



Written by [Peter Rykowski](#) on February 17, 2023

Tennessee Bills Would Create Process for Nullifying Unconstitutional Federal Actions

Members of the Tennessee General Assembly are seeking to enact one of the strongest and most comprehensive nullification bills in the country.

House Bill 726 ([H.B. 726](#)) and Senate Bill 1092 ([S.B. 1092](#)), titled the “Restoring State Sovereignty Through Nullification Act,” are identical. They are sponsored by Representative Bud Hulse (R-Kingsport) and Senator Janice Bowling (R-Tullahoma), respectively.

The bills’ preface clearly and correctly explains the proper constitutional separation of powers (both horizontally and vertically), condemns the baseless elevation of court rulings, regulations, and executive orders to the level of “laws,” and expounds on the principle of nullification and the duty of “every constitutional officeholder, whether local, state, or federal,” to adhere to the Constitution.

H.B 726. and S.B. 1092 then declare:

SECTION 6. It is declared that federal laws, federal executive actions, and federal court opinions must comply with the jurisdictional limitations of the United States Constitution. It is further declared that any federal action outside the enumerated powers set forth in the United States Constitution are in violation of the peace and safety of the people of this state, and therefore, said acts are declared void and must be resisted.

SECTION 7. The proper manner of resistance is a state action of nullification of the federal action.

If enacted, H.B. 726 and S.B. 1092 would create formal processes for reviewing the constitutionality of federal actions and rejecting those found unconstitutional. In addition to expressly authorizing the governor, General Assembly, and state courts to nullify unconstitutional federal laws, it creates processes for counties, municipalities, and registered voters to force the General Assembly to introduce and consider bills of nullification.

Under H.B. 726 and S.B. 1092, the scope of which federal actions to review is comprehensive. It defines “federal action” as including “federal law; a federal agency rule, policy, or standard; an executive order of the president of the United States; an order or decision of a federal court; and the making or enforcing of a treaty.”



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Additionally, the bills expressly state that “any federal action, whether said action is past, present, or future,” can be nullified using the outlined processes.

When examining the constitutionality of federal actions, H.B. 726 and S.B. 1092 require considering “the plain reading and reasoning of the text of the United States Constitution and the understood definitions at the time of the framing and construction of the Constitution by the framers.”

If a federal action is found unconstitutional under H.B. 726 and S.B. 1092, that action would be prohibited from being enforced in Tennessee by any state or local government agency, and no funds may be used to enforce it.

H.B. 726 and S.B. 1092 are a good example of the [principle of nullification](#), that when the federal government violates or ignores the Constitution, states and localities have authority — and a duty — to enforce the Constitution. As *The New American* [reported](#) last month, similar legislation has been introduced in Texas, and [multiple](#) other nullification bills have been introduced in states across the country.

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.” Unfortunately, in the last several decades, thousands of unconstitutional laws on the federal, state, and even local levels have been created and enforced.

H.B. 726 and S.B. 1092 follow and enforce both of these important constitutional provisions (Article VI and the 10th Amendment) by nullifying unconstitutional federal actions and by restoring state sovereignty. 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, 80 percent of the federal government would be declared unconstitutional, and the situation will likely get worse under the Biden administration.

The Tennessee General Assembly would be wise to enact H.B. 726 and S.B. 1092 — and to use it after enactment. It takes courage to push back against federal usurpations, but with it, state officials can effectively enforce uphold and protect the Constitution.



Tennessee residents can contact their legislators in support of the Restoring State Sovereignty Through Nullification Act (H.B. 726 and S.B. 1092) 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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