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By:  West, Johnson S.J.R. No. 43

A JOINT RESOLUTION

proposing a constitutional amendment establishing the Texas Redistricting Commission and providing redistricting procedures for state legislative, state judicial, and congressional districts.

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

SECTION 1.  Section 28, Article III, Texas Constitution, is amended to read as follows:

Sec. 28.  (a)  In this section:

(1)  "Commission" means the Texas Redistricting Commission.

(2)  "Majority party" means the political party with the most members among the combined membership of the Texas Senate and the Texas House of Representatives.

(3)  "Minority party" means the political party with the second highest number of members among the combined membership of the Texas Senate and the Texas House of Representatives.

(b)  Following [~~The Legislature shall, at its first regular session after~~] the publication of each United States decennial census, [~~apportion~~] the state shall be apportioned into senatorial and representative districts, agreeable to the provisions of Sections 25 and 26 of this article [~~Article~~]. The legislature and the Texas Redistricting Commission exercise the legislative authority of this state to adopt redistricting plans for the election of the Texas House of Representatives, the Texas Senate, and the members of the United States House of Representatives elected from this state in the manner provided by this section and Section 28a of this article. Districts for those legislative bodies may not be established or changed except as provided by this section and Section 28a of this article.

(c)  The commission consists of the following seven members:

(1)  the governor;

(2)  the comptroller;

(3)  the secretary of state;

(4)  one member appointed by the speaker of the Texas House of Representatives;

(5)  one member appointed by majority vote of the party caucus for the political party with the most members in the Texas House of Representatives of which the speaker of the Texas House of Representatives is not a member;

(6)  one member appointed by the president of the Texas Senate; and

(7)  one member appointed by majority vote of the party caucus for the political party with the most members in the Texas Senate of which the president of the Texas Senate is not a member.

(d)  An appointed member of the commission may not be a current member of Congress.

(e)  Two members of the commission serve as co-chairs. One co-chair is selected by majority vote of the members of the Texas Senate and the Texas House of Representatives who belong to the majority party and one co-chair is selected by majority vote of the members of the Texas Senate and the Texas House of Representatives who belong to the minority party.

(f)  Except as otherwise provided by this section or Section 28a of this article, a simple majority vote of the commission members is required for any action by the commission.

(g)  Except as provided by Subsection (h) of this section, a majority vote of the members of the commission, including at least one member of the commission who belongs to the majority party and at least one member of the commission who belongs to the minority party, is required to:

(1)  adopt rules of the commission;

(2)  hire staff for the commission; or

(3)  expend commission funds.

(h)  If the commission is unable to agree, by the vote required under Subsection (g) of this section, on the manner in which commission funds should be expended, each co-chair has the authority to expend one-half of the funds appropriated to the commission.

(i)  The affirmative vote of four members of the commission, including at least two members of the commission who belong to the majority party and two members of the commission who belong to the minority party, is required to adopt any redistricting plan for the Texas Senate or the Texas House of Representatives.

(j)  For purposes of this section and Section 28a of this article:

(1)  the governor is considered to belong to the governor's political party;

(2)  the comptroller is considered to belong to the comptroller's political party;

(3)  the secretary of state is considered to belong to the political party to which the governor who appointed the secretary of state belongs;

(4)  a member of the commission appointed by the president of the Texas Senate or the speaker of the Texas House of Representatives is considered to belong to the political party to which the person making the appointment belongs; and

(5)  a member of the commission selected by vote of a political party caucus is considered to belong to that political party.

(k)  At the first meeting of the commission, which the governor may convene following the publication of each United States decennial census, except as otherwise provided by this section, Section 28a of this article, and Section 7a, Article V, of this constitution, the commission shall set a schedule for the adoption of procedural rules for the operation of the commission.

(l)  Before adopting, but after introducing, a proposed redistricting plan for the Texas Senate or the Texas House of Representatives, the commission shall conduct at least three public hearings across the state to present the proposed plan and shall seek public input regarding the proposed plan.

(m)  All meetings of the commission are open to the public. The commission shall broadcast meetings by electronic means of transmission using a medium readily accessible by the general public.

(n)  The commission shall adopt final redistricting plans for the Texas Senate and the Texas House of Representatives not later than six months following the publication of the United States decennial census. After the commission adopts a final plan, the commission shall promptly file the plan with the secretary of state and [~~In the event the Legislature shall at any such first regular session following the publication of a United States decennial census, fail to make such apportionment, same shall be done by the Legislative Redistricting Board of Texas, which is hereby created, and shall be composed of five (5) members, as follows: The Lieutenant Governor, the Speaker of the House of Representatives, the Attorney General, the Comptroller of Public Accounts and the Commissioner of the General Land Office, a majority of whom shall constitute a quorum. Said Board shall assemble in the City of Austin within ninety (90) days after the final adjournment of such regular session. The Board shall, within sixty (60) days after assembling, apportion the state into senatorial and representative districts, or into senatorial or representative districts, as the failure of action of such Legislature may make necessary. Such apportionment shall be in writing and signed by three (3) or more of the members of the Board duly acknowledged as the act and deed of such Board, and,~~] when so [~~executed and~~] filed with the secretary of state [~~Secretary of State~~], the plan shall have force and effect of law. The plan becomes [~~Such apportionment shall become~~] effective at the next succeeding statewide general election.

(o)  If the commission does not adopt a redistricting plan for the Texas House of Representatives or the Texas Senate under Subsection (n) of this section in the time prescribed, then the legislature shall adopt a plan for either or both legislative bodies, as necessary, in the form of a bill as soon as possible but not later than the first regular session following the publication of the United States decennial census.

(o-1)  If the legislature adopts a plan under Subsection (o) of this section by the affirmative vote of at least three-fifths of the members of each house of the legislature, including the affirmative vote of at least one-third of the members of the majority party and at least one-third of the members of the minority party in each house, and the plan becomes law, the plan remains effective until the next year ending in the numeral one, except as provided in Subsection (u) of this section.

(o-2)  If the legislature adopts a plan under Subsection (o) of this section by the affirmative vote of at least one-half of the members of each house of the legislature, but not by the vote required by Subsection (o-1) of this section, then the following requirements apply to the plan:

(1)  the legislature may not adopt a plan that unduly favors or disfavors a political party or its incumbents;

(2)  the legislature may not unduly split political subdivisions, giving preference to keeping counties whole, then to keeping municipalities whole;

(3)  the legislature shall attempt to draw districts that are compact; and

(4)  the legislature must include in the plan an explanation of the plan's compliance with Subdivisions (1), (2), and (3) of this subsection.

(o-3)  A plan adopted in the manner provided by Subsection (o-2) of this section that becomes law remains effective until two general elections for the legislative body to which the plan applies have occurred under the plan, except as provided in Subsection (u) of this section.

(p)  Not later than the last day of May of the year after the year in which a plan expires under Subsection (o-3) of this section, the commission shall be reconstituted, reconvene, and adopt a plan by the affirmative vote of at least four members of the commission, including at least two members of the commission who belong to the majority party and at least two members of the commission who belong to the minority party. A plan adopted under this subsection takes effect upon filing with the secretary of state and remains effective until the next year ending in the numeral one, except as provided in Subsection (u) of this section. A plan adopted under this subsection must be drawn using the federal decennial census data or other data on which the previous redistricting was based.

(q)  If the commission is required to but does not adopt a plan under Subsection (p) of this section on or before the last day of May of the year after the year in which a plan expires under Subsection (o-3) of this section, then the legislature shall adopt a plan in the form of a bill not later than the last day of June of that year. A plan adopted under this subsection must be drawn using the federal decennial census data or other data on which the previous redistricting was based.

(q-1)  If the legislature adopts a plan under Subsection (q) of this section by the affirmative vote of at least three-fifths of the members of each house of the legislature, including the affirmative vote of at least one-third of the members of the majority party and at least one-third of the members of the minority party in each house, and the plan becomes law, the plan remains effective until the next year ending in the numeral one, except as provided in Subsection (u) of this section.

(q-2)  If the legislature adopts a plan under Subsection (q) of this section by the affirmative vote of at least one-half of the members of each house of the legislature, but not by the vote required by Subsection (q-1) of this section, then the following requirements apply to the plan:

(1)  the legislature may not adopt a plan that unduly favors or disfavors a political party or its incumbents;

(2)  the legislature may not unduly split political subdivisions, giving preference to keeping counties whole, then to keeping municipalities whole;

(3)  the legislature shall attempt to draw districts that are compact; and

(4)  the legislature must include in the plan an explanation of the plan's compliance with Subdivisions (1), (2), and (3) of this subsection.

(q-3)  A plan adopted in the manner provided by Subsection (q-2) of this section that becomes law remains effective until the next year ending in the numeral one, except as provided in Subsection (u) of this section.

(r)  Before the legislature adopts a plan under this section, a joint committee of the legislature shall hold at least two public committee hearings concerning a proposed plan. The legislature and the commission shall facilitate and allow for the submission of proposed plans by members of the public in the manner provided by general law.

(s)  For purposes of filing a plan with the governor or the secretary of state, a plan must include both a legal description of the boundaries of the districts for the Texas House of Representatives or the Texas Senate, as applicable, and all electronic data necessary to create a district map for the purpose of holding elections.

(t)  When a plan ceases to be effective under this section, the district boundaries described in the plan continue in operation for the purpose of holding elections until a new plan takes effect in accordance with this section. If a vacancy occurs in a district that was created under the previous plan, the election to fill the vacancy for the remainder of the unexpired term shall be held using the previous plan.

(u)  In the event that any subsection of this section relating to a redistricting plan for the Texas House of Representatives or the Texas Senate or any district or group of districts is challenged and is determined to be invalid by a final order of a court of competent jurisdiction not subject to appeal, then notwithstanding any other provisions of this section, the commission shall be reconstituted and reconvene and shall adopt a plan in accordance with the valid provisions of this section, to be used until the next time for redistricting under this section.

The commission shall adopt a plan under this subsection not later than the 30th day after the last day on which an appeal of the court order could have been filed or, if the order is not appealable, the 30th day after the day on which the order is issued.

If the commission does not adopt a new plan in accordance with this subsection, then not later than the 30th day after the deadline for the commission to adopt the plan, the legislature shall adopt a plan in accordance with the valid provisions of this section, to be used until the next time for redistricting under this section.

A plan adopted under this subsection must remedy any legal defects in the previous plan identified by the court but may not include changes to the previous plan other than those made in order to remedy those defects.

(v)  Unless otherwise already convened, the legislature shall convene in special session on the first Tuesday that occurs during a period in which the legislature is required to adopt a plan under this section.

(w)  The Supreme Court of Texas shall have jurisdiction to compel the commission [~~such Board~~] to perform its duties in accordance with the provisions of this section, Section 28a of this article, and Section 7a, Article V, of this constitution, by writ of mandamus or other extraordinary writs conformable to the usages of law.

(x)  The legislature [~~Legislature~~] shall provide necessary funds for clerical and technical aid and for other expenses necessary or incidental to the work of the commission [~~Board, and the Lieutenant Governor and the Speaker of the House of Representatives shall be entitled to receive per diem and travel expense during the Board's session in the same manner and amount as they would receive while attending a special session of the Legislature~~].

(y)  Four weeks after adopting redistricting plans for the legislature and, if necessary, for members of the United States House of Representatives elected from this state, the commission is automatically dissolved. The commission shall be reconstituted and reconvene as provided by this section, Section 28a of this article, and Section 7a, Article V, of this constitution.

SECTION 2.  Article III, Texas Constitution, is amended by adding Section 28a to read as follows:

Sec. 28a.  (a) In this section:

(1)  "Commission" means the Texas Redistricting Commission established under Section 28 of this article.

(2)  "Majority party" means the political party with the most members among the combined membership of the Texas Senate and the Texas House of Representatives.

(3)  "Minority party" means the political party with the second highest number of members among the combined membership of the Texas Senate and the Texas House of Representatives.

(4)  "Plan" means a redistricting plan for the election of the members of the United States House of Representatives elected from this state, adopted as provided by this section.

(b)  Except as otherwise provided in this section, the legislature is responsible for the congressional redistricting of this state based on the prescribed number of congressional districts apportioned to the state under Section 2, Article I, United States Constitution.

(c)  Not later than the last day of May of a year ending in the numeral one, the legislature shall adopt a plan in the form of a bill by the affirmative vote of at least three-fifths of the members of each house of the legislature, including the affirmative vote of at least one-half of the members of the majority party and at least one-half of the members of the minority party in each house. A plan that is adopted under this subsection and becomes law remains effective until the next year ending in the numeral one, except as provided in Subsection (p) of this section.

(d)  If the legislature does not adopt a plan under Subsection (c) of this section on or before the last day of May of a year ending in the numeral one, the commission shall adopt a plan not later than six months following the publication of the United States decennial census by the affirmative vote of at least four members of the commission, including at least two members of the commission who belong to the majority party and at least two members of the commission who belong to the minority party. The plan takes effect upon filing with the secretary of state and remains effective until the next year ending in the numeral one, except as provided in Subsection (p) of this section.

(e)  If the commission is required to but does not adopt a plan under Subsection (d) of this section in the time prescribed, then the legislature shall adopt a plan in the form of a bill as soon as possible but not later than the first regular session following the time prescribed.

(e-1)  If the legislature adopts a plan under Subsection (e) of this section by the affirmative vote of at least three-fifths of the members of each house of the legislature, including the affirmative vote of at least one-third of the members of the majority party and at least one-third of the members of the minority party represented in that house, and the plan becomes law, the plan remains effective until the next year ending in the numeral one, except as provided in Subsection (p) of this section.

(e-2)  If the legislature adopts a plan under Subsection (e) of this section by the affirmative vote of at least one-half of the members of each house of the legislature, but not by the vote required by Subsection (e-1) of this section, then the following requirements apply to the plan:

(1)  the legislature may not adopt a plan that unduly favors or disfavors a political party or its incumbents;

(2)  the legislature may not unduly split political subdivisions, giving preference to keeping counties whole, then to keeping municipalities whole;

(3)  the legislature shall attempt to draw districts that are compact, but Subsection (m)(2) of this section does not apply; and

(4)  the legislature must include in the plan an explanation of the plan's compliance with Subdivisions (1), (2), and (3) of this subsection.

(e-3)  A plan adopted in the manner provided by Subsection (e-2) of this section that becomes law remains effective until two general elections for the United States House of Representatives have occurred under the plan, except as provided in Subsection (p) of this section.

(f)  Not later than the last day of May of the year after the year in which a plan expires under Subsection (e-3) of this section, the legislature shall adopt a plan in the form of a bill by the affirmative vote of at least three-fifths of the members of each house of the legislature, including the affirmative vote of at least one-half of the members of the majority party and at least one-half of the members of the minority party in each house. A plan adopted under this subsection that becomes law remains effective until the next year ending in the numeral one, except as provided in Subsection (p) of this section. A plan adopted under this subsection must be drawn using the federal decennial census data or other data on which the previous redistricting was based.

(g)  If the legislature is required to but does not adopt a plan under Subsection (f) of this section on or before the last day of May of the year after the year in which a plan expires under Subsection (e-3) of this section, then the commission shall be reconstituted, reconvene, and adopt a plan not later than the last day of June of that year by the affirmative vote of at least four members of the commission, including at least two members of the commission who belong to the majority party and at least two members of the commission who belong to the minority party. A plan adopted under this subsection takes effect upon filing with the secretary of state and remains effective until the next year ending in the numeral one, except as provided in Subsection (p) of this section. A plan adopted under this subsection must be drawn using the federal decennial census data or other data on which the previous redistricting was based.

(h)  If the commission is required to but does not adopt a plan under Subsection (g) of this section on or before the last day of June of the year after the year in which a plan expires under Subsection (e-3) of this section, then the legislature shall adopt a plan in the form of a bill not later than the last day of July of that year. A plan adopted under this subsection must be drawn using the federal decennial census data or other data on which the previous redistricting was based.

(h-1)  If the legislature adopts a plan under Subsection (h) of this section by the affirmative vote of at least three-fifths of the members of each house of the legislature, including the affirmative vote of at least one-third of the members of the majority party and at least one-third of the members of the minority party in each house, and the plan becomes law, the plan remains effective until the next year ending in the numeral one, except as provided in Subsection (p) of this section.

(h-2)  If the legislature adopts a plan under Subsection (h) of this section by the affirmative vote of at least one-half of the members of each house of the legislature, but not by the vote required by Subsection (h-1) of this section, then the following requirements apply to the plan:

(1)  the legislature may not adopt a plan that unduly favors or disfavors a political party or its incumbents;

(2)  the legislature may not unduly split political subdivisions, giving preference to keeping counties whole, then to keeping municipalities whole;

(3)  the legislature shall attempt to draw districts that are compact, but Subsection (m)(2) of this section does not apply; and

(4)  the legislature must include in the plan an explanation of the plan's compliance with Subdivisions (1), (2), and (3) of this subsection.

(h-3)  A plan adopted in the manner provided by Subsection (h-2) of this section that becomes law remains effective until the next year ending in the numeral one, except as provided in Subsection (p) of this section.

(i)  Before the legislature adopts a plan under this section, a joint committee of the legislature shall hold at least two public committee hearings concerning a proposed plan. Before the commission adopts a plan under this section, the commission shall hold at least two public hearings concerning a proposed plan. The legislature and the commission shall facilitate and allow for the submission of proposed plans by members of the public in the manner provided by general law.

(j)  For purposes of filing a plan with the governor or the secretary of state, a plan must include both a legal description of the boundaries of the congressional districts and all electronic data necessary to create a congressional district map for the purpose of holding congressional elections.

(k)  When a plan ceases to be effective under this section, the district boundaries described in the plan continue in operation for the purpose of holding elections until a new plan takes effect in accordance with this section. If a vacancy occurs in a district that was created under the previous plan, the election to fill the vacancy for the remainder of the unexpired term shall be held using the previous plan.

(l)  Each congressional district is entitled to a single representative in the United States House of Representatives in each Congress. The total population of the state, as determined by the federal decennial census or, if the federal decennial census is unavailable, another basis as directed by the legislature, shall be divided by the number of congressional districts apportioned to the state under Section 2, Article I, United States Constitution, and the quotient shall be the congressional ratio of representation for the next 10 years. Notwithstanding the fact that boundaries of counties or municipalities within a district may be changed, district boundaries shall be created by using the data from the most recent federal decennial census or from the basis directed by the legislature, as applicable.

(m)  A plan must comply with all of the following requirements:

(1)  the plan must comply with all applicable provisions of the constitutions of this state and the United States and of federal law, including federal laws protecting racial minority voting rights;

(2)  each congressional district must be compact;

(3)  each congressional district must be composed of contiguous territory, and the boundary of each district must be a single nonintersecting continuous line;

(4)  except as otherwise required by federal law, in a county that contains a population that exceeds the congressional ratio of representation, the authority drawing the districts shall take the first of the following actions that applies to that county:

(A)  if a municipality located in the county contains a population that exceeds the congressional ratio of representation, the authority shall attempt to include a significant portion of that municipality in a single district and may include in that district other municipalities that are located in that county and whose residents have similar interests as the residents of the municipality that contains a population that exceeds the congressional ratio of representation;

(B)  if one municipality in that county contains a population of not less than 100,000 and not more than the congressional ratio of representation, that municipality may not be split; or

(C)  if that county contains two or more municipalities described by Paragraph (B) of this subdivision, only the most populous of those municipalities may not be split;

(5)  if a congressional district includes only part of the territory of a particular county, the part of that congressional district that lies in that particular county must be contiguous within the boundaries of the county;

(6)  no two congressional districts may share portions of the territory of more than one county, except for a county whose population exceeds the congressional ratio of representation or as necessary to comply with federal law; and

(7)  the authority drawing the districts must attempt to include at least one whole county in each congressional district, but this subdivision does not apply to a congressional district that is contained entirely within one county or that cannot be drawn in that manner while complying with federal law.

(n)  In determining whether the population of a municipality exceeds the congressional ratio of representation for the purpose of Subsection (m)(4)(A) of this section, if the territory of that municipality completely surrounds the territory of another municipality, the territory of the surrounded municipality is considered part of the territory of the surrounding municipality.

(o)  For purposes of this section, a county or municipality is considered to be split if, based on the census data used for the purpose of redistricting, any contiguous portion of its territory is not contained entirely within one district except that if a municipality has territory in more than one county, the contiguous portion of that municipality that lies in each county shall be considered to be a separate municipality for purposes of this section.

(p)  In the event that any subsection of this section relating to congressional redistricting, any plan, or any congressional district or group of congressional districts is challenged and is determined to be invalid by a final order of a court of competent jurisdiction not subject to appeal, then notwithstanding any other provisions of this section, the legislature shall adopt a plan in accordance with the valid provisions of this section, to be used until the next time for redistricting under this section.

The legislature shall adopt a plan under this subsection not later than the 30th day after the last day on which an appeal of the court order could have been filed or, if the order is not appealable, the 30th day after the day on which the order is issued.

If the legislature does not adopt a new plan in accordance with this subsection, then not later than the 30th day after the deadline for the legislature to adopt the plan, the commission shall be reconstituted and reconvene and shall adopt a plan in accordance with the valid provisions of this section, to be used until the next time for redistricting under this section.

A plan adopted under this subsection must remedy any legal defects in the previous plan identified by the court but may not include changes to the previous plan other than those made in order to remedy those defects.

(q)  Unless otherwise already convened, the legislature shall convene in special session on the first Tuesday that occurs during a period in which the legislature is required to adopt a plan under this section.

SECTION 3.   Section 7a, Article V, Texas Constitution, is amended by amending Subsections (e) and (i) and adding Subsection (j) to read as follows:

(e)  Unless the legislature enacts a statewide reapportionment of the judicial districts following each federal decennial census, the board shall convene not later than the first Monday of June of the third year following the year in which the federal decennial census is taken to make a statewide reapportionment of the districts. The board shall complete its work on the reapportionment and file its order with the secretary of state not later than August 31 of the same year. If the Judicial Districts Board fails to make a statewide apportionment by that date, the Texas [~~Legislative~~] Redistricting Commission [~~Board~~] established by Section 28, Article III, [~~Section 28,~~] of this constitution shall convene on September 1 of the same year to make a statewide reapportionment of the judicial districts not later than the 90th [~~150th~~] day after the final day for the Judicial Districts Board to make the reapportionment.

(i)  The legislature, the Judicial Districts Board, or the Texas [~~Legislative~~] Redistricting Commission [~~Board~~] may not redistrict the judicial districts to provide for any judicial district smaller in size than an entire county except as provided by this section. Judicial districts smaller in size than the entire county may be created subsequent to a general election where a majority of the persons voting on the proposition adopt the proposition "to allow the division of \_\_\_\_\_\_\_\_\_\_\_\_ County into judicial districts composed of parts of \_\_\_\_\_\_\_\_\_\_\_\_ County." No redistricting plan may be proposed or adopted by the legislature, the Judicial Districts Board, or the Texas [~~Legislative~~] Redistricting Commission [~~Board~~] in anticipation of a future action by the voters of any county.

(j)  Until January 1, 2031, a reference in this section to the Texas Redistricting Commission means the Legislative Redistricting Board established under Section 28, Article III, of this constitution. This subsection expires January 1, 2031.

SECTION 4.   This proposed constitutional amendment shall be submitted to the voters at an election to be held November 2, 2021. The ballot shall be printed to permit voting for or against the following proposition: "The constitutional amendment establishing the Texas Redistricting Commission and providing redistricting procedures for state legislative, state judicial, and congressional districts."