

BILL ANALYSIS

Senate Research Center

C.S.S.B. 1404

By: Wentworth, et al.

State Affairs

5/16/2005

Committee Report (Substituted)

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

The United States Supreme Court has held that congressional redistricting, delegated to the states under Section 2, Article I, United States Constitution, is to be carried out under the general lawmaking authority of each state. C.S.S.B. 1404 takes direct congressional redistricting out of the hands of the Texas Legislature and establishes the Texas Congressional Redistricting Commission which is selected by the legislature to draw district lines for Texas' congressional districts. Eight members of the nine-member commission are appointed by members of the Texas Senate and the Texas House of Representatives. A ninth, non-voting member, is appointed by the commission members to act as the presiding officer. C.S.S.B. 1404 prohibits commission members from being a currently elected officeholder, an official in a political party, or a registered lobbyist, nor may the members have been in those positions during the previous two years.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Congressional Redistricting Commission in SECTION 1 (Section 307.007, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle A, Title 3, Government Code, by adding Chapter 307, as follows:

CHAPTER 307. TEXAS CONGRESSIONAL REDISTRICTING COMMISSION

Sec. 307.001. DEFINITIONS. Defines "commission" and "plan."

Sec. 307.002. TEXAS CONGRESSIONAL REDISTRICTING COMMISSION. Provides that the Texas Congressional Redistricting Commission (commission) exercises the legislative authority of this state to adopt redistricting plans for the election of the members of the United States House of Representatives elected from this state. Prohibits districts for that legislative body from being established while the commission has the authority to act under this chapter.

Sec. 307.003. MEMBERSHIP; TERMS. (a) Provides that the initial commission consists of nine members. Sets forth member selection guidelines.

(b) Provides that the member appointed under Subsection (a)(5) (providing for a member appointed by a vote of other commission members) is a nonvoting member and serves as presiding officer of the commission.

(c) Requires each member of the commission to be a resident of the state. Requires at least one member appointed by the Texas House of Representatives and one member appointed by the Texas Senate to reside in a county not designated as a metropolitan statistical area as defined by the United States Office of Management and Budget. Sets forth conditions under which a person is not eligible to serve on the commission.

(d) Provides that the full term of a member of the commission is a 10-year term that begins on February 1 of the year ending in one in which the initial

appointment to the position is required to be made and expires on January 31 of the next year ending in one.

(e) Sets forth requirements and guidelines for filling a vacancy on the commission.

(f) Requires the members of the commission appointed under Subsections (a)(1) - (4) to be appointed not earlier than January 25 or later than January 31 of each year ending in one. Requires the member appointed under Subsection (a)(5) to be appointed not later than the 30th day after the commission convenes under Section 307.008(b). Requires the supreme court make an appointment if a member is not appointed in the time provided by this subsection.

Sec. 307.004. OATH. Requires each person to take and subscribe to the constitutional oath of office before serving on the commission.

Sec. 307.005. POLITICAL ACTIVITIES PROHIBITED. Prohibits a member of the commission from campaigning for elective office or from actively participating in or contributing to the political campaign of a candidate for a state or federal elective office while a member of the commission.

Sec. 307.006. OPERATION OF COMMISSION. (a) Requires the legislature to appropriate sufficient money for the compensation and payment of the expenses of the commission members and any staff employed by the commission.

(b) Requires the commission to be provided access to statistical or other information compiled by the state or its political subdivisions as necessary for the commission's reapportionment duties.

(c) Requires the Texas Legislative Council, under the direction of the commission, to provide the technical staff and clerical services that the commission needs to prepare its plans.

Sec. 307.007. DUTIES. Requires the commission to adopt rules to administer this chapter and to comply with Chapters 551 (Open Meetings) and 552 (Public Information).

Sec. 307.008. ADOPTION OF PLAN. (a) Provides that a redistricting plan or modification of a redistricting plan is adopted by a vote of not fewer than five members of the commission.

(b) Requires the commission to convene on the first business day after January 31 of each year ending in one to adopt a redistricting plan for the members of the United States House of Representatives elected from this state not later than June 15 of that year, unless the federal decennial census is delivered to the appropriate officials of this state after May 1 of that year, in which event the commission is required to adopt the redistricting plan not later than the 75th day after the date the census is delivered.

(c) Requires the chief justice of the supreme court, if the commission does not adopt a plan within the time required by Subsection (b), to appoint a person to service as an additional voting member of the commission, not later than the second day after the deadline for commission action prescribed by Subsection (b). Requires the person appointed to be eligible to serve on the commission. Provides that the term of a member appointed under this section expires on the same day as the other voting members of the commission.

(d) Requires the commission, following appointment of a member under Subsection (c), to adopt a redistricting plan not later than the 45th day after the date of the deadline for commission action prescribed by Subsection (b).

(e) Provides that, if the commission does not adopt a plan within the time required by Subsection (d), the commission's authority to adopt a plan is suspended. Requires the supreme court to adopt the plan not later than the 45th day after the date of the deadline for commission action prescribed by Subsection (d).

Sec. 307.009. MODIFICATION OF PLAN; ADDITIONAL ACTION. (a) Authorizes the commission to reconvene on the motion of at least four of its voting members filed with the secretary of state at any time after the adoption of the initial congressional redistricting plan to modify that plan if the plan becomes unenforceable by order of a court or by action of any other appropriate authority or is subject to legal challenge in a court proceeding. Requires the commission, in modifying a plan, to comply with all applicable standards imposed by this chapter, but does not limit its authority to modifications necessary to correct legal deficiencies.

(b) Authorizes the commission to reconvene in the manner provided by Subsection (a) to adopt a plan if the supreme court does not adopt a plan for the applicable body in the time provided by Section 307.008(e), if the supreme court is required to adopt a plan for that body because the commission did not adopt an initial plan for that body as required by Section 307.008(d).

Sec. 307.010. PLAN REQUIREMENTS. (a) Sets forth requirements for a redistricting plan or modification of a plan adopted under this chapter.

(b) Prohibits the commission or the supreme court from drawing a redistricting plan purposely to favor or discriminate against a political party or any other group.

(c) Requires the commission to prepare and publish a report that includes certain information for each plan or modification of a plan adopted by the commission.

(d) Requires the commission to make a copy of a report prepared under this section available to the public.

Sec. 307.011. SUBMISSION OF PLAN. Requires the commission to submit an adopted plan or modification of a plan to the governor, the secretary of state, and the presiding officer of each house of the legislature.

Sec. 307.012. CESSATION OF OPERATIONS. (a) Requires the commission, following the initial adoption of a plan or modification of a plan, to take all necessary steps to conclude its business and suspend operations until the commission reconvenes as provided by Section 307.009 if it does reconvene.

(b) Requires the commission to prepare a financial statement disclosing all expenditures made by the commission. Requires the official record of the commission to contain all relevant information developed by the commission in carrying out its duties, including maps, data, minutes of meetings, written communications, and other information.

(c) Provides that after the commission suspends operations, the secretary of state becomes the custodian of its official records for purposes of election administration. Provides that any unexpended money from an appropriation to the commission reverts to the general revenue fund.

Sec. 307.013. CHALLENGES TO PLAN. (a) Authorizes any person aggrieved by a plan or modification of a plan to file a petition with the supreme court challenging the plan after the plan or modification is adopted by the commission or supreme court.

(b) Provides that the supreme court has original jurisdiction to hear and decide cases involving congressional redistricting, including a plan adopted by the supreme court under this chapter. Authorizes a member of the court to recuse himself or herself from a redistricting case because the member has participated or might participate in the adoption of a redistricting plan. Provides that this

subsection supersedes any other law, including an applicable code of judicial conduct, with regard to conflicts of interest by or disqualification of a member of the court.

(c) Authorizes the supreme court to consolidate any or all petitions and requires the supreme court to give the petitions precedence over all other matters.

(d) Provides that this section does not limit the remedies available under other law to any person aggrieved by a plan.

SECTION 2. Effective date: January 1, 2007.

SUMMARY OF COMMITTEE CHANGES