

HOUSE BILL 1694

By Fitzhugh

AN ACT to amend Tennessee Code Annotated, Title 2, Chapter 16; Title 4, Chapter 16, Part 1 and Title 8, Chapter 4, and to enact the Tennessee Congressional Redistricting Commission Act.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known and may be cited as the "Tennessee Congressional Redistricting Commission Act."

SECTION 2. Tennessee Code Annotated, Section 2-16-102, is amended by deleting the section in its entirety and by substituting instead the following language:

2-16-102. In accordance with part 2 of this chapter, the Tennessee congressional redistricting commission shall establish the composition of districts for the election of members of the house of representatives in congress after each enumeration and apportionment of representation by the congress of the United States. The districts may not be changed between apportionments.

SECTION 3. Tennessee Code Annotated, Title 2, Chapter 16, is amended by adding the following language as a new part:

2-16-201. This part shall be known and may be cited as the "Tennessee Congressional Redistricting Commission Act of 2011."

2-16-202. For the purposes of this part, unless the context otherwise requires:

(1) "Commission" means the Tennessee congressional redistricting commission;

(2) "Comptroller" means the comptroller of the treasury as established by Article VII, Section 3 of the Constitution of Tennessee;

(3) "Federal census" means the decennial census required by federal law to be prepared by the United States department of commerce, bureau of the census, in each year ending in zero (0);

(4) "Lobbyist" means an individual required to register with the Tennessee ethics commission pursuant to title 3, chapter 6, part 3; and

(5) "Plan" means a plan for congressional redistricting.

2-16-203.

(a) A Tennessee congressional redistricting commission shall be established in July 2011 and in January of each year ending in one (1) beginning in 2021 to accomplish congressional redistricting. The commission shall consist of five (5) members to be appointed as follows:

(1)

(A) Except as provided in subdivision (a)(1)(B), each legislative leader of the two (2) largest political parties in each house of the legislature shall appoint one (1) voting member to the commission by January 10 of each year ending in one (1);

(B) For the initial congressional redistricting following the 2010 census, each legislative leader of the two (2) largest political parties in each house of the legislature shall appoint one (1) voting member to the commission by July 1, 2011;

(2)

(A) Except as provided in subdivision (a)(2)(B), the four (4) legislators appointing commission members pursuant to this section shall certify their appointments to the comptroller. If an

appointing legislator does not certify an appointment by January 10 of each year ending in one (1), the supreme court shall appoint and certify such appointment to the comptroller within five (5) business days;

(B) For the initial congressional redistricting following the 2010 census, the four (4) legislators appointing commission members pursuant to this section shall certify their appointments to the comptroller. If an appointing legislator does not certify an appointment by July 1, 2011, the supreme court shall appoint and certify such appointment to the comptroller by July 6, 2011;

(3)

(A) Except as provided in subdivision (a)(3)(B), no later than January 20 of the year of their selection, the four (4) appointed members, by an affirmative vote of at least three (3) members, shall appoint and certify to the comptroller the nonvoting fifth member who shall act as the commission's chairperson. If by January 20 of the year of their selection three (3) of the four (4) voting members fail to elect a chairperson, the supreme court shall within five (5) business days appoint and certify such appointment to the comptroller. A vacancy on the commission shall be filled by the person who made the initial appointment, or their successor, within fifteen (15) business days after the vacancy occurs;

(B) For the initial congressional redistricting following the 2010 census, no later than July 11, 2011, the four (4) appointed

members, by an affirmative vote of at least three (3) members, shall appoint and certify to the comptroller the nonvoting fifth member who shall act as the commission's chairperson. If by July 11, 2011, three (3) of the four (4) voting members fail to elect a chairperson, the supreme court shall appoint and certify such appointment to the comptroller by July 15, 2011. A vacancy on the commission shall be filled by the person who made the initial appointment, or their successor, within five (5) business days after the vacancy occurs.

(b) The commission may not take any action to develop a redistricting plan for the state until the commission's chair is appointed.

(c) Prior to serving on the commission, every person selected shall take and subscribe to an oath to faithfully perform the duties of that office. The oath shall be filed with the comptroller.

2-16-204.

(a) A person is eligible to serve on the commission if:

(1) Such person is registered to vote in elections for federal office held in Tennessee as of the date of appointment and was registered to vote in the two (2) most recent general elections for federal office held in Tennessee;

(2) Such person did not hold public office or run as a candidate for election for public office, or serve as an employee of a political party or candidate for election for public office, at any time during the four-year period ending on the December 31 preceding the date of appointment; and

(3) The person certifies, on a form prescribed by the comptroller, that such person will not run as a candidate for the office of representative in the congress until after the next apportionment of representatives.

(b) No person shall serve on the commission who is or has been a registered lobbyist within one (1) year prior to selection.

2-16-205.

(a) The commission may employ the services of experts, consultants and support staff, including attorneys, as necessary to carry out its duties pursuant to this part.

(b) The comptroller, the secretary of state and the attorney general shall make available to the commission such personnel, facilities and other assistance as the commission may reasonably request. The comptroller shall be the official recipient of all provisional and preliminary census data and maps for the commission and shall forward such data and maps, upon request, to the commission.

(c) The commission, upon written request by a witness and subject to rules promulgated by the commission, may reimburse witnesses for their necessary expenses incurred in appearing before the commission.

(d) The general assembly shall appropriate funds to enable the commission to carry out its duties. The members of the commission shall receive no compensation; provided, however, that each member of the commission shall be eligible for reimbursement of expenses and mileage in accordance with the regulations promulgated by the commissioner of finance and administration and approved by the attorney general and reporter. Compensation of employees

shall be determined by the commission. Employees of the commission shall not have career status but such employees shall be subject to personnel policies applicable to state employees generally, such as leave, compensation, classification and travel reimbursement.

(e) No member of the commission, or employee of the commission, may:

(1) Campaign for elective office while a member of the commission or while an employee of the commission; or

(2) Actively participate in or contribute to any political campaign of any candidate for federal elective office while a member of the commission or while an employee of the commission.

2-16-206.

(a) All records and information in the possession of the commission are open for inspection by members of the public unless otherwise provided by law.

(b) In addition to any other duties prescribed by law, the commission shall:

(1) Adopt rules pursuant to the Uniform Administrative Procedures Act compiled in title 4, chapter 5, to carry out the provisions of this part, which rules shall provide that three (3) voting members of the commission constitute a quorum to do business, and that the votes of three (3) of the voting members are required for any official action of the commission;

(2) Act as a recipient of the final redistricting data and any maps from the United States department of commerce, bureau of the census, for congressional redistricting purposes;

(3) Hold open meetings in accordance with title 8, chapter 44, part 1; provided, that the commission shall solicit and take into consideration comments from the public in developing the redistricting plan for the state in accordance with such standards as the commission may establish;

(4) Maintain a web site for the commission; and

(5) Prepare minutes from each commission meeting and post such minutes on the web site of the commission.

2-16-207.

(a) The commission shall develop a redistricting plan for the state in accordance with the following criteria:

(1) Adherence to the "one person, one vote" standard and other requirements imposed under the Constitution of the United States;

(2) To the greatest extent mathematically possible, ensure that the population of each congressional district in the state does not vary from the population of any other congressional district in the state as determined on the basis of the total count of persons of the most recent decennial census conducted by the United States department of commerce, bureau of the census;

(3) Comply with any applicable requirements of the Voting Rights Act of 1965 and any other applicable federal laws;

(4) To the greatest extent practicable, maintain the geographic continuity of the political subdivisions of the state which are included in the same congressional district in the following order of priority:

(A) The continuity of counties;

(B) The continuity of municipalities; and

(C) The continuity of neighborhoods, as determined on the basis of census tracts or other relevant information;

(5) To the greatest extent practicable, maintain compact districts in accordance with such standards as the commission may establish; and

(6) Ensure that districts are contiguous except to the extent necessary to include any area which is surrounded by a body of water.

(b) In developing the redistricting plan for the state, the commission may not take into consideration any of the following factors, except to the extent necessary to comply with the Voting Rights Act of 1965 or any other applicable federal law:

(1) The voting history of the population of a congressional district;

(2) The political party affiliation of the population of a district; and

(3) The residence of incumbent members of the United States house of representatives.

2-16-208.

(a)

(1) Upon approval of a redistricting plan by three (3) of the voting members of the commission, but not later than September 30 of the year ending in one (1), the commission shall submit the plan to the general assembly.

(2) At the time the commission submits a redistricting plan to the general assembly, the commission shall notify the public through the publication of a notice in at least two (2) newspapers of general circulation in each grand division of the state. The commission shall also



publish a detailed version of the plan, including a map showing each congressional district established under the plan and the voting age population by race of each such district on the web site of the commission.

(b) After receiving the plan from the commission, the plan shall be drafted as legislation for introduction in the general assembly. The staff of the commission shall provide all necessary information to the staff of the general assembly in preparing such legislation, including, but not limited to, necessary computer records and reports and any electronic files of such plan as may be requested by the director of the office of legal services for the general assembly. Any technical corrections shall be made prior to introduction of such legislation and a summary of such technical corrections shall be posted on the web site of the commission; provided, that technical corrections do not include any modification which would result in the transfer of any population between any districts.

(c) Upon introduction of the legislation, the general assembly may:

(1) Approve the plan as submitted by the commission without amendment and forward the plan to the governor; or

(2) Reject the plan.

(d) A redistricting plan developed by the commission shall be considered to be enacted into law only if the plan is forwarded by the general assembly to the governor and:

(1) The governor signs the legislation or otherwise allows such legislation to become law without the governor's signature; or

(2) The governor vetoes the plan and the legislature overrides the veto.

(e) Any legislation enacting a congressional redistricting plan pursuant to this section shall be effective on November 1 in the year ending in one (1).

2-16-209. The independent redistricting commission shall terminate and cease to exist on the day after the date of the first regularly scheduled general election for federal office that occurs in the year ending in two (2). Any funds remaining at the disposal of the commission at such time shall revert to the state general fund. The web site of the commission shall be administered by the comptroller until the appointment of a new commission following the next federal census.

2-16-210.

(a)

(1) In the event that the commission's congressional redistricting plan is not enacted into law by November 1 in the year ending in one (1) pursuant to § 2-16-208, the commission may submit congressional redistricting plans developed by the commission to the Tennessee supreme court which may select and publish one (1) of the submitted plans to serve as the congressional redistricting plan for the state.

(2) The supreme court shall have no authority to modify any redistricting plan submitted under this subsection (a).

(b)

(1) If the supreme court does not select a plan to serve as the congressional redistricting plan for the state on or before December 1 in the year ending in one (1), the clerk of the supreme court shall file a

notice with the United States district court in Nashville and the supreme court shall cease to have jurisdiction in such matter.

(2) Not later than thirty (30) days after receiving notice pursuant to subdivision (b)(1), the United States district court shall develop and publish a final congressional redistricting plan for Tennessee. In developing any such redistricting plan, it is the intent of the general assembly that the district court adhere to the same terms and criteria that applied to the development of the plan by the commission pursuant to the provisions of this part.

(c) A court that is required to select, publish, or develop a congressional redistricting plan under this section shall have access to any information, data, software, or other records and material used by the commission in carrying out its duties under this part.

2-16-211. Notwithstanding any provision of this part to the contrary, if a federal court requires Tennessee to conduct congressional redistricting subsequent to an apportionment of representatives in order to comply with the Constitution of the United States or to enforce the Voting Rights Act of 1965, this act shall apply with respect to such redistricting; provided, that:

(1) The deadline for the establishment of the commission and the appointment of the commission's chair shall be the expiration of the thirty-day period that begins on the date of the final order of the federal court to conduct the redistricting;

(2) The deadline for the submission of redistricting plans to the general assembly by the commission and the date of the termination of the commission

shall be the expiration of the one hundred fifty-day period that begins on the date of the final order of the federal court to conduct the redistricting;

(3) The deadline for the selection and publication of the plan by the state supreme court shall be the expiration of the one hundred eighty-day period that begins on the date of the final order of the federal court to conduct the redistricting; and

(4) The deadline for the selection and publication of the plan by the federal district court shall be the expiration of the two hundred ten-day period that begins on the date of the final order of the federal court to conduct the redistricting.

2-16-212.

(a) The commission shall be attached to the comptroller for all administrative matters relating to receipts, disbursements, expense accounts, budget, audit and other related items. Nothing in this section shall be construed to infringe upon the autonomy of the commission or its authority prescribed pursuant to this act, and the comptroller shall have no managerial or supervisory control over the commission or its employees.

(b) The commissioner of finance and administration shall seek all available federal funding for the establishment and operation of the commission, implementation of the congressional redistricting plan and other expenses necessary to carry out congressional redistricting in Tennessee, including the expenses of any special sessions of the general assembly.

SECTION 4. The provisions of this act shall not be construed to be an appropriation of funds and no funds shall be obligated or expended pursuant to this act unless such funds are specifically appropriated by the general appropriations act.

SECTION 5. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 6. This act shall take effect upon becoming a law, the public welfare requiring it.