

## **BILL ANALYSIS**

Senate Research Center

S.B. 104  
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### **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. Currently, therefore, the Texas Legislature has primary responsibility for redistricting United States congressional districts.

A recent (January 2014) Gallup poll indicated that Congressional approval was close to an all-time low (14 percent). But, last November, 90 percent of house members who sought reelection, won. Congressional gridlock may be a contributing factor to low Congressional approval numbers. That gridlock could be due in part to state-drawn redistricting plans that make general election contests unlikely, meaning members of Congress are effectively elected primarily by the most partisan voters in their districts.

S.B. 104 creates the Texas Congressional Redistricting Commission (commission) to draw district lines for this state's congressional districts, thus taking the direct redistricting process out of the hands of the Texas Legislature and delegating it to an independent, bipartisan citizens' commission selected by the legislature.

S.B. 104 provides that the nine-member commission would be comprised of four members selected by house and senate Republicans, four members selected by house and senate Democrats, and a non-voting presiding officer selected by the commission members. The bill also sets forth requirements for being appointed to the commission and guidelines for the commission's duties.

As proposed, S.B. 104 amends current law relating to the reapportionment of congressional districts and the creation, function, and duties of the Texas Congressional Redistricting Commission.

### **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) Provides that the initial commission consists of nine members selected as follows:

(1) two members appointed by a majority vote of the members of the Texas house of representatives belonging to the political party with the most members in the house of representatives;

(2) two members appointed by a majority vote of the members of the Texas house of representatives belonging to the political party with the second highest number of members in the house of representatives;

(3) two members appointed by a majority vote of the members of the Texas senate belonging to the political party with the most members in the senate;

(4) two members appointed by a majority vote of the members of the Texas senate belonging to the political party with the second highest number of members in the senate; and

(5) one member appointed by an affirmative vote of not fewer than five of the members of the commission selected under Subdivisions (1)-(4).

(b) Provides that the member appointed under Subsection (a)(5) is a nonvoting member and serves as presiding officer of the commission.

(c) Sets forth the residency requirements of candidates for committee membership. Provides that 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, the presiding officer of that house is required to designate the members who are required to make the appointment by this subsection.

(d) Provides that a person is not eligible to serve on the commission if the person:

(1) holds an elective public office;

(2) holds an office in a political party other than membership on a precinct committee;

(3) has served in a position described by Subdivision (1) or (2) within the two years preceding the date the person is appointed to the commission; or

(4) is required to register under Section 305.003 (Persons Required to Register), Government Code, or was required to register under that section in the two years preceding the date the person is appointed to the commission.

(e) Provides that the full term of a member of the commission is a two-year term that begins on February 1 of the year ending in 1 in which the initial appointment to the position is required to be made and expires on January 31 of the next year ending in 3.

(f) Provides that a vacancy on the commission is filled in the same manner as provided by this section for the original appointment. Requires the appointing authority to fill a vacancy on or before the 20th day after the date the vacancy occurs or the commission reconvenes, as applicable, if the commission is convened when the vacancy occurs or if the vacancy exists when the commission reconvenes. Authorizes the members of the Texas house of representatives or

Texas senate authorized to appoint a member of the commission to meet as necessary to make an appointment or to fill a vacancy.

(g) Requires the members of the commission appointed under Subsections (a)(1)-(4) to be appointed not earlier than January 25 or later than January 31 of each year ending in 1. Requires the member appointed under Subsection (a)(5) to be appointed not later than 30 days after the commission convenes under Section 307.008(b).

Sec. 307.004. OATH. Requires each person appointed, before serving on the commission, to take and subscribe to the constitutional oath of office.

Sec. 307.005. POLITICAL ACTIVITIES PROHIBITED. Prohibits a member of the commission from being a candidate for or campaigning for elective office while a member of the commission; or actively participating in or contributing 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 THE 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 that the commission 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 comply with Chapters 551 (Open Meetings) and 552 (Public Information), Government Code.

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 1 and to adopt a redistricting plan for the members of the United States House of Representatives elected from this state not later than August 31 of that year, unless the federal decennial census is delivered to the appropriate official of this state after June 1 of that year, in which event the commission is required to adopt the redistricting plan not later than the 90th day after the census is delivered.

Sec. 307.009. MODIFICATION OF PLAN; ADDITIONAL ACTION. (a) Authorizes the commission, except as provided by Subsection (b), to reconvene on the motion of at least four of its voting members filed with the secretary of state (SOS) 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 court or action of any other appropriate authority or is subject to legal challenge in a court proceeding. Requires the commission to comply with all applicable standards imposed by this chapter in modifying a redistricting plan, but does not limit it to modifications necessary to correct legal deficiencies.

(b) Provides that the authority of the commission to act under this chapter expires on January 31 of the next year ending in 3 unless the final judgment of a court wholly or partly invalidates a plan after that date.

Sec. 307.010. PLAN REQUIREMENTS. (a) Provides that each district, in a redistricting plan or modification of a plan under this chapter, is required to:

(1) be composed of contiguous territory;

(2) contain a population, excluding nonresident military personnel, as nearly equal as practicable to the population of any other district in the plan; and

(3) 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, for each plan and modification of a plan adopted by the commission, to prepare and publish a report that includes:

(1) for each district in the plan, the total population and the percentage deviation from the average district population;

(2) an explanation of the criteria used in developing the plan, with a justification of any population deviation in a district from the average district population;

(3) a map or maps of all districts; and

(4) the established cost to be incurred by the counties for changes in county election precinct boundaries required to conform to the districts adopted by the commission.

(c) Requires the commission to make a copy of the report prepared under this section available to the public.

Sec. 307.011. SUBMISSION OF PLAN. Requires the commission, on adoption, to submit the plan or modification to the governor, SOS, 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 that the official record of the commission contain all relevant information developed by the commission in carrying out its duties, including maps, data, minutes of meetings, written communications, and other information.

(c) Provides that SOS becomes custodian of the commission's official records for the purposes of election administration after the commission suspends operations. Provides that any unexpected money from an appropriation to the commission reverts to the general revenue fund.

Sec. 307.013. REAPPOINTMENT OF COMMISSION FOLLOWING COURT ACTION. (a) Requires that a new commission 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 February 14 of that year or the 14th day after the date the judgment becomes final, 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 31 of the next year ending in 3 and the commission has not modified the plan as authorized by Section 307.009 in response to the judgment. 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:

(1) the date a judgment of a court approving a new plan adopted by the commission becomes final; or

(2) the second anniversary of the date the commission first convenes under Subsection (a).

SECTION 2. Effective date: January 1, 2015.