

By: Menéndez, Eckhardt

S.B. No. 45

A BILL TO BE ENTITLED

AN ACT

relating to the Texas Redistricting Commission.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 42.032, Election Code, is amended to read as follows:

Sec. 42.032. REDISTRICTING: BOUNDARY CHANGES. If changes in county election precinct boundaries are necessary to give effect to a redistricting plan under Article III, Section 28a [28], of the Texas Constitution, each commissioners court shall order the changes before October 1 of the year in which the redistricting is done.

SECTION 2. The heading to Title 5, Government Code, is amended to read as follows:

TITLE 5. OPEN GOVERNMENT; ETHICS; REDISTRICTING

SECTION 3. Title 5, Government Code, is amended by adding Subtitle C to read as follows:

SUBTITLE C. REDISTRICTING

CHAPTER 581. TEXAS REDISTRICTING COMMISSION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 581.001. DEFINITIONS. In this chapter:

(1) "Census year," "commission," and "statewide primary election" have the meanings assigned by Section 28b(a), Article III, Texas Constitution.

(2) "Immediate family member" means a person's spouse,

1 parent, child, sibling, in-law, or other individual with whom the
2 person has a bona fide family relationship established through
3 blood or legal relation.

4 Sec. 581.002. COMPUTATION OF TIME. For purposes of this
5 chapter, a day means a calendar day, except that if the final day of
6 a period within which an action may or must be performed is a
7 Saturday, Sunday, national holiday, or state holiday, the period is
8 extended to the next day that is not a Saturday, Sunday, or holiday.

9 Sec. 581.003. RETALIATION FOR ATTENDING COMMISSION MEETING
10 PROHIBITED. Notwithstanding any other law, an employer may not
11 discharge, threaten to discharge, intimidate, coerce, or retaliate
12 against an employee because of the employee's attendance or
13 scheduled attendance at any meeting of the commission.

14 SUBCHAPTER B. SELECTION OF COMMISSION MEMBERS

15 Sec. 581.051. APPLICATIONS. (a) Not later than August 15
16 of each year preceding a census year, the state auditor shall
17 initiate an application process for commission members.

18 (b) The process must be open to all registered voters of
19 this state and promote a diverse and qualified applicant pool.

20 Sec. 581.052. CONFLICTS OF INTEREST. (a) The state auditor
21 shall remove an applicant with a conflict of interest from the
22 applicant pool, including an applicant:

23 (1) who at any point during the 10 years preceding the
24 application date:

25 (A) was appointed or elected to, or was a
26 candidate for, federal or state office;

27 (B) served as an officer, employee, or paid

1 consultant of a political party or of the campaign committee of a
2 candidate for elective federal or state office;

3 (C) served as an elected or appointed member of a
4 political party's executive committee;

5 (D) was a registered lobbyist;

6 (E) served as a paid staff member for Congress or
7 the legislature; or

8 (F) contributed at least \$2,000 or the amount
9 provided by Subsection (b) to any congressional, state, or local
10 candidate for elective public office in any year;

11 (2) with an immediate family member who would be
12 disqualified as an applicant under Subdivision (1); or

13 (3) who is an employee of, a consultant to, party to a
14 contract with, or an immediate family member of the governor, a
15 member of the legislature, or a member of Congress.

16 (b) Beginning in 2039, on January 1 of each year ending in
17 the numeral 9, the contribution amount prescribed by Subsection
18 (a)(1)(F) is increased or decreased by an amount equal to the amount
19 prescribed by that paragraph on December 31 of the preceding year
20 multiplied by the percentage increase or decrease during the
21 preceding decade in the Consumer Price Index for All Urban
22 Consumers (CPI-U), U.S. City Average, as published by the United
23 States Bureau of Labor Statistics or its successor in function.

24 Sec. 581.053. SELECTION OF APPLICANT SUBPOOLS. (a) After
25 removing individuals with conflicts of interest from the applicant
26 pool under Section 581.052, the state auditor shall, not later than
27 March 15 of each census year, publicize the names of individuals in

1 the applicant pool.

2 (b) From the applicant pool described by Subsection (a), the
3 state auditor shall select:

4 (1) a majority subpool consisting of 20 of the most
5 qualified applicants who would qualify as majority party members
6 under Section 28b(e)(1), Article III, Texas Constitution;

7 (2) a minority subpool consisting of 20 of the most
8 qualified applicants who would qualify as minority party members
9 under Section 28b(e)(2), Article III, Texas Constitution; and

10 (3) an independent subpool consisting of 20 of the
11 most qualified applicants who would qualify as independent members
12 under Section 28b(e)(3), Article III, Texas Constitution.

13 (c) The state auditor shall select the members of the
14 applicant subpools based on relevant analytical skills, ability to
15 be impartial, and appreciation for this state's diverse
16 demographics and geography.

17 (d) Before drawing the members of the commission under
18 Section 581.054, the state auditor may not communicate with:

19 (1) a member, or a representative of a member, of the
20 senate, the house of representatives, or Congress about any matter
21 related to the selection process; or

22 (2) a member of the applicant pool, other than to
23 notify each member of the pool in writing whether the member was
24 selected for an applicant subpool.

25 Sec. 581.054. DRAWING TO SELECT FIRST EIGHT COMMISSION
26 MEMBERS. Not later than July 5 of each census year, the state
27 auditor shall select the first eight members of the commission by

1 randomly drawing:

2 (1) three applicants from the majority subpool;

3 (2) three applicants from the minority subpool; and

4 (3) two applicants from the independent subpool.

5 Sec. 581.055. APPOINTMENT OF SECOND SIX COMMISSION MEMBERS.

6 (a) Not later than August 15 of each census year, the eight
7 commission members selected under Section 581.054 shall review the
8 remaining applicants in each subpool and appoint to the commission:

9 (1) two remaining applicants from the majority
10 subpool;

11 (2) two remaining applicants from the minority
12 subpool; and

13 (3) two remaining applicants from the independent
14 subpool.

15 (b) An appointment under Subsection (a) must be approved by
16 at least five affirmative votes of commission members selected
17 under Section 581.054, including at least two votes of commission
18 members drawn from the majority subpool, at least two votes of
19 commission members drawn from the minority subpool, and at least
20 one vote of a commission member drawn from the independent subpool.

21 (c) In making appointments under Subsection (a), the
22 commission members shall ensure that the commission reflects this
23 state's diversity, including racial, ethnic, geographic, and
24 gender diversity. However, the legislature does not intend that
25 formulas or specific ratios be applied for this purpose.

26 (d) Appointments under Subsection (a) shall also be made
27 based on relevant analytical skills and the ability to be

1 impartial.

2 SUBCHAPTER C. ORGANIZATION OF COMMISSION

3 Sec. 581.101. OFFICERS. The commission shall select one
4 member as chair and one member as vice chair. The chair and vice
5 chair may not both be majority party members, minority party
6 members, or independent members as described by Section 28b(e),
7 Article III, Texas Constitution.

8 Sec. 581.102. REMOVAL OF COMMISSION MEMBER. (a) After
9 having been served written notice and provided with an opportunity
10 for a response, a commission member may be removed by the governor
11 with the concurrence of two-thirds of the members of the senate for
12 substantial neglect of duty, gross misconduct in office, or
13 inability to discharge the duties of office.

14 (b) A commission member removed for substantial neglect of
15 duty or gross misconduct in office may be referred to the attorney
16 general for criminal investigation or to an appropriate
17 administrative agency for investigation.

18 Sec. 581.103. VACANCY. (a) A vacancy on the commission
19 that occurs before December 31 of a year ending in the numeral 2
20 shall be filled, not later than the 30th day after the date the
21 vacancy occurs, by appointment by the commission of a remaining
22 applicant from the same applicant subpool as the vacating member.

23 (b) A vacancy on the commission that occurs on or after
24 December 31 of a year ending in the numeral 2 shall be filled, not
25 later than the 90th day after the date the vacancy occurs, by
26 appointment by the commission of a remaining applicant from the
27 same applicant subpool as the vacating member.

1 (c) If a vacancy on the commission occurs and no applicant
2 from the same applicant subpool as the vacating member is available
3 for appointment to the commission, the state auditor shall solicit
4 and select an appropriate number of new applicants for the
5 applicable subpool using, to the extent practicable, the procedures
6 provided by Sections 581.051, 581.052, and 581.053(a)-(c) but
7 disregarding the deadlines provided by those sections. The
8 commission shall fill the vacancy as soon as practicable by
9 appointment of one of the new applicants described by this
10 subsection.

11 SUBCHAPTER D. COMMISSION POWERS AND DUTIES

12 Sec. 581.151. OPEN MEETINGS. (a) The commission is a
13 governmental body for purposes of Chapter 551.

14 (b) Notwithstanding Chapter 551, the secretary of state
15 must post notice on the Internet of a meeting of the commission for
16 at least:

17 (1) 14 days before the date of a meeting, other than a
18 meeting described by Subdivision (2); or

19 (2) three days before the date of a meeting held in
20 August of a year following a census year.

21 (c) Except in a closed meeting authorized by Subchapter D,
22 Chapter 551, a member or employee of the commission may not
23 communicate with or knowingly receive communications about a
24 redistricting matter from anyone outside of an open meeting.

25 Sec. 581.152. PUBLIC INFORMATION. (a) The commission is a
26 governmental body for purposes of Chapter 552.

27 (b) The commission shall post information relating to

1 redistricting and all data considered by the commission in a manner
2 that ensures immediate and widespread public access.

3 Sec. 581.153. EMPLOYEES AND CONTRACTORS. (a) The
4 commission may hire employees and hire or contract with legal
5 counsel and consultants as needed in the manner provided by this
6 section.

7 (b) The commission must make hiring, removal, or
8 contracting decisions for employees, legal counsel, and
9 consultants by the affirmative vote of at least nine members,
10 including at least three majority party members, at least three
11 minority party members, and at least three independent members as
12 described by Section 28b(e), Article III, Texas Constitution.

13 (c) The commission shall ensure that at least one of the
14 legal counsel hired by the commission has demonstrated extensive
15 experience and expertise in implementing and enforcing the Voting
16 Rights Act of 1965 (52 U.S.C. Section 10101 et seq.).

17 (d) The commission shall establish for individuals
18 described by Subsection (a):

- 19 (1) clear criteria for hiring and removal;
20 (2) communication protocols; and
21 (3) a code of conduct.

22 (e) To the extent practicable, the commission shall avoid
23 selecting employees, legal counsel, or consultants who would be
24 disqualified from commission membership because of a conflict of
25 interest described by Section 581.052(a).

26 Sec. 581.154. PUBLIC OUTREACH. (a) The commission shall
27 establish and implement an open hearing process for public input

1 and deliberation that is subject to public notice and promoted
2 through a thorough outreach program to solicit broad public
3 participation in the redistricting public review process.

4 (b) The hearing process must include hearings to receive
5 public input before the commission draws any maps and hearings
6 following the drawing and display of any commission maps. The
7 commission shall hold at least one hearing in each senate district.
8 In addition, the commission shall supplement hearings with other
9 appropriate activities to further increase opportunities for the
10 public to observe and participate in the review process. The
11 commission shall broadcast live audio and video of each hearing on
12 the commission's Internet website or using a comparable means of
13 communicating with the public. The commission shall provide public
14 access to recorded audio and video of each hearing on the
15 commission's Internet website or using a comparable means of
16 communicating with the public for at least 10 years following the
17 hearing.

18 (c) The commission shall display maps for public comment in
19 a manner designed to achieve the widest public access reasonably
20 possible.

21 (d) The commission shall publicly display preliminary maps
22 for congressional, senate, and house of representatives districts
23 not later than July 1 of each year following a census year and shall
24 accept public comment for at least 14 days after the date the
25 preliminary maps are first publicly displayed. The commission may
26 not display any other maps for public comment during that 14-day
27 period.

1 (e) The commission shall publicly display any subsequent
2 version of a preliminary map for at least seven days and shall
3 accept public comment for at least seven days after the date the
4 subsequent version is first publicly displayed.

5 (f) The commission shall publicly display a final map for at
6 least three days and shall accept public comment for at least three
7 days after the date the final version is first publicly displayed.

8 (g) The commission shall maintain an Internet website or
9 comparable means of communicating with the public through which any
10 resident of this state may submit a proposed map, written comments,
11 or both, without attending a commission hearing.

12 Sec. 581.155. PROCUREMENT AND CONTRACTING. The commission,
13 with fiscal oversight from the comptroller, has procurement and
14 contracting authority.

15 SUBCHAPTER E. ADMINISTRATIVE SUPPORT AND OTHER RESOURCES

16 Sec. 581.201. ADMINISTRATIVE SUPPORT BY STATE AUDITOR.
17 Following the appointment of new commission members in each census
18 year, the state auditor shall provide administrative support to the
19 commission until the commission's staff and office are fully
20 functional.

21 Sec. 581.202. COMPUTER RESOURCES. The legislature shall
22 ensure that a complete and accurate computerized database is
23 available for redistricting and that procedures are in place to
24 provide the public with ready access to redistricting data and
25 computer software for drawing maps. The legislature shall
26 coordinate these efforts with the commission from the time the
27 commission is formed until the commission dissolves.

1 Sec. 581.203. PER DIEM AND EXPENSES. (a) A commission
2 member is entitled to a per diem of \$300 or the amount provided by
3 Subsection (b) for each day the member is engaged in commission
4 business.

5 (b) Beginning in 2040, on January 1 of each census year the
6 per diem amount prescribed by Subsection (a) is increased or
7 decreased by an amount equal to the amount prescribed by that
8 subsection on December 31 of the preceding year multiplied by the
9 percentage increase or decrease during the preceding decade in the
10 Consumer Price Index for All Urban Consumers (CPI-U), U.S. City
11 Average, as published by the United States Bureau of Labor
12 Statistics or its successor in function.

13 (c) A commission member is eligible for reimbursement of
14 expenses incurred in connection with the member's performance of
15 duties under this chapter and under Sections 28a, 28b, and 28c,
16 Article III, Texas Constitution.

17 (d) For purposes of calculating expense reimbursement, a
18 member's residence is considered to be the member's place of
19 employment.

20 SECTION 4. Section [24.945](#)(e), Government Code, is amended
21 to read as follows:

22 (e) The legislature, the Judicial Districts Board, or the
23 Texas [~~Legislative~~] Redistricting Commission [~~Board~~] may not
24 redistrict the judicial districts to provide for any judicial
25 district smaller in size than an entire county except as provided by
26 this subsection. Judicial districts smaller in size than the
27 entire county may be created subsequent to a general election in

1 which a majority of the persons voting on the proposition adopt the
2 proposition "to allow the division of _____ County
3 into judicial districts composed of parts of _____
4 County." A redistricting plan may not be proposed or adopted by the
5 legislature, the Judicial Districts Board, or the Texas
6 [~~Legislative~~] Redistricting Commission [~~Board~~] in anticipation of
7 a future action by the voters of any county.

8 SECTION 5. Section 24.946(a), Government Code, is amended
9 to read as follows:

10 (a) The board shall meet in accordance with its own rules.
11 The board shall meet at least once in each interim between regular
12 sessions of the legislature and shall exercise its reapportionment
13 powers only in the interims between regular legislative sessions.
14 Meetings of the board shall be subject to the provisions of Chapter
15 551, except as otherwise provided by this subchapter. A
16 reapportionment may not be ordered in the interim immediately
17 following a regular session of the legislature in which a valid and
18 subsisting statewide reapportionment of judicial districts is
19 enacted by the legislature. Unless the legislature enacts a
20 statewide reapportionment of the judicial districts following each
21 federal decennial census, the board shall convene not later than
22 the first Monday of June of the third year following the year in
23 which the federal decennial census is taken to make a statewide
24 reapportionment of the districts. The board shall complete its
25 work on the reapportionment and file its order with the secretary of
26 state not later than August 31 of the same year. If the Judicial
27 Districts Board fails to make a statewide apportionment by that

1 date, the Texas [~~Legislative~~] Redistricting Commission [~~Board~~]
2 established by Article III, Section 28b [~~28~~], of the Texas
3 Constitution shall make a statewide reapportionment of the judicial
4 districts not later than the 90th [~~150th~~] day after the final day
5 for the Judicial Districts Board to make the reapportionment, and
6 that apportionment takes effect as provided by Sections 24.948 and
7 24.949.

8 SECTION 6. Section 2058.002(a), Government Code, is amended
9 to read as follows:

10 (a) The legislature or the Texas [~~Legislative~~]
11 Redistricting Commission [~~Board~~] under Article III, Section 28b
12 [~~28~~], of the Texas Constitution may officially recognize or act on a
13 federal decennial census before September 1 of the year after the
14 calendar year during which the census was taken.

15 SECTION 7. (a) Except as otherwise provided by Subsection
16 (b) of this section, this Act takes effect January 1, 2029.

17 (b) This Act takes effect only if the constitutional
18 amendment proposed by the 87th Legislature, 3rd Called Session,
19 2021, establishing the Texas Redistricting Commission to
20 redistrict the Texas Legislature and Texas congressional districts
21 and revising procedures for redistricting is approved by the
22 voters. If that proposed constitutional amendment is not approved
23 by the voters, this Act has no effect.