

Texas Sovereignty Act

HB 384 (C. Bell) and SB 313 (Hall)

Basic Approach

Provide streamlined approach for the Texas legislature to formally declare that specific acts of the federal government are unconstitutional. Creates a standing legislative committee to review federal actions for constitutionality. The full legislature votes on declared unconstitutional acts and the governor reviews. Also modifies Texas Declaratory Judgment statute to enable state judiciary to declare federal acts unconstitutional. Federal actions subject to Texas review are legislation, regulations, executive orders, federal judicial orders or decisions, and treaty enforcement.

Once an act is declared unconstitutional, law enforcement can arrest and prosecute federal agents who attempt enforcement action under the color of declared unconstitutional acts under the Texas penal code, including explicitly, the Texas Official Oppression Act (Texas Penal Code 39.03). While maintaining the ability of local district and county attorneys to prosecute, the attorney general is also given prosecutorial power to prosecute federal agents if a federal act has been declared unconstitutional.

Details

- Explicitly states that this bill does not prohibit a public officer who has taken the oath from interposing to stop acts of the federal government which in the officer's best understanding and judgment, violate the Constitution.
- Includes canons of construction guiding the analysis of the constitutionality of federal acts. The canons urge reliance on the text and structure of the Constitution and in cases of ambiguity, on sources that evidence original intent.

Rationale

Our state and nation are dying because the federal government is violating the Constitution every day in many ways – ***and no one is stopping them***. The feds will never limit their own power. Texans must honor their oaths to defend the Constitution, and stop federal action in Texas that violates the Constitution. This requires the exercise of independent judgment about constitutional meaning, and rejecting the notion that the federal judiciary is the sole or final arbiter of constitutional meaning.

This approach relies completely on Texans and Texas officials to secure the liberty of Texans, and can be implemented immediately. No relying upon, or waiting on other states to secure our liberty.

The Texas Sovereignty Act was filed in the 85th Legislature as HB 2338 and SB 2015, the 86th as HB 1347, and the 87th as HB 1215. The version of HB 2338 that passed out of committee in 2017 is what has been filed for the 88th Legislature.

