

GOVERNMENT CODE

TITLE 3. LEGISLATIVE BRANCH

SUBTITLE Z. MISCELLANEOUS PROVISIONS

CHAPTER 393. DELEGATES TO FEDERAL ARTICLE V CONVENTIONS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 393.001. DEFINITIONS. In this chapter:

(1) "Alternate delegate" means an individual appointed under Section 393.051 to represent this state as an alternate delegate at an Article V convention.

(2) "Article V convention" means a convention called by the United States Congress under Article V of the United States Constitution.

(3) "Delegate" means:

(A) an individual appointed under Section 393.051 to represent this state as a delegate at an Article V convention; or

(B) an alternate delegate who fills a vacancy in the office of the alternate delegate's paired delegate.

(4) "Unauthorized vote" means a vote cast by a delegate or alternate delegate at an Article V convention that:

(A) is contrary to the instructions adopted under Section 393.101 in effect at the time the vote is taken;

(B) exceeds the scope or subject matter of the Article V convention as authorized by the legislature in the application to the United States Congress to call the convention if the legislature made an application to call the convention; or

(C) exceeds the scope or subject matter of the Article V convention if the legislature did not make an application to the United States Congress to call the convention.

Added by Acts 2017, 85th Leg., R.S., Ch. 442 (S.B. 21), Sec. 1, eff. June 6, 2017.

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

(b) A legislative action relating to the appointment or recall of a delegate or alternate delegate, the filling of a vacancy in the office of a delegate or alternate delegate, or the determination of an unauthorized vote may be accomplished through a resolution adopted by the house that takes the action.

Added by Acts 2017, 85th Leg., R.S., Ch. 442 (S.B. 21), Sec. 1, eff. June 6, 2017.

SUBCHAPTER B. DELEGATES AND ALTERNATE DELEGATES

Sec. 393.051. APPOINTMENT. (a) As soon as possible following the calling of an Article V convention, the legislature shall appoint delegates and alternate delegates to the convention as provided by Subsection (b) or (c), as applicable.

(b) Except as provided by Subsection (c), the legislature shall appoint five delegates and five alternate delegates to the Article V convention as follows:

(1) the house of representatives shall appoint three members of the house as delegates and three members of the house as alternate delegates; and

(2) the senate shall appoint two members of the senate as delegates and two members of the senate as alternate delegates.

(c) If the number of delegates allocated to represent the state at the Article V convention is determined by agreement among the states to be a number other than five, the legislature shall appoint the allocated number of delegates and an equal number of alternate delegates as follows:

(1) if the allocated number of delegates is an odd number:

(A) the house of representatives shall appoint a number of members of the house as delegates that is equal to three-fifths of the allocated number or as close to that proportion as possible and the same number of members of the house as alternate delegates; and

(B) the senate shall appoint a number of members of the senate as delegates that is equal to two-fifths of the allocated number or as close to that proportion as possible and the

same number of members of the senate as alternate delegates; and

(2) if the allocated number of delegates is an even number:

(A) the house of representatives shall appoint a number of members of the house as delegates that is equal to one-half of the allocated number and the same number of members of the house as alternate delegates; and

(B) the senate shall appoint a number of members of the senate as delegates that is equal to one-half of the allocated number and the same number of members of the senate as alternate delegates.

(d) Service as a delegate or alternate delegate by a member of the legislature is an additional duty of the member's legislative office.

(e) The appointing house shall pair each alternate delegate with a delegate at the time each appointment is made.

Added by Acts 2017, 85th Leg., R.S., Ch. 442 (S.B. 21), Sec. 1, eff. June 6, 2017.

Sec. 393.052. VACANCY. (a) An alternate delegate automatically fills a vacancy in the office of the alternate delegate's paired delegate unless the office of the alternate delegate is simultaneously vacated.

(b) Except as provided by Subsection (a), the house that appointed a delegate or alternate delegate shall fill a vacancy in the office of the delegate or alternate delegate as soon as possible after the vacancy occurs.

Added by Acts 2017, 85th Leg., R.S., Ch. 442 (S.B. 21), Sec. 1, eff. June 6, 2017.

Sec. 393.053. RECALL. (a) The house that appointed a delegate or alternate delegate may recall the delegate or alternate delegate.

(b) A vacancy created by the recall of a delegate or alternate delegate shall be filled in the manner provided by Section 393.052.

Added by Acts 2017, 85th Leg., R.S., Ch. 442 (S.B. 21), Sec. 1, eff.

June 6, 2017.

Sec. 393.054. COMPENSATION; REIMBURSEMENT OF EXPENSES.

(a) A delegate or alternate delegate is not entitled to compensation for service as a delegate or alternate delegate.

(b) A delegate or alternate delegate is entitled 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.

Added by Acts 2017, 85th Leg., R.S., Ch. 442 (S.B. 21), Sec. 1, eff. June 6, 2017.

Sec. 393.055. OATH. (a) An individual appointed as a

delegate or alternate delegate must 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 the instructions to delegates or alternate delegates adopted by the Texas Legislature."

(b) Each delegate and alternate delegate must file the executed oath with the secretary of state.

Added by Acts 2017, 85th Leg., R.S., Ch. 442 (S.B. 21), Sec. 1, eff. June 6, 2017.

Sec. 393.056. PROHIBITION ON ACCEPTANCE OF BENEFIT. A

delegate or alternate delegate may not accept a gift, a loan, food or beverages, entertainment, lodging, transportation, or another benefit from a person, including a corporation, nonprofit

organization, or individual, if that person is required to register as a lobbyist under Chapter 305 or under other law.

Added by Acts 2017, 85th Leg., R.S., Ch. 442 (S.B. 21), Sec. 1, eff. June 6, 2017.

SUBCHAPTER C. DUTIES OF DELEGATES AND ALTERNATE DELEGATES

Sec. 393.101. INSTRUCTIONS TO DELEGATES AND ALTERNATE DELEGATES. (a) The legislature by joint resolution shall adopt instructions to the delegates and alternate delegates to govern the actions of those officers at the Article V convention.

(b) The legislature may not adopt 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) The legislature by joint resolution may amend the instructions at any time.

Added by Acts 2017, 85th Leg., R.S., Ch. 442 (S.B. 21), Sec. 1, eff. June 6, 2017.

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

Added by Acts 2017, 85th Leg., R.S., Ch. 442 (S.B. 21), Sec. 1, eff. June 6, 2017.

Sec. 393.103. UNAUTHORIZED VOTE. (a) A delegate or alternate delegate may not cast an unauthorized vote.

(b) Except as provided by Section 393.104, the determination that a vote is an unauthorized vote may only be made by the house that appointed the delegate or alternate delegate who cast the vote.

(c) A vote determined to be an unauthorized vote is invalid.

(d) 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. A vacancy in the office of a delegate or alternate delegate created by the disqualification of the delegate or alternate delegate shall be filled in the manner provided by Section [393.052](#).

(e) The presiding officer of the house that determined that a delegate or alternate delegate has cast an unauthorized vote shall promptly notify the head of the state delegation and the presiding officer of the Article V convention that the delegate or alternate delegate has cast an unauthorized vote and is disqualified to serve as a delegate or alternate delegate.

Added by Acts 2017, 85th Leg., R.S., Ch. 442 (S.B. [21](#)), Sec. 1, eff. June 6, 2017.

Sec. 393.104. OVERSIGHT COMMITTEE. (a) The legislature shall appoint an Article V Oversight Committee at the time delegates and alternate delegates are appointed under Section [393.051](#).

(b) The committee consists of the following 10 members:

- (1) the lieutenant governor;
- (2) the speaker of the house of representatives;
- (3) the chair of the senate state affairs committee;
- (4) the chair of the house state affairs committee;
- (5) three members of the senate appointed by the lieutenant governor; and
- (6) three members of the house of representatives appointed by the speaker of the house of representatives.

(c) The lieutenant governor and the speaker of the house of representatives are joint chairs of the committee.

(d) If the legislature is not convened in regular or special session at any time during which an Article V convention is convened, the members of the committee shall:

- (1) meet at the call of either joint chair at the State Capitol; and
- (2) determine whether a vote cast by a delegate or alternate delegate is an unauthorized vote for the purposes of Section [393.103](#).

(e) A vote cast by a delegate or alternate delegate is an unauthorized vote for the purposes of Section [393.103](#) if seven or more members of the committee determine by committee vote that the vote cast was an unauthorized vote.

(f) The committee is not authorized to take any action when the legislature is convened in regular or special session.

Added by Acts 2017, 85th Leg., R.S., Ch. 442 (S.B. [21](#)), Sec. 1, eff. June 6, 2017.