

By: Peña

H.J.R. No. 146

A JOINT RESOLUTION

1 applying to Congress to call a convention, to propose an amendment
2 to the United States Constitution urging the restoration of free
3 and fair elections.

4 WHEREAS, Our first president of the United States, George
5 Washington, declared: "The basis of our political systems is the
6 right of the people to make and to alter their constitutions of
7 government" (Farewell Address, 1796); and

8 WHEREAS, It was the clear intention of the framers of the
9 Constitution of the United States that the Congress of the United
10 States should be "dependent on the people alone" (James Madison,
11 Federalist No. 52) and that dependency has evolved from a
12 dependency on the people alone to a dependency on those who
13 contribute lavishly and spend excessively in election campaigns or
14 via third-party groups; and

15 WHEREAS, The Tenth Amendment to the United States
16 Constitution declares: "The powers not delegated to the United
17 States by the Constitution, nor prohibited by it to the States, are
18 reserved to the States respectively, or to the people," which,
19 until 2010, had consistently been interpreted as allowing the
20 several states to establish their own laws governing the financing
21 of elections; and

22 WHEREAS, Since 1905, with the passage of the Terrell Election
23 Law and continuing for the next 105 years, the Texas Legislature has
24 consistently exercised its legal authority to mitigate corrupting

1 influences in its electoral process by establishing laws governing
2 the financing of elections; and

3 WHEREAS, The United States Supreme Court removed
4 restrictions on independent and aggregate spending, effectively
5 denying the several states the ability to establish their own laws
6 governing the financing of elections and the removal of those
7 restrictions has resulted in the undue influence of powerful
8 economic forces, which have supplanted the will of the people by
9 undermining their ability to choose their political leadership and
10 determine the fate of their states and the nation as a whole; and

11 WHEREAS, Article V of the United States Constitution included
12 the convention method of proposing federal constitutional
13 amendments at the urging of the delegates to the 1787
14 Constitutional Convention, held in Philadelphia, so that the
15 several states could protect themselves, and their citizens, from
16 encroachments of the federal government and preserve our Republic
17 in the event that the federal government became unresponsive to the
18 will of the American people; and

19 WHEREAS, The nation's 34th president, Dwight D. Eisenhower,
20 affirmed: "Through their state legislatures and without regard to
21 the federal government, the people can demand a convention to
22 propose amendments that can and will reverse any trends they see as
23 fatal to true representative government."; and

24 WHEREAS, Article V of the United States Constitution requires
25 Congress to call a convention for proposing amendments to the
26 constitution on the application of two-thirds of the legislatures
27 of the several states, an assurance made abundantly clear by

1 Alexander Hamilton in Federalist No. 85, who noted that: "The words
2 of this article are peremptory. The Congress 'shall call a
3 convention.' Nothing in this particular is left to the discretion
4 of that body. And of consequence, all the declamation about the
5 disinclination to a change vanishes in air."; and

6 WHEREAS, The legislature perceives the need for an amendments
7 convention in order to restore free and fair elections in America by
8 reducing the corrupting influence of money in politics and desires
9 that said convention be so limited; and

10 WHEREAS, The 84th Texas Legislature intends that this joint
11 resolution be a continuing application aggregated together with
12 similar applications calling for a convention on this subject, such
13 as those approved by Vermont legislators (2014 Vermont R454, Joint
14 Resolution Senate No. 27, 160 Congressional Record S4331,
15 POM-284), by California legislators (2014 California Resolution
16 Chapter 77, Assembly Joint Resolution No. 1, 160 Congressional
17 Record S5507, POM-320) and by Illinois legislators (2014 Illinois
18 Senate Joint Resolution No. 42) and introduced by Montana
19 legislators in 2015 (House Joint Resolution No. 3), until such time
20 as the legislatures of two-thirds of the several states have
21 applied for such a convention and that convention has actually been
22 called by Congress; now, therefore, be it

23 RESOLVED, That the Texas delegates to said convention be
24 composed equally of individuals currently elected to state and
25 local office, or be selected by election, in each congressional
26 district in Texas, for the purpose of serving as Texas delegates,
27 though all individuals elected or appointed to federal office now,

1 or in the past, be prohibited from serving as Texas delegates to
2 such a convention; and, be it further

3 RESOLVED, That the legislature intends to retain the ability
4 to restrict or expand the authority of its Texas delegates within
5 the limits herein expressed; and, be it further

6 RESOLVED, That the 84th Texas Legislature apply to Congress
7 to call a convention under Article V of the United States
8 Constitution for the limited purpose of proposing an amendment to
9 the constitution to urge the restoration of free and fair
10 elections; and, be it further

11 RESOLVED, That, unless rescinded by a succeeding
12 legislature, this application by the 84th Texas Legislature
13 constitutes a continuing application in accordance with Article V
14 of the United States Constitution until at least two-thirds of the
15 legislatures of the several states have applied to Congress to call
16 a convention for the limited purpose of proposing an amendment to
17 the constitution to urge the restoration of free and fair
18 elections; and, be it further

19 RESOLVED, That the Texas secretary of state forward official
20 copies of this resolution to the president of the United States, to
21 the speaker of the House of Representatives and the president of the
22 Senate of the Congress of the United States, and to all members of
23 the Texas delegation to Congress with the request that this
24 resolution be officially entered in the Congressional Record as an
25 application to Congress for a convention under Article V of the
26 United States Constitution for the limited purpose of proposing an
27 amendment to the constitution to urge the restoration of free and

1 fair elections; and, be it further

2 RESOLVED, That the Texas secretary of state forward official
3 copies of this resolution to the secretaries of state and to the
4 presiding officers of the legislatures of the several states with
5 the request that they join this state in applying to Congress for a
6 convention under Article V of the United States Constitution for
7 the limited purpose of proposing an amendment to the constitution
8 to urge the restoration of free and fair elections.