



# Ohio Legislative Service Commission

## Resolution Analysis

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### **Sub. S.J.R. 8\***

130th General Assembly

(As Reported by S. State Government Oversight and Reform)

**Sens.** Faber, Widener, Patton, Obhof, Oelslager, Peterson

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## **RESOLUTION SUMMARY**

### **Ohio Redistricting Commission**

- Replaces the Apportionment Board with the Ohio Redistricting Commission, and makes the Commission responsible for redistricting the state for the General Assembly.
- Specifies that the Commission consists of the Governor, the Auditor of State, the Secretary of State, and four persons appointed by majority and minority leaders in the General Assembly, and provides that no appointed member of the Commission may be a current member of Congress.
- Requires the Governor to convene the Commission only in year ending in the numeral one, unless the Commission is convened by a court to draw judicially invalidated districts or the electors vote to require the Commission to draw new districts.
- Prescribes procedural requirements for meetings of the Commission.
- Requires the General Assembly to make the appropriations it determines are necessary in order for the Commission to perform its duties.

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\* This analysis was prepared before the report of the Senate State Government Oversight and Reform Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

## **Method of selecting a district plan**

- Requires the Commission to adopt a district plan by an affirmative vote of four members, including at least one member of the Commission who is a member of each of the largest political parties represented in the General Assembly.
- Specifies that, if the Commission fails to adopt a final district plan not later than October 31, the Governor, the Auditor of State, and the Secretary of State, acting independently of the Commission and by a simple majority of their number, must create a General Assembly district plan not later than December 1.
- Requires the Governor to file the plan with the Secretary of State, causing the plan to take effect, but specifies that the plan must be subject to a vote of the electors.

## **Ballot question concerning a district plan**

- Specifies that a district plan that is created by the Governor, the Auditor of State, and the Secretary of State is effective for elections occurring in the year following the year in which the plan was adopted.
- Requires a ballot question to be submitted to the electors at the general election conducted in that year, asking whether the Ohio Redistricting Commission should convene to draw new General Assembly districts.
- Specifies that if a majority of the electors vote in favor of convening the Commission to adopt new General Assembly districts, the Commission must do so.
- Specifies that if a majority of the electors vote against convening the Commission to adopt new General Assembly districts, the plan created by the Governor, the Auditor, and the Secretary of State must remain in effect until the next year ending in the numeral one.

## **District standards**

- Requires the Commission to minimize the splitting of political subdivisions.
- Specifies circumstances in which dividing a political subdivision is not considered splitting that political subdivision.
- Relocates, but generally retains, current constitutional standards for drawing General Assembly district plans.



## Legal challenges

- Specifies that, if any section of the Constitution relating to redistricting or any plan of redistricting is determined to be invalid by an unappealed final order of a court of competent jurisdiction, then the Commission must reconvene to adopt a district plan that conforms with the provisions of the Constitution that are then valid.
- Prohibits a court, in any circumstance, from ordering the implementation or enforcement of any plan that has not been approved by the Commission.

## Miscellaneous

- Repeals the current constitutional provision describing the district plans in effect until January 1, 1973.

## Date proposal scheduled to appear on the ballot

- Places the proposal on the ballot on November 3, 2015.

## Effective date of proposal, if approved by the voters

- Specifies that, if approved by a majority of electors voting on it, the proposal takes effect January 1, 2021.

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## CONTENT AND OPERATION

### Ohio Redistricting Commission

The joint resolution proposes an amendment to the Ohio Constitution to create the Ohio Redistricting Commission to replace the Apportionment Board as the body responsible for drawing General Assembly districts.

#### Composition

Under the resolution, the Ohio Redistricting Commission consists of the following seven members:<sup>1</sup>

- The Governor;
- The Auditor of State;
- The Secretary of State;

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<sup>1</sup> Ohio Const. Art. XI, Sec. 1(A).



- One person appointed by the Speaker of the House of Representatives;
- One person appointed by the President of the Senate;
- One person appointed by the Minority Leader of the House of Representatives;
- One person appointed by the Minority Leader of the Senate.

The resolution specifies that no member of the Commission may be a current member of Congress.

Currently, the Apportionment Board is responsible for drawing General Assembly districts. The Apportionment Board consists 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 political party of which the Speaker is not a member.<sup>2</sup>

### **Organizational procedures**

The resolution requires the Governor to convene the Ohio Redistricting Commission only in a year ending in the numeral one, unless the Commission is convened by a court to draw judicially invalidated districts or the electors vote to require the Commission to draw new districts (see "**Ballot question concerning a district plan**," below). Under the resolution, district boundaries must not be changed at any other time.

The Constitution currently requires the Governor to convene the Apportionment Board between August 1 and October 1 of a year ending in the numeral "1," and to give the Board two weeks advance notice of the date, time, and place of the meeting.

At the Commission's first meeting, the proposal requires the members to select co-chairpersons, one of whom must be a member of the largest political party represented in the General Assembly and one of whom must be a member of the second largest political party represented in the General Assembly. Also at that meeting, the Commission must set a schedule for the adoption of procedural rules for the operation of the Commission.

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<sup>2</sup> Ohio Const. Art. XI, Sec. 1(A).



Under the resolution, a simple majority of the Commission generally is required for any action by the Commission, except for a vote to adopt a district plan (see "**Method of selecting a district plan**," below).

Not later than September 15 of a year ending in the numeral one, the Ohio Redistricting Commission must release a proposed district plan to the public. A proposed plan must be drafted according to the constitutional requirements. After introducing a General Assembly district plan but before adopting a final plan, the Commission must conduct a minimum of three public hearings across the state to present the proposed plan and to seek public input regarding the proposed plan. All meetings of the Ohio Redistricting Commission must be open to the public. Meetings must be broadcast by electronic means of transmission using a medium readily accessible to the general public, subject to the discretion of the Commission.

The co-chairpersons of the Commission must jointly dissolve the Commission not more than four weeks after the adoption of a General Assembly district plan.

Finally, under the resolution, the General Assembly must make the appropriations it determines are necessary in order for the Commission to perform its duties.<sup>3</sup>

### **Method of selecting a district plan**

In order to adopt a final district plan, the resolution requires the affirmative vote of four members of the Commission, including at least one member of the Commission who is a member of each of the two largest political parties represented in the General Assembly.

The Commission must adopt a final General Assembly district plan not earlier than the last week of October of a year ending in the numeral one but not later than October 31 of that year. The plan becomes effective upon filing with the Secretary of State.<sup>4</sup>

If the Commission fails to adopt a final district plan by that deadline, the Governor, the Auditor of State, and the Secretary of State, acting independently of the Commission and by a simple majority of their number, must create a General Assembly district plan not later than December 1. The Governor must file the plan with the Secretary of State not later than the next business day, causing the plan to take effect.

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<sup>3</sup> Ohio Const. Art. XI, Sec. 1.

<sup>4</sup> Ohio Const. Art. XI, Sec. 1.



However, a plan that takes effect in this manner is subject to a vote of the electors (see "**Ballot question concerning a district plan**," below).<sup>5</sup>

Existing law requires a majority vote of the Apportionment Board to adopt a district plan, and requires the Governor to cause a district plan to be published no later than October 5 of the year in which it is made.<sup>6</sup>

### **Ballot question concerning a district plan**

Under the proposal, a General Assembly district plan that is created by the Governor, the Auditor of State, and the Secretary of State is effective for elections occurring in the year following the year in which the plan was adopted.

At the general election conducted in that year, the following ballot question must be submitted to the electors:

"Shall the Ohio Redistricting Commission reconvene to draw new General Assembly districts?"

If a majority of the electors vote in favor of reconvening the Commission to adopt new General Assembly districts, the Commission must reconvene to adopt new districts in accordance with the Constitution. Under the resolution, if the Commission draws a new district plan following a ballot question, the Commission must use the same population and political subdivision and city ward boundary data as were used to draw the plan created by the Governor, the Auditor, and the Secretary of State.

If a majority of the electors vote against convening the Commission to adopt new General Assembly districts, the plan created by the Governor, the Auditor, and the Secretary of State must remain in effect until the next year ending in the numeral one or until a court orders the Commission to reconvene.<sup>7</sup>

### **District standards**

#### **Splitting political subdivisions**

The resolution adds a requirement that the Ohio Redistricting Commission avoid splitting political subdivisions. "Political subdivision" means a county, a municipal corporation, a township.

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<sup>5</sup> Ohio Const. Art. XI, Sec. 10(A).

<sup>6</sup> Ohio Const. Art. XI, Sec. 1.

<sup>7</sup> Ohio Const. Art. XI, Sec. 10.



Under the proposal, dividing a noncontiguous political subdivision is not considered splitting the political subdivision if its noncontiguous portions are included in separate districts. But, dividing a noncontiguous political subdivision is considered splitting the political subdivision if any noncontiguous portion is divided into separate districts. And, if a political subdivision has territory in more than one county, dividing that political subdivision along a county line is not considered splitting the political subdivision.<sup>8</sup>

Where districts cannot feasibly be attained without splitting political subdivisions, the resolution requires districts to be formed by combining the areas of whole political subdivisions. And, other than counties, only one political subdivision may be divided between two House districts.<sup>9</sup>

The current constitutional redistricting standards require districts to be formed in such a circumstance by combining the areas of "governmental units," giving preference, in order, to counties, townships, municipalities, and city wards. Similarly, if a governmental unit must be divided, current standards require preference to be given in selecting a unit to divide, in order, to a township, city ward, city, and village.<sup>10</sup>

### **District standards relocated, but generally retained**

The resolution relocates, but does not otherwise substantively change, current constitutional district standards that do the following:

- Specify that each House of Representatives district is entitled to a single Representative, and that each Senate district is entitled to a single Senator, in each General Assembly;<sup>11</sup>
- Specify the manner of calculating the ratio of representation in the House of Representatives and calculating the ratio of representation in the Senate for the ten years next succeeding each redistricting;<sup>12</sup>
- Require the population of each district to be substantially equal to the applicable ratio of representation, with a population of not less than 95% and not more than 105% of that ratio, except that in the case of counties

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<sup>8</sup> Ohio Const. Art. XI, Sec. 4(B).

<sup>9</sup> Ohio Const. Art. XI, Sec. 4(D) and (E).

<sup>10</sup> Ohio Const. Art. XI, Sec. 6(B) and (C).

<sup>11</sup> Ohio Const. Art. XI, Sec. 2. (Relocated from Sec. 5.)

<sup>12</sup> Ohio Const. Art. XI, Sec. 3. (Relocated from Sec. 2.)



with a population of between 90% and 110% of the ratio of representation in the House, reasonable effort must be made to create a representative district;<sup>13</sup>

- Require House districts to be compact, composed of contiguous territory, and bounded by a single nonintersecting continuous line;<sup>14</sup>
- Require, to the extent consistent with population standards, the boundaries of House districts to be drawn as to delineate an area containing whole counties;<sup>15</sup>
- Require, to the extent consistent with population standards, district boundaries established by the preceding district plan to be adopted in making a new district plan;<sup>16</sup>
- Require a county with at least one House ratio of representation to have as many House districts wholly within its boundaries as it has whole ratios of representation, with the remaining territory part of only one adjoining House district;<sup>17</sup>
- Specify the order in which the territory of the state must be divided into representative districts;<sup>18</sup>
- Require Senate districts to be composed of three contiguous House districts, with a county that has at least one whole Senate ratio of representation having as many Senate districts within its boundaries as it has whole ratios of representation and having its remaining territory included in only one adjoining Senate district;

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<sup>13</sup> Ohio Const. Art. XI, Secs. 3(B) and (6)(A) and (B). (Relocated from Secs. 3, 4, 9, and 10(A) and (B).)

<sup>14</sup> Ohio Const. Art. XI, Sec. 4(A). (Relocated from Sec. 7(A).)

<sup>15</sup> Ohio Const. Art. XI, Sec. 4(C). (Relocated from Sec. 7(A).)

<sup>16</sup> Ohio Const. Art. XI, Sec. 4(F). (Relocated from Sec. 7(D).)

<sup>17</sup> Ohio Const. Art. XI, Secs. 5 and 6(C). (Relocated from Secs. 8 and 10(C).)

<sup>18</sup> Ohio Const. Art. XI, Sec. 6(C) and (D). (Relocated from Sec. 10(C) and (D).)



- Require a county that has less than one Senate ratio of representation, but at least one House of Representatives ratio of representation, to be part of only one Senate district;<sup>19</sup>
- Generally prohibit district boundaries from being changed until the ensuing federal decennial census and specify the political subdivision boundaries to be used in the creation of district boundaries;<sup>20</sup>
- Specify the district a continuing Senator will represent for the remainder of that Senator's term of office.<sup>21</sup>

## Legal challenges

Under the resolution, if any section of the Constitution relating to redistricting or any plan of redistricting is determined to be invalid by an unappealed final order of a court of competent jurisdiction, then the Commission must reconvene to adopt a district plan that conforms with the provisions of the Constitution that are then valid. Currently, the Constitution requires new districts to be drawn if provisions of the Constitution or a district plan are determined to be invalid by either the Ohio Supreme Court or the U.S. Supreme Court.

The proposal prohibits a court, in any circumstance, from ordering the implementation or enforcement of any plan that has not been approved by the Commission.<sup>22</sup>

The resolution relocates but otherwise retains provisions specifying that the Ohio Supreme Court has exclusive, original jurisdiction in all cases arising under Article XI and that a new redistricting plan made as a result of a legal challenge must allow 30 days for persons to change residence in order to be eligible for election. Relocated but otherwise continuing law also specifies that the various provisions of Article XI are intended to be severable, and that the invalidity of one or more of the provisions does not affect the validity of the remaining provisions.<sup>23</sup>

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<sup>19</sup> Ohio Const. Art. XI, Sec. 7. (Relocated from Sec. 11.)

<sup>20</sup> Ohio Const. Art. XI, Sec. 8. (Relocated from Sec. 6.)

<sup>21</sup> Ohio Const. Art. XI, Sec. 9. (Relocated from Sec. 12.)

<sup>22</sup> Ohio Const. Art. XI, Sec. 11.

<sup>23</sup> Ohio Const. Art. XI, Secs. 11 and 12. (Relocated from Secs. 13 and 15.)



Finally, the resolution eliminates a requirement that the Governor give the Apportionment Board two weeks advance written notice of the date, time, and place of any meeting held pursuant to a court order invalidating a district plan.<sup>24</sup>

## Miscellaneous

The resolution repeals the current constitutional provision that describes the district plans that were in effect until January 1, 1973.<sup>25</sup>

## Effective date

The resolution places the proposal on the ballot on November 3, 2015. If adopted by a majority of electors voting on it, the proposal takes effect January 1, 2021.

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## HISTORY

ACTION	DATE
Introduced	12-02-14

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<sup>24</sup> Ohio Const. Art. XI, Sec. 14.

<sup>25</sup> Repeal of existing Ohio Const. Art. XI, Sec. 14.

