

As Adopted by the House

128th General Assembly

Regular Session

2009-2010

Am. H. J. R. No. 15

Representatives Letson, Garrison

**Cosponsors: Representatives Belcher, Bolon, Boyd, Carney, Celeste,
Chandler, DeBose, Dodd, Domenick, Dyer, Fende, Foley, Garland, Garrison,
Gerberry, Goyal, Hagan, Harris, Harwood, Koziura, Luckie, Mallory, Moran,
Murray, Newcomb, Patten, Phillips, Pillich, Pryor, Stewart, Sykes, Szollosi,
Walter, Williams, B.**

JOINT RESOLUTION

Proposing to amend Sections 1, 2, 6, 12, 13, and 15 1
of Article XI, to amend, for the purpose of 2
adopting new section numbers as indicated in 3
parentheses, Sections 6 (3), 12 (6), 13 (7), and 4
15 (9) of Article XI, to enact new Sections 4, 5, 5
and 8 of Article XI, and to repeal Sections 3, 4, 6
5, 7, 8, 9, 10, 11, and 14 of Article XI of the 7
Constitution of the State of Ohio to revise the 8
process for apportioning the state for General 9
Assembly districts. 10

Be it resolved by the General Assembly of the State of Ohio, 11
three-fifths of the members elected to each house concurring 12
herein, that there shall be submitted to the electors of the 13
state, in the manner prescribed by law at the general election to 14
be held on November 2, 2010, a proposal to amend Sections 1, 2, 6, 15
12, 13, and 15 of Article XI, to amend, for the purpose of 16
adopting new section numbers as indicated in parentheses, Sections 17
6 (3), 12 (6), 13 (7), and 15 (9) of Article XI, and to enact new 18
Sections 4, 5, and 8 of Article XI of the Constitution of the 19

State of Ohio to read as follows: 20

ARTICLE XI

Section 1. (A) The governor, auditor of state, secretary of 21
state, one person chosen by the speaker of the house of 22
representatives and the leader in the senate of the political 23
party of which the speaker is a member, and one person chosen by 24
the legislative leaders in the two houses of the major political 25
party of which the speaker is not a member shall be the persons 26
responsible for the apportionment of this state for members of the 27
general assembly and shall collectively be referred to as the 28
apportionment board. The apportionment board shall decide all 29
matters coming before it by a majority vote of its members present 30
at any meeting. Members of the board may be represented by their 31
respective designees at any meeting of the board. 32

~~Such persons~~ (B) The apportionment board, or a majority of 33
~~their number~~ its members, shall meet and establish in the manner 34
prescribed in this ~~Article~~ article an apportionment of the state 35
that defines the boundaries for each of ninety-nine house of 36
representatives districts and thirty-three senate districts by the 37
first day of October of the year in which the board convenes. Such 38
~~meeting shall convene on a date designated by the governor between~~ 39
~~August 1 and October 1 in the year one thousand nine hundred~~ 40
~~seventy one and every tenth year thereafter. The~~ 41

(C) All meetings of the apportionment board shall be open to 42
the public. The apportionment board shall be convened by the 43
governor, who shall preside at its meetings, not later than the 44
third Tuesday in January in each year ending in the numeral one. 45
The governor shall give ~~such persons two weeks~~ one week's advance 46
public notice of the date, time, and place of ~~such~~ each 47
apportionment board meeting. The board may adopt procedural rules 48
for its operation. 49

~~The (D) Upon its establishment, the governor shall cause the~~ 50
~~apportionment to be published no later than October 5 of the year~~ 51
~~in which it is made,~~ in such manner as provided by law. Upon the 52
publication of the apportionment, the apportionment board shall 53
adjourn until the next year ending in the numeral one or until 54
convened under Section 7 of this article. 55

Section 2. (A) The apportionment of this state for members of 56
the general assembly shall be made in the following manner: ~~The~~ 57

(1) The whole population of the state, as determined by the 58
federal decennial census or, if such is unavailable, such other 59
basis as the general assembly may direct, shall be divided by the 60
number "ninety-nine" and the quotient shall be the ratio of 61
representation in the house of representatives for ten years next 62
succeeding such apportionment. ~~The~~ 63

(2) The whole population of the state as determined by the 64
federal decennial census or, if such is unavailable, such other 65
basis as the general assembly may direct, shall be divided by the 66
number "thirty-three" and the quotient shall be the ratio of 67
representation in the senate for ten years next succeeding such 68
apportionment. 69

(B) The population of each house of representatives district 70
shall be substantially equal to the ratio of representation in the 71
house of representatives, as provided in division (A) of this 72
section, and in no event shall any house of representatives 73
district contain a population of less than ninety-five per cent 74
nor more than one hundred five per cent of the ratio of 75
representation in the house of representatives. 76

(C) The population of each senate district shall be 77
substantially equal to the ratio of representation in the senate, 78
as provided in division (A) of this section, and in no event shall 79
any senate district contain a population of less than ninety-five 80

per cent nor more than one hundred five per cent of the ratio of 81
representation in the senate. 82

(D) Each house of representatives district shall be entitled 83
to a single representative in each general assembly. Each senate 84
district shall be entitled to a single senator in each general 85
assembly. 86

Section 6 3. (A) District boundaries established pursuant to 87
this ~~Article~~ ~~article~~ shall not be changed until the ensuing 88
federal decennial census and the ensuing apportionment or as 89
provided in section ~~13~~ 7 of this ~~Article~~ ~~article~~, notwithstanding 90
the fact that boundaries of political subdivisions ~~or city wards~~ 91
within the district may be changed during that time. District 92
boundaries shall be created by using the boundaries of political 93
subdivisions ~~and city wards~~ as they exist at the time of the 94
federal decennial census on which the apportionment is based, or 95
if unavailable, on such other basis as the general assembly has 96
directed. 97

(B) Each house of representatives district shall be composed 98
of contiguous territory, and the boundary of each district shall 99
be a single nonintersecting continuous line. 100

(C) Each senate district shall be composed of three 101
contiguous house of representatives districts. 102

(D) Any island shall be part of the district which is 103
geographically closest to the island. 104

Section 4. (A) The secretary of state, by the first day of 105
April in a year ending in the numeral one, shall do all of the 106
following: 107

(1) Gather and make available to the public, in a form that 108
facilitates data analysis and the drawing of legislative 109
districts: 110

(a) Thorough and accurate census data; and 111

(b) Information detailing the boundaries of political 112
subdivisions and election precincts. 113

(2) Establish and make public the statewide partisan index, 114
which shall be calculated as follows: 115

(a) Using the results of all nonjudicial Ohio statewide state 116
or federal elections in the ten years immediately preceding the 117
year of an apportionment, the secretary of state shall determine 118
the three elections that had the smallest percentage margin 119
between the highest and second highest nominees of a political 120
party. If in any of the three elections the percentages of the two 121
highest nominees of political parties do not equal one hundred per 122
cent, the remaining percentage for that election shall be 123
attributed to the parties of the two highest nominees in the ratio 124
of the percentages received by those nominees. 125

(b) The secretary of state then shall add together the 126
percentage of the vote received by the candidates with the same 127
political party affiliation for each of the three elections 128
described in division (A)(2)(a) of this section and divide each of 129
those totals by three to establish the statewide partisan index 130
for those political parties. 131

(3) Establish and make public the precinct partisan index of 132
each election precinct. To establish the precinct partisan index 133
for each precinct in the state, the secretary of state shall add 134
together the percentage of the vote received in that precinct by 135
the political party nominees described in division (A)(2)(a) of 136
this section. If in any of the three elections the percentages of 137
those nominees do not equal one hundred per cent, the remaining 138
percentage for those nominees in those elections shall be 139
attributed to the parties of those nominees in the ratio of the 140
percentages received by those nominees. The secretary of state 141

shall then divide the percentage totals by three to establish the 142
precinct partisan index for each political party in each precinct 143
in the state. 144

(B) The secretary of state shall also provide to the 145
apportionment board, and make public, any additional data or 146
election information the apportionment board requests in the form 147
requested. 148

(C) The general assembly shall make appropriations to 149
adequately fund the activities of the apportionment board and the 150
secretary of state's activities in support of the board, 151
including, but not limited to, the provision of funds for 152
equipment and staff. 153

Section 5. (A) District boundaries for house of 154
representatives and senate districts shall be established in 155
accordance with the provisions of this section. 156

(B) The apportionment board shall administer a public 157
competition to determine the house of representatives district map 158
and the senate district map that comply, to the greatest extent, 159
with the criteria set forth below. Those maps shall be adopted by 160
the apportionment board as the general assembly maps until the 161
next apportionment and shall be effective for the next subsequent 162
general assembly. 163

(C) Any resident of Ohio may submit one proposed house of 164
representative district map and one proposed senate district map 165
in the manner prescribed by the apportionment board. Plans shall 166
be kept confidential by the board and its staff until the deadline 167
for plan submission, at which time all properly submitted plans 168
shall be made public. 169

(D)(1)(a) Proposed maps shall, to the greatest extent 170
possible, contain the number of house of representatives districts 171
and senate districts that favor each political party represented 172

in the state partisan index in the ratio reflected by that index. 173

(b) No house of representatives district map may be adopted 174
by the apportionment board that fails to include the number of 175
districts favoring each political party in the ratio reflected by 176
the state partisan index. 177

(c) No senate district map may be adopted by the 178
apportionment board that fails to include the number of districts 179
favoring each political party in the ratio reflected by the state 180
partisan index unless doing so is impossible, in which case the 181
only senate map that may be adopted by the apportionment board is 182
one that includes the number of districts favoring each political 183
party in a ratio as close to that reflected by the state partisan 184
index as is possible. 185

(2)(a) For the purpose of evaluating proposed maps, the 186
district partisan index shall be calculated for each proposed 187
district in each map submitted in the competition that meets the 188
requirements of division (D)(1) of this section. 189

(b) The district partisan index shall be calculated by first 190
adding together, for each of the elections represented in the 191
calculation of the statewide partisan index, the number of votes 192
cast in each precinct in a proposed district for the nominees of 193
each of the political parties in those elections. The 194
district-wide vote totals for the nominee of each party in each of 195
the three elections shall be used to determine the district 196
partisan ratio for each of those three elections by determining, 197
from all votes cast for either such party in each election, the 198
percentage of votes cast for the nominee of each party in each 199
election. The average of those three percentages for each party 200
will establish the district partisan index for each party in each 201
proposed district. 202

(E) In evaluating proposed maps, the apportionment board 203

shall determine the extent to which the district partisan index of 204
each proposed house of representatives district and each proposed 205
senate district varies from the statewide partisan index. In 206
particular, for each map, the board shall determine the number of 207
districts in which the district partisan index varies from the 208
state partisan index by: 209

(1) Less than one per cent; 210

(2) An amount equal to or greater than one per cent and less 211
than three per cent; 212

(3) An amount equal to or greater than three per cent and 213
less than five per cent; 214

(4) An amount equal to or greater than five per cent and less 215
than ten per cent; and 216

(5) An amount equal to or greater than ten per cent. 217

(F) Any map, with respect to the categories set forth in 218
divisions (E)(2) to (5) of this section, that has an equal number 219
of proposed districts in which the district partisan index favors 220
each political party which is represented in the state partisan 221
index in each of those categories will be deemed a better map than 222
one which has an unequal number of proposed districts in which the 223
district partisan index favors each political party in each of 224
those categories. 225

(G) If two or more maps are presented that equally meet the 226
criteria set forth in division (F) of this section, any map with a 227
greater number of proposed districts in which the district 228
partisan indices are between forty-nine per cent and fifty-one per 229
cent will be preferred over other such maps. 230

(H) If no map is presented that meets the criteria set forth 231
in division (F) of this section, or if two or more maps equally 232
meet the criteria set forth in division (G) of this section, the 233

map with closest to an equal number of proposed districts in which 234
the district partisan index favors each political party in each of 235
the categories set forth in division (E) of this section will be 236
deemed a better map than one which has a greater variance from an 237
equal number of proposed districts in which the district partisan 238
index favors each political party in those categories. 239

(I) If two or more maps are presented that equally meet the 240
criteria set forth in division (H) of this section, any map with a 241
greater number of proposed districts in which the district 242
partisan indices are between forty-nine per cent and fifty per 243
cent will be deemed a better map than other such maps. 244

(J) If two or more maps are presented that equally meet the 245
criteria set forth in division (I) of this section, the map that 246
preserves the greatest percentage of undivided municipalities will 247
be deemed a better map than one that preserves fewer undivided 248
municipalities. 249

(K) If two or more maps are presented that equally meet the 250
criteria set forth in division (J) of this section, the map with 251
the lowest compactness index will be deemed a better map than 252
others with a higher compactness index. For the purpose of this 253
division, the compactness index will be calculated by averaging 254
the compactness of all proposed districts in the map. The 255
compactness of each proposed district shall be determined by 256
dividing the area of the proposed district by its perimeter. 257

(L) If two or more maps are presented that equally meet the 258
criteria set forth in division (K) of this section, the 259
apportionment board shall randomly select the map to be adopted 260
from among those maps which equally meet the criteria set forth in 261
that division. 262

(M) The public competition for the establishment of senate 263
districts shall not commence until the board has established the 264

house of representatives districts. 265

(N) Any map adopted by the apportionment board shall comply 266
with all applicable federal constitutional provisions and all 267
applicable federal statutory provisions, including, but not 268
limited to, those dealing specifically with the protection of 269
minority voting rights. 270

(O) In calculating any of the percentages or indices in this 271
article, all calculations shall be made to within one 272
one-thousandth of one percent. 273

Section 12 6. (A) Except as specified in division (B) of this 274
section, the apportionment board shall determine the appropriate 275
district numbers for house of representatives districts and senate 276
districts, seeking, in its sole and exclusive discretion, to 277
assign numbers that will minimize voter confusion. 278

(B) At any time the boundaries of senate districts are 279
changed in any plan of apportionment made pursuant to any 280
provision of this ~~Article~~ article, a senator whose term will not 281
expire within two years of the time the plan of apportionment is 282
made shall represent, for the remainder of the term for which ~~he~~ 283
~~the senator~~ was elected, the senate district which contains the 284
largest portion of the population of the district from which ~~he~~ 285
~~the senator~~ was elected, and the district shall be given the 286
number of the district from which the senator was elected. If more 287
than one senator whose term will not so expire would represent the 288
same district by following the provisions of this section, the 289
~~persons responsible for apportionment, by a majority of their~~ 290
~~number,~~ board shall designate which senator shall represent the 291
district and shall designate which district the other senator or 292
senators shall represent for the balance of their term or terms. 293

Section 13 7. The ~~supreme court of Ohio~~ (A) Notwithstanding 294
any provision of this Constitution or any law, the apportionment 295

special tribunal established in division (B) of this section shall 296
have exclusive, original jurisdiction in all cases and questions 297
of law arising under this ~~Article~~ article. In the event that any 298
section of this Constitution relating to apportionment or any plan 299
of apportionment made by the ~~persons responsible for~~ 300
apportionment, ~~by a majority of their number,~~ board is determined 301
to be invalid by either the ~~supreme court of Ohio,~~ apportionment 302
special tribunal or the ~~supreme court of the United States~~ by an 303
unappealed final order of a federal court of competent 304
jurisdiction, then notwithstanding any other provisions of this 305
Constitution, the ~~persons responsible for~~ apportionment ~~by a~~ 306
~~majority of their number~~ board shall ~~ascertain and determine~~ 307
convene to establish a plan of apportionment in conformity with 308
such provisions of this Constitution as are then valid, including 309
establishing terms of office and election of members of the 310
general assembly from districts designated in the plan, to be used 311
until the next regular apportionment in conformity with such 312
provisions of this Constitution as are then valid. 313

~~Notwithstanding any provision of this Constitution or any law~~ 314
~~regarding the residence of senators and representatives, a plan of~~ 315
~~apportionment made pursuant to this section shall allow thirty~~ 316
~~days for persons to change residence in order to be eligible for~~ 317
~~election.~~ 318

~~The governor shall give the persons responsible for~~ 319
~~apportionment two weeks advance written notice of the date, time,~~ 320
~~and place of any meeting held pursuant to this section. A decision~~ 321
~~of the apportionment special tribunal shall be final and is not~~ 322
~~appealable.~~ 323

(B) The apportionment special tribunal shall be composed of 324
the following: 325

(1) Two retired Ohio judges appointed by the governor; 326

<u>(2) Two retired Ohio judges appointed by the first of the</u>	327
<u>following legislative leaders that is a member of a political</u>	328
<u>party represented in the state partisan index that is not the</u>	329
<u>political party of which the governor is a member:</u>	330
<u>(a) The president of the Ohio senate;</u>	331
<u>(b) The speaker of the Ohio house of representatives;</u>	332
<u>(c) The minority leader of the Ohio senate; or</u>	333
<u>(d) The minority leader of the Ohio house of representatives.</u>	334
<u>(3) One retired Ohio judge, who will preside over the</u>	335
<u>tribunal, who shall be appointed by the four judges appointed</u>	336
<u>under divisions (B)(1) and (2) of this section.</u>	337
<u>(C) The retired Ohio judges appointed under division (B) of</u>	338
<u>this section shall have voluntarily retired from judicial service</u>	339
<u>more than one year before their appointment to the apportionment</u>	340
<u>special tribunal.</u>	341
<u>(D) In each year ending in the numeral one, a new</u>	342
<u>apportionment special tribunal shall be appointed. Members of the</u>	343
<u>tribunal are eligible for reappointment.</u>	344
<u>(E) The apportionment special tribunal shall operate using</u>	345
<u>the rules of the Ohio supreme court, except as clearly</u>	346
<u>inapplicable, and shall have all of the constitutional and</u>	347
<u>statutory authority that the Ohio supreme court would have if it</u>	348
<u>had jurisdiction to review cases and certified questions arising</u>	349
<u>under this article, but at no time shall the tribunal or any other</u>	350
<u>court order the establishment or implementation of any</u>	351
<u>apportionment plan or the establishment or implementation of any</u>	352
<u>house of representatives or senate district boundary map that has</u>	353
<u>not been approved by the apportionment board in the manner</u>	354
<u>prescribed by this article.</u>	355
<u>(F) The general assembly shall make appropriations to</u>	356

adequately fund the activities of the apportionment special tribunal, including, but not limited to, the provision of funds for equipment and staff, and shall make other laws to facilitate the operations of the tribunal. 357
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Section 8. Notwithstanding any provision of this Constitution or any law regarding the residence of senators and representatives, a plan of apportionment made pursuant to this article shall allow thirty days for persons to change residence in order to be eligible for election. 361
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Section 15 9. The various provisions of this ~~Article XI~~ article are intended to be severable, and the invalidity of one or more of such provisions shall not affect the validity of the remaining provisions. 366
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EFFECTIVE DATE 370

If adopted by a majority of the electors voting on this proposal, Sections 1, 2, 6 (3), 12 (6), 13 (7), and 15 (9) of Article XI amended or amended and renumbered by this proposal and new Sections 4, 5, and 8 of Article XI enacted by this proposal shall take effect on January 1, 2011, and existing Sections 1, 2, 6, 12, 13, and 15 and Sections 3, 4, 5, 7, 8, 9, 10, 11, and 14 of Article XI of the Constitution of Ohio are repealed from that effective date. 371
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SCHEDULE 379

The amendments to Section 12 (6) of Article XI of the Ohio Constitution in part substitute gender neutral for gender specific language. These gender neutralizing amendments are not intended to make a substantive change in the Ohio Constitution. The gender neutral language is to be construed as a restatement of, and substituted in a continuing way for, the corresponding gender specific language existing prior to adoption of the gender neutralizing amendments. 380
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