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**ENGROSSED SUBSTITUTE HOUSE BILL 2575**

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**State of Washington 66th Legislature 2020 Regular Session**

**By** House State Government & Tribal Relations (originally sponsored by Representatives Pellicciotti, Ryu, Tarleton, Orwall, Dolan, J. Johnson, and Pollet)

AN ACT Relating to reforms to increase transparency and accountability of the Washington redistricting commission; amending RCW 44.05.020, 44.05.030, 44.05.070, 44.05.080, 44.05.100, 44.05.110, and 42.30.040; adding a new section to chapter 44.05 RCW; and creating a new section.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  The legislature finds that Washington has been on the cutting edge of promoting fair and effective representation by initiating reforms to the redistricting process for state legislative and congressional districts. Washington's bipartisan redistricting commission has served as a model for other states. Though the commission has been modified since it was first created, the legislature finds that it is necessary to provide timely reforms to increase trust, transparency, representation, and effectiveness of the commission, so the commission can continue to meet its legislative and constitutional directives and further advance public confidence in its work.

**Sec.**  RCW 44.05.020 and 2011 c 60 s 41 are each amended to read as follows:

The definitions set forth in this section apply throughout this chapter, unless the context requires otherwise.

(1) ((~~"Chief election officer" means the secretary of state.~~

~~(2)~~)) "Federal census" means the decennial census required by federal law to be prepared by the United States bureau of the census in each year ending in zero.

((~~(3)~~)) (2) "Lobbyist" means an individual required to register with the Washington public disclosure commission pursuant to RCW 42.17A.600.

((~~(4)~~)) (3) "Plan" means a plan for legislative and congressional redistricting mandated by Article II, section 43 of the state Constitution.

(4) "Public forum" means a commission meeting for which the primary purpose is to receive testimony and comments from the public.

(5) "Redistricting metrics" means measurements and analyses that are used to evaluate all relevant criteria and show expected impact of the plan, including the impact of the plan on the ability of racial or language groups to elect candidates of their choice, the extent which the plan promotes electoral competitiveness as measured by multiple accepted methodologies, and the degree to which the plan preserves or divides communities of interest.

**Sec.**  RCW 44.05.030 and 1984 c 13 s 1 are each amended to read as follows:

A redistricting commission shall be established in January of each year ending in one to accomplish state legislative and congressional redistricting. The five-member commission shall be appointed as follows:

(1) Each legislative leader of the two largest political parties in each house of the legislature shall ((~~appoint~~)) designate one voting member to be appointed to the commission by ((~~January 15th~~)) December 1st of each year ending in ((~~one~~)) zero. The commission is established on January 1st of each year ending in one, on which date the commissioners' appointments become official and their terms begin. Prior to that date, designees may attend training, hire staff, secure and set up offices, create the commission web site, and select the commission's chairperson as provided in subsection (3) of this section.

(2) The four legislators appointing commission members pursuant to this section shall certify their appointments to the ((~~chief election officer~~)) secretary of state. If an appointing legislator does not certify an appointment by January ((~~15th~~)) 1st of each year ending in one, within five days the supreme court shall certify an appointment to the ((~~chief election officer~~)) secretary of state.

(3) No later than January ((~~31st~~)) 15th of ((~~the~~)) each year ((~~of their selection~~)) ending in one, the four appointed members, by an affirmative vote of at least three, shall appoint and certify to the ((~~chief election officer~~)) secretary of state the nonvoting fifth member who shall act as the commission's chairperson. If by January ((~~31st~~)) 15th of ((~~the~~)) each year ((~~of their selection~~)) ending in one, three of the four voting members fail to elect a chairperson, the supreme court shall within five days certify an appointment to the ((~~chief election officer~~)) secretary of state. A vacancy on the commission shall be filled by the person who made the initial appointment, or their successor, within fifteen days after the vacancy occurs.

**Sec.**  RCW 44.05.070 and 1983 c 16 s 7 are each amended to read as follows:

(1) The commission may employ the services of experts, consultants, and support staff, including attorneys not employed by the attorney general, as necessary to carry out its duties pursuant to this chapter.

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

(3) 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.

(4) The legislature shall appropriate funds to enable the commission to carry out its duties. Members shall each receive ((~~one hundred dollars of compensation for each day spent in the performance of their duties~~)) a salary equivalent to the current annual salary for legislators provided by RCW 43.03.013 beginning on the date of official appointment to the commission and ending November 15th of each year ending in one. These positions are exempt from chapters 41.06 and 41.56 RCW, and are eligible for medical benefits as determined by the public employees' benefits board. Compensation of employees shall be determined by the commission. The provisions of RCW 43.03.050 and 43.03.060 shall apply to both the members and the employees of the commission.

(5) The commission shall employ staff to meet the needs of the commission, including positions for communications, information technology, and language access.

**Sec.**  RCW 44.05.080 and 2018 c 301 s 10 are each amended to read as follows:

In addition to other duties prescribed by law, the commission shall:

(1) Adopt rules pursuant to the Administrative Procedure Act, chapter 34.05 RCW, to carry out the provisions of Article II, section 43 of the state Constitution and of this chapter, which rules shall provide that three voting members of the commission constitute a quorum to do business, and that the votes of three of the voting members are required for any official action of the commission;

(2) Act as the legislature's recipient of the final redistricting data and maps from the United States Bureau of the Census;

(3) Comply with requirements to disclose and preserve public records as specified in chapters 40.14 and 42.56 RCW;

(4) Hold open meetings pursuant to the open public meetings act, chapter 42.30 RCW, and also comply with the following provisions:

(a) The commission must hold at least ten public forums; at least one public forum must be held in each of the congressional districts in the state. The commission shall seek input from and conduct outreach to all significant communities of interest and may conduct additional outreach and hold additional public forums if it determines that the public input received does not represent the full diversity of demographic backgrounds of each district and its surrounding areas.

(b) The commission shall use technology that allows for real-time virtual participation and feedback for all meetings. All audio and visual recordings of commission meetings must be maintained on the commission web site for eleven years.

(c) Any person submitting oral or written testimony at a public meeting must identify whether he or she is a lobbyist.

(d) The commission shall provide public notice at least twenty days in advance of any public forum. The notice must be posted on the commission web site and published in local news sources and on social media. Notice must be provided in all languages required for voting materials under the federal voting rights act of 1965, 52 U.S.C. Sec. 10503, in the congressional district in which the public forum is scheduled.

(e) The commission shall make reasonable efforts to schedule meetings in the evenings, on weekends, and at other times that most residents are able to attend.

(f) The commission shall make reasonable efforts to make available translation services and other accommodations for limited English-speaking individuals. The commission may contract with an entity that provides interpreter services through telephonic and video remote technologies pursuant to RCW 39.26.300;

(5) Prepare and disclose its minutes pursuant to RCW 42.30.035, and promptly post publicly all agendas and minutes on the commission web site;

(6) Be subject to the provisions of RCW 42.17A.700;

(7) Prepare and publish a report, before any public forum and no later than April 1st of each year ending in one, that describes the commission's general priorities and intentions for utilizing redistricting criteria in its decision-making process, including a discussion of how the commission will balance competing requirements;

(8) Solicit testimony or information about local demographics from election officials from each county and from municipalities within ninety days of the establishment of the commission. When providing testimony, election officials may comment on local population changes, communities of interest, and redistricting requirements;

(9) Release a preliminary plan at least ninety days before the release of a reasonably final plan, and release a reasonably final plan at least seven days before final approval, to allow for public review and comment. These public comments may be submitted in-person, online, or through mail;

(10) Prepare and publish a report with the plan; the report will be made available to the public at the time the plan is published. The report will include but will not be limited to: (a) The population and percentage deviation from the average district population for every district; (b) an explanation of the criteria used in developing the plan with a justification of any deviation in a district from the average district population; (c) a map of all the districts; ((~~and~~)) (d) the estimated cost incurred by the counties for adjusting precinct boundaries; (e) a summary of all public input received in each comment period; (f) all plans discussed by the full commission; (g) a summary of the data the commission used to create those plans; (h) analyses of the maps using redistricting metrics; (i) a written explanation if an alternative plan furthers constitutional and statutory redistricting criteria more than the final plan selected by the commission; and (j) any other information that provides the basis on which the commission made decisions to achieve compliance with constitutional and statutory requirements;

((~~(8)~~)) (11) Adopt a districting plan for a noncharter county with a population of four hundred thousand or more, pursuant to RCW 36.32.054;

(12) Attend nonpartisan redistricting training held by a nationally recognized nonpartisan organization;

(13) Attend training on the public records act, chapter 42.56 RCW, as required by RCW 42.56.150, and the open public meetings act, chapter 42.30 RCW, as required by RCW 42.30.205; and

(14) Provide notices of the availability of both plans and reports in all languages required for voting materials under the federal voting rights act of 1965, 52 U.S.C. Sec. 10503, for each congressional district.

**Sec.**  RCW 44.05.100 and 2019 c 192 s 1 are each amended to read as follows:

(1) Upon approval of a redistricting plan by three of the voting members of the commission, but not later than November 15th of the year ending in one, the commission shall submit the plan to the legislature. If any commissioners vote against the redistricting plan, those commissioners must file a dissenting report explaining their decision to vote against the plan.

(2) After submission of the plan by the commission, the legislature shall have the next thirty days during any regular or special session to amend the commission's plan. If the legislature amends the commission's plan the legislature's amendment must be approved by an affirmative vote in each house of two-thirds of the members elected or appointed thereto, and may not include more than two percent of the population of any legislative or congressional district.

(3) The plan approved by the commission, with any amendment approved by the legislature, shall be final upon approval of such amendment or after expiration of the time provided for legislative amendment by subsection (2) of this section whichever occurs first, and shall constitute the districting law applicable to this state for legislative and congressional elections, beginning with the next elections held in the year ending in two. This plan shall be in force until the effective date of the plan based upon the next succeeding federal decennial census or until a modified plan takes effect as provided in RCW 44.05.120(6).

(4) If three of the voting members of the commission fail to approve and submit a plan within the time limitations provided in subsection (1) of this section, the supreme court shall adopt a plan by April 30th of the year ending in two. Any such plan approved by the court is final and constitutes the districting law applicable to this state for legislative and congressional elections, beginning with the next election held in the year ending in two. This plan shall be in force until the effective date of the plan based on the next succeeding federal decennial census or until a modified plan takes effect as provided in RCW 44.05.120(6).

**Sec.**  RCW 44.05.110 and 2011 c 60 s 43 are each amended to read as follows:

(1) Following the period provided by RCW 44.05.100(1) for the commission's adoption of a plan, the commission shall take all necessary steps to conclude its business and cease operations. The commission shall prepare a financial statement disclosing all expenditures made by the commission. The official record shall contain all relevant information developed by the commission pursuant to carrying out its duties under this chapter, maps, data collected, minutes of meetings, written communications, and other information of a similar nature. Once the commission ceases to exist, the ((~~chief election officer~~)) secretary of state shall be the custodian of the official record for purposes of reprecincting and election administration. The ((~~chief election officer~~)) secretary of state shall provide for the permanent preservation of this official record pursuant to chapter 42.56 RCW and Title 40 RCW. Once the commission ceases to exist any budget surplus shall revert to the state general fund.

(2) Except as provided in RCW 44.05.120 for a reconvened commission, the commission shall cease to exist on July 1st of each year ending in two unless the supreme court extends the commission's term.

NEW SECTION. **Sec.**  A new section is added to chapter 44.05 RCW to read as follows:

The commission shall create and maintain a web site. The web site must include the following information as it becomes available:

(1) Background information about the commission and its duties;

(2) Information about meetings of the commission;

(3) A searchable archive of documents produced by the commission;

(4) All public draft redistricting plans drawn by the commission or submitted by the public and the report required by RCW 44.05.080;

(5) Data used by the commission in its decision making to create or evaluate plans in a format easily usable for analysis;

(6) A means for the public to submit at no cost comments and proposed plans to the commission;

(7) Transcripts and video archive of all meetings of the commission; and

(8) Any other relevant materials and documents that the commission determines would promote the transparency of its work.

**Sec.**  RCW 42.30.040 and 2012 c 117 s 124 are each amended to read as follows:

A member of the public shall not be required, as a condition to attendance at a meeting of a governing body, to register his or her name and other information, to complete a questionnaire, or otherwise to fulfill any condition precedent to his or her attendance. However, any person submitting oral or written testimony at public meetings of the redistricting commission shall identify whether he or she is a lobbyist, as defined in RCW 44.05.020.

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