement is established as a permanent joint committee of the legislature.

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

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

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

(c) The speaker of the house will appoint one of the house of representative members to be one joint chair of the committee. The lieutenant governor will appoint one of the senate members to be the other joint chair of the committee.

(d) Not more than four house members of the committee and four senate members of the committee may be members of the same political party. Both the speaker of the house and the lieutenant governor shall appoint at least one member of every party represented in the body.

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

(f) If a vacancy occurs on the committee, the appropriate appointing officer shall appoint a member of the house or senate, as

appropriate, to serve for the remainder of the unexpired term.

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

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

Sec. 393.003. COMMITTEE REVIEW OF FEDERAL ACTION. (a) The committee may review any federal action to determine whether the action is an unconstitutional federal action.

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

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

(d) A federal action determined by the committee to be an unconstitutional federal action shall be considered the will of the legislature and will take immediate legal effect in this state until and unless both houses of legislature take affirmative action to override the committee.

Sec. 393.004. EXECUTIVE DECLARATIONS OF UNCONSTITUTIONAL FEDERAL ACTS.

(a) A written opinion by the governor, the attorney general, a county or district attorney, a county commissioners court, a city council, or a sheriff that contains a declaration of the unconstitutionality of a federal action and the reasoning upon which the declaration is made shall make a federal action become a declared unconstitutional federal action.

Sec. 393.005. LEGAL EFFECT OF DECLARED UNCONSTITUTIONAL FEDERAL ACTION

(a) A declared unconstitutional federal action has no legal effect in the jurisdiction of the authority making the declaration and may not be recognized by this state or a political subdivision of this state as having legal effect.

(b) This state shall prevent the implementation and enforcement of a declared unconstitutional federal action within the boundaries of this state by prosecuting individuals who seek to enforce declared unconstitutional federal action, using Texas Penal Code 39.03 or other portions of the Texas Penal Code that apply.

(c) This act does not prohibit any official in Texas who has taken the oath to defend the constitution from interposing to stop acts of the federal government which, in his best understanding and judgment, violates the Constitution.

Sec. 393.006. PROSECUTION BY ATTORNEY GENERAL AUTHORIZED.

(a) The attorney general may prosecute any existing criminal offense in the laws of this state if the actor commits the crime under the color of an unconstitutional federal action.

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

(c) The authority to prosecute prescribed by this subchapter does not affect the authority derived from other law to prosecute the

same offenses.

SECTION 3. . Subtitle C, Title 2, Chapter 37, Civil Practice and Remedies Code, is amended by adding Section 37.0056 as follows:

Sec. 37.0056 DECLARATIONS RELATING TO UNCONSTITUTIONAL ACTS OF THE FEDERAL GOVERNMENT (a) In this section, the definitions of the Texas Government Code, Sec. 393.001 apply.

(b) Notwithstanding 37.008, a person may have a declaration on whether a federal action affecting Texas or Texans is unconstitutional under the United States Constitution.

(c) The court shall not rely upon federal judicial precedent in the determination of whether a federal action is unconstitutional. Rather, the court shall use in its reasoning the plain meaning of the text in light of the definitions at the time of the framing and the overall structure of the Constitution. Where meaning is ambiguous, the court should use contemporaneous understandings of the Constitutional doctrine in question, as evidenced by:

- (7) the ratifying debates in the states;
- (8) the understanding of the leading participants in the Constitutional Convention;
- (9) the understanding of the doctrine in question by the various state constitutions in existence when the Constitution was adopted;
- (10) the understanding of the first Congress;
- (11) the background understanding of the doctrine in question under the English constitution of the time;  
and
- (12) statements of support for natural law and natural rights by the framers and the philosophers admired by the framers.

SECTION 4. (a) 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 shall appoint the initial members of the Joint Legislative Committee on Constitutional Enforcement established under Section 393.002, Government Code, as added by this Act; and

(2) the secretary of state shall 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) Not later than the 45th day following the effective date of this Act, the lieutenant governor shall forward official copies of this Act to the presiding officers of the legislatures of the several states.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect August 29, 2017.