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**Resolution Analysis**  
Legislative Service Commission

## **H.J.R. 9**

126th General Assembly  
(As Introduced)

**Rep. DeWine**

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### **RESOLUTION SUMMARY**

- Proposes to place on the ballot at the November 8, 2005, general election, a constitutional amendment to limit to each year ending in "1" the time at which apportionment or redistricting of the state for General Assembly or Congressional districts may be conducted, unless the Ohio or United States Supreme Court invalidates the currently applicable plan.

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### **CONTENT AND OPERATION**

#### **Apportionment schedule--General Assembly districts**

The Ohio Constitution specifies the process for establishing General Assembly districts. Pursuant to that process, the Apportionment Board is required to meet on a date designated by the Governor between August 1 and October 1 in the year 1971 and in every tenth year thereafter. The apportionment must be published not later than October 5 in the year in which it is made. Thus, apportionment of the state for General Assembly districts generally occurs in each year ending in the numeral "1." (Article XI, Section 1 of the Ohio Constitution.)

In specified circumstances, General Assembly districts may be adopted in years other than those ending in "1" using this same constitutional process. In the event that any section of the Ohio Constitution relating to apportionment or any apportionment plan is determined to be invalid by either the Supreme Court of Ohio or the Supreme Court of the United States, then the Apportionment Board must determine an apportionment plan conforming with the constitutional provisions that are then valid, which plan is to be used until the next regular apportionment. (Article XI, Section 13 of the Ohio Constitution.)

#### **Redistricting schedule--Congressional districts**

The General Assembly, by law, adopts the districts for the purpose of electing Representatives to the United States Congress. Pursuant to the United

States Constitution, the number of Congressional representatives apportioned to each state is determined every ten years based upon the enumeration of the population, otherwise known as the United States Census (Article I, Section 2 of the United States Constitution). The issue of whether a state legislature may redraw its congressional districts mid-decade for political purposes is currently the subject of litigation (see **COMMENT**). Thus it is unclear whether federal law would prohibit the General Assembly from adopting Congressional districts more frequently than every ten years.

### **Changes proposed by the resolution**

The resolution proposes placing a constitutional amendment on the ballot at the November 8, 2005, general election. The amendment would, if adopted by a majority of the electors voting on the proposal, permit the state to be apportioned and redistricted for both General Assembly and congressional districts only in each year ending in the numeral one, unless the currently applicable apportionment or redistricting plan is determined to be invalid by either the Supreme Court of Ohio or the Supreme Court of the United States (Proposed Article XI, Section 16 of the Ohio Constitution).

The amendment would not substantively affect the current constitutional timeframe for redistricting General Assembly districts by the Apportionment Board, since those districts already must be adopted in years ending in "1." If the currently pending court cases regarding mid-decade Congressional redistricting are resolved in such a manner as to permit state legislatures to redistrict for political purposes between decennial census cycles, then the amendment would prohibit the General Assembly from such mid-decade redistricting. If those cases are resolved in such a manner as to prohibit mid-decade redistricting, then the amendment would have no substantive effect on the development of Congressional districts.

### **Effective date**

If adopted by a majority of the electors voting on the proposal, the constitutional change would take immediate effect.

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## **COMMENT**

The United States Supreme Court has recently remanded, for additional consideration, several cases challenging the redistricting conducted by the Texas legislature in 2003. Those cases were brought when the Texas legislature redistricted the state after a federal court developed a Congressional district plan for Texas during 2002. See *Jackson v. Perry*, 125 S.Ct. 351 (2004), *Henderson v. Perry*, 125 S.Ct. 351, and *Lee v. Perry*, 125 S.Ct. 352 (2004).

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## HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	07-28-05	p. 1538

HJR09-I-126.doc/jc

