

## **BILL ANALYSIS**

Senate Research Center

C.S.S.B. 1068  
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State Affairs  
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Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The United States Supreme Court has ruled that congressional redistricting is delegated to the states under Section 2, Article 1, United States Constitution, and is authorized to be carried out through the general lawmaking authority of each state. Therefore, congressional redistricting is currently authorized to be carried out by the legislature.

C.S.S.B. 1068 creates the Texas Congressional Redistricting Commission to draw district lines for this state's congressional districts. This bill provides that eight of the nine members of the commission will be appointed in a bipartisan manner by the legislature and the ninth, nonvoting, member will be appointed by the commission members to act as the presiding officer. This bill sets forth requirements for being appointed to the commission and guidelines for the commission's duties. Finally, this bill provides that the Texas Supreme Court has original jurisdiction in all cases regarding redistricting.

### **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. Authorizes a plan for congressional districts to be established or modified only by the commission as provided by this chapter.

Sec. 307.003. MEMBERSHIP; TERMS. (a) Sets forth the bipartisan selection guidelines for the initial nine-member composition of the commission.

(b) Provides that the member appointed by an affirmative vote of not fewer than five of the other members of the commission previously appointed is a nonvoting member and serves as presiding officer of the commission.

(c) Requires each member of the commission to be a resident of this state. Requires at least one member appointed by the Texas House of Representatives (house) and one member appointed by the Texas Senate (senate) to reside in a county not designated as a metropolitan statistical area as defined by the United States Office of Management and Budget. Requires the presiding officer of that house, if the members of a house of the legislature entitled to make an appointment to the commission cannot agree on whether the members belonging to the political party with the most members or the political party with the second highest number of members will make the appointment required by this

subsection, to designate the members who must make the appointment required by this subsection.

(d) Provides that certain persons are not eligible to serve on the commission.

(e) 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.

(f) Provides that a vacancy on the commission is filled in the same manner as provided by this section for the original appointment, except that, if the commission is convened when the vacancy occurs or if the vacancy exists when the commission reconvenes, the Texas Supreme Court (supreme court) is required to fill the vacancy on or before the 20th day after the date the vacancy occurs or the commission reconvenes, as applicable. Requires the supreme court to fill the vacancy not later than the ninth day after the earliest date on which the supreme court is authorized to fill the vacancy, or as soon after the ninth day as possible. Authorizes the members of the house or senate authorized to appoint a member of the commission to meet as necessary to make an appointment or to fill a vacancy.

(g) Sets forth required timeframes for appointing certain members to the commission.

**Sec. 307.004. OATH.** Requires each person appointed to the commission 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 being a candidate for or campaign for elective office while a member of the commission or actively participate in or contribute 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 Chapter 551 (Open Meetings) and Chapter 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 and requires the commission 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 to appoint a person to serve as an additional voting member of the commission, not later than the second day after the date of the deadline for commission action prescribed by Subsection (b), if the commission does not adopt a plan within the time required 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 to adopt a redistricting plan not later than the 45th day after the date of the deadline for commission action prescribed by Subsection (b), following appointment of a member under Subsection (c).

(e) Provides that the commission's authority to adopt a plan is suspended and 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), if the commission does not adopt a plan within the time required by Subsection (d).

**Sec. 307.009. MODIFICATION OF PLAN; ADDITIONAL ACTION.** (a) Authorizes the commission, except as provided by Subsection (c), 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 supreme court or by action of any other appropriate authority or is subject to legal challenge in a supreme court proceeding. Requires the commission, in modifying a redistricting plan, to comply with all applicable standards imposed by this chapter, but not limited to modifications necessary to correct legal deficiencies.

(b) Authorizes the commission to reconvene in the manner provided by Subsection (a) to adopt a redistricting plan if the supreme court does not adopt a congressional redistricting plan in the time required by Section 307.008(e).

(c) Provides that the authority of the commission to act under this chapter expires on January 31st of the next year ending in three unless the final judgment of a court wholly or partly invalidates a plan after that date.

**Sec. 307.010. PLAN REQUIREMENTS.** (a) Requires each district, in a redistricting plan or modification of a plan adopted under this chapter, to be composed of contiguous territory, contain a population, excluding nonresident military personnel, as nearly equal as practicable to the population of any other district, and, to the extent reasonable, be compact and convenient and be separated from adjoining districts by natural geographic barriers, artificial barriers, or political subdivision boundaries.

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

(c) 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, on adoption of a plan or modification of a plan by the commission, to submit the plan or modification 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 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 following the initial adoption of the plan that the commission is required to adopt.

(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 certain 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 the plan or modification to file a petition with the supreme court challenging the plan after a plan or modification of a plan 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 case involving a redistricting plan adopted by the supreme court under this chapter. Provides that a member of the supreme court is not disqualified from participating in a redistricting case because the member has participated or may participate in the adoption of a redistricting plan, but authorizes such a member to recuse himself or herself from the case. 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 supreme 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.

Sec. 307.014. REAPPOINTMENT OF COMMISSION FOLLOWING COURT ACTION. (a) Requires a new commission, if the final judgment of a state or federal court invalidates all or part of a plan or otherwise makes the plan unenforceable and as of January 31st of the next year ending in three the commission has not modified the plan as authorized by Section 307.009 in response to the judgment, to be appointed in the manner provided by Section 307.003, except that the appointments described by Sections 307.003(a)(1)-(4) are required to be made not later than the later of the 14th day after the date the judgment becomes final or February 14th of the next year ending in three. Requires the commission to convene not later than the fifth day after the date the last appointment described by Sections 307.003(a)(1)-(4) is made, and requires the commission to make the appointment described by Section 307.003(a)(5) not later than the fifth day after the date the commission convenes.

(b) Provides that a commission appointed under Subsection (a) has the same powers and duties under this chapter as a commission appointed under Section 307.003 except that the terms of the members of the commission and the authority of the commission to act under this chapter expire on the earlier of the date a judgment of a court approving a new plan adopted by the commission becomes final or the second anniversary of the date the commission first convenes under Subsection (a).

SECTION 2. Effective date: January 1, 2009.