

Constitutionalism

- **Constitutions have multiple functions.**
 - Define the principles of a society
 - State the political objectives of a society
 - Define the relationship between the government and the governed
 - Set limits on what each group can do
 - Structure conflict through institutional arrangements

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Constitutionalism

- **A Well-Constructed Constitution Should**
 - Be brief
 - Provide general principles rather than specific legislative provisions
 - Create a basic government framework
 - 7,000 words (U.S.) and 90,000 words (Texas)
 - Grant authority to specific institutions
 - Provide for orderly change
 - U.S. Constitution amended twenty-seven times
 - Texas Constitution amended 474 times

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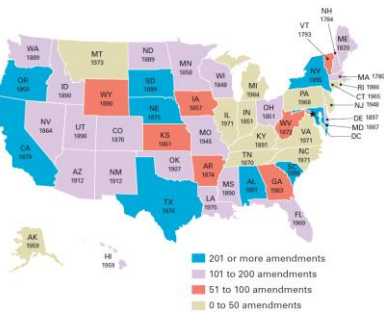


FIGURE 2-1 FREQUENCY OF AMENDMENTS: TEXAS CONSTITUTION COMPARED WITH OTHER STATE CONSTITUTIONS, JANUARY 2011
 This map shows the date that each state's current constitution was ratified and also the number of amendments that have been added to the constitution since it was ratified. Texas is one of only nine states that have added more than 200 amendments to its state constitution.
 Source: Based on data found in *The Book of the States, 2011 Edition*, vol. 43, Table 1.1 Lexington, KY: The Council of State Governments, 2010.

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The Constitutional Legacy

- **The Constitution of Coahuila y Tejas (1827)**
 - Texas and Coahuila become a single state.
 - Unicameral legislature
 - Texas had only two of the twelve representatives.
 - Catholicism was the official state religion.
 - Mexican laws influenced Texas property and land laws, water rights, community property laws, and local control of schools.

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The Constitutional Legacy

- **The Constitution of the Republic of Texas (1836)**
 - Fight for independence
 - Declare independence and create a constitution
 - Independence won at the Battle of San Jacinto
 - Constitution influenced by U.S. Constitution and those of other southern states
 - A bicameral legislature and an elected president

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The Constitutional Legacy

- **The Constitution of 1845**
 - Annexation to the United States
 - Texas becomes the twenty-eighth state and is allowed to be a slave state.
 - Many high offices appointed by the governor or legislature
 - Became elected offices after 1850 amendment providing for a plural executive branch
 - Included a number of individual protections
 - Served as a model for the 1876 Constitution

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The Constitutional Legacy

- **The Civil War Constitution (1861)**
 - Texas secedes from the United States in 1861 and joins the Confederate States of America.
 - Few changes to the constitution
 - Public officials had to pledge support for the Confederate Constitution.
 - Greater protections given to slavery
 - Influence of Civil War Era
 - Origins of Democratic Party factionalism
 - Legacy of states' rights

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The Constitutional Legacy

- **The Constitution of 1866**
 - Texas subject to national control
 - Presidential Reconstruction (Lincoln/Johnson)
 - Favored quick reintegration of the South
 - Abolish slavery
 - Repudiate 1861 Secession Ordinance
 - 1866 Constitution ends slavery but places limits on African American rights.
 - Congressional Reconstruction
 - 1866 Constitution is invalidated by Radical Republicans.
 - Adopted the Fourteenth and Fifteenth Amendments to U.S. Constitution

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The Constitutional Legacy

- **The Constitution of Reconstruction (1869)**
 - New terms to gain readmission to Union are included in the 1869 Constitution.
 - Voting rights for African Americans
 - Centralization of state powers
 - Increased powers of the governor
 - Weakened local governments

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Reasons for the 1876 Constitution

- 1869 Constitution angered Texans who felt
 - it was forced upon them by during Reconstruction;
 - It created a powerful governor and expensive programs
- 1870s political movement that embraced restrictive constitutionalism

The Constitutional Legacy

- The Constitution of 1876: Retrenchment and Reform
 - Delegates to the 1875 Convention
 - Seventy-five of the original ninety were Democrats.
 - Only four were native Texans.
 - One-half (the Grange) represented agriculture.
 - Reaction against Reconstruction Era abuses
 - Restricted state powers, expanded local powers, and placed limits on taxation

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- Of 90 delegates:
 - 76 Democrats
 - 14 Republican
 - 6 African American; 1 dropped out
 - 38 member of Grange, a farmers organization
 - Only 4 native Texans

Weaknesses and Criticisms of the Constitution of 1876

- Excessive Details
 - Restricts state and local governments
 - Has obsolete and contradictory language
 - 474 amendments due to changing needs
- The Amendment Process
 - Texas ranks fourth with 474 amendments through 2011.
 - Amendments needed for government to adapt to social, economic, and political changes

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Constitutional Change and Adaptation

- Amendments
 - A proposed constitutional amendment is passed by a two-thirds vote in both houses of legislature.
 - The proposed amendment is submitted to the voters for their approval by majority vote.
 - Texas lacks a statewide initiative or referendum process.

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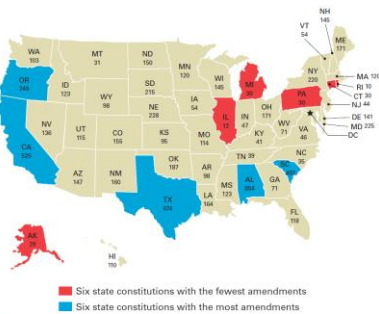


FIGURE 2-2 STATE CONSTITUTIONS WITH THE MOST AND FEWEST AMENDMENTS, 2011
 This map highlights the states whose constitutions have had the most and fewest amendments adopted as of 2011. Texas ranks fourth behind Alabama, California and South Carolina.
 Source: Based on information in *The Book of States, 2011 Edition*, Volume 43, Sievingen, K. "The Council of State Governments, 2011."
 *The number shown in each state is the number of amendments that have been added to the state constitution as of 2011.
 **The Texas Constitution was amended in November 2011 when voters approved eleven of ten amendments.
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Constitutional Change and Adaptation

- **Constitutional Convention**
 - Can be called by the legislature with voter approval
 - Delegates and terms approved by the voters
 - Revised constitution subject to voter approval

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Constitutional Change and Adaptation

- **The Constitutional Reform Efforts of 1971 to 1975**
 - **1974 Convention**
 - Three votes short of approval for proposal
 - **1975 Legislative Session**
 - Presented to voters as eight separate amendments
 - Rejected by voters in November 1975

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FINAL DAYS OF THE 1974 CONVENTION.
After three years of preparation and deliberations, the proposed constitution of 1974 failed by three votes in the final hectic session of the constitutional convention, when the gallery was filled with interested onlookers, including many representatives of labor and other interest groups.

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