

**As Introduced**

**129th General Assembly  
Regular Session  
2011-2012**

**H. J. R. No. 5**

**Representatives Celeste, Duffey**

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**JOINT RESOLUTION**

Proposing to amend Sections 1, 2, 3, 5, 6, 7, 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), 10 (7), 11 (8), 12 (9), 13 (10), and 15 (11) of Article XI, and to repeal Sections 4, 8, 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 the general election to be held on November 6, 2012, a proposal to amend Sections 1, 2, 3, 5, 6, 7, 10, 11, 12, 13, and 15 of Article XI and to amend, for the purpose of adopting new section numbers as indicated in parentheses, Sections 5 (4), 6 (5), 7 (6), 10 (7), 11 (8), 12 (9), 13 (10), and 15 (11) 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~~ 23  
~~the legislative leaders in the two houses of the major political~~ 24  
~~party of which the speaker is not a member shall be the persons~~ 25  
~~responsible for the apportionment of this state for members of the~~ 26  
~~general assembly.~~ 27

~~Such persons, or a majority of their number, shall meet and~~ 28  
~~establish in the manner prescribed in this Article the boundaries~~ 29  
~~for each of ninety nine house of representatives districts and~~ 30  
~~thirty three senate districts. Such meeting shall convene on a~~ 31  
~~date designated by the governor between August 1 and October 1 in~~ 32  
~~the year one thousand nine hundred seventy one and every tenth~~ 33  
~~year thereafter. (A)(1) The Ohio redistricting commission shall~~ 34  
~~consist of the following seven members and shall be responsible~~ 35  
~~for the redistricting of this state for congress and the general~~ 36  
~~assembly:~~ 37

(a) The governor; 38

(b) The auditor of state; 39

(c) The secretary of state; 40

(d) The speaker of the house of representatives; 41

(e) The legislative leader of the largest political party in 42  
the house of representatives of which the speaker of the house of 43  
representatives is not a member; 44

(f) The president of the senate; and 45

(g) The legislative leader of the largest political party in 46  
the senate of which the president of the senate is not a member. 47

The members of the commission, or their designees, shall 48  
conduct all business of the commission, as described in this 49  
article. Only commission members shall participate in a vote to 50  
adopt a redistricting plan. No designees shall participate in such 51  
a vote. 52

(2) The redistricting information services office, which shall be a nonpartisan office under the auspices of the general assembly, shall do all of the following: 53  
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(a) Gather and make available to the commission and to the public, in a form that facilitates data analysis and the drawing of legislative and congressional districts, thorough and accurate census data and information detailing the boundaries of political subdivisions that are required to be considered in establishing a redistricting plan; 56  
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(b) Provide to the commission any additional data or election information the commission requests in the form requested; 62  
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(c) Provide all map-production and data services the commission requires in completing its duties under this article; 64  
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(d) Establish and maintain electronic resources that are accessible to the public and that permit members of the public to prepare legislative and congressional redistricting plans for consideration by the commission. 66  
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(B) All meetings of the Ohio redistricting commission shall be open to the public and shall be broadcast by electronic means of transmission using a medium readily accessible by the general public. The governor shall give ~~such persons~~ the commission members and the public at least two weeks advance notice of the date, time, and place of ~~such~~ the first meeting- 70  
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The ~~governor~~ of the commission, which shall be held in a year ending in the numeral one on the first business day occurring two weeks after the day on which the decennial census data is released regarding the state of Ohio. At that first meeting, the members shall convene, select co-chairpersons, at least one of whom shall be a member of a political party other than the largest one represented on the commission, and adopt procedural rules for the operation of the commission. 76  
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(C)(1) Not later than four weeks after the day on which the decennial census data is released regarding the state of Ohio, the Ohio redistricting commission shall convene, public notice being given, to establish a schedule that it determines appropriate to carry out the duties set forth in this article. Not later than twenty weeks after the release of that data, the commission shall adopt, in the manner prescribed in this article, the boundaries for each of the ninety-nine house of representatives districts, thirty-three senate districts, and the prescribed number of congressional districts as apportioned to the state pursuant to Section 2 of Article 1 of the Constitution of the United States. After the commission adopts each plan, the commission shall file that plan with the secretary of state. Upon filing with the secretary of state, the plan shall become effective.

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

(2) Unless otherwise specified in this article, a vote of at least five of its members shall be required for any action by the Ohio redistricting commission. The affirmative vote of five members of the commission, including votes from at least two members of the commission who are members of a political party other than the largest one represented on the commission, shall be required to adopt any plan.

(D) If the commission is unable to adopt a legislative plan, congressional plan, or both, by the end of the twentieth week after the day on which the decennial census data is released regarding the state of Ohio pursuant to division (C) of this article, all of the following shall apply:

(1) For each type of plan that has not been adopted, members of the commission who are affiliated with the two largest

political parties in the state shall each have one week to develop 116  
their last, best offer of a redistricting plan, which plans shall 117  
be submitted to the secretary of state to be placed on the ballot 118  
at the general election conducted in that year. 119

During that same one week period, members of the commission 120  
who are affiliated with the two largest political parties in the 121  
state each shall select one of their members, and those two 122  
selected members shall select a third person, who is not a member 123  
of the commission. The two selected commission members, and the 124  
third person they select, shall, by majority vote, choose from 125  
among the publicly submitted plans the single plan that is the 126  
most competitive, that splits the fewest number of political 127  
subdivisions, and that, to the best of their belief, meets all the 128  
other requirements of this article, including, but not limited to, 129  
federal statutory provisions dealing specifically with the 130  
protection of minority voting rights. That plan shall be submitted 131  
to the secretary of state to be placed on the ballot at the 132  
general election conducted in that year. 133

Of the three plans submitted to the secretary of state for 134  
placement on that ballot at the general election under this 135  
division, the plan receiving the highest number of favorable votes 136  
at that election shall be adopted. 137

(2) If a primary election was scheduled to occur prior to the 138  
first Tuesday after the first Monday in May of the following 139  
even-numbered year, that primary election, and any special 140  
election scheduled to be held on the day of that primary election, 141  
shall be conducted on the first Tuesday after the first Monday in 142  
May, unless the general assembly specifies a later date by law. 143

(3) Every primary election conducted during the ten-year 144  
period preceding the next redistricting to nominate candidates for 145  
representatives for the applicable districts shall be conducted as 146  
a nonpartisan primary. The name of each candidate shall be placed 147

on the ballot without reference to party affiliation. The two 148  
candidates receiving the highest number of votes in each district 149  
at that election shall be nominated, and the names of those 150  
candidates shall appear on the ballot at the general election, 151  
regardless of their political party affiliation. 152

(E) The Ohio redistricting commission shall make the 153  
necessary provisions to allow for public comment at public 154  
hearings and in writing and to allow for any Ohio elector to 155  
submit a congressional plan or a general assembly plan for 156  
consideration. The commission shall develop and implement a plan 157  
to make available to the public through the redistricting 158  
information services office all relevant data and information 159  
necessary for the submission of a potential congressional plan and 160  
a potential general assembly plan by any Ohio elector. 161

(F) The attorney general shall be responsible for defending a 162  
plan adopted by the members of the Ohio redistricting commission 163  
in any legal action arising from the process described in this 164  
article. 165

(G) The general assembly shall be responsible for making the 166  
appropriations necessary in order for the Ohio redistricting 167  
commission and the redistricting information services office to 168  
perform their duties under this article and to defend against any 169  
lawsuit arising from the performance of the duties set forth in 170  
this article. 171

(H) After the adoption of a congressional plan and a general 172  
assembly plan and the completion of any necessary administrative 173  
functions, the co-chairpersons of the Ohio redistricting 174  
commission shall jointly dissolve the commission. Upon the 175  
dissolution of the commission, the co-chairs shall arrange for all 176  
records of the commission to be delivered to the Ohio historical 177  
society, or to a functionally equivalent entity providing state 178  
archival services, for preservation. 179

(I) Except as otherwise provided in this division, the secretary of state shall cause the apportionment redistricting plans to be published no later than October 5 of the year in which it is made twenty-two weeks after the day on which the decennial census data is released regarding the state of Ohio, in such manner as provided by law. If the legislative plan, congressional plan, or both are adopted by a vote of the people under division (D) of this section, the secretary of state shall cause the applicable plan or plans to be published not later than five days after the certification of the vote establishing the plan.

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

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

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

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

Section 3. (A) The population of each congressional district shall be as equal to the ratio of representation in the congress as practicable, as provided in Section 2 of this article. 212  
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(B) The population of each house of representatives district shall be substantially equal to the ratio of representation in the house of representatives, as provided in ~~section~~ Section 2 of this ~~Article~~ article, and in no event shall any house of representatives district contain a population of less than ninety-five ~~percent~~ per cent nor more than one hundred five ~~percent~~ per cent of the ratio of representation in the house of representatives, ~~except in those instances where reasonable effort is made to avoid dividing a county in accordance with section 9 of this Article.~~ 215  
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(C) The population of each senate district shall be substantially equal to the ratio of representation in the senate, as provided in Section 2 of this article, and in no event shall any senate district contain a population of less than ninety-five per cent nor more than one hundred five per cent of the ratio of representation in the senate as determined pursuant to this article. 225  
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Section 5 4. (A) Each congressional district shall be entitled to a single representative in the United States house of representatives in each congress. 232  
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(B) Each house of representatives district shall be entitled to a single representative in each ~~General Assembly~~ general assembly. ~~Every~~ 235  
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(C) Each senate district shall be entitled to a single senator in each ~~General Assembly~~ general assembly. 238  
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Section 6 5. District boundaries established pursuant to this ~~Article~~ article shall not be changed until the ensuing federal decennial census and the ensuing ~~apportionment~~ redistricting or as 240  
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provided in ~~section 13~~ Section 10 of this ~~Article~~ article, 243  
notwithstanding the fact that boundaries of political subdivisions 244  
or ~~city~~ municipal wards within the district may be changed during 245  
that time. District boundaries shall be created by using the 246  
boundaries of political subdivisions and ~~city~~ municipal wards as 247  
they exist at the time of the federal decennial census on which 248  
the ~~apportionment~~ redistricting is based, or, if unavailable, on 249  
such other basis as the general assembly has directed. 250

Section 7 6. (A) Any plan adopted by the Ohio redistricting 252  
commission shall comply with all applicable Ohio and federal 253  
constitutional provisions and all applicable federal statutory 254  
provisions, including, but not limited to, those dealing 255  
specifically with the protection of minority voting rights. 256

(B) ~~Every house of representatives~~ congressional and general 257  
assembly district shall be compact and composed of contiguous 258  
territory, and the boundary of each district shall be a single 259  
nonintersecting continuous line. To the extent consistent with the 260  
requirements ~~of section 3~~ of this ~~Article~~ article, the boundary 261  
lines of districts shall be ~~so~~ drawn as to delineate an area 262  
containing ~~one or more whole counties.~~ 263

~~(B) Where the requirements of section 3 of this Article~~ 264  
~~cannot feasibly be attained by forming a district from a whole~~ 265  
~~county or counties, such district shall be formed by combining the~~ 266  
~~whole~~ areas of governmental units giving preference ~~in the order~~ 267  
~~named to counties, the smallest governmental units, as determined~~ 268  
~~by population, of municipal wards, villages, townships, and~~ 269  
~~municipalities, and city wards.~~ 270

(C) Where the requirements ~~of section 3~~ of this ~~Article~~ 271  
article cannot feasibly be attained by combining the areas of 272  
whole governmental units as prescribed in division (B) of this 273  
section, ~~only one such unit~~ those units may be divided ~~between two~~ 274

~~districts, giving preference in the selection of a unit for~~ 275  
~~division to but with a preference for retaining whole the smallest~~ 276  
~~governmental units, as determined by population, of a township, a~~ 277  
~~city municipal ward, a city municipality, and a village in the~~ 278  
~~order named.~~ 279

(D) ~~In making a new apportionment, district boundaries~~ 280  
~~established by the preceding apportionment shall be adopted to the~~ 281  
~~extent reasonably consistent with the requirements of section 3 of~~ 282  
~~this Article. When the formation of competitive districts does not~~ 283  
~~conflict with the other principles established by this article,~~ 284  
~~the Ohio redistricting commission shall maximize the number of~~ 285  
~~competitive districts using the following criteria:~~ 286

(1) The commission shall determine the average partisan 287  
indexes for each proposed district by averaging together the 288  
percentage of the vote received by each nonjudicial statewide 289  
candidate with the same political party affiliation who received 290  
votes within the district during the prior ten years, taking into 291  
account only the votes received by candidates affiliated with the 292  
two political parties with the largest population in the state 293  
over that ten-year period. 294

(2) A "competitive district" is a district where the average 295  
partisan indexes determined by this section are not more than five 296  
per cent apart. 297

(E) For the purpose of this section, any noncontiguous 298  
portion of a political subdivision shall be considered to be a 299  
separate governmental unit. 300

**Section 10 7.** ~~The standards prescribed in sections this~~ 301  
~~section and Sections 3, 7, 8, and 9 6 of this Article article~~ 302  
shall govern the establishment of house of representatives 303  
districts, ~~which shall be created and numbered in the following~~ 304  
~~order to the extent that such order is consistent with the~~ 305

~~foregoing standards:.~~ 306

~~(A) Each~~ If a county containing contains population 307  
substantially equal to one ratio of representation in the house of 308  
representatives, as provided in ~~section~~ Section 2 of this ~~Article~~ 309  
article, but in no event less than ninety-five ~~percent~~ per cent of 310  
the ratio nor more than one hundred five ~~percent~~ per cent of the 311  
ratio ~~shall be designated, the Ohio redistricting commission shall~~ 312  
make its best efforts to designate that county a representative 313  
district. 314

~~(B) Each county containing population between ninety and~~ 315  
~~ninety five percent of the ratio or between one hundred five and~~ 316  
~~one hundred ten percent of the ratio may be designated a~~ 317  
~~representative district.~~ 318

~~(C) Proceeding in succession from the largest to the~~ 319  
~~smallest, each remaining county containing more than one whole~~ 320  
~~ratio of representation shall be divided into house of~~ 321  
~~representatives districts. Any remaining territory within such~~ 322  
~~county containing a fraction of one whole ratio of representation~~ 323  
~~shall be included in one representative district by combining it~~ 324  
~~with adjoining territory outside the county.~~ 325

~~(D) The remaining territory of the state shall be combined~~ 326  
~~into representative districts.~~ 327

**Section 11 8.** Senate districts shall be composed of three 328  
contiguous house of representatives districts. ~~A county having at~~ 329  
~~least one whole senate ratio of representation shall have as many~~ 330  
~~senate districts wholly within the boundaries of the county as it~~ 331  
~~has whole senate ratios of representation. Any fraction of the~~ 332  
~~population in excess of a whole ratio shall be a part of only one~~ 333  
~~adjoining senate district. Counties having less than one senate~~ 334  
~~ratio of representation, but at least one house of representatives~~ 335  
~~ratio of representation shall be part of only one senate district.~~ 336

~~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 senate determined under section 2 of this Article.~~ 337  
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Senate districts shall be numbered from one through thirty-three and as provided in ~~section 12~~ Section 9 of this ~~Article~~ article. 341  
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**Section 12 9.** 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 the provisions of this section, the ~~persons responsible for apportionment, by a majority of their number,~~ Ohio redistricting commission shall designate which senator shall represent the district and shall designate which district the other senator or senators shall represent for the balance of their term or terms. 344  
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**Section 13 10.** (A) The supreme court of Ohio ~~or an applicable federal court~~ shall have exclusive, original jurisdiction in all cases arising under this ~~Article~~ article. In the event that any section of this Constitution relating to ~~apportionment~~ redistricting or any plan of ~~apportionment~~ redistricting made by the ~~persons responsible for apportionment, by a majority of their number,~~ Ohio redistricting commission is determined to be invalid by either ~~the supreme court of Ohio, or the supreme court of the United States~~ an unappealed final order of a court of competent 360  
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jurisdiction, then notwithstanding any other provisions of this 369  
Constitution, the ~~persons responsible for apportionment by a~~ 370  
~~majority of their number~~ court shall convene the Ohio 371  
redistricting commission, which shall ascertain and determine a 372  
plan of ~~apportionment~~ redistricting in conformity with such 373  
provisions of this Constitution as are then valid, including 374  
establishing terms of office and election of members of the 375  
general assembly from districts designated in the plan, to be used 376  
until the next regular ~~apportionment~~ redistricting in conformity 377  
with such provisions of this Constitution as are then valid. In 378  
convening the commission under this section, the court may adjust 379  
the timelines established in this article as necessary for the 380  
timely adoption of a new plan. 381

Notwithstanding any provision of this Constitution or any law 382  
regarding the residence of senators and representatives, a plan of 383  
~~apportionment~~ redistricting made pursuant to this section shall 384  
allow thirty days for persons to change residence in order to be 385  
eligible for election. 386

~~The governor shall give the persons responsible for~~ 387  
~~apportionment two weeks advance written notice of the date, time,~~ 388  
~~and place of any meeting held pursuant to this section.~~ 389

(B) No court shall order, in any circumstance, the 390  
implementation or enforcement of any redistricting plan that has 391  
not been approved by the Ohio redistricting commission in the 392  
manner prescribed by this article. 393

**Section 15 11.** The various provisions of this ~~Article XI~~ 394  
article are intended to be severable, and the invalidity of one or 395  
more of such provisions shall not affect the validity of the 396  
remaining provisions. 397

EFFECTIVE DATE AND REPEAL 398

If adopted by a majority of the electors voting on this 399

proposal, Sections 1, 2, 3, 5 (4), 6 (5), 7 (6), 10 (7), 11 (8), 400  
12 (9), 13 (10), and 15 (11) of Article XI amended or amended and 401  
renumbered by this proposal shall take effect on January 1, 2019, 402  
and existing Sections 1, 2, 3, 5, 6, 7, 10, 11, 12, 13, and 15 of 403  
Article XI and Sections 4, 8, 9, and 14 of Article XI of the 404  
Constitution of the State of Ohio are repealed from that effective 405  
date. 406

SCHEDULE 1 407

This amendment takes effect January 1, 2019, for the purpose 408  
of allowing time to establish and staff the Redistricting 409  
Information Services Office and for the purpose of allowing the 410  
newly established Redistricting Information Services Office time 411  
to complete its required preparatory tasks for the 2021 412  
redistricting. 413

During the period from January 1, 2019, through March 15, 414  
2021, if the legislative redistricting plan then in effect is 415  
determined to be invalid by an unappealed final order of a court 416  
of competent jurisdiction, the persons responsible for 417  
apportionment, as specified in the version of Section 1 of Article 418  
XI, Ohio Constitution, that was in effect prior to the effective 419  
date of this amendment, shall convene and ascertain a legislative 420  
redistricting plan that shall continue in effect until a 421  
legislative redistricting plan is adopted in accordance with the 422  
requirements of this amendment, in 2021. 423

During the period from January 1, 2019, through March 15, 424  
2021, if the congressional redistricting plan then in effect is 425  
determined to be invalid by an unappealed final order of a court 426  
of competent jurisdiction, the Ohio General Assembly shall convene 427  
and ascertain a congressional redistricting plan that shall 428  
continue in effect until a congressional redistricting plan is 429  
adopted in accordance with the requirements of this amendment, in 430  
2021. 431

Beginning March 15, 2021, if any legislative or congressional 432  
redistricting plan then in effect is determined to be invalid by 433  
an unappealed final order of a court of competent jurisdiction, 434  
the Ohio Redistricting Commission shall convene and ascertain a 435  
redistricting plan in accordance with the requirements of this 436  
amendment. 437

SCHEDULE 2 438

The amendments to Section 12 (9) of Article XI of the Ohio 439  
Constitution in part substitute gender neutral for gender specific 440  
language. These gender neutralizing amendments are not intended to 441  
make a substantive change in the Ohio Constitution. The gender 442  
neutral language is to be construed as a restatement of, and 443  
substituted in a continuing way for, the corresponding gender 444  
specific language existing prior to adoption of the gender 445  
neutralizing amendments. 446