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Resolution Analysis
Legislative Service Commission

S.J.R. 6

127th General Assembly
(As Introduced)

Sen. Cates

RESOLUTION SUMMARY

- Submits to the voters at the November 6, 2007, general election a proposal to revise the provisions of the Ohio Constitution regarding the apportionment of the state by changing the persons responsible for reapportionment, revising the process and criteria for redistricting, and requiring Congressional districts to be adopted under that process.
- Specifies that the proposed constitutional changes take effect immediately, if adopted by a majority of electors voting on the proposal.
- Establishes standards for the creation of Congressional districts that generally parallel the requirements for establishing General Assembly districts, but require Congressional districts to be as close to the applicable ratio of representation as practicable.
- Changes the membership of the Apportionment Board to consist of seven members, including the Governor, the Auditor of State, the Secretary of State, the Speaker of the House of Representatives, the minority leader of the House of Representatives, the President of the Senate, and the minority leader of the Senate.
- Requires an affirmative vote of five or more members of the Apportionment Board to establish the boundaries for each General Assembly and Congressional district, and requires all members of the Apportionment Board to be present at the meeting.
- Expands the prohibition against establishing General Assembly districts more than once a decade, unless ordered by a court, to apply to Congressional districts.

- Requires the Apportionment Board to establish new districts if the existing district plan is determined to be invalid by an unappealed final order of a court of competent jurisdiction.
- Renumbers various redistricting provisions of the Ohio Constitution.

CONTENT AND OPERATION

Background

Currently, Section 1 of Article XI of the Ohio Constitution provides for the establishment of an Apportionment Board that is responsible for the apportionment of the state for members of the General Assembly. The Board consists of the Governor, Auditor of State, Secretary of State, one person chosen by the Speaker of the House and the leader of the Senate of the political party of which the Speaker is a member, and one person chosen by the legislative leaders in the two houses of the major political party of which the Speaker is not a member. The Board must meet on a date designated by the Governor between August 1 and October 1 in each year ending in one. The Board's apportionment of the House and Senate districts must be published no later than October 5 of the year in which it is made.

The United States Constitution vests state legislatures with the authority to provide for the establishment of Congressional districts. Section 4 of Article I states that "[t]he Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to Places of Chusing [sic] Senators." Accordingly, the General Assembly has established the current Congressional districts in Ohio by statute; the plan is contained in section 3521.01 of the Revised Code.

The Fourteenth Amendment to the United States Constitution provides, with respect to Congressional districts, that "Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed." The count is to be based on a census, which must be taken every ten years. A census is provided for in Section 2 of Article I of the United States Constitution, which states that "[t]he actual Enumeration shall be made within three Years after the first Meeting of Congress of the United States, and within every subsequent term of ten Years, in such Manner as they shall by Law direct." It should be noted, however, that the manner of drawing Congressional and state legislative districts, especially with respect to requirements of population, has become an area

governed substantially by standards developed through cases decided by federal courts.

Membership of the Apportionment Board

As previously mentioned, the Ohio Constitution currently requires the five-member Apportionment Board to meet between specified dates to establish General Assembly districts. This board is currently comprised of the Governor, the Auditor of State, the Secretary of State, one person chosen by the Speaker of the House of Representatives and the leader in the Senate of the political party of which the Speaker is a member, and one person chosen by the legislative leaders in the two houses of the major political party of which the Speaker is not a member. The resolution increases the total membership of the Apportionment Board to seven. The resolution removes the two individuals selected by the specified members of the General Assembly and replaces them with the Speaker of the House of Representatives, the minority leader of the House of Representatives, the President of the Senate, and the minority leader of the Senate. (Proposed Article XI, Section 1, Ohio Constitution.)

Drawing Congressional districts

The resolution also expands the duties of the Apportionment Board to include establishing the boundaries for the prescribed number of Congressional districts as apportioned to Ohio pursuant to Section 2 of Article I of the Constitution of the United States (proposed Article XI, Sections 1, 2, 3, 4, and 6).

Affirmative vote of five or more members

Existing law requires a simple majority vote of the Apportionment Board to meet and to perform its duties, including the establishment of the boundaries for districts, the designation of which senator will represent a district if more than one senator whose term will not expire would represent the same district due to the fact that the boundaries of a district have changed, and the establishment of a new apportionment plan if the Ohio Supreme Court or an applicable federal court has ruled the current apportionment plan to be invalid. The resolution requires the entire Apportionment Board to meet, and an affirmative vote of five or more of the seven members is required to perform each of the listed duties. (Proposed Article XI, Sections 1, 11, and 12, Ohio Constitution.)

Standards for representation

Section 2 of Article XI of the Ohio Constitution specifies the processes for determining the ratio of representation for House of Representatives districts and

Senate districts.¹ Generally, the ratio of representation is determined by dividing the state's population, as determined by the federal decennial census, by the required number of districts. The resolution retains these processes and adds a similar process for determining the congressional ratio of representation. Under the resolution, the whole population of the state, as determined by the federal decennial census, must be divided by the number of Congressional districts apportioned to Ohio pursuant to Section 2 of Article I of the United States Constitution. The resulting quotient must be the ratio of representation in the Congress for the ten years next succeeding the redistricting. (Proposed Article XI, Section 2, Ohio Constitution.)

After the ratio of representation is determined for each type of district, the resolution specifies the population requirements for each district type, based on the ratio of representation. As under the current constitutional provisions, the resolution generally requires the populations of House of Representatives districts and Senate districts to be substantially equal to the applicable ratio of representation, and in no event to contain a population of less than 95% nor more than 105% of the ratio of representation. The population percentages for House of Representatives districts may vary by more than the specified percentages if the population of a county is between 90% and 110% of the ratio of representation, and that county is designated as a single district. The resolution also establishes population requirements for Congressional districts. The population of each Congressional district must be as equal to the ratio of representation in the Congress as practicable. (Proposed Article XI, Section 3, Ohio Constitution.)

Once the districts are established, each type of district is entitled to have a single person represent the district. Each Congressional district is entitled to a single representative in the United States House of Representatives in each Congress. The resolution retains a parallel standard regarding House of Representatives and Senate districts. (Proposed Article XI, Section 4, Ohio Constitution.)

Compactness and contiguity of districts

Existing law requires every House of Representatives district to be compact and composed of contiguous territory. The boundary of each district must be a single nonintersecting continuous line. As much as possible, the boundaries of districts must be drawn as to delineate an area containing one or more whole counties. The resolution expands these criteria to apply to all General Assembly and Congressional districts. (Proposed Article XI, Section 6, Ohio Constitution.)

¹ The "ratio of representation" is the target number of persons per district.

Districts established pursuant to court order

The Constitution currently provides that district boundaries established pursuant to its requirements must not be changed until the ensuing federal decennial census and the ensuing redistricting, unless the redistricting plan is determined to be invalid by the Ohio Supreme Court or the United States Supreme Court. The resolution retains the requirement that General Assembly district boundaries generally be established no more than once per decade, unless the existing redistricting plan is determined to be invalid. The resolution expands this provision to apply to both General Assembly and Congressional districts. (Proposed Article XI, Sections 5 and 12, Ohio Constitution.)

The resolution changes the courts with jurisdiction to determine that a redistricting plan is invalid. Under existing law, a new redistricting plan may be drawn at a time other than a year ending in the numeral "1" only if the Ohio Supreme Court or the United States Supreme Court determines that the existing plan is invalid. The resolution requires the Apportionment Board to ascertain and determine a plan of apportionment in conformity with the Constitution if the existing plan is determined to be invalid by an unappealed final order of a court of competent jurisdiction. The Supreme Court of Ohio, or an applicable federal court, has exclusive, original jurisdiction over cases arising under the resolution. Thus, a new apportionment plan would be adopted if the Ohio Supreme Court, or an applicable federal court, ruled the plan invalid and that order is not appealed. (Proposed Article XI, Sections 5 and 12, Ohio Constitution.)

Election schedule and effective date

The resolution submits the proposed constitutional changes to the voters of Ohio at the general election to be held on November 6, 2007. If adopted by a majority of electors voting on the proposal, it will take effect immediately. (Effective date and repeal.)

Elimination of obsolete language

Section 14 of Article XI of the Ohio Constitution specifies the General Assembly districts that were in effect in Ohio until January 1, 1973. Since the time at which this language applied has passed, the resolution eliminates the language (existing Article XI, Section 14, Ohio Constitution--*repealed by the resolution*).

Relocation of provisions

In addition to the changes previously discussed, the resolution relocates numerous constitutional provisions. The following tables detail the structure of

Article XI of the Ohio Constitution, as proposed by the resolution, and identify any provisions that are relocated by the resolution.

Article XI – As organized under the current Ohio Constitution

Prior citation	Topic	New citation
Art. XI, Section 1	Persons responsible for apportionment	<i>Unchanged</i>
Art. XI, Section 2	Determination of ratio of representation	<i>Unchanged</i>
<i>No provision</i>	Population of Congressional districts	Art. XI, Section 3(A)
Art. XI, Section 3	Population of House of Representatives districts	Art. XI, Section 3(B)
Art. XI, Section 4	Population of Senate districts	Art. XI, Section 3(C)
Art. XI, Section 5	Number of representatives per district	Art. XI, Section 4
Art. XI, Section 6	Districts created every 10 years	Art. XI, Section 5
Art. XI, Section 7	District criteria	Art. XI, Section 6
Art. XI, Section 8	Number of House districts in each county	Art. XI, Section 7
Art. XI, Section 9	Single county House districts contain 90 - 110% of ratio	Art. XI, Section 8
Art. XI, Section 10	Standards for House of Representatives districts	Art. XI, Section 9
Art. XI, Section 11	Standards for Senate districts	Art. XI, Section 10
Art. XI, Section 12	Assignment of Senate districts to current Senators	Art. XI, Section 11
Art. XI, Section 13	Judicial jurisdiction; district creation after invalidity	Art. XI, Section 12
Art. XI, Section 14	District boundaries until 1973	<i>Repealed</i>
Art. XI, Section 15	Severability	Art. XI, Section 13

Article XI – As organized under the resolution

New citation	Topic	Prior citation
Art. XI, Section 1	Persons responsible for apportionment	<i>Unchanged</i>
Art. XI, Section 2	Determination of ratio of representation	<i>Unchanged</i>
Art. XI, Section 3(A)	Population of Congressional districts	<i>No provision</i>
Art. XI, Section 3(B)	Population of House of Representatives districts	Art. XI, Section 3
Art. XI, Section 3(C)	Population of Senate districts	Art. XI, Section 4
Art. XI, Section 4	Number of representatives per district	Art. XI, Section 5
Art. XI, Section 5	Districts created every 10 years	Art. XI, Section 6
Art. XI, Section 6	District criteria	Art. XI, Section 7
Art. XI, Section 7	Number of House districts in each county	Art. XI, Section 8
Art. XI, Section 8	Single county House districts contain 90 - 110% of ratio	Art. XI, Section 9
Art. XI, Section 9	Standards for House of Representatives districts	Art. XI, Section 10
Art. XI, Section 10	Standards for Senate districts	Art. XI, Section 11
Art. XI, Section 11	Assignment of Senate districts to current Senators	Art. XI, Section 12
Art. XI, Section 12	Judicial jurisdiction; district creation after invalidity	Art. XI, Section 13
<i>No provision</i>	District boundaries until 1973	Art. XI, Section 14
Art. XI, Section 13	Severability	Art. XI, Section 15

COMMENT

Constitutional amendments proposed by the General Assembly must be filed with the Secretary of State at least 90 days before the day of the election at which they will appear on the ballot (Ohio Constitution Article XVI, Section 1). The 90th day before the November 6, 2007, general election is August 8, 2007.

Due to this time restriction, the resolution cannot be placed on the November 6, 2007, ballot. The resolution will need to be amended in order to be placed on the ballot at a later date.

HISTORY

ACTION	DATE
Introduced	02-07-08

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