

# **The Texas Constitution**

## **Two Constitutions: A Comparison**

In many ways, the U.S. and Texas Constitutions are similar documents. They both embody the principles of representative democratic government, in which sovereignty emanates from the people. Both contain a bill of rights that protects civil liberties from government infringement... both provide for a bicameral legislature with a House of Representatives and a Senate... both seek a system of checks and balances and separation of powers between legislative, executive, and judicial branches of government... and both divide government power between upper and lower levels of government. In the U.S. Constitution the states are subordinate to the federal government, and in the Texas Constitution the counties are subordinate to the state government. But beyond these general features, the two constitutions could not be more different. These differences result from the fact that the two documents arose out of very different historical circumstances and for radically opposite complaints with the document each was meant to replace. With the U.S. Constitution, the problem with the earlier Articles of Confederation was that government was too decentralized and not powerful enough. The U.S. Constitution was designed to overcome these weaknesses and offer a degree of centralization and increased government power. But this is precisely what the Texas Constitution was designed to reverse and avoid. The framers of the U.S. Constitution wanted to enable government action; the framers of the Texas Constitution wanted to paralyze government action.

### **Length and Language**

Whereas the U.S. Constitution is brief and vague and thus allows the federal government to broadly interpret the constitution and claim implied powers to meet specific public policy challenges, the Texas Constitution is long, detailed, and contains many statutory provisions that specify precisely what the government is allowed to do...or not do. When public policy challenges arise, Texas' public officials do not have the option of interpreting the constitution in a manner that would allow them to deviate from the specific language of the document. Instead, public officials must amend the constitution if they wish to act outside of the detailed language set forth in the basic law.

## **The Executive Branch**

Whereas the U.S. Constitution creates a unitary executive that concentrates executive power in the president, the Texas Constitution creates a plural executive that disperses executive power across multiple elected offices, thereby fragmenting the executive branch of government and preventing power over the executive branch from concentrating in any one individual or office. One point of interest, however, concerns the chief executive's power to veto bills passed by the legislature. The line-item veto in the Texas Constitution allows the governor to veto specific items contained within appropriations bills passed by the legislature. At the federal level, however, the U.S. Supreme Court has ruled the line-item veto unconstitutional, arguing that it violates the separation of powers between the legislative and executive branches. The fact that the Texas Constitution provides for a line-item veto demonstrates an affinity for limited government and limited spending, even if it comes at a cost of granting power to the governor in a way the rest of the constitution is designed to avoid.

## **The Legislative Branch**

Legislatively, there is very little in the U.S. Constitution that limits the tax and spending policies which U.S. Representatives and Senators may write into law. In Texas, however, detailed restrictions on tax and spending policies significantly restrict what state legislators are actually allowed to write into law. For example, legislators are constitutionally forbidden from implementing a tax on personal income or allowing the state government to go into debt, and the constitution mandates that specific percentages of the state budget be spent on specific policy areas, most notably for public schools and universities as stipulated in Article 7. Furthermore, the U.S. Congress is a full-time, professional legislature that meets annually; members of Congress make their living as elected officials. But the Texas legislature is a part-time, non-professional legislature that meets every two years for 140-day sessions. The constitutionally mandated salary of \$7,200 per year compels members of the Texas legislature to earn a living outside politics.

## **The Judicial Branch**

Judicially, the contrasts between federal government and state government could not be starker. The federal judiciary is simple and orderly, with three levels of courts – district courts, appeals courts, and the U.S. Supreme Court, the final word on all statutory and constitutional matters. All federal judges are appointed, not elected, and Supreme Court justices are appointed for life, with the specific intent of removing the judiciary from the pressures of electoral politics, allowing protection of minority interests in a government system designed to allow majority rule. In contrast, the Texas judiciary is complicated and confusing. The Texas Constitution establishes six types of courts, some of which have concurrent or overlapping jurisdictions. Compared to the federal system's one Supreme Court, the Texas Constitution establishes two high courts, one to hear civil cases and one to adjudicate criminal cases. Plus, in the tradition of Jacksonian Democracy, all Texas judges must contend with electoral politics and win their positions in partisan elections.

## **Amendment Process**

A final difference of note between the U.S. and Texas Constitutions concerns the constitutional amendment process. The U.S. Constitution is exceedingly difficult to amend, but the document's structure makes frequent amendment unnecessary. The U.S. Constitution has only been amended twenty-seven times and ten of those amendments (the Bill of Rights) were part of the founding document. In contrast, the Texas Constitution is relatively easy to amend. While it is somewhat difficult to get a constitutional amendment proposed (it requires a two-thirds majority in both houses of the legislature), once a proposal is approved by the legislature, it passes relatively simply. The governor cannot veto a proposal to amend the constitution and the proposal is implemented if approved by a simple majority of the popular vote. Because constitutional amendments are often needed to change overly-detailed public policies, amendments are frequent, with the total number of amendments to the Texas Constitution now approaching 500.

## **Amending the Texas Constitution**

The Texas Constitution has been amended numerous times over its long history. While some amendments have been trivial, many others have produced major changes to the document.

This activity tests your knowledge of the constitutional amendment process in Texas.

### **Interactive Activity: Amending the Texas Constitution**

Reviews the constitutional amendment process in Texas. Covers the logistics of putting proposed amendments on the ballot, influence of interest groups on the amendment process, and low voter turnout for ratifying constitutional amendments.

### **Comparison of U.S and Texas Constitutions**

The Texas Constitution derives its core governing principle from the U.S. Constitution. Both embody representative democracy, popular sovereignty, limited government, and separation of powers. But, in many ways, the documents have major differences. This activity compares and contrasts the U.S. and Texas Constitutions.

### **Interactive Activity: Comparison of U.S and Texas Constitutions**

Compares and contrasts the U.S. and Texas Constitutions. Examines each constitution in regards to style, length, Bill of Rights, legislative structure, executive power, judicial system, amendment process, number of amendments, and public policy provisions.

## **Additional Resources**

### **Websites**

#### **[The Constitution of the United States](http://www.archives.gov/exhibits/charters/constitution.html)**

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The National Archives and Records Administration's website showcases digital scans and text versions of the U.S. Constitution, the Bill of Rights, and all twenty-seven amendments.