

- SUBJECT:** Selecting Texas delegates to an Article 5 convention
- COMMITTEE:** State and Federal Power and Responsibility, Select — committee substitute recommended
- VOTE:** 5 ayes — P. King, Workman, C. Anderson, Clardy, Parker
2 nays — Miles, Walle
- WITNESSES:** For — Robert Peery, Arthur Bedford, Paul Hodson, Wes Whisenhunt, and Tamara Colbert, Convention of States Project; Delvis Dutton, State of Georgia; Martin Harry, Texas Convention of States Project; Thomas Lindsay, Texas Public Policy Foundation; (*Registered, but did not testify:* Ilya Shapiro, Cato Institute; Allison Tangeman, Convention of States Project)

Against – None
- BACKGROUND:** Article 5 of the U. S. Constitution requires Congress to call a convention to propose constitutional amendments upon application of the legislatures of two-thirds of the states. Any amendments adopted by an Article 5 convention must be ratified by the legislatures of three-fourths of the states.
- DIGEST:** CSHB 1110 would establish a process for selecting delegates to a convention called under Article 5 of the U.S. Constitution and would establish duties for those delegates.

As soon as possible following the calling of an Article 5 convention by Congress, the Legislature would be required to appoint delegates and alternates to represent Texas at the convention. Delegates and alternates would have to be qualified voters and could not be registered lobbyists or hold an elected federal office.

The Legislature would appoint either the number of delegates allocated to represent Texas or, if no allocation was made, two delegates. The

Legislature would appoint an equal number of alternates and pair each with a delegate. An alternate would automatically fill a vacancy in the office of the alternate's paired delegate, and the Legislature would select a new alternate. A delegate or alternate would not be entitled to compensation but could receive reimbursement for necessary expenses.

The Legislature would be required to adopt instructions to govern the delegates and alternates, who could not be instructed to consider or vote to approve a constitutional amendment that was not authorized by the Legislature in its application to Congress for the convention. Delegates and alternates would take an oath.

A delegate or alternate would be prohibited from casting an unauthorized vote, defined by the bill as a vote contrary to the Legislature's instructions or that exceeded the scope or subject matter of the convention as authorized by the Legislature. A vote determined to be unauthorized would be invalid, and a delegate or alternate who caused an unauthorized vote would be disqualified from further service.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

**SUPPORTERS
SAY:**

CSHB 1110 would provide a structure for how Texas would participate in any convention of states called by Congress under Article 5 of the federal Constitution. The bill would require the Legislature to select delegates and alternates to the convention and would strictly limit their conduct. The Legislature would be the appropriate body to choose delegates who could be counted on to follow Texas voters' instructions on what issues should be presented to a convention.

Even if Texas did not become one of the states to call for a constitutional convention, such a convention still could happen if enough other states took action. The bill would ensure guidelines were in place to select and instruct delegates from Texas.

Those opposed to an Article 5 convention often cite the risk of a “runaway” convention opening up the Constitution to myriad issues. The bill would guard against the possibility of a wide-open convention by banning delegates from voting on issues outside the scope of an application from Texas. Any rogue delegate who cast an unauthorized vote would find that vote invalidated and their status as a delegate revoked.

An Article 5 convention was placed in the U.S. Constitution by the founding fathers as a tool for states to limit federal power. Thirty-four states have called for a convention, although some later rescinded their calls. Some states have requested a specific issue, such as a balanced-budget amendment, while others have requested a set of issues. Most of these issues are not partisan or related to the current administration but are aimed at curbing a federal government that has been extending its authority for decades.

**OPPONENTS
SAY:**

CSHB 1110 would give the Legislature sole control over the selection of delegates to an Article 5 convention instead of sharing control among the three branches of government as other states have done. Other states also have provided for an odd number of delegates to avoid the chance that delegates from a state could cancel each other’s votes.

There is no need for this bill and no need for an Article 5 convention. Such a convention would be an extreme and relatively untested way to amend the constitution. Elections are the best way for Texans to address concerns about the president and Congress.