



Written by [Peter Rykowski](#) on January 24, 2023

## Texas Sovereignty Act Reintroduced, Would Create Process for Nullifying Unconstitutional Federal Actions

Legislation has been reintroduced in the Texas Legislature that would create a process for nullifying any and all unconstitutional federal actions, regardless of which branch of the federal government they originated in. If enacted, this bill would be one of the strongest and most comprehensive nullification bills in the country.

The legislation — which was also introduced in previous legislatures — is titled the Texas Sovereignty Act and numbered H.B. 384 and S.B. 313. [House Bill No. 384](#) is sponsored by Cecil Bell (R-Magnolia), while [Senate Bill No. 313](#) is sponsored by Senator Bob Hall (R-Edgewood). If enacted, these bills would create a robust and comprehensive process for nullifying all unconstitutional federal laws and policies.



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The bills' preface clearly and correctly explains the proper constitutional balance of power between the federal government and the states, and it notes [Article VI](#), which requires officials “at all levels and in all branches of government” to adhere to the Constitution.

Declaring that the federal government has “willfully violated” the Constitution, the bills declare:

This Act calls on all officials in federal, state, and local government, in all branches and at all levels, to honor their oaths to preserve, protect, and defend the United States Constitution and its ratified amendments against any [unconstitutional] federal action.

### Bill Provisions

If passed, the Texas Sovereignty Act would [create](#) a Joint Legislative Committee on Constitutional Enforcement, which would “review federal actions that challenge the sovereignty of the state and of the people for the purpose of determining if the federal action is unconstitutional.” The bill defines “federal actions” as including federal laws, executive orders, executive-branch regulations, federal-court rulings, and treaties.

The Texas Sovereignty Act would create [specific criteria](#) for determining whether a federal action is unconstitutional, including “consider[ing] the plain reading and reasoning of the text of the United States Constitution and the understood definitions at the time of [its] framing and construction.” Additionally, the committee would be required to examine the statements of the first U.S. Congress and statements by members of the 1787 constitutional convention, among other sources.



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If the committee determines that a federal action is unconstitutional, the Texas Legislature must vote on whether to accept the committee's conclusion. If majorities of both the state House and Senate accept its findings, and if the governor approves the motion, that federal action would be formally declared unconstitutional. If done, it would be legally null in Texas, and it would be illegal to enforce that federal action in any way on the state or local level.

The Texas Sovereignty Act does not end there. The bill would require state courts — rather than relying on case law — to “rely on the plain meaning of” the U.S. Constitution “and any applicable constitutional doctrine as understood by” the founding fathers when hearing cases challenging the constitutionality of federal laws.

## Principle of Nullification

The Texas Sovereignty Act is firmly grounded in the text of the U.S. Constitution. In particular, [Article VI](#) states, “This Constitution, and the Laws of the United States which shall be made in Pursuance thereof ... shall be the supreme Law of the Land.” Article VI also declares that state legislators, executive officials, and judges “shall be bound by Oath or Affirmation, to support this Constitution.”

Additionally, the Constitution delegates only specific, enumerated powers to the federal government. The states, by contrast, retain the vast majority of powers, something James Madison affirms in [The Federalist, No. 45](#). This is further cemented by the [10th Amendment](#), which makes clear that all powers not granted by the Constitution to the federal government are reserved to the states and to the people.

Accordingly, any federal action that violates or contradicts the Constitution cannot be “made in Pursuance thereof” and, thus, is not “the supreme Law of the Land” — and [state officials are duty-bound](#) to nullify those actions.

The Texas Sovereignty Act follows and enforces Article VI and the 10th Amendment by enforcing the U.S. Constitution and nullifying actions that violate it. Additionally, exercising these powers is more important now than ever, considering the extent to which the federal government has overreached. If our leaders adhered consistently to the Constitution, about 80 percent of the federal government would be declared unconstitutional.

The Texas Legislature would be wise to enact the Texas Sovereignty Act (H.B. 384 and S.B. 313). It takes courage to push back against federal usurpations, but with it, state officials can effectively enforce uphold and protect the Constitution.



*Texas residents can contact their legislators in support of the Texas Sovereignty Act (H.B. 384 and S.B. 313) by visiting The John Birch Society's legislative alert [here](#). Everyone can urge their state legislators to enforce the Constitution by nullifying unconstitutional federal laws and edicts by visiting JBS's 50-state alert [here](#).*



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