

By: González of El Paso

H.B. No. 3421

A BILL TO BE ENTITLED

AN ACT

relating to the 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. 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 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 appointment.

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

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

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

16           SUBCHAPTER B. MEMBERSHIP; POWERS AND DUTIES

17           Sec. 581.051. COMMISSION. (a) Not later than December 31  
18 of each census year, the members of the Independent Citizen  
19 Redistricting Commission shall be appointed and the commission  
20 shall commence the redistricting process for the election of the  
21 members of the United States House of Representatives elected from  
22 this state in connection with the census taken that year.

23           (b) The commission members shall:

24           (1) conduct an open and transparent process enabling  
25 full public consideration of, and comment on, the drawing of  
26 district lines;

27           (2) draw district lines according to the redistricting

1 criteria specified in this chapter; and

2 (3) conduct themselves with integrity and fairness.

3 (c) The selection process for commission members is  
4 designed to produce a commission that is independent from  
5 legislative influence and reasonably representative of this  
6 state's diversity.

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

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

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

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

15 (C) voted in at least two of the three general  
16 elections preceding the member's appointment in which the office of  
17 governor or President of the United States appeared on the ballot;

18 (2) five minority party members who:

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

22 (B) did not vote in any of the four statewide  
23 primary elections preceding the member's appointment held by a  
24 political party other than the minority party; and

25 (C) voted in at least two of the three general  
26 elections preceding the member's appointment in which the office of  
27 governor or President of the United States appeared on the ballot;

1 and

2 (3) four independent members who:

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

5 (B) voted in at least two of the three general  
6 elections preceding the member's appointment in which the office of  
7 governor or President of the United States appeared on the ballot.

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

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

19 Sec. 581.054. PROHIBITED ACTIVITIES. A commission member  
20 is ineligible for a period of 10 years beginning on the date of  
21 appointment to hold a federal, state, or county office elected from  
22 this state. A commission member is ineligible for a period of five  
23 years beginning on the date of appointment to:

24 (1) hold an appointed federal office representing this  
25 state;

26 (2) hold an appointed state or local office in this  
27 state;

1           (3) serve as a paid employee of or as a paid consultant  
2 to:

3           (A) a member of the United States Congress  
4 elected from this state;

5           (B) the legislature; or

6           (C) a member of the legislature; or

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

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

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

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

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

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

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

27           (b) After the drawing under Subsection (a), the state

1 auditor shall notify the three citizens whose names have been drawn  
2 that they have been selected to serve on the panel. If any of the  
3 three citizens decline to serve on the panel, the state auditor  
4 shall resume the random drawing until three citizens who meet the  
5 requirements of Subsection (a) have agreed to serve on the panel.

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

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

11 (1) who at any point during the 10 years preceding the  
12 application date:

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

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

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

20 (D) was a registered lobbyist;

21 (E) served as a paid staff member for Congress;

22 or

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

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

1           (3) who is an employee of, a consultant to, party to a  
2 contract with, or an immediate family member of the governor, a  
3 member of the legislature, or a member of Congress.

4           (b) Beginning in 2029, on January 1 of each year ending in  
5 the numeral 9, the contribution amount prescribed by Subsection  
6 (a)(1)(F) is increased or decreased by an amount equal to the amount  
7 prescribed by that paragraph on December 31 of the preceding year  
8 multiplied by the percentage increase or decrease during the  
9 preceding decade in the Consumer Price Index for All Urban  
10 Consumers (CPI-U), U.S. City Average, as published by the United  
11 States Bureau of Labor Statistics or its successor in function.

12           Sec. 581.058. SELECTION OF APPLICANT SUBPOOLS. (a) After  
13 removing individuals with conflicts of interest from the applicant  
14 pool under Section 581.057, the state auditor shall, not later than  
15 August 1 of each census year, publicize the names of individuals in  
16 the applicant pool.

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

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

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

25           (3) an independent subpool consisting of 20 of the  
26 most qualified applicants who would qualify as independent members  
27 under Section 581.051(d)(3).

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

5       (d) Not later than October 1 of each census year, the  
6 applicant review panel shall present the members of the applicant  
7 subpools to the caucus leaders of the majority party and minority  
8 party of each house of the legislature as described by Section  
9 581.059.

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

13               (1) a member, or a representative of a member, of  
14 Congress about any matter related to the selection process; or

15               (2) a member of the applicant pool.

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

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

25       Sec. 581.060. DRAWING TO SELECT FIRST EIGHT COMMISSION  
26 MEMBERS. Not later than November 20 of each census year, the state  
27 auditor shall select the first eight members of the commission by

1 randomly drawing:

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

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

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

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

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

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

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

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

19 (b) An appointment under Subsection (a) must be approved by  
20 at least five affirmative votes of commission members selected  
21 under Section 581.060, including at least two votes of commission  
22 members drawn from the majority subpool, at least two votes of  
23 commission members drawn from the minority subpool, and at least  
24 one vote of a commission member drawn from the independent subpool.

25 (c) In making appointments under Subsection (a), the  
26 commission members shall ensure that the commission reflects this  
27 state's diversity, including racial, ethnic, geographic, and

1 gender diversity. However, the legislature does not intend that  
2 formulas or specific ratios be applied for this purpose.

3 (d) Appointments under Subsection (a) shall also be made  
4 based on relevant analytical skills and the ability to be  
5 impartial.

6 SUBCHAPTER C. ORGANIZATION OF COMMISSION

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

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

18 (b) A commission member removed for substantial neglect of  
19 duty or gross misconduct in office may be referred to the attorney  
20 general for criminal investigation or to an appropriate  
21 administrative agency for investigation.

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

27 (b) If a vacancy on the commission occurs and no applicant

1 from the same applicant subpool as the vacating member is available  
2 for appointment to the commission, the state auditor and an  
3 applicant review panel shall solicit and select an appropriate  
4 number of new applicants for the applicable subpool using, to the  
5 extent practicable, the procedures provided by Sections 581.055,  
6 581.056, 581.057, and 581.058(a)-(c) but disregarding the  
7 deadlines provided by those sections. The commission shall fill the  
8 vacancy as soon as practicable by appointment of one of the new  
9 applicants described by this subsection.

10 Sec. 581.104. BUDGET. The legislature may appropriate to  
11 the state auditor, the secretary of state, and the commission  
12 amounts sufficient to implement the redistricting process required  
13 by this chapter.

14 SUBCHAPTER D. COMMISSION POWERS AND DUTIES

15 Sec. 581.151. REDISTRICTING PLAN; STANDARDS. (a) The  
16 commission shall establish districts described by Section 581.002  
17 through a mapping process using the following criteria in the  
18 following order of priority:

19 (1) districts must comply with the United States  
20 Constitution;

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

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

25 (4) districts must be geographically contiguous;

26 (5) the geographic integrity of each municipality,  
27 county, local neighborhood, and local community of interest must be

1 respected in a manner that minimizes its division to the extent  
2 possible without violating the requirements of any of the preceding  
3 subdivisions; and

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

9 (b) For purposes of Subsection (a)(5), a community of  
10 interest is a contiguous population that shares common social and  
11 economic interests that should be included within a single district  
12 for purposes of that population's effective and fair  
13 representation. Communities of interest may not be determined  
14 based on relationships with political parties, incumbents, or  
15 political candidates.

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

20 (d) Not later than September 15 of each year following a  
21 census year, the commission shall approve a final map that sets  
22 forth the boundary lines of the districts for the election of the  
23 members of the United States House of Representatives elected from  
24 this state. On approval, the commission shall certify each final  
25 map to the secretary of state.

26 (e) The commission shall issue, with the final map, a report  
27 that explains the basis on which the commission made its decisions

1 in achieving compliance with the criteria listed in Subsection (a)  
2 and shall include definitions of the terms and standards used in  
3 drawing the final map.

4 (f) If the commission fails to approve a final map with the  
5 vote and by the date required by this section, the secretary of  
6 state shall immediately petition the supreme court for an order  
7 directing the appointment of special masters to adjust the boundary  
8 lines of the districts required to be included in that map in  
9 accordance with the redistricting criteria and requirements  
10 provided by Subsections (a), (b), and (c). On approval of the  
11 special masters' map, the Texas Supreme Court shall certify the map  
12 to the secretary of state and the map constitutes the certified  
13 final map for the districts included in the map.

14 (g) The boundary lines of the districts contained in a  
15 certified final map apply beginning with the next statewide general  
16 election and any corresponding primary elections.

17 Sec. 581.152. OPEN MEETINGS. (a) The commission is a  
18 governmental body for purposes of Chapter 551.

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

22 (1) 14 days before the date of a meeting, other than a  
23 meeting described by Subdivision (2); or

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

26 (c) Except in a closed meeting authorized by Subchapter D,  
27 Chapter 551, a member or employee of the commission may not

1 communicate with or knowingly receive communications about a  
2 redistricting matter from anyone outside of an open meeting.

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

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

8 Sec. 581.154. EMPLOYEES AND CONTRACTORS. (a) The  
9 commission may hire employees and hire or contract with legal  
10 counsel and consultants as needed in the manner provided by this  
11 section.

12 (b) The commission must make hiring, removal, or  
13 contracting decisions for employees, legal counsel, and  
14 consultants by the affirmative vote of at least nine members,  
15 including at least three majority party members, at least three  
16 minority party members, and at least three independent members as  
17 described by Section 581.051(d).

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

22 (d) The commission shall establish for individuals  
23 described by Subsection (a):

- 24 (1) clear criteria for hiring and removal;  
25 (2) communication protocols; and  
26 (3) a code of conduct.

27 (e) To the extent practicable, the commission shall avoid

1 selecting employees, legal counsel, or consultants who would be  
2 disqualified from commission membership because of a conflict of  
3 interest described by Section 581.057(a).

4 Sec. 581.155. PUBLIC OUTREACH. (a) The commission shall  
5 establish and implement an open hearing process for public input  
6 and deliberation that is subject to public notice and promoted  
7 through a thorough outreach program to solicit broad public  
8 participation in the redistricting public review process.

9 (b) The hearing process must include hearings to receive  
10 public input before the commission draws any maps and hearings  
11 following the drawing and display of any commission maps. In  
12 addition, the commission shall supplement hearings with other  
13 appropriate activities to further increase opportunities for the  
14 public to observe and participate in the review process.

15 (c) The commission shall hold a public hearing in each  
16 proposed district and display maps for public comment in a manner  
17 designed to achieve the widest public access reasonably possible.

18 (d) The commission shall publicly display a preliminary map  
19 for congressional districts and shall accept public comment for at  
20 least 14 days after the date the preliminary map is first publicly  
21 displayed. The commission may not display any other maps for public  
22 comment during that 14-day period.

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

26 (f) A hearing conducted under this section must be recorded  
27 on videotape or a functionally similar and widely available medium

1 and made publicly available on the legislature's Internet website  
2 not later than 48 hours after the hearing.

3 Sec. 581.156. LEGAL CHALLENGE. (a) The commission has sole  
4 standing to defend a legal challenge to a final map certified under  
5 Section 581.151 before a court other than the supreme court or a  
6 court of appeals. The legislature may provide adequate funding and  
7 other resources to the commission to defend a certified final map.  
8 The attorney general shall, at the commission's request, represent  
9 the commission in defense of a certified final map. The commission  
10 may, in its sole discretion, retain legal counsel other than the  
11 attorney general to represent the commission in defense of a  
12 certified final map before a court other than the supreme court or a  
13 court of appeals.

14 (b) Any registered voter in this state may file a petition  
15 for a writ of mandamus or writ of prohibition, not later than the  
16 45th day after a final map is certified to the secretary of state,  
17 to bar the secretary of state from implementing the map on the  
18 grounds that the map violates the Texas Constitution, the United  
19 States Constitution, or any federal or state statute.

20 (c) If the court determines that a final certified map  
21 violates the Texas Constitution, the United States Constitution, or  
22 any federal or state statute, the court shall fashion the relief  
23 that the court deems appropriate, including the relief described by  
24 Section 581.151(f).

25 SUBCHAPTER E. ADMINISTRATIVE SUPPORT AND OTHER RESOURCES

26 Sec. 581.201. ADMINISTRATIVE SUPPORT BY SECRETARY OF STATE.  
27 Following the appointment of new commission members in each census

1 year, the secretary of state shall provide administrative support  
2 to the commission until the commission's staff and office are fully  
3 functional.

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

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

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

19 (d) For purposes of calculating expense reimbursement, a  
20 member's residence is considered to be the member's place of  
21 employment.

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

24 (a) The legislature, the Independent Citizen Redistricting  
25 Commission, or the Legislative Redistricting Board under Section  
26 28, Article III, [~~Section 28, of the~~] Texas Constitution, may  
27 officially recognize or act on a federal decennial census before

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1 September 1 of the year after the calendar year during which the  
2 census was taken.

3 SECTION 4. This Act takes effect January 1, 2020.