

**As Reported by the House Elections and Ethics Committee**

**128th General Assembly**

**Regular Session  
2009-2010**

**Am. Sub. S. J. R. No. 5**

**Senator Husted**

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

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**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 3, 2011, 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 June but before the sixteenth day of June of the year 55  
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 July 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  
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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  
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(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  
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(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  
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(C) The remaining territory of the state shall be combined into congressional districts. 318  
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**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  
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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

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 immediately and existing Sections 1, 2, 3, 5, 6, 7, 8, 10, 11, 12, 13, and 15 of Article XI and Sections **Section 4.** , **Section 9.** , and **Section 14.** of Article XI of the Constitution of the State of Ohio are repealed from that effective date.

SCHEDULE

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.