**South Carolina General Assembly**

124th Session, 2021-2022

**H. 4202**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Cobb‑Hunter, King, Brawley, Garvin, Thigpen, Alexander, Henegan, Gilliard, Matthews, McKnight, Murray and Anderson

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Companion/Similar bill(s): 561, 3279, 4201

Introduced in the House on April 13, 2021

Currently residing in the House Committee on **Judiciary**

Summary: Redistricting

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

4/13/2021 House Introduced and read first time ([House Journal‑page 23](file:///h:\hj\20210413.docx))

4/13/2021 House Referred to Committee on **Judiciary** ([House Journal‑page 23](file:///h:\hj\20210413.docx))

View the latest [legislative information](http://www.scstatehouse.gov/billsearch.php?billnumbers=4202&session=124&summary=B) at the website

**VERSIONS OF THIS BILL**

[4/13/2021](file:///p:\pprever\2021-22\4202_20210413.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 80 TO TITLE 2 SO AS TO ESTABLISH THE SOUTH CAROLINA CITIZENS REDISTRICTING COMMISSION FOR THE PURPOSE OF SUBMITTING REAPPORTIONMENT PLANS TO THE GENERAL ASSEMBLY AND TO PROVIDE FOR THE SELECTION, QUALIFICATIONS, POWERS, DUTIES, AND TERMS OF THE COMMISSION AND ITS MEMBERS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Title 2 of the 1976 Code is amended by adding:

“CHAPTER 80

South Carolina Citizens Redistricting Commission

Section 2‑80‑10. The General Assembly finds that the periodic reapportionment of the House of Representatives, the Senate, and the congressional districts is a responsibility of great consequence for it is designed to guarantee fair and effective representation for all citizens of South Carolina. It is a duty whose performance involves the analysis of population data, the study of geographic and demographic factors, the assistance of statisticians and other technical experts, and the development and completion of a reapportionment plan in time not only to provide for an orderly electoral process and an informed electorate, but also to comply with all state and federal election laws, including primary election and general election schedules prescribed by statute and by the Constitution of South Carolina, 1895. The General Assembly also finds that benefits are to be gained from the participation of the major political parties and of the public in the process. For these reasons, the General Assembly considers it proper and necessary to provide formally for public participation in the formulation of a reapportionment plan by establishing a bipartisan independent citizens commission to construct reapportionment plans in a timely fashion and to prescribe a schedule to best ensure that the periodic redistricting of the House of Representatives, the Senate, and the congressional districts is carried out in conformity with statutorily and constitutionally prescribed dates in the nomination and election process and with all other state and federal election laws.

Section 2‑80‑20. The General Assembly shall adopt the reapportionment plan for the House of Representatives, Senate, and congressional districts, as determined by the South Carolina Citizens Redistricting Commission (‘commission’), by January thirty‑first in calendar years that end with the numeral ‘2’, after receipt of final reapportionment plans as required by the provisions of this chapter.

Section 2‑80‑30. The State Ethics Commission shall oversee the appointment of the members of the South Carolina Citizens Redistricting Commission that is tasked with the post‑census decennial reapportionment plan for the House of Representatives, Senate, and congressional districts. The selection process will be completed by January thirty‑first in calendar years that end with the numeral ‘1’, following the federal decennial census. The Redistricting Commission shall convene to begin its term of service on March first in calendar years that end with the numeral ‘1’.

Section 2‑80‑40. The State Ethics Commission shall open the application period for appointment consideration no later than September first in calendar years that end with the numeral ‘0’. The application process must be open to all registered South Carolina voters in a manner that promotes a diverse and qualified applicant pool. The application period for appointment consideration shall remain open for at least sixty days and may not close before October thirty‑first. All applicants are required to provide a completed application and attest under oath that they meet the eligibility requirements. The names of all applicants who fit the eligibility criteria and who are not disqualified must be placed into the general pool.

Section 2‑80‑50. The State Ethics Commission shall work with the State Election Commission to identify eligible registered voters and shall make its best efforts to notify and invite all eligible voters to apply for the commission. These efforts shall include, but not be limited to:

(1) advertising the application period and criteria in all daily newspapers in the State for at least thirty consecutive days prior to the opening of the application period;

(2) advertising the application period on the home page of all state agency websites; and

(3) requesting all local television and radio stations to air frequent announcements that feature this information during the application period.

Section 2‑80‑60. (A) To be eligible to serve on the commission, a voter must possess a consistent record of regularly voting in the majority or minority party’s primaryelections. This provision does not apply to newly registered voters, or those who have not had primary contests on their ballot. The applicant for the commission must not be:

(1) a current or former state or federal office holder;

(2) a current or former state or federal agency executive director;

(3) an individual who, within the previous five years of their appointment, worked as a paid campaign staffer for a candidate for elected office;

(4) a paid staff member for an elected official in the five years leading up to their service on the commission;

(5) a declared candidate for partisan federal, state, or local office;

(6) an elected official to federal, state, or local office;

(7) an officer or member of a governing body for a federal, state, or local political party;

(8) a paid consultant or employee of a federal, state, or local elected official or political candidate’s campaign, or political action committee;

(9) an employee of the General Assembly; or

(10) a registered state or federal lobbyist, or any employee of a registered state or federal lobbyist.

(B) Applicants may not have:

(1) immediate family members who have served in any of the roles specified in subsection (A) in the five years preceding the applicant’s appointment; and

(2) donated more than a combined total of two thousand dollars to a candidate or candidates for elected office in the five years leading up to their service on the commission.

(C) The State Ethics Commission shall prepare the application for an applicant to be considered for appointment to the commission that shall also include an essay question regarding the voter’s reasons for desiring to serve on the commission. The applications must be available on the State Ethics Commission’s website and at every county board of voter registration and elections office. Accommodations must be made consistent with the American Disabilities Act regarding access to applications.

Section 2‑80‑70. (A) Upon the closing of the application period, the State Ethics Commission randomly shall select applicants from the general pool to create a fifty‑six member nominee pool. The nominee pool shall include eight residents from each of the state’s seven congressional districts, of whom four nominees from each district must be majority party voters, and four must be voters of the largest minority party.

(B) The methodology of the random selection process, ensuring that a partisan balance of nominees are chosen from each congressional district, must be determined by the State Ethics Commission.

(C) Decisions requiring a vote by the State Ethics Commission must be determined by a majority of the eight members that shall include two members of the majority party and two members of the minority party.

(D) The State Ethics Commission shall perform a review of the nominee pool to ensure that the fifty‑six member pool of applicants mirrors the geographic and demographic makeup of the State as closely as possible, that all eligibility requirements have been met, and that the applicants’ stated reasons for appointment included in their essays were found reasonable by a majority of the State Ethics Commissioners. The State Ethics Commission may remove members from the nominee pool and randomly select replacements of the same geographic and partisan designations to satisfy this requirement. Once completed, the State Ethics Commission randomly shall select the final fourteen commission members from the nominee pool who met all the criteria for membership. The Citizens Redistricting Commission shall consist of fourteen members, one majority party voter and one largest minority party voter drawn from each congressional district. The final commission must be selected randomly to ensure the commission’s membership reflects the state’s diversity including, but not limited to, racial, ethnic, geographic, and gender diversity; however, it is not intended that formulas or specific ratios be applied for this purpose.

Section 2‑80‑80. The State Ethics Commission simultaneously shall choose a panel of fourteen alternate commissioners using the same random selection method and selecting from a new pool of fifty‑six voters. Each alternate must be available to replace a commission member of the same party in his congressional district, if a commission member is unable to represent his district due to illness, death, or other significant impediment, as determined by a majority vote of the Citizens Redistricting Commission. If the originally impaneled commission fails to reach a decision on reapportionment congressional and state legislative districts pursuant to this chapter, the State Ethics Commission shall dissolve the original commission and impanel the alternates to complete the reapportionment duties. The alternate panel of commissioners may consider, but is not limited to, the original panel’s reapportionment proposals.

Section 2‑80‑90. (A) The commission shall convene on March first in calendar years that end with the numeral ‘1’. Commissioners shall serve from the time the commission convenes until the General Assembly adopts a final reapportionment plan. The commissioners’ terms shall expire once their duties and obligations are complete, but not prior to the conclusion of judicial review, if any. A commissioner may not serve more than one term.

(B) The commission shall elect its own chairperson and vice chair. The chairperson and vice chair must not be of the same political party affiliation. The Department of Administration shall provide staff support for the commission’s work. The commission shall have the sole power to make its own rules, have procurement and contracting authority, and may hire staff and consultants as needed, including legal representation.

(C) Redistricting commission members and staff may not communicate with or receive communications about redistricting matters from anyone outside of a public hearing. This does not prohibit communication between commission members, staff, legal counsel, and consultants retained by the commission.

(D) The commission shall establish clear criteria for the hiring and removal of staff and consultants, communication protocols, and a code of conduct. The commission shall apply the conflicts of interest standards set forth in this chapter to the hiring of staff to the extent applicable. The Department of Administration shall provide support functions to the commission until its staff and office are fully functional. Commission employees are exempt from civil service requirements. The commission shall require that at least one of its hired legal counsel possess demonstrated extensive experience and expertise in implementation and enforcement of the federal Voting Rights Act of 1965 (42 U.S.C. Sec. 1971 et seq.). The commission shall make hiring, removal, or contracting decisions on staff, legal counsel, and consultants by a majority vote.

(E) Each commissioner, including alternates, shall receive per diem for each day of actual work.

(F) To ensure transparency and accountability, the minutes of all the meetings shall be publicly posted on the commission’s website.

Section 2‑80‑100. The commission shall establish fair and reasonable written criteria appropriate for reapportionment that it shall follow in formulating plans of reapportionment. The Department of Administration shall provide technical staff and clerical services to the commission. The various county boards of voter registration and elections are also authorized to provide technical and administrative assistance to the commission upon request.

Section 2‑80‑110. (A) In developing reapportionment plans or maps, the commission shall consider the following five factors, in priority order:

(1) population equality;

(2) Voting Rights Act compliance;

(3) communities of interest, which include, but are not limited to, populations that share cultural or historical characteristics or economic interests. Communities of interest do not include relationships with political parties, incumbents, or political candidates;

(4) competitiveness of district; and

(5) consistency with existing local boundaries.

(B) Once the mandatory criteria are achieved, the commission shall consider contiguity and compactness of districts. Islands are contiguous by land to the county of which they are a part.

The commission shall count incarcerated persons as residing at their most recent home addresses, not at the address of the place of incarceration.

(C) The commission shall propose plans or maps with districts that:

(1) are of equal population as mandated by the U.S. Constitution and shall comply with the Voting Rights Act and all other federal laws;

(2) are geographically contiguous;

(3) reflect the state’s diverse population and communities of interest;

(4) do not provide a disproportionate advantage to any political party;

(5) reflect consideration of county, city, and township boundaries; and

(6) are reasonably compact.

(D) Before voting to adopt a plan, the commission shall ensure that the plan is tested, using appropriate technology, for compliance with the criteria required pursuant to this section. All commission decisions must be determined by a majority of at least ten members that includes at least four Democrats and four Republicans.

Section 2‑80‑120. After formulating a proposed plan, the commission shall open a forty‑five day public comment period to host public hearings across the State beginning no later than June first in calendar years that end with the numeral ‘1’. The commission shall establish and implement an open hearing process for public input and deliberation that is subject to public notice and promoted through a thorough outreach program to solicit broad public participation in the reapportionment public review process. Notice of all public hearings must be published in daily newspapers of general circulation covering all areas of the State for at least fourteen days prior to the hearing date. The commission shall hold at least seven public hearings across the State, with at least one in each congressional district, and the commissioners from that district must be in attendance. The public hearings must be supplemented with other activities as appropriate to increase opportunities for the public to observe and participate in the review process. The commission shall display, and post on their website, the maps for public comment in a manner designed to achieve the widest public access reasonably possible.

Section 2‑80‑130. (A) Within thirty days of the completion of the public comment period, but no later than August fifteenth, the commission shall make any amendments to the proposed map or plan and vote to adopt a final version. At least ten members, including at least four majority party members and four largest minority party members, shall approve the final version no later than August fifteenth in calendar years that end with the numeral ‘1’. The final version, to include maps, must be presented to the public, General Assembly, and congressional offices by September first in calendar years that end with the numeral ‘1’.

(B) If the commission is unable to come to such an agreement, the State Ethics Commission shall dissolve the original commission and convene the alternate commission within fourteen calendar days of the original commission’s dissolution. The alternate commission shall have sixty days to conclude the reapportionment duties as described in this chapter, to include the delivery of the final version along with maps to all of the parties specified in subsection (A).

Section 2‑80‑140. There is no mechanism for executive or legislative alteration or veto power over the commission’s final reapportionment plan and maps. Any legal challenges to the commission’s final reapportionment plan or maps must be filed in state circuit court or federal district court pursuant to state and federal law. An appeal of a state court decision regarding reapportionment must be heard in the South Carolina Supreme Court.

Section 2‑80‑150. Each alternate must be available to replace a commission member of the same party in his congressional district, if a commission member is unable to represent his district due to illness, death, or other significant impediment, as determined by a majority vote of the Citizens Redistricting Commission. If there is a vacancy, the State Ethics Commission randomly shall draw a name from this alternate pool, according to the respective congressional district and political party. The alternate pool must be refreshed and maintained throughout the original process. Alternates must be kept abreast of commission proceedings either through attendance or electronic communications throughout the process.

Section 2‑80‑160. (A) In calendar years that end with the numeral ‘9’, prior to the decennial census, the Governor shall submit a budget to the General Assembly that includes funding sufficient to meet the estimated expenses of the entire redistricting process required by this chapter. The Governor also shall make adequate office and meeting space available for commission operations. The General Assembly shall make the necessary appropriation for the commission in the appropriate annual appropriations act, and the appropriation must be available during the entire redistricting process. The General Assembly shall appropriate funds sufficient to compensate the commissioners and to enable the commission to execute its functions, operations, and activities, which may include, but are not limited to:

(1) retaining independent, nonpartisan subject matter experts and legal counsel;

(2) conducting hearings;

(3) publishing notices;

(4) maintaining a record of the commission’s proceedings; and

(5) other activities necessary for the commission to conduct its business.

(B) The General Assembly shall provide adequate funding to allow the commission to defend itself against any action regarding an adopted plan.

(C) The commission shall furnish reports of expenditures to the Governor and the General Assembly and must be subject to an audit as provided by law.

(D) The commission shall notify the General Assembly if it determines that funds or resources are inadequate.

(E) The State shall indemnify the commission for costs actually incurred that exceed the commission’s appropriations.

Section 2‑80‑170. For purposes of this chapter, the most recently completed United States Census qualifies as the decennial enumeration required by Section 3, Article III of the Constitution of South Carolina, 1895.

Section 2‑80‑180. For five years following the expiration of a former commissioner’s term of service, a former commissioner may not:

(1) serve as a lobbyist within the meaning of Chapter 17, Title 2;

(2) offer as a candidate for elected office, or be appointed to fill a vacancy in an elected office;

(3) be appointed to serve as a state agency executive director; or

(4) contribute more than a combined total of two thousand dollars to a candidate or candidates for elected office in a single election cycle.”

SECTION 2. This act takes effect upon approval by the Governor.

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