

As Reported by the House Elections and Ethics Committee

128th General Assembly

Regular Session

2009-2010

H. J. R. No. 15

Representatives Letson, Garrison

JOINT RESOLUTION

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

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

ARTICLE XI

Section 1. (A) The governor, auditor of state, secretary of
state, one person chosen by the speaker of the house of

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 or federal elections in the ten years immediately preceding the year of an apportionment, the secretary of state shall determine the three elections that had the smallest percentage margin between the highest and second highest nominees of a political party. If in any of the three elections the percentages of the two highest nominees of political parties do not equal one hundred per cent, the remaining percentage for that election shall be attributed to the parties of the two highest nominees in the ratio of the percentages received by those nominees.

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

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

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

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 favoring each political party in the ratio reflected by the state partisan index unless doing so is impossible, in which case the only senate map that may be adopted by the apportionment board is one that includes the number of districts favoring each political party in a ratio as close to that reflected by the state partisan index as is possible. 179
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(2)(a) For the purpose of evaluating proposed maps, the district partisan index shall be calculated for each proposed district in each map submitted in the competition that meets the requirements of division (D)(1) of this section. 186
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(b) The district partisan index shall be calculated by first adding together, for each of the elections represented in the calculation of the statewide partisan index, the number of votes cast in each precinct in a proposed district for the nominees of each of the political parties in those elections. The district-wide vote totals for the nominee of each party in each of the three elections shall be used to determine the district partisan ratio for each of those three elections by determining, from all votes cast for either such party in each election, the percentage of votes cast for the nominee of each party in each election. The average of those three percentages for each party will establish the district partisan index for each party in each proposed district. 190
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(E) In evaluating proposed maps, the apportionment board shall determine the extent to which the district partisan index of each proposed house of representatives district and each proposed senate district varies from the statewide partisan index. In particular, for each map, the board shall determine the number of districts in which the district partisan index varies from the state partisan index by: 203
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(1) Less than one per cent; 210

<u>(2) An amount equal to or greater than one per cent and less than three per cent;</u>	211
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<u>(3) An amount equal to or greater than three per cent and less than five per cent;</u>	213
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<u>(4) An amount equal to or greater than five per cent and less than ten per cent; and</u>	215
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<u>(5) An amount equal to or greater than ten per cent.</u>	217
<u>(F) Any map, with respect to the categories set forth in divisions (E)(2) to (5) of this section, that has an equal number of proposed districts in which the district partisan index favors each political party which is represented in the state partisan index in each of those categories will be deemed a better map than one which has an unequal number of proposed districts in which the district partisan index favors each political party in each of those categories.</u>	218
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<u>(G) If two or more maps are presented that equally meet the criteria set forth in division (F) of this section, any map with a greater number of proposed districts in which the district partisan indices are between forty-nine per cent and fifty-one per cent will be preferred over other such maps.</u>	226
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<u>(H) If no map is presented that meets the criteria set forth in division (F) of this section, or if two or more maps equally meet the criteria set forth in division (G) of this section, the map with closest to an equal number of proposed districts in which the district partisan index favors each political party in each of the categories set forth in division (E) of this section will be deemed a better map than one which has a greater variance from an equal number of proposed districts in which the district partisan index favors each political party in those categories.</u>	231
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<u>(I) If two or more maps are presented that equally meet the criteria set forth in division (H) of this section, any map with a</u>	240
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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

(2) Two retired Ohio judges appointed by the first of the 327
following legislative leaders that is a member of a political 328
party represented in the state partisan index that is not the 329
political party of which the governor is a member: 330

(a) The president of the Ohio senate; 331

(b) The speaker of the Ohio house of representatives; 332

(c) The minority leader of the Ohio senate; or 333

(d) The minority leader of the Ohio house of representatives. 334

(3) One retired Ohio judge, who will preside over the 335
tribunal, who shall be appointed by the four judges appointed 336
under divisions (B)(1) and (2) of this section. 337

(C) The retired Ohio judges appointed under division (B) of 338
this section shall have voluntarily retired from judicial service 339
more than one year before their appointment to the apportionment 340
special tribunal. 341

(D) In each year ending in the numeral one, a new 342
apportionment special tribunal shall be appointed. Members of the 343
tribunal are eligible for reappointment. 344

(E) The apportionment special tribunal shall operate using 345
the rules of the Ohio supreme court, except as clearly 346
inapplicable, and shall have all of the constitutional and 347
statutory authority that the Ohio supreme court would have if it 348
had jurisdiction to review cases and certified questions arising 349
under this article, but at no time shall the tribunal or any other 350
court order the establishment or implementation of any 351
apportionment plan or the establishment or implementation of any 352
house of representatives or senate district boundary map that has 353
not been approved by the apportionment board in the manner 354
prescribed by this article. 355

(F) The general assembly shall make appropriations to 356
adequately fund the activities of the apportionment special 357
tribunal, including, but not limited to, the provision of funds 358
for equipment and staff, and shall make other laws to facilitate 359
the operations of the tribunal. 360

Section 8. Notwithstanding any provision of this Constitution 361
or any law regarding the residence of senators and 362
representatives, a plan of apportionment made pursuant to this 363
article shall allow thirty days for persons to change residence in 364
order to be eligible for election. 365

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.

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.

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.