



Ohio Legislative Service Commission

Resolution Analysis

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Sub. H.J.R. 12*

130th General Assembly

(As Reported by H. Policy and Legislative Oversight)

Rep. Huffman

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 legislative leaders in the Senate and the House of Representatives of each of the two largest political parties represented in the General Assembly, acting jointly by political party, to appoint a co-chairperson of the Commission.
- 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 Commission must draw new districts following the expiration of a plan adopted under the proposal's impasse procedure.
- 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.

Method of selecting a district plan

- Requires the Commission to adopt a district plan by a specified bipartisan vote of four members.

- Specifies that, if the Commission fails to adopt a final district plan not later than September 1, the Commission must introduce a district plan by a simple majority vote and must hold a public hearing on the plan.
- Requires the Commission, not later than September 15, to adopt a final district plan, either by the bipartisan vote described above or by a simple majority vote.
- Specifies that if the Commission adopts a plan by that bipartisan vote, the plan remains effective until the next year ending in the numeral one, unless a court convenes the Commission to redraw judicially invalidated districts.
- Specifies that if the Commission adopts a plan by a simple majority vote, the plan remains effective until two general elections for the House of Representatives have occurred under the plan or until a year ending in the numeral one, whichever is earlier.
- Requires a plan adopted by a simple majority vote to include a statement explaining what the Commission determined to be the statewide preferences of the voters of Ohio and the manner in which the statewide proportion of districts in the plan whose voters, based on recent election results, favor each political party corresponds closely to those preferences.
- Allows a member of the Commission who does not vote in favor of the plan to submit a declaration of the member's opinion concerning that statement.
- Requires, after a plan adopted by a simple majority vote ceases to be effective, that the Commission convene not earlier than July 1 of the following year to adopt a new General Assembly district plan using the same population and political subdivision boundary data as were used to draw the previous plan.

District standards

- Establishes new constitutional standards for the drawing of General Assembly districts.

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.



- Prescribes the available remedies in the event that the Ohio Supreme Court determines that a General Assembly district plan adopted by the Commission does not comply with the constitutional district standards.

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:¹

- The Governor;
- The Auditor of State;



- The Secretary of State;
- 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 legislative leaders in the Senate and the House of Representatives of each of the two largest political parties represented in the General Assembly, acting jointly by political party, must appoint one member of the Commission to serve as a co-chairperson.

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.²

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 Commission must draw new districts following the expiration of a plan adopted under the proposal's impasse procedure (see "**Method of selecting 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 set a schedule for the adoption of procedural rules for the operation of the Commission.

Under the resolution, a simple majority of the Commission generally is required for any organizational action by the Commission. However, a majority vote 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, is required to adopt rules of the Commission, to hire staff for the Commission, or to expend funds. And, a specified bipartisan vote generally is required to adopt a district plan (see "**Method of selecting a district plan**," below).

The Commission must release a proposed district plan to the public. The 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.

The co-chairpersons of the Commission must jointly dissolve the Commission not more than six 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.³

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 two members of the Commission who represent each of the two largest political parties represented in the General Assembly. A member of the Commission is considered to represent a political party if the member was appointed to the Commission by a member of that party or if, in the case of the Governor, the Auditor, or the Secretary of State, the person is a member of that party.

The Commission must adopt a final General Assembly district plan not later than September 1 of a year ending in the numeral one. The plan becomes effective upon filing with the Secretary of State.⁴

If the Commission fails to adopt a final district plan by that deadline, the Commission must introduce a district plan by a simple majority vote of the Commission. Then, the Commission must hold a public hearing concerning the introduced plan. All members of the Commission are required to attend the hearing, and a quorum of the members of the Commission is required to conduct the hearing. At the hearing, the public may offer testimony, and the Commission may adopt amendments to the introduced plan.



After that hearing is held, and not later than September 15 of that year, the Commission must adopt a final district plan, either by the bipartisan vote described above or by a simple majority vote. If the Commission adopts a plan by that bipartisan vote, the plan remains effective until the next year ending in the numeral one, unless a court convenes the Commission to redraw judicially invalidated districts.

If the Commission adopts a plan by a simple majority vote, the plan remains effective until two general elections for the House of Representatives have occurred under the plan or until a year ending in the numeral one, whichever is earlier.

A plan adopted by a simple majority vote must include a statement explaining what the Commission determined to be the statewide preferences of the voters of Ohio and the manner in which the statewide proportion of districts in the plan whose voters, based on recent election results, favor each political party corresponds closely to those preferences, as described in the procedure for drawing House districts (see "**District standards**," below). At the time the plan is adopted, a member of the Commission who does not vote in favor of the plan may submit a declaration of the member's opinion concerning that statement.

After a plan adopted by a simple majority vote ceases to be effective, and not earlier than July 1 of the year following the year in which the plan ceased to be effective, the Commission must be reconstituted, convene, and adopt a new General Assembly district plan. The Commission must draw the new plan using the same population and political subdivision boundary data as were used to draw the previous plan.⁵

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.⁶

District standards

The table below compares the Ohio Constitution's current requirements for drawing General Assembly districts with the requirements proposed by the resolution.

Topic	Article XI, Ohio Constitution	Sub. H.J.R. 12, As Reported by H. Policy and Legislative Oversight
District population requirements	Permits the General Assembly to designate a method for determining the population of the state for purposes of calculating the ratios of representation in the General Assembly, if the federal decennial census is unavailable.	Same as the current Constitution, but eliminates the option to draw a county that has a population of between 90% and 95% or 105% and 110% of the ratio of representation in the House of Representatives as a single district. ¹⁰



Topic	Article XI, Ohio Constitution	Sub. H.J.R. 12, As Reported by H. Policy and Legislative Oversight
	<p>Requires the population of each House of Representatives district to be substantially equal to the ratio of representation in the House of Representatives, and generally prohibits a House of Representatives district from containing a population of less than 95% nor more than 105% of the ratio of representation.</p> <p>Specifies that a reasonable effort must be made to draw a county that has between 90% and 95% or 105% and 110% of the ratio of representation in the House of Representatives as a single district.⁷</p> <p>Requires the population of each Senate district to be substantially equal to the ratio of representation in the Senate, and prohibits any Senate district from containing a population of less than 95% nor more than 105% of the ratio of representation.⁸</p> <p>Specifies that each House of Representatives district is entitled to a single representative in each General Assembly and that each Senate district is entitled to a single senator in each General Assembly.⁹</p>	
Legal requirements for districts	No provision.	Requires any plan adopted by the Ohio Redistricting Commission to comply with all applicable Ohio and federal constitutional provisions and all applicable federal statutory provisions, including, but not limited to, those provisions dealing specifically with the protection of minority voting rights. ¹¹



Topic	Article XI, Ohio Constitution	Sub. H.J.R. 12, As Reported by H. Policy and Legislative Oversight
General requirements for House districts	Requires every House of Representatives district to be compact and composed of contiguous territory, and the boundary of each district to be a single nonintersecting continuous line. ¹²	Same as the current Constitution. ¹³
Procedure for drawing House districts	<p>Specifies that, to the extent consistent with population requirements, the boundary lines of districts must be so drawn so as to delineate an area containing one or more whole counties.</p> <p>Specifies that, where population requirements cannot feasibly be attained by forming a district from a whole county or counties, the district must be formed by combining the areas of governmental units giving preference, in the order named, to counties, townships, municipalities, and city wards.</p> <p>Specifies that, where governmental units must be divided to meet population requirements, only one such unit may be divided between two districts, giving preference in the selection of a unit for division to a township, a city ward, a city, and a village in the order named.¹⁴</p> <p>Requires a county having at least one House of Representatives ratio of representation to have as many House of Representatives districts wholly within the boundaries of the county as it has whole ratios of representation, and requires any fraction of the population in excess of a whole ratio to be a part of only one adjoining House of Representatives district.¹⁵</p>	<p>Requires House of Representatives districts to be created and numbered in the following order of priority, to the extent that such order is consistent with the foregoing standards:</p> <p>(1) Proceeding in succession from the largest to the smallest, each county containing population greater than 105% of the ratio of representation in the House must be divided into as many House districts as it has whole ratios of representation. Any fraction of the population in excess of a whole ratio must be a part of only one adjoining House district.</p> <p>(2) Each county containing population substantially equal to one ratio of representation in the House, but in no event less than 95% nor more than 105% of the ratio, must be designated a House district.</p> <p>(3) House districts must be drawn so as to split the smallest possible number of municipal corporations and townships whose contiguous portions contain a population of more than 50%, but less than 100%, of one ratio of representation.</p> <p>(4) The remaining territory of the state must be divided into House districts by combining the areas of whole municipal corporations and townships.</p>



Topic	Article XI, Ohio Constitution	Sub. H.J.R. 12, As Reported by H. Policy and Legislative Oversight
	<p>Requires each county containing population substantially equal to one ratio of representation in the House of Representatives, but in no event less than 95% of the ratio nor more than 105% of the ratio to be designated a representative district.¹⁶</p> <p>Requires a reasonable effort to be made to create a House of Representatives district consisting of a whole county, when the county has a population of between 90% and 110% of the ratio of representation.¹⁷</p> <p>Proceeding in succession from the largest to the smallest, requires each remaining county containing more than one whole ratio of representation to be divided into House of Representatives districts, with the remaining territory within such county containing a fraction of one whole ratio of representation included in one representative district by combining it with adjoining territory outside the county.¹⁸</p>	<p>(5) Where the above-listed requirements cannot feasibly be attained by forming a House district from whole municipal corporations and townships, not more than one municipal corporation or township may be split per House district.</p> <p>Specifies that if the Commission must violate one of the standards in the above priority list in order to draw a House district map, the Commission must violate the standard having the lowest possible priority. If the Commission violates one of those standards, the Commission must include in the district plan a statement explaining which standard was violated and the reason the standard was violated.</p> <p>Provides that in general, a county, municipal corporation, or township is considered to be split if any contiguous portion of its territory is not contained entirely within one district.</p> <p>Specifies that dividing, along a county line, a municipal corporation or township that has territory in more than one county is not considered splitting the municipal corporation or township.¹⁹</p> <p>Requires the Commission to attempt to draw a General Assembly district plan that meets both of the following standards:</p> <ul style="list-style-type: none"> • No district plan shall be drawn primarily to favor or disfavor a political party. • The statewide proportion of districts whose voters, based on recent statewide state and federal election results, favor each political party must correspond closely to the



Topic	Article XI, Ohio Constitution	Sub. H.J.R. 12, As Reported by H. Policy and Legislative Oversight
		statewide preferences of the voters of Ohio. ²⁰
General requirements for Senate districts	Requires Senate districts to be composed of three contiguous House of Representatives districts. ²¹	Requires Senate districts to be composed of three contiguous House of Representatives districts. ²² Requires every Senate district to be compact and composed of contiguous territory, and the boundary of each district to be a single nonintersecting continuous line. ²³
Procedure for drawing Senate districts	Requires a county having at least one whole Senate ratio of representation to have as many Senate districts wholly within the boundaries of the county as it has whole Senate ratios of representation, and requires any fraction of the population in excess of a whole ratio to be a part of only one adjoining Senate district. Specifies that counties having less than one Senate ratio of representation, but at least one House of Representatives ratio of representation, must be part of only one Senate district. ²⁴	Same as the current Constitution. ²⁵
Senators whose terms will not expire	Specifies that, when district boundaries are changed, a senator whose term will not expire within two years of the time the plan of apportionment is made must represent, for the remainder of the term for which the Senator was elected, the Senate district that contains the largest portion of the population of the district from which the Senator was elected, and requires the district to be given the number of the district from which the Senator was elected. Specifies that, if more than one Senator whose term will not so expire would represent the same district by	Relocates but generally retains the constitutional provision for numbering a Senate district when the term of the Senator who represents the district does not immediately expire. Requires the district plan itself to designate which Senator will represent a district if more than one Senator would represent that district. ²⁷



Topic	Article XI, Ohio Constitution	Sub. H.J.R. 12, As Reported by H. Policy and Legislative Oversight
	following these provisions, the persons responsible for apportionment, by a majority vote, must designate which Senator will represent the district and designate which district the other Senator or Senators will represent for the balance of their term or terms. ²⁶	
Preservation of previous district boundaries	Requires district boundaries established by the preceding apportionment to be adopted to the extent reasonably consistent with the population requirements. ²⁸	No provision.
Political subdivision boundaries to be used	Notwithstanding the fact that the boundaries of political subdivisions within a district may be changed, requires the Commission to create district boundaries by using the boundaries of political subdivisions as they exist at the time of the federal decennial census on which the redistricting is based, or if the census is unavailable, on a basis the General Assembly specifies. ²⁹	Same as the current Constitution. ³⁰

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. The resolution also prescribes the available remedies in the event that the Ohio Supreme Court determines that a General Assembly district plan adopted by the Commission does not comply with the constitutional district standards.

First, if the Court determines that a district plan violates any of the following requirements, the Court must order the Commission to correct the violation:



- The number of legislators to which each district is entitled;
- The population requirements for a district;
- The requirement that each district be compact and composed of contiguous territory;
- The requirement that the boundary of each district be a single nonintersecting continuous line;
- The priority list of standards for drawing House of Representatives districts;
- The requirements for drawing Senate districts;
- The requirement to use the boundaries of political subdivisions as they exist at the time of the federal decennial census or other basis on which the redistricting is based.

Second, if, in considering a district plan adopted by a simple majority of the Commission under the proposal's impasse procedure (see "**Method of selecting district plans**," above), the Court determines that both of the following are true, the Court must order the Commission to adopt a new district plan:³¹

- The plan significantly violates the district requirements listed above, other than the requirement that House districts be formed by combining whole municipal corporations and townships, in a manner that materially affects the ability of the plan to contain districts whose voters favor political parties in an overall proportion that corresponds closely to the statewide political party preferences of the voters of Ohio, as described in the procedure for drawing House districts (see "**District standards**," above).
- The statewide proportion of districts in the plan whose voters, based on recent statewide state and federal election results, favor each political party does not correspond closely to the statewide preferences of the voters of Ohio.

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.³²

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.³³

Miscellaneous

The resolution repeals the current constitutional provision that describes the district plans that were in effect until January 1, 1973.³⁴

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.

HISTORY

ACTION	DATE
Introduced	11-13-14
Reported, H. Policy & Legislative Oversight	---

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* This analysis was prepared before the report of the House Policy and Legislative Oversight Committee appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

¹ Ohio Const. Art. XI, Sec. 1(A).

² Ohio Const. Art. XI, Sec. 1(A).

³ Ohio Const. Art. XI, Sec. 1.

⁴ Ohio Const. Art. XI, Sec. 1.

⁵ Ohio Const. Art. XI, Sec. 9.

⁶ Ohio Const. Art. XI, Sec. 1.

⁷ Ohio Const. Art. XI, Sec. 3 and 9.

⁸ Ohio Const. Art. XI, Sec. 4.

⁹ Ohio Const. Art. XI, Sec. 5.

¹⁰ Ohio Const. Art. XI, Secs. 2, 3, and 4.

¹¹ Ohio Const. Art. XI, Sec. 4.

¹² Ohio Const. Art. XI, Sec. 7.

¹³ Relocated to Ohio Const. Art. XI, Sec. 4.

¹⁴ Ohio Const. Art. XI, Sec. 7.

¹⁵ Ohio Const. Art. XI, Sec. 8.



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- ¹⁶ Ohio Const. Art. XI, Sec. 10.
¹⁷ Ohio Const. Art. XI, Sec. 9.
¹⁸ Ohio Const. Art. XI, Sec. 10.
¹⁹ Ohio Const. Art. XI, Sec. 4.
²⁰ Ohio Const. Art. XI, Sec. 5.
²¹ Ohio Const. Art. XI, Sec. 11.
²² Ohio Const. Art. XI, Sec. 6.
²³ Ohio Const. Art. XI, Sec. 4.
²⁴ Ohio Const. Art. XI, Sec. 11.
²⁵ Relocated to Ohio Const. Art. XI, Sec. 6.
²⁶ Ohio Const. Art. XI, Sec. 12.
²⁷ Ohio Const. Art. XI, Sec. 8.
²⁸ Ohio Const. Art. XI, Sec. 7.
²⁹ Ohio Const. Art. XI, Sec. 6.
³⁰ Relocated to Ohio Const. Art. XI, Sec. 7.
³¹ Ohio Const. Art. XI, Sec. 10.
³² Ohio Const. Art. XI, Secs. 10 and 11. (Relocated from Secs. 13 and 15.)
³³ Ohio Const. Art. XI, Sec. 14.
³⁴ Repeal of existing Ohio Const. Art. XI, Sec. 14.

