

As Adopted by the Senate

128th General Assembly

Regular Session

2009-2010

Sub. S. J. R. No. 5

Senator Husted

**Cosponsors: Senators Patton, Niehaus, Wagoner, Goodman, Widener,
Schuring, Stewart, Schaffer, Seitz, Grendell, Faber, Jones**

JOINT RESOLUTION

Proposing to amend Sections 1, 2, 3, 5, 6, 7, 8, 10, 11, 12, 13, and 15 of Article XI, to amend, for the purpose of adopting new Section numbers as indicated in parentheses, Sections 5 (4), 6 (5), 7 (6), 8 (7), 10 (8), 11 (9), 12 (11), 13 (12), and 15 (13) of Article XI, to enact new Section 10 of Article XI, and to repeal Sections 4, 9, and 14 of Article XI of the Constitution of the State of Ohio to revise the redistricting process for General Assembly and Congressional 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 a special election to be held on May 4, 2010, a proposal to amend Sections 1, 2, 3, 5, 6, 7, 8, 10, 11, 12, 13, and 15 of Article XI, to amend, for the purpose of adopting new Section numbers as indicated in parentheses, Sections 5 (4), 6 (5), 7 (6), 8 (7), 10 (8), 11 (9), 12 (11), 13 (12), and 15 (13) of Article XI, and to enact new Section 10 of Article XI of the Constitution of the State of Ohio to read as follows:

ARTICLE XI

~~Section 1. 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 party of which the speaker is a member, and one person chosen by the legislative leaders in the two houses of the major political party of which the speaker is not a member shall be the persons responsible for the apportionment of this state for members of the general assembly.~~

~~Such persons, or a majority of their number, shall meet and establish in the manner prescribed in this Article the boundaries for each of ninety nine house of representatives districts and thirty three senate districts. Such meeting shall convene on a date designated by the governor between August 1 and October 1 in the year one thousand nine hundred seventy one and every tenth year thereafter. (A) The Ohio redistricting commission shall consist of the following seven members and shall be responsible for the redistricting of this state for congress and the general assembly:~~

~~(1) The governor;~~

~~(2) The auditor of state;~~

~~(3) The secretary of state;~~

~~(4) The speaker of the house of representatives;~~

~~(5) The legislative leader of the largest political party in the house of representatives of which the speaker of the house of representatives is not a member;~~

~~(6) The president of the senate; and~~

~~(7) The legislative leader of the largest political party in the senate of which the president of the senate is not a member.~~

(B) All meetings of the Ohio redistricting commission shall 50
be open to the public. The governor shall give ~~such persons~~ the 51
commission members and the public at least two weeks advance 52
notice of the date, time, and place of ~~such~~ the first meeting- 53

The governor of the commission, which shall be held after the 54
first day of March but before the sixteenth day of March of the 55
year ending in the numeral one. At that first meeting, the members 56
shall convene, select co-chairpersons, at least one of whom shall 57
be a member of a political party other than the largest one 58
represented on the commission, and adopt procedural rules for the 59
operation of the commission. 60

(C) Not later than the first day of May of a year ending in 61
the numeral one, the Ohio redistricting commission shall convene, 62
public notice being given, to establish a schedule that it 63
determines appropriate to carry out the duties set forth in this 64
article. Not later than the first day of October of a year ending 65
in the numeral one, the commission shall adopt, in the manner 66
prescribed in this article, the boundaries for each of the 67
ninety-nine house of representatives districts, thirty-three 68
senate districts, and the prescribed number of congressional 69
districts as apportioned to the state pursuant to Section 2 of 70
Article 1 of the Constitution of the United States. After the 71
commission adopts each plan, the commission shall file that plan 72
with the secretary of state. Upon filing with the secretary of 73
state, the plan shall become effective. 74

Immediately after the adoption of a plan under this division, 75
the commission shall prepare a report that explains the basis on 76
which the commission made its decisions to achieve the districting 77
criteria specified in this article. 78

(D) Unless otherwise specified in this article, a simple 79
majority of its members shall be required for any action by the 80
Ohio redistricting commission. The affirmative vote of five 81

members of the commission, including votes from at least two 82
members of the commission who are members of a political party 83
other than the largest one represented on the commission, shall be 84
required to adopt any plan. 85

(E) The Ohio redistricting commission shall make the 86
necessary provisions to allow for public comment at public 87
hearings and in writing and to allow for any resident of Ohio to 88
submit a congressional plan or a general assembly plan for 89
consideration. The commission shall develop and implement a plan 90
to make available to the public all relevant data and information 91
necessary for the submission of a potential congressional plan and 92
a potential general assembly plan by any resident of Ohio. 93

(F) The attorney general shall be responsible for defending a 94
plan adopted by the members of the Ohio redistricting commission 95
in any legal action arising from the process described in this 96
article. 97

(G) The general assembly shall be responsible for making the 98
appropriations it determines necessary in order for the Ohio 99
redistricting commission to perform its duties under this article 100
and to defend against any lawsuit arising from the performance of 101
the duties set forth in this article. 102

(H) After the adoption of a congressional plan and a general 103
assembly plan and the completion of any necessary administrative 104
functions, the co-chairpersons of the Ohio redistricting 105
commission shall jointly dissolve the commission. Upon the 106
dissolution of the commission, the co-chairs shall arrange for all 107
records of the commission to be delivered to the Ohio historical 108
society for preservation. 109

(I) The secretary of state shall cause the apportionment 110
redistricting plans to be published no later than the fifth day of 111
October 5 of the year in which ~~it is~~ they are made, in such manner 112

as provided by law. 113

Section 2. The ~~apportionment~~ redistricting of this state for 114
members of congress and the general assembly shall be made in the 115
following manner: ~~The~~ 116

(A) The whole population of the state, as determined by the 117
federal decennial census, shall be divided by the number of 118
congressional districts apportioned to the state pursuant to 119
Section 2 of Article I of the Constitution of the United States, 120
and the quotient shall be the ratio of representation in the 121
congress for ten years next succeeding such apportionment. 122

(B) The whole population of the state, as determined by the 123
federal decennial census or, if such is unavailable, such other 124
basis as the general assembly may direct, shall be divided by the 125
number "ninety-nine" and the quotient shall be the ratio of 126
representation in the house of representatives for ten years next 127
succeeding such ~~apportionment~~ redistricting. ~~The~~ 128

(C) The whole population of the state as determined by the 129
federal decennial census or, if such is unavailable, such other 130
basis as the general assembly may direct, shall be divided by the 131
number "thirty-three" and the quotient shall be the ratio of 132
representation in the senate for ten years next succeeding such 133
~~apportionment~~ redistricting. 134

Section 3. (A) The population of each congressional district 135
shall be as equal to the ratio of representation in the congress 136
as practicable, as provided in Section 2 of this article. 137

(B) The population of each house of representatives district 138
shall be substantially equal to the ratio of representation in the 139
house of representatives, as provided in ~~section~~ Section 2 of this 140
~~Article~~ article, and in no event shall any house of 141
representatives district contain a population of less than 142
ninety-five ~~percent~~ per cent nor more than one hundred five 143

~~percent~~ per cent of the ratio of representation in the house of 144
representatives, except ~~in those instances where reasonable effort~~ 145
~~is made to avoid dividing a county in accordance with section 9~~ as 146
otherwise provided in division (B) of Section 8 of this Article 147
article. 148

(C) The population of each senate district shall be 149
substantially equal to the ratio of representation in the senate, 150
as provided in Section 2 of this article, and in no event shall 151
any senate district contain a population of less than ninety-five 152
per cent nor more than one hundred five per cent of the ratio of 153
representation in the senate as determined pursuant to this 154
article. 155

Section 5 4. ~~Each~~ (A) Each congressional district shall be 156
entitled to a single representative in the United States house of 157
representatives in each congress. 158

(B) Each house of representatives district shall be entitled 159
to a single representative in each ~~General Assembly~~ general 160
assembly. ~~Every~~ 161

(C) Each senate district shall be entitled to a single 162
senator in each ~~General Assembly~~ general assembly. 163

Section 6 5. District boundaries established pursuant to this 164
~~Article~~ article shall not be changed until the ensuing federal 165
decennial census and the ensuing ~~apportionment~~ redistricting or as 166
provided in ~~section 13~~ this section and Section 12 of this ~~Article~~ 167
article, notwithstanding the fact that boundaries of political 168
subdivisions or ~~city~~ municipal wards within the district may be 169
changed during that time. District boundaries shall be created by 170
using the boundaries of political subdivisions and ~~city~~ municipal 171
wards as they exist at the time of the federal decennial census on 172
which the ~~apportionment~~ redistricting is based, or, if 173
unavailable, on such other basis as the general assembly has 174

directed. 175

If the currently applicable redistricting plan is determined 176
to be invalid by an unappealed final order of a court of competent 177
jurisdiction, the court shall convene the Ohio redistricting 178
commission to adopt a new plan that is in compliance with the law, 179
including the provisions of this article. In convening the 180
commission under this section, the court may adjust the timelines 181
established in this article as necessary for the timely adoption 182
of a new plan. 183

No court shall, in any circumstance, order the implementation 184
or enforcement of any plan that has not been approved by the Ohio 185
redistricting commission in the manner prescribed by this article. 186

Section 7 6. (A) Any plan adopted by the Ohio redistricting 187
commission shall comply with all applicable Ohio and federal 188
constitutional provisions and all applicable federal statutory 189
provisions, including, but not limited to, those dealing 190
specifically with the protection of minority voting rights. 191

(B) Every house of representatives congressional and general 192
assembly district shall be compact and composed of contiguous 193
territory, and the boundary of each district shall be a single 194
nonintersecting continuous line. To the extent consistent with the 195
requirements ~~of section 3~~ of this ~~Article~~ article, the boundary 196
lines of districts shall be ~~so~~ drawn as to delineate an area 197
containing one or more whole counties. 198

~~(B)~~(C) Where the requirements of ~~section 3~~ of this ~~Article~~ 199
article cannot feasibly be attained by forming a district from a 200
whole county or counties, such district shall be formed by 201
combining the whole areas of governmental units giving preference 202
in the order named to counties, townships, municipalities, and 203
~~city~~ municipal wards. 204

~~(C)~~(D) Where the requirements ~~of section 3~~ of this ~~Article~~ 205

article cannot feasibly be attained by combining the areas of 206
governmental units as prescribed in division ~~(B)~~(C) of this 207
section, only ~~one~~ two such ~~unit~~ units may be divided ~~between two~~ 208
~~districts, giving preference in~~ per house of representatives 209
district. In the case of congressional districts, the number of 210
units divided per district may be more than two, but not more than 211
necessary to achieve the ratio of representation in the congress 212
as required by this article. In the selection of a unit for 213
division under division (D) of this section, preference shall be 214
given to a contiguous township, a ~~city ward~~, a city contiguous 215
municipality, and a village in the order named. 216

~~(D) In making a new apportionment, district boundaries~~ 217
~~established by the preceding apportionment shall be adopted to the~~ 218
~~extent reasonably consistent with the requirements of section 3 of~~ 219
~~this Article.~~ 220

(E) When the formation of competitive districts does not 221
conflict with the other principles established by this article, 222
the Ohio redistricting commission shall make its best efforts to 223
maximize the number of competitive districts using the following 224
criteria: 225

(1) The commission shall determine the three most competitive 226
general elections by percentage for nonjudicial statewide state or 227
federal office, including the elections of a president and vice 228
president of the United States, in which the candidates receiving 229
the highest and second highest number of votes were the nominees 230
of political parties, held in the three previous even-numbered 231
years immediately preceding the year in which the commission meets 232
to adopt new plans, provided that the two partisan candidates 233
combined received at least ninety-five per cent of the total votes 234
cast. 235

(2) Using the three most competitive elections selected under 236
division (E)(1) of this section, the commission shall determine 237

the average partisan indexes for each proposed district by doing 238
the following: 239

(a) Taking the percentage of the vote received in the 240
district for each of the two partisan candidates who received the 241
highest vote totals counting only the votes cast for those two 242
partisan candidates, then 243

(b) Averaging together the three voting percentages for the 244
candidates with the same partisan affiliation by dividing the sum 245
of the percentages by the number three to yield the average 246
partisan indexes for that district. 247

(3) A "competitive district" is a district where the average 248
partisan indexes determined by this section are not more than five 249
per cent apart. 250

Section 8 7. A county having at least one house of 251
representatives ratio of representation shall have as many house 252
of representatives districts wholly within the boundaries of the 253
county as it has whole ratios of representation. Any fraction of 254
the population in excess of a whole ratio shall be a part of only 255
one adjoining house of representatives district. 256

The number of whole ratios of representation for a county 257
shall be determined by dividing the population of the county by 258
the ratio of representation for the house of representatives 259
determined under ~~section~~ Section 2 of this ~~Article~~ article. 260

Section 10 8. The standards prescribed in ~~sections~~ this 261
section and Sections 3, 6, and ~~7, 8, and 9~~ of this ~~Article~~ article 262
shall govern the establishment of house of representatives 263
districts, which shall be created and numbered in the following 264
order to the extent that such order is consistent with the 265
foregoing standards: 266

(A) Each county containing population substantially equal to 267
one ratio of representation in the house of representatives, as 268

provided in ~~section~~ Section 2 of this ~~Article~~ article, but in no 269
event less than ninety-five ~~percent~~ per cent of the ratio nor more 270
than one hundred five ~~percent~~ per cent of the ratio shall be 271
designated a representative district. 272

(B) Each county containing population between ninety and 273
ninety-five ~~percent~~ per cent of the ratio or between one hundred 274
five and one hundred ten ~~percent~~ per cent of the ratio may be 275
designated a representative district. 276

(C) Proceeding in succession from the largest to the 277
smallest, each remaining county containing more than one whole 278
ratio of representation shall be divided into house of 279
representatives districts. Any remaining territory within such 280
county containing a fraction of one whole ratio of representation 281
shall be included in one representative district by combining it 282
with adjoining territory outside the county. 283

(D) The remaining territory of the state shall be combined 284
into representative districts. 285

Section ~~11~~ 9. Senate districts shall be composed of three 286
contiguous house of representatives districts. A county having at 287
least one whole senate ratio of representation shall have as many 288
senate districts wholly within the boundaries of the county as it 289
has whole senate ratios of representation. Any fraction of the 290
population in excess of a whole ratio shall be a part of only one 291
adjoining senate district. Counties having less than one senate 292
ratio of representation, but at least one house of representatives 293
ratio of representation shall be part of only one senate district. 294

The number of whole ratios of representation for a county 295
shall be determined by dividing the population of the county by 296
the ratio of representation in the senate determined under ~~section~~ 297
Section 2 of this ~~Article~~ article. 298

Senate districts shall be numbered from one through 299

thirty-three and as provided in ~~section 12~~ Section 11 of this Article article. 300
301

Section 10. The standards prescribed in this section and Sections 3 and 6 of this article shall govern the establishment of congressional districts, which shall be created in the following order to the extent that such order is consistent with the foregoing standards: 302
303
304
305
306

(A) The number of whole ratios of representation for a county shall be determined by dividing the population of the county by the ratio of representation in the congress determined under Section 2 of this article. 307
308
309
310

(B) Proceeding in succession from the largest to the smallest, each county containing more than one whole ratio of representation shall be divided into the appropriate number of congressional districts. Any fraction of the county population in excess of a whole ratio of representation shall be included in one congressional district by combining it with adjoining territory outside the county. 311
312
313
314
315
316
317

(C) The remaining territory of the state shall be combined into congressional districts. 318
319

Section 12 11. At any time the boundaries of senate districts are changed in any plan of ~~apportionment~~ redistricting made pursuant to any provision of this ~~Article~~ article, a senator whose term will not expire within two years of the time the plan of ~~apportionment~~ redistricting is made shall represent, for the remainder of the term for which ~~he~~ the senator was elected, the senate district which contains the largest portion of the population of the district from which ~~he~~ the senator was elected, and the district shall be given the number of the district from which the senator was elected. If more than one senator whose term will not so expire would represent the same district by following 320
321
322
323
324
325
326
327
328
329
330

the provisions of this section, the ~~persons responsible for~~ 331
~~apportionment, by a majority of their number, Ohio redistricting~~ 332
~~commission~~ shall designate which senator shall represent the 333
district and shall designate which district the other senator or 334
senators shall represent for the balance of their term or terms. 335

Section ~~13~~ 12. The supreme court of Ohio ~~or an applicable~~ 336
~~federal court~~ shall have exclusive, original jurisdiction in all 337
cases arising under this ~~Article~~ article. In the event that any 338
section of this Constitution relating to ~~apportionment~~ 339
~~redistricting~~ or any plan of ~~apportionment redistricting~~ made by 340
the ~~persons responsible for apportionment, by a majority of their~~ 341
~~number, Ohio redistricting commission~~ is determined to be invalid 342
by either the ~~supreme court of Ohio, or the supreme court of the~~ 343
~~United States~~ an unappealed final order of a court of competent 344
jurisdiction, then notwithstanding any other provisions of this 345
Constitution, the ~~persons responsible for apportionment by a~~ 346
~~majority of their number~~ Ohio redistricting commission shall 347
ascertain and determine a plan of ~~apportionment redistricting~~ in 348
conformity with such provisions of this Constitution as are then 349
valid, including establishing terms of office and election of 350
members of the general assembly from districts designated in the 351
plan, to be used until the next regular ~~apportionment~~ 352
~~redistricting~~ in conformity with such provisions of this 353
Constitution as are then valid. 354

Notwithstanding any provision of this Constitution or any law 355
regarding the residence of senators and representatives, a plan of 356
~~apportionment redistricting~~ made pursuant to this section shall 357
allow thirty days for persons to change residence in order to be 358
eligible for election. 359

~~The governor shall give the persons responsible for~~ 360
~~apportionment two weeks advance written notice of the date, time,~~ 361
~~and place of any meeting held pursuant to this section.~~ 362

Section 15 13. 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 AND REPEAL 367

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

SCHEDULE 377

The amendments to Section 12 (11) 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.