

By: Neave

H.B. No. 3928

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," "majority party," and "minority party" have the meanings assigned by Section 28b(a), Article III, Texas Constitution.

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

1 child, sibling, in-law, or other individual with whom the person  
2 has a bona fide family relationship established through blood or  
3 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 January 1  
16 of each census year, the state auditor shall initiate an  
17 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. APPLICANT REVIEW PANEL. (a) The state  
21 auditor shall establish an applicant review panel consisting of  
22 three interested citizens to screen applicants. The state auditor  
23 shall randomly draw the names of three interested citizens from a  
24 pool consisting of all citizens who have applied under procedures  
25 established by the state auditor to serve on the applicant review  
26 panel. The state auditor shall draw until the names of three  
27 interested citizens have been drawn, including:

1           (1) one who would qualify as a majority party member of  
2 the commission under Section 28b(e)(1), Article III, Texas  
3 Constitution;

4           (2) one who would qualify as a minority party member of  
5 the commission under Section 28b(e)(2), Article III, Texas  
6 Constitution; and

7           (3) one who would qualify as an independent member of  
8 the commission under Section 28b(e)(3), Article III, Texas  
9 Constitution.

10          (b) After the drawing under Subsection (a), the state  
11 auditor shall notify the three citizens whose names have been drawn  
12 that they have been selected to serve on the panel. If any of the  
13 three citizens decline to serve on the panel, the state auditor  
14 shall resume the random drawing until three citizens who meet the  
15 requirements of Subsection (a) have agreed to serve on the panel.

16          (c) An individual may not serve on the panel if the  
17 individual has a conflict of interest described by Section 581.053.

18          (d) A member of the panel may not receive compensation but  
19 is entitled to reimbursement of the travel expenses incurred by the  
20 member while conducting the business of the panel, as provided in  
21 the General Appropriations Act. A member's residence is considered  
22 to be the member's place of employment for purposes of  
23 reimbursement of expenses.

24          Sec. 581.053. CONFLICTS OF INTEREST. (a) The state auditor  
25 shall remove an applicant with a conflict of interest from the  
26 applicant pool, including an applicant:

27           (1) who at any point during the 10 years preceding the

1 application date:

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

4 (B) served as an officer, employee, or paid  
5 consultant of a political party or of the campaign committee of a  
6 candidate for elective federal or state office;

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

9 (D) was a registered lobbyist;

10 (E) served as a paid staff member for Congress,  
11 the legislature, or the State Board of Education; or

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

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

17 (3) who is an employee of, a consultant to, party to a  
18 contract with, or an immediate family member of the governor, a  
19 member of the legislature, a member of the State Board of Education,  
20 or a member of Congress.

21 (b) Beginning in 2029, on January 1 of each year ending in  
22 the numeral 9, the contribution amount prescribed by Subsection  
23 (a)(1)(F) is increased or decreased by an amount equal to the amount  
24 prescribed by that subsection on December 31 of the preceding year  
25 multiplied by the percentage increase or decrease during the  
26 preceding decade in the Consumer Price Index for All Urban  
27 Consumers (CPI-U), U.S. City Average, as published by the United

1 States Bureau of Labor Statistics or its successor in function.

2 Sec. 581.054. SELECTION OF APPLICANT SUBPOOLS. (a) After  
3 removing individuals with conflicts of interest from the applicant  
4 pool under Section 581.053, the state auditor shall, not later than  
5 August 1 of each census year, publicize the names of individuals in  
6 the applicant pool.

7 (b) From the applicant pool described by Subsection (a), the  
8 applicant review panel shall select:

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

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

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

18 (c) The applicant review panel shall select the members of  
19 the applicant subpools based on relevant analytical skills, ability  
20 to be impartial, and appreciation for this state's diverse  
21 demographics and geography.

22 (d) Not later than October 1 of each census year, the  
23 applicant review panel shall present the members of the applicant  
24 subpools to the caucus leaders of the majority party and minority  
25 party of each house of the legislature as described by Section  
26 581.055.

27 (e) Before presenting the applicant subpools as provided by

1 Subsection (d), a member of the applicant review panel may not  
2 communicate with:

3 (1) a member, or a representative of a member, of the  
4 senate, the house of representatives, the State Board of Education,  
5 or Congress about any matter related to the selection process; or

6 (2) a member of the applicant pool.

7 Sec. 581.055. STRIKES BY CAUCUS LEADERS. (a) Not later  
8 than November 15 of each census year, the caucus leaders of the  
9 majority party and minority party of each house of the legislature  
10 may each strike up to two applicants from each applicant subpool  
11 under Section 581.054(b), for a total of eight possible strikes per  
12 applicant subpool.

13 (b) After all strikes have been made as provided by  
14 Subsection (a), the caucus leaders shall present the remaining  
15 members of each applicant subpool to the state auditor.

16 Sec. 581.056. DRAWING TO SELECT FIRST EIGHT COMMISSION  
17 MEMBERS. Not later than November 20 of each census year, the state  
18 auditor shall select the first eight members of the commission by  
19 randomly drawing:

20 (1) three applicants from the majority subpool who  
21 were not struck under Section 581.055;

22 (2) three applicants from the minority subpool who  
23 were not struck under Section 581.055; and

24 (3) two applicants from the independent subpool who  
25 were not struck under Section 581.055.

26 Sec. 581.057. APPOINTMENT OF SECOND SIX COMMISSION MEMBERS.

27 (a) Not later than December 31 of each census year, the eight

1 commission members selected under Section 581.056 shall review the  
2 remaining names in each applicant subpool and appoint to the  
3 commission:

4 (1) two remaining applicants from the majority subpool  
5 who were not struck under Section 581.055;

6 (2) two remaining applicants from the minority subpool  
7 who were not struck under Section 581.055; and

8 (3) two remaining applicants from the independent  
9 subpool who were not struck under Section 581.055.

10 (b) An appointment under Subsection (a) must be approved by  
11 at least five affirmative votes of commission members selected  
12 under Section 581.056, including at least two votes of commission  
13 members drawn from the majority subpool, at least two votes of  
14 commission members drawn from the minority subpool, and at least  
15 one vote of a commission member drawn from the independent subpool.

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

21 (d) Appointments under Subsection (a) shall also be made  
22 based on relevant analytical skills and the ability to be  
23 impartial.

24 SUBCHAPTER C. ORGANIZATION OF COMMISSION

25 Sec. 581.101. OFFICERS. The commission shall select by a  
26 vote of at least two-thirds of its members one member as chair and  
27 one member as vice chair. The chair and vice chair may not both be

1 majority party members, minority party members, or independent  
2 members as described by Section 28b(e), Article III, Texas  
3 Constitution.

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

10 (b) A commission member removed for substantial neglect of  
11 duty or gross misconduct in office may be referred to the attorney  
12 general for criminal investigation or to an appropriate  
13 administrative agency for investigation.

14 Sec. 581.103. VACANCY. (a) A vacancy on the commission  
15 shall be filled, not later than the 30th day after the date the  
16 vacancy occurs, by appointment by the commission of a remaining  
17 applicant who was not struck under Section 581.055 from the same  
18 applicant subpool as the vacating member.

19 (b) If a vacancy on the commission occurs and no applicant  
20 from the same applicant subpool as the vacating member is available  
21 for appointment to the commission, the state auditor and an  
22 applicant review panel shall solicit and select an appropriate  
23 number of new applicants for the applicable subpool using, to the  
24 extent practicable, the procedures provided by Sections 581.051,  
25 581.052, 581.053, and 581.054(a)-(c) but disregarding the  
26 deadlines provided by those sections. The commission shall fill the  
27 vacancy as soon as practicable by appointment of one of the new



1 applicants described by this subsection.

2 SUBCHAPTER D. COMMISSION POWERS AND DUTIES

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

5 (b) Notwithstanding Chapter 551, the secretary of state  
6 must post notice on the Internet of a meeting of the commission for  
7 at least:

8 (1) 14 days before the date of a meeting, other than a  
9 meeting described by Subdivision (2); or

10 (2) three days before the date of a meeting held in  
11 September of a year following a census year.

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

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

18 (b) The commission shall post information relating to  
19 redistricting and all data considered by the commission in a manner  
20 that ensures immediate and widespread public access.

21 Sec. 581.153. EMPLOYEES AND CONTRACTORS. (a) The  
22 commission may hire employees and hire or contract with legal  
23 counsel and consultants as needed in the manner provided by this  
24 section.

25 (b) The commission must make hiring, removal, or  
26 contracting decisions for employees, legal counsel, and  
27 consultants by the affirmative vote of at least nine members,

1 including at least three majority party members, at least three  
2 minority party members, and at least three independent members as  
3 described by Section 28b(e), Article III, Texas Constitution.

4 (c) The commission shall ensure that at least one of the  
5 legal counsel hired by the commission has demonstrated extensive  
6 experience and expertise in implementing and enforcing the federal  
7 Voting Rights Act (52 U.S.C. Sec. 10101 et seq.).

8 (d) The commission shall establish for individuals  
9 described by Subsection (a):

10 (1) clear criteria for hiring and removal;

11 (2) communication protocols; and

12 (3) a code of conduct.

13 (e) To the extent practicable, the commission shall avoid  
14 selecting employees, legal counsel, or consultants who would be  
15 disqualified from commission membership because of a conflict of  
16 interest described by Section 581.053(a).

17 Sec. 581.154. PUBLIC OUTREACH. (a) The commission shall  
18 establish and implement an open hearing process for public input  
19 and deliberation that is subject to public notice and promoted  
20 through a thorough outreach program to solicit broad public  
21 participation in the redistricting public review process.

22 (b) The hearing process must include hearings to receive  
23 public input before the commission draws any maps and hearings  
24 following the drawing and display of any commission maps. In  
25 addition, the commission shall supplement hearings with other  
26 appropriate activities to further increase opportunities for the  
27 public to observe and participate in the review process.

1       (c) The commission shall display maps for public comment in  
2 a manner designed to achieve the widest public access reasonably  
3 possible.

4       (d) The commission shall publicly display preliminary maps  
5 for congressional, senate, house of representatives, and State  
6 Board of Education districts and shall accept public comment for at  
7 least 14 days after the date the preliminary maps are first publicly  
8 displayed. The commission may not display any other maps for public  
9 comment during that 14-day period.

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

13       SUBCHAPTER E. ADMINISTRATIVE SUPPORT AND OTHER RESOURCES

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

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

26       Sec. 581.203. PER DIEM AND EXPENSES. (a) A commission  
27 member is entitled to a per diem of \$300 or the amount provided by

1 Subsection (b) for each day the member is engaged in commission  
2 business.

3 (b) Beginning in 2030, on January 1 of each census year the  
4 per diem amount prescribed by Subsection (a) is increased or  
5 decreased by an amount equal to the amount prescribed by that  
6 subsection on December 31 of the preceding year multiplied by the  
7 percentage increase or decrease during the preceding decade in the  
8 Consumer Price Index for All Urban Consumers (CPI-U), U.S. City  
9 Average, as published by the United States Bureau of Labor  
10 Statistics or its successor in function.

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

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

18 SECTION 4. Section 24.945(e), Government Code, is amended  
19 to read as follows:

20 (e) The legislature, the Judicial Districts Board, or the  
21 Texas [~~Legislative~~] Redistricting Commission [~~Board~~] may not  
22 redistrict the judicial districts to provide for any judicial  
23 district smaller in size than an entire county except as provided by  
24 this subsection. Judicial districts smaller in size than the  
25 entire county may be created subsequent to a general election in  
26 which a majority of the persons voting on the proposition adopt the  
27 proposition "to allow the division of \_\_\_\_\_ County

1 into judicial districts composed of parts of \_\_\_\_\_  
2 County." A redistricting plan may not be proposed or adopted by the  
3 legislature, the Judicial Districts Board, or the Texas  
4 [~~Legislative~~] Redistricting Commission [~~Board~~] in anticipation of  
5 a future action by the voters of any county.

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

8 (a) The board shall meet in accordance with its own rules.  
9 The board shall meet at least once in each interim between regular  
10 sessions of the legislature and shall exercise its reapportionment  
11 powers only in the interims between regular legislative sessions.  
12 Meetings of the board shall be subject to the provisions of Chapter  
13 551, except as otherwise provided by this subchapter. A  
14 reapportionment may not be ordered in the interim immediately  
15 following a regular session of the legislature in which a valid and  
16 subsisting statewide reapportionment of judicial districts is  
17 enacted by the legislature. Unless the legislature enacts a  
18 statewide reapportionment of the judicial districts following each  
19 federal decennial census, the board shall convene not later than  
20 the first Monday of June of the third year following the year in  
21 which the federal decennial census is taken to make a statewide  
22 reapportionment of the districts. The board shall complete its  
23 work on the reapportionment and file its order with the secretary of  
24 state not later than August 31 of the same year. If the Judicial  
25 Districts Board fails to make a statewide apportionment by that  
26 date, the Texas [~~Legislative~~] Redistricting Commission [~~Board~~]  
27 established by Article III, Section 28b [~~28~~], [~~of the~~] Texas

1 Constitution shall make a statewide reapportionment of the judicial  
2 districts not later than the 90th [~~150th~~] day after the final day  
3 for the Judicial Districts Board to make the reapportionment, and  
4 that apportionment takes effect as provided by Sections 24.948 and  
5 24.949.

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

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

13 SECTION 7. (a) Notwithstanding the deadline provided by  
14 Section 581.051(a), Government Code, as added by this Act, the  
15 state auditor shall initiate the initial application process  
16 described by that subsection as soon as practicable after January  
17 1, 2020.

18 (b) Notwithstanding the deadline provided by Section  
19 581.054(a), Government Code, as added by this Act, the state  
20 auditor shall publicize the names of individuals in the initial  
21 applicant pool described by that subsection not later than May 1,  
22 2020.

23 SECTION 8. (a) Except as otherwise provided by Subsections  
24 (b) and (c) of this section, this Act takes effect January 1, 2020.

25 (b) Except as otherwise provided by Subsection (c) of this  
26 section, Section 42.032, Election Code, as amended by this Act, and  
27 Sections 24.945(e), 24.946(a), and 2058.002(a), Government Code,

1 as amended by this Act, take effect January 1, 2021.

2 (c) This Act takes effect only if the constitutional  
3 amendment proposed by the 86th Legislature, Regular Session, 2019,  
4 establishing the Texas Redistricting Commission to redistrict the  
5 Texas Legislature, Texas congressional districts, and State Board  
6 of Education districts and revising procedures for redistricting is  
7 approved by the voters. If that proposed constitutional amendment  
8 is not approved by the voters, this Act has no effect.