

By: Talarico

H.B. No. 21

A BILL TO BE ENTITLED

AN ACT

relating to the Texas Independent Citizen Redistricting Commission.

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

SECTION 1. The heading to Title 5, Government Code, is amended to read as follows:

TITLE 5. OPEN GOVERNMENT; ETHICS; REDISTRICTING

SECTION 2. Title 5, Government Code, is amended by adding Subtitle C to read as follows:

SUBTITLE C. REDISTRICTING

CHAPTER 581. TEXAS INDEPENDENT CITIZEN REDISTRICTING COMMISSION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 581.001. DEFINITIONS. In this chapter:

(1) "Census year" means a calendar year in which the United States decennial census is taken.

(2) "Commission" means the Texas Independent Citizen Redistricting Commission.

(3) "Immediate family member" means a person's spouse, parent, child, sibling, in-law, or other individual with whom the person has a bona fide family relationship established through blood or legal relation.

(4) "Majority party" means, with respect to a commission member, the political party with the most total votes cast in the four statewide primary elections preceding the member's

1 appointment.

2 (5) "Minority party" means, with respect to a  
3 commission member, the political party with the second highest  
4 number of total votes cast in the four statewide primary elections  
5 preceding the member's appointment.

6 (6) "Statewide primary election" means an election  
7 held by a political party to select its nominee for governor or for  
8 president of the United States. The term does not include a runoff  
9 primary election.

10 Sec. 581.002. REDISTRICTING AUTHORITY. The Texas  
11 Independent Citizen Redistricting Commission exercises the  
12 legislative authority of this state to adopt redistricting plans  
13 for the election of the members of the United States House of  
14 Representatives elected from this state, the members of the Texas  
15 Senate, the members from the Texas House of Representatives, and  
16 the members of the State Board of Education. A plan for districts  
17 may be established or modified only by the commission as provided by  
18 this chapter.

19 SUBCHAPTER B. MEMBERSHIP; POWERS AND DUTIES

20 Sec. 581.051. COMMISSION. (a) Not later than December 31  
21 of each census year, the members of the Texas Independent Citizen  
22 Redistricting Commission shall be appointed and the commission  
23 shall commence the redistricting process for the election of the  
24 members of the United States House of Representatives elected from  
25 this state, the members of the Texas Senate, the members from the  
26 Texas House of Representatives, and the members of the State Board  
27 of Education in connection with the census taken that year.

1       (b) The commission members shall:

2           (1) conduct an open and transparent process enabling  
3 full public consideration of, and comment on, the drawing of  
4 district lines;

5           (2) draw district lines according to the redistricting  
6 criteria specified in this chapter; and

7           (3) conduct themselves with integrity and fairness.

8       (c) The selection process for commission members is  
9 designed to produce a commission that is independent from  
10 legislative influence and reasonably representative of this  
11 state's diversity.

12       (d) The commission consists of 14 members as follows:

13           (1) five majority party members, each of whom:

14                   (A) voted in at least two of the statewide  
15 primary elections in the five years preceding the member's  
16 appointment held by the majority party;

17                   (B) did not vote in any of the four statewide  
18 primary elections preceding the member's appointment held by a  
19 political party other than the majority party; and

20                   (C) voted in at least two of the three general  
21 elections preceding the member's appointment in which the office of  
22 governor or president of the United States appeared on the ballot;

23           (2) five minority party members who:

24                   (A) voted in at least two of the statewide  
25 primary elections in the five years preceding the member's  
26 appointment held by the minority party;

27                   (B) did not vote in any of the four statewide

1 primary elections preceding the member's appointment held by a  
2 political party other than the minority party; and

3 (C) voted in at least two of the three general  
4 elections preceding the member's appointment in which the office of  
5 governor or president of the United States appeared on the ballot;  
6 and

7 (3) four independent members who:

8 (A) did not vote in any statewide primary  
9 elections in the five years preceding the member's appointment; and

10 (B) voted in at least two of the three general  
11 elections preceding the member's appointment in which the office of  
12 governor or president of the United States appeared on the ballot.

13 Sec. 581.052. TERM OF OFFICE. The term of office of each  
14 commission member expires at the time the first commission member  
15 is appointed in the next census year.

16 Sec. 581.053. QUORUM AND VOTING. Nine commission members  
17 constitute a quorum. The affirmative vote of at least nine  
18 commission members is required for any official commission action.  
19 Each final redistricting map must be approved by the affirmative  
20 vote of at least nine commission members, including at least three  
21 majority party members, at least three minority party members, and  
22 at least three independent members, as provided by Section  
23 581.051(d).

24 Sec. 581.054. PROHIBITED ACTIVITIES. A commission member  
25 is ineligible for a period of 10 years beginning on the date of  
26 appointment to hold a federal, state, or county office elected from  
27 this state. A commission member is ineligible for a period of five

1 years beginning on the date of appointment to:

2 (1) hold an appointed federal office representing this  
3 state;

4 (2) hold an appointed state or local office in this  
5 state;

6 (3) serve as a paid employee of or as a paid consultant  
7 to:

8 (A) a member of the United States Congress  
9 elected from this state;

10 (B) the legislature; or

11 (C) a member of the legislature; or

12 (4) register as a lobbyist in this state.

13 Sec. 581.055. APPLICATIONS. (a) Not later than January 1  
14 of each census year, the state auditor shall initiate an  
15 application process for commission members.

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

18 Sec. 581.056. APPLICANT REVIEW PANEL. (a) The state  
19 auditor shall establish an applicant review panel consisting of  
20 three interested citizens to screen applicants. The state auditor  
21 shall randomly draw the names of three interested citizens from a  
22 pool consisting of all citizens who have applied under procedures  
23 established by the state auditor to serve on the applicant review  
24 panel. The state auditor shall draw until the names of three  
25 interested citizens have been drawn, including:

26 (1) one who would qualify as a majority party member of  
27 the commission under Section 581.051(d)(1);

1           (2) one who would qualify as a minority party member of  
2 the commission under Section 581.051(d)(2); and

3           (3) one who would qualify as an independent member of  
4 the commission under Section 581.051(d)(3).

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

11           (c) An individual may not serve on the panel if the  
12 individual has a conflict of interest described by Section 581.057.

13           Sec. 581.057. CONFLICTS OF INTEREST. (a) The state auditor  
14 shall remove an applicant with a conflict of interest from the  
15 applicant pool, including an applicant:

16           (1) who at any point during the 10 years preceding the  
17 application date:

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

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

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

25                   (D) was a registered lobbyist;

26                   (E) served as a paid staff member for the United  
27 States Congress; or

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

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

6           (3) who is an employee of, a consultant to, party to a  
7 contract with, or an immediate family member of the governor, a  
8 member of the legislature, or a member of the United States  
9 Congress.

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

18          Sec. 501.058. SELECTION OF APPLICANT SUBPOOLS. (a) After  
19 removing individuals with conflicts of interest from the applicant  
20 pool under Section 581.057, the state auditor shall, not later than  
21 August 1 of each census year, publicize the names of individuals in  
22 the applicant pool.

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

25           (1) a majority subpool consisting of 20 of the most  
26 qualified applicants who would qualify as majority party members  
27 under Section 581.051(d)(1);

1           (2) a minority subpool consisting of 20 of the most  
2 qualified applicants who would qualify as minority party members  
3 under Section 581.051(d)(2); and

4           (3) an independent subpool consisting of 20 of the  
5 most qualified applicants who would qualify as independent members  
6 under Section 581.051(d)(3).

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

11           (d) Not later than October 1 of each census year, the  
12 applicant review panel shall present the members of the applicant  
13 subpools to the caucus leaders of the majority party and minority  
14 party of each house of the legislature as described by Section  
15 581.059.

16           (e) Before presenting the applicant subpools as provided by  
17 Subsection (d), a member of the applicant review panel may not  
18 communicate with:

19           (1) a member, or a representative of a member, of the  
20 United States Congress, the Texas Legislature, or the State Board  
21 of Education about any matter related to the selection process; or

22           (2) a member of the applicant pool.

23           Sec. 581.059. STRIKES BY CAUCUS LEADERS. (a) Not later  
24 than November 15 of each census year, the caucus leaders of the  
25 majority party and minority party of each house of the legislature  
26 may each strike up to two applicants from each applicant subpool  
27 under Section 581.058(b), for a total of eight possible strikes per



1 applicant subpool.

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

5 Sec. 581.060. DRAWING TO SELECT FIRST EIGHT COMMISSION  
6 MEMBERS. Not later than November 20 of each census year, the state  
7 auditor shall select the first eight members of the commission by  
8 randomly drawing:

9 (1) three applicants from the majority subpool who  
10 were not struck under Section 581.059;

11 (2) three applicants from the minority subpool who  
12 were not struck under Section 581.059; and

13 (3) two applicants from the independent subpool who  
14 were not struck under Section 581.059.

15 Sec. 581.061. APPOINTMENT OF SECOND SIX COMMISSION MEMBERS.

16 (a) Not later than December 31 of each census year, the eight  
17 commission members selected under Section 581.060 shall review the  
18 remaining names in each applicant subpool and appoint to the  
19 commission:

20 (1) two remaining applicants from the majority subpool  
21 who were not struck under Section 581.059;

22 (2) two remaining applicants from the minority subpool  
23 who were not struck under Section 581.059; and

24 (3) two remaining applicants from the independent  
25 subpool who were not struck under Section 581.059.

26 (b) An appointment under Subsection (a) must be approved by  
27 at least five affirmative votes of commission members selected

1 under Section 581.060, including at least two votes of commission  
2 members drawn from the majority subpool, at least two votes of  
3 commission members drawn from the minority subpool, and at least  
4 one vote of a commission member drawn from the independent subpool.

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

10 (d) Appointments under Subsection (a) shall also be made  
11 based on relevant analytical skills and the ability to be  
12 impartial.

13 SUBCHAPTER C. ORGANIZATION OF COMMISSION

14 Sec. 581.101. OFFICERS. The commission shall select by a  
15 vote of at least two-thirds of its members one member as chair and  
16 one member as vice chair. The chair and vice chair may not both be  
17 majority party members, minority party members, or independent  
18 members as described by Section 581.051(d).

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

25 (b) A commission member removed for substantial neglect of  
26 duty or gross misconduct in office may be referred to the attorney  
27 general for criminal investigation or to an appropriate

1 administrative agency for investigation.

2 Sec. 581.103. VACANCY. (a) A vacancy on the commission  
3 shall be filled, not later than the 30th day after the date the  
4 vacancy occurs, by appointment by the commission of a remaining  
5 applicant who was not struck under Section 581.059 from the same  
6 applicant subpool as the vacating member.

7 (b) If a vacancy on the commission occurs and no applicant  
8 from the same applicant subpool as the vacating member is available  
9 for appointment to the commission, the state auditor and an  
10 applicant review panel shall solicit and select an appropriate  
11 number of new applicants for the applicable subpool using, to the  
12 extent practicable, the procedures provided by Sections 581.055,  
13 581.056, 581.057, and 581.058(a)-(c) but disregarding the  
14 deadlines provided by those sections. The commission shall fill  
15 the vacancy as soon as practicable by appointment of one of the new  
16 applicants described by this subsection.

17 Sec. 581.104. BUDGET. The legislature may appropriate to  
18 the state auditor, the secretary of state, and the commission  
19 amounts sufficient to implement the redistricting process required  
20 by this chapter.

21 SUBCHAPTER D. COMMISSION POWERS AND DUTIES

22 Sec. 581.151. REDISTRICTING PLAN; STANDARDS. (a) The  
23 commission shall establish districts described by Section 581.002  
24 through a mapping process using the following criteria in the  
25 following order of priority:

26 (1) districts must comply with the United States  
27 Constitution;

1           (2) districts must achieve population equality as  
2 nearly as is practicable;

3           (3) districts must comply with the federal Voting  
4 Rights Act of 1965 (52 U.S.C. Section 10101 et seq.);

5           (4) districts must be geographically contiguous;

6           (5) the geographic integrity of each municipality,  
7 county, local neighborhood, and local community of interest must be  
8 respected in a manner that minimizes its division to the extent  
9 possible without violating the requirements of any of the preceding  
10 subdivisions; and

11           (6) to the extent practicable and to the extent that  
12 compliance with this subdivision does not preclude compliance with  
13 any of the preceding subdivisions, districts must be drawn to  
14 encourage geographical compactness so that nearby areas of  
15 population are not bypassed for more distant areas of population.

16           (b) For purposes of Subsection (a)(5), a community of  
17 interest is a contiguous population that shares common social and  
18 economic interests that should be included within a single district  
19 for purposes of that population's effective and fair  
20 representation. Communities of interest may not be determined based  
21 on relationships with political parties, incumbents, or political  
22 candidates.

23           (c) The place of residence of any incumbent or political  
24 candidate may not be considered in the creation of a map. Districts  
25 may not be drawn for the purpose of favoring or discriminating  
26 against an incumbent, political candidate, or political party.

27           (d) Commissioners must start from scratch and not redraw

1 based on the existing district lines.

2 (e) Not later than September 15 of each year following a  
3 census year, the commission shall approve a final map that sets  
4 forth the boundary lines of the districts for the election of the  
5 members of the United States House of Representatives elected from  
6 this state, the Texas Legislature, and the State Board of  
7 Education. On approval, the commission shall certify each final map  
8 to the secretary of state.

9 (f) The commission shall issue, with the final map, a report  
10 that explains the basis on which the commission made its decisions  
11 in achieving compliance with the criteria listed in Subsection (a)  
12 and shall include definitions of the terms and standards used in  
13 drawing the final map.

14 (g) If the commission fails to approve a final map with the  
15 vote and by the date required by this section, the secretary of  
16 state shall immediately petition the Texas Supreme Court for an  
17 order directing the appointment of special masters to adjust the  
18 boundary lines of the districts required to be included in that map  
19 in accordance with the redistricting criteria and requirements  
20 provided by Subsections (a), (b), and (c). On approval of the  
21 special masters' map, the Texas Supreme Court shall certify the map  
22 to the secretary of state and the map constitutes the certified  
23 final map for the districts included in the map.

24 (h) The boundary lines of the districts contained in a  
25 certified final map apply beginning with the next statewide general  
26 election and any corresponding primary elections.

27 Sec. 581.152. OPEN MEETINGS. (a) The commission is a

1 governmental body for purposes of Chapter 551.

2 (b) Notwithstanding Chapter 551, the secretary of state  
3 must post notice on the secretary of state's Internet website of a  
4 meeting of the commission for at least:

5 (1) 14 days before the date of a meeting, other than a  
6 meeting described by Subdivision (2); or

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

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

13 Sec. 581.153. PUBLIC INFORMATION. (a) The commission is a  
14 governmental body for purposes of Chapter 552.

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

18 Sec. 581.154. EMPLOYEES AND CONTRACTORS. (a) The  
19 commission may hire employees and hire or contract with legal  
20 counsel and consultants as needed in the manner provided by this  
21 section.

22 (b) The commission must make hiring, removal, or  
23 contracting decisions for employees, legal counsel, and  
24 consultants by the affirmative vote of at least nine members,  
25 including at least three majority party members, at least three  
26 minority party members, and at least three independent members as  
27 described by Section 581.051(d).

1       (c) The commission shall ensure that at least one of the  
2 legal counsel hired by the commission has demonstrated extensive  
3 experience and expertise in implementing and enforcing the federal  
4 Voting Rights Act of 1965 (52 U.S.C. Sec. 10101 et seq.).

5       (d) The commission shall establish for individuals  
6 described by Subsection (a):

7             (1) clear criteria for hiring and removal;

8             (2) communication protocols; and

9             (3) a code of conduct.

10       (e) To the extent practicable, the commission shall avoid  
11 selecting employees, legal counsel, or consultants who would be  
12 disqualified from commission membership because of a conflict of  
13 interest described by Section 581.057(a).

14       Sec. 581.155. PUBLIC OUTREACH. (a) The commission shall  
15 establish and implement an open hearing process for public input  
16 and deliberation that is subject to public notice and promoted  
17 through a thorough outreach program to solicit broad public  
18 participation in the redistricting public review process.

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

25       (c) The commission shall hold a public hearing in each  
26 proposed congressional district and display maps for public comment  
27 in a manner designed to achieve the widest public access reasonably

1 possible.

2 (d) The commission shall publicly display a preliminary map  
3 for all districts and shall accept public comment for at least 14  
4 days after the date the preliminary map is first publicly  
5 displayed. The commission may not display any other maps for public  
6 comment during that 14-day period.

7 (e) The commission shall review all public comment and other  
8 testimony received at each hearing and make any necessary revisions  
9 before approving a final map.

10 (f) A hearing conducted under this section must be recorded  
11 on videotape or a functionally similar and widely available medium  
12 and made publicly available with accessible audio and video  
13 accommodations on the legislature's Internet website not later than  
14 48 hours after the hearing.

15 Sec. 581.156. LEGAL CHALLENGE. (a) The commission has sole  
16 standing to defend a legal challenge to a final map certified under  
17 Section 581.151 before a court other than the Texas Supreme Court or  
18 a court of appeals. The legislature may provide adequate funding  
19 and other resources to the commission to defend a certified final  
20 map. The attorney general shall, at the commission's request,  
21 represent the commission in defense of a certified final map. The  
22 commission may, in its sole discretion, retain legal counsel other  
23 than the attorney general to represent the commission in defense of  
24 a certified final map before a court other than the supreme court or  
25 a court of appeals.

26 (b) Any registered voter in this state may file a petition  
27 for a writ of mandamus or writ of prohibition, not later than the



1 45th day after a final map is certified to the secretary of state,  
2 to bar the secretary of state from implementing the map on the  
3 grounds that the map violates the Texas Constitution, the United  
4 States Constitution, or any federal or state statute.

5 (c) If the court determines that a final certified map  
6 violates the Texas Constitution, the United States Constitution, or  
7 any federal or state statute, the court shall fashion the relief  
8 that the court deems appropriate, including the relief described by  
9 Section 581.151(f).

10 SUBCHAPTER E. ADMINISTRATIVE SUPPORT AND OTHER RESOURCES

11 Sec. 581.201. ADMINISTRATIVE SUPPORT BY SECRETARY OF STATE.

12 Following the appointment of new commission members in each census  
13 year, the secretary of state shall provide administrative support  
14 to the commission until the commission's staff and office are fully  
15 functional.

16 Sec. 581.202. PER DIEM AND EXPENSES. (a) A commission  
17 member is entitled to a per diem of \$300 or the amount provided by  
18 Subsection (b) for each day the member is engaged in commission  
19 business.

20 (b) On January 1 of each census year the per diem amount  
21 prescribed by Subsection (a) is increased or decreased by an amount  
22 equal to the amount prescribed by that subsection on December 31 of  
23 the preceding year multiplied by the percentage increase or  
24 decrease during the preceding decade in the Consumer Price Index  
25 for All Urban Consumers (CPI-U), U.S. City Average, as published by  
26 the United States Bureau of Labor Statistics or its successor in  
27 function.

1        (c) A commission member is eligible for reimbursement of  
2 expenses incurred in connection with the member's performance of  
3 duties under this chapter.

4        (d) For purposes of calculating expense reimbursement, a  
5 member's residence is considered to be the member's place of  
6 employment.

7        SECTION 3. Section 2058.002(a), Government Code, is amended  
8 to read as follows:

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

15        SECTION 4. This Act takes effect January 1, 2024.