

SENATE BILL 957

By Yarbro

AN ACT to amend Tennessee Code Annotated, Title 2; Title 3, Chapter 1; Title 4, Chapter 16; Title 4, Chapter 29 and Title 8, Chapter 4, relative to redistricting.

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

SECTION 1. Tennessee Code Annotated, Section 2-16-102, is amended by deleting the section and substituting instead the following:

In accordance with chapter 21 of this title, the Tennessee independent 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 shall not be changed between apportionments.

SECTION 2. Tennessee Code Annotated, Title 2, is amended by adding the following as a new chapter:

2-21-101. This part is known and may be cited as the "Tennessee Independent Redistricting Commission Act."

2-21-202. For the purposes of this part, unless the context otherwise requires:

- (1) "Commission" means the Tennessee independent redistricting commission;
- (2) "Comptroller" means the office of the comptroller of the treasury;
- (3) "Congressional redistricting" means redistricting to establish the composition of districts for the election of members of the house of representatives to the United States congress;

(4) "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);

(5) "Legislative redistricting" means redistricting to establish the composition of districts for the state house of representatives and the state senate;

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

(7) "Plan" means a plan for redistricting.

2-21-203.

(a) A Tennessee independent redistricting commission is established in each year ending in one (1) beginning in 2021 to accomplish congressional and legislative redistricting. The 2021 commission is established upon the effective date of this act. Each subsequent commission must be established by April 1.

(b) The commission consists of nine (9) members to be appointed as follows:

(1) For the 2021 commission:

(A) Each legislative leader and caucus chair of the majority party and the minority party in each house of the general assembly shall jointly appoint two (2) members to the commission by July 1;

(B) Each legislative leader and caucus chair appointing commission members pursuant to this section shall certify their joint appointments to the comptroller. If a legislative leader and caucus chair do not certify a joint appointment by July 11, the supreme court shall appoint a member for each uncertified position and certify such appointment to the comptroller within five (5) business days; and

(C) No later than July 20, the eight (8) appointed and certified members, by an affirmative vote of at least seven (7) members, shall appoint and certify to the comptroller a nonvoting ninth member who shall act as the commission's chairperson. If the members fail to elect a chairperson by July 20, the supreme court shall within five (5) business days appoint a nonvoting ninth member as the commission's chairperson and certify such appointment to the comptroller. A vacancy on the commission must be filled by appointment and certification by the legislative leader and caucus chair who made the initial appointment, or their successor, within fifteen (15) business days after the vacancy occurs; and

(2) For each subsequent commission:

(A) Each legislative leader and caucus chair of the majority party and the minority party in each house of the general assembly shall jointly appoint two (2) members to the commission by April 1;

(B) Each legislative leader and caucus chair appointing commission members pursuant to this section shall certify their joint appointments to the comptroller. If a legislative leader and caucus chair do not certify a joint appointment by April 11, the supreme court shall appoint a member for each uncertified position and certify such appointment to the comptroller within five (5) business days; and

(C) No later than April 20, the eight (8) appointed and certified members, by an affirmative vote of at least seven (7) members, shall appoint and certify to the comptroller a nonvoting ninth member who shall act as the commission's chairperson. If the members fail to elect a

chairperson by April 20, the supreme court shall within five (5) business days appoint a nonvoting ninth member as the commission's chairperson and certify such appointment to the comptroller. A vacancy on the commission must be filled via appointment and certification by the legislative leader and caucus chair who made the initial appointment, or their successor, within fifteen (15) business days after the vacancy occurs.

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

(d) 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 must be filed with the comptroller.

2-21-204.

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

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

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

(3) The person is not a registered member of a political party as of the date of appointment and has not been a registered member of a political party at any point during the five (5) years prior to the date of appointment; and

(4) The person certifies, on a form prescribed by the comptroller, that the person will not run as a candidate for the office of:

(A) Representative to the United States congress until after the next apportionment of representatives;

(B) State senator until after the next apportionment of senators; or

(C) State representative until after the next apportionment of representatives.

(b) A person shall not serve on the commission if the person is a lobbyist or has been a lobbyist within two (2) years prior to the establishment of the commission.

2-21-205.

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

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

(c) Upon written request by a witness, the commission may reimburse the witness for 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 receive no compensation, but each member of the commission is 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 is determined by the commission. Employees of the commission do not

have preferred service status, but are subject to personnel policies applicable to state employees generally, such as leave, compensation, classification, and travel reimbursement.

(e) A member of the commission, or employee of the commission, shall not:

(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 or state elective office while a member of the commission or while an employee of the commission.

2-21-206.

(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 this part. The rules must provide that seven (7) voting members of the commission constitute a quorum to do business, and that the votes of seven (7) 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 and legislative 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 website for the commission; and

(5) Prepare minutes from each commission meeting and post minutes on the commission's website.

2-21-207.

(a) The commission shall develop congressional and legislative redistricting plans for the state in accordance with the following criteria:

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

(2) Compliance with the Constitution of Tennessee;

(3) To the greatest extent mathematically possible, ensure that the population of each congressional district in this state does not vary from the population of any other congressional district in this 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;

(4) Compliance with any applicable requirements of the Voting Rights Act of 1965, P.L. 89-110, compiled in 42 U.S.C. § 1973 et seq., and any other applicable federal laws;

(5) To the greatest extent practicable, maintain the geographic continuity of the political subdivisions of the state that are included in the same congressional, state house of representatives, and state senatorial districts 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;

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

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

(b) In developing redistricting plans for the state, the commission shall 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.

2-21-208.

(a)

(1) Upon approval of congressional and legislative redistricting plans by seven (7) of the voting members of the commission, but not later than November 1 of the year ending in one (1), the commission shall submit each 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 one (1) newspaper of general circulation in each grand division of this state. The commission shall also publish a detailed version of each plan, including a map showing each congressional, state house of representatives, and state senatorial districts established under the plan and the voting age population by race of each district on the commission's website.

(b) After receiving the congressional and legislative redistricting plans from the commission, each plan must be drafted as separate 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 the legislation, including, but not limited to, necessary computer records and reports and any electronic files of such plan as may be requested by the directors of the office of legal services for the general assembly. Any technical corrections must be made prior to introduction of the legislation, and a summary of any technical corrections must be posted on the commission's website. Technical corrections do not include any modification that would result in the transfer of any population between any districts.

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

(1) If a congressional redistricting plan:

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

(B) Reject the plan; and

(2) If a legislative redistricting plan:

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

(B) Amend the plan; or

(C) Reject the plan.

(d) A redistricting plan developed by the commission is 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 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 redistricting plan pursuant to this section must have an effective date of "upon becoming a law, the public welfare requiring it."

2-21-209. The independent redistricting commission terminates and ceases to exist on the day after the date of the first regularly scheduled general election for state or federal office that occurs in the year ending in two (2). Any funds remaining at the disposal of the commission at that time shall revert to the state general fund. The comptroller must administer the commission's website until the appointment of a new commission following the next federal census. The office of the attorney general and reporter shall maintain records of the commission upon the commission's termination.

2-21-210.

(a)

(1) In the event that the commission's congressional redistricting plan is not enacted into law prior to adjournment of the general assembly, 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 is not authorized 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 two (2), 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 is requested to develop and

publish a final congressional redistricting plan for Tennessee. In developing any 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.

(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 materials used by the commission in carrying out its duties under this part.

2-21-211. Notwithstanding this part to the contrary, if a federal court requires this state to conduct congressional or legislative redistricting subsequent to an apportionment of representatives or senators in order to comply with the United States Constitution or to enforce the Voting Rights Act of 1965, this part applies with respect to the redistricting; provided, that:

(1) The deadline for the establishment of the commission and the appointment of the commission's chair will 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 will 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 will 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 will 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.

2-21-212.

(a) The commission is attached to the office of the comptroller of the treasury for all administrative matters relating to receipts, disbursements, expense accounts, budget, audit, and other related items. This section must not be construed to infringe upon the autonomy of the commission or its authority prescribed pursuant to this part, and the comptroller does not have 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 a redistricting plan, and other expenses necessary to carry out redistricting in this state, including the expenses of any special sessions of the general assembly.

SECTION 3. This act is not an appropriation of funds, and funds shall not be obligated or expended pursuant to this act unless the funds are specifically appropriated by the general appropriations act.

SECTION 4. If any provision of this act or its application to any person or circumstance is held invalid, then the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to that end, the provisions of this act are severable.

SECTION 5. This act takes effect upon becoming a law, the public welfare requiring it.