

## Texas Lawsuit Challenges Legality of Federal Spending Bill Over Proxy Quorum Use



The state of Texas has filed a lawsuit claiming that the 2023 federal spending bill did not become law because it passed without an in-person quorum of the U.S. House of Representatives as required by the Constitution. The lawsuit, filed on 15 February, alleges that the Constitution requires the physical presence of House members for a quorum and that proxy votes cannot be counted. The suit cites the Constitution's quorum clause, which says, "Each House shall be the judge of the elections, returns, and qualifications of its members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day and may be authorized to compel the attendance of absent members, in such manner, and under such penalties, as each House may provide."

The House accepted Senate amendments to the Consolidated Appropriations Act of 2023 on 23 December 2022, when fewer than half its members were present. The vote on the \$1.7 trillion bill was 225-201 when proxy votes were counted. However, the bill did not pass the House of Representatives without an in-person quorum, and the suit alleges that as a result, President Joe Biden's "signature was a nullity."

Texas Attorney General Ken Paxton announced the suit in a press release. "Our founders would be turning over in their graves if they could see how former Speaker Nancy Pelosi used proxy voting to upend our constitutional system," he said. Several parts of the bill affect Texas, according to the lawsuit. They include an amendment to Title VII of the Civil Rights Act that subjects the state to lawsuits if they fail to make reasonable accommodations for pregnancy and childbirth and spending on a pilot program that connects immigrants illegally in the United States with social services. The program allegedly causes Texas and its local governments to spend money on the immigrants they would not otherwise spend.

Law.com reports that Kevin McCarthy, then the minority leader of the House of Representatives, filed a similar suit last year. A federal judge and the U.S. Court of Appeals for the District of Columbia Circuit rejected the challenge, and the U.S. Supreme Court denied cert. The D.C. Circuit found that McCarthy's suit was barred by the speech or debate clause.

The suit may face a similar fate, as legal experts have questioned its viability. Some experts have argued that the Constitution does not require an in-person quorum and that proxy voting is legitimate. Others have noted that courts are generally reluctant to get involved in disputes over legislative procedures.

Regardless of the lawsuit's outcome, the controversy over the 2023 federal spending bill underscores the importance of adhering to constitutional procedures and ensuring that legislative actions follow the law. The case may also have implications for future legislation as lawmakers and legal experts grapple with the use of proxy voting and its impact on the democratic process.

### REFERENCES:

**Texas suit alleges federal spending bill isn't law because of proxy quorum**