

As Reported by the House Rules and Reference Committee

126th General Assembly

Regular Session

2005-2006

Sub. H. J. R. No. 13

Representative DeWine

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 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 7, 2006, 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 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 23
representatives and the leader in the senate of the political 24
party of which the speaker is a member, and one person chosen by 25
the legislative leaders in the two houses of the major political 26
party of which the speaker is not a member shall be the persons 27
responsible for the apportionment of this state for members of the 28
general assembly. 29~~

~~Such persons, or a majority of their number, shall meet and 30
establish in the manner prescribed in this Article the boundaries 31
for each of ninety nine house of representatives districts and 32
thirty three senate districts. Such meeting shall convene on a 33
date designated by the governor between August 1 and October 1 in 34
the year one thousand nine hundred seventy one and every tenth 35
year thereafter. (A) The Ohio redistricting commission shall 36
consist of seven members and shall be responsible for the 37
redistricting of this state for congress and the general assembly. 38
Beginning with the year 2011, after the first day of February but 39
before the first day of March of each year ending in the numeral 40
one, four members shall be appointed to the commission in the 41
following manner: 42~~

~~(1) One member shall be appointed by the speaker of the Ohio 43
house of representatives; 44~~

~~(2) One member shall be appointed by the legislative leader 45
of the largest minority political party in the Ohio house of 46
representatives; 47~~

~~(3) One member shall be appointed by the president of the 48
Ohio senate; 49~~

~~(4) One member shall be appointed by the legislative leader 50
of the largest minority political party in the Ohio senate. 51~~

~~(B)(1) All meetings of the Ohio redistricting commission 52
shall be open to the public. The governor shall give such persons 53~~

the four commission members appointed by the leaders in the 54
general assembly, and the public, at least two weeks advance 55
notice of the date, time, and place of ~~such~~ the first meeting- 56

The of the commission, which shall be held after the first 57
day of March but before the sixteenth day of March of the year 58
ending in the numeral one. At that first meeting, the four members 59
appointed under division (A) of this section, shall convene and 60
select cochairpersons. Those four members shall then proceed with 61
a process of appointing, by unanimous vote of the four members, 62
the remaining three members of the commission. If additional 63
meetings are required for the process of selecting the remaining 64
three members of the commission, the meetings shall be called by 65
the commission cochairpersons with at least two days prior notice. 66

In selecting the three additional appointments under this 67
division, the four commission members appointed by the leaders in 68
the general assembly shall give due consideration to the diversity 69
of the state. 70

(2) If the four commission members appointed by the leaders 71
in the general assembly are unable to unanimously appoint one or 72
more of the required three additional members under division 73
(B)(1) of this section by the fifteenth day of April of the year 74
ending in the numeral one, each position on the commission that 75
remains unfilled on that date shall be filled as follows: 76

(a) Each member of the commission appointed by the leaders in 77
the general assembly shall submit the name of one proposed 78
commission member to the governor. No two members of the 79
commission shall submit the name of the same proposed commission 80
member to the governor under this division. 81

(b) The governor shall randomly select a member of the 82
commission from the four proposed members submitted under division 83
(B)(2)(a) of this section. 84

(c) The submission of names of proposed commission members and the selection process established under division (B)(2)(a) and (b) of this section shall be repeated for each position on the commission that remains unfilled. The name of any proposed commission member submitted under division (B)(2)(a) of this section who is not selected as a member of the commission under division (B)(2)(b) of this section may be resubmitted for each position on the commission that remains unfilled.

(C)(1) During a commission member's tenure on the Ohio redistricting commission and during the ten years preceding appointment to the commission, no commission member shall:

(a) Hold or have held a state or federal elective public office for which candidates may be nominated by political parties;

(b) Be or have been a candidate for a state or federal elective office for which candidates may be nominated by political parties.

(2) At the first general election after the adoption of a new congressional plan or a new general assembly plan, no commission member shall be a candidate for the Ohio general assembly.

(D) Not later than the first day of May of a year ending in the numeral one, 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 the first day of October of a year ending in the numeral one, 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.

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(E) Unless otherwise specified in this article, a simple
majority of its members shall be required for any action by the
Ohio redistricting commission. The affirmative vote of five
members of the commission, including at least one member of each
political party who was appointed to the commission by the leaders
in the general assembly and at least one of the three members not
appointed to the commission by the leaders in the general
assembly, shall be required to adopt any plan or to change the
definition of a "competitive district" in Section 6 of this
article.

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

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

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

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(I) Any vacancy on the Ohio redistricting commission shall be
filled in the same manner as the original appointment not later

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than thirty days after the vacancy occurs.

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(J) All appointments to the Ohio redistricting commission shall be made anew for each successive decennial redistricting of this state. Prior service on the commission shall not exclude a person from being appointed to and serving on the commission.

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(K) After the adoption of a congressional plan and a general assembly plan and the completion of any necessary administrative functions, the cochairpersons of the Ohio redistricting commission shall jointly dissolve the commission.

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(L) The secretary of state governor shall cause the apportionment redistricting plans to be published no later than the fifth day of October 5 of the year in which it is they are made, in such manner as provided by law.

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

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(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 United States Constitution, and the quotient shall be the ratio of representation in the congress for ten years next succeeding such apportionment.

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(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

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(C) The whole population of the state as determined by the federal decennial census or, if such is unavailable, such other

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basis as the general assembly may direct, shall be divided by the 177
number "thirty-three" and the quotient shall be the ratio of 178
representation in the senate for ten years next succeeding such 179
~~apportionment~~ redistricting. 180

Section 3. (A) The population of each congressional district 181
shall be as equal to the ratio of representation in the congress 182
as practicable, as provided in Section 2 of this article. 183

(B) The population of each house of representatives district 184
shall be substantially equal to the ratio of representation in the 185
house of representatives, as provided in ~~section~~ Section 2 of this 186
~~Article~~ article, and in no event shall any house of 187
representatives district contain a population of less than 188
ninety-five ~~percent~~ per cent nor more than one hundred five 189
~~percent~~ per cent of the ratio of representation in the house of 190
representatives, except ~~in those instances where reasonable effort~~ 191
~~is made to avoid dividing a county in accordance with section 9~~ as 192
~~otherwise provided in division (B) of Section 8 of this Article~~ 193
~~article.~~ 194

(C) The population of each senate district shall be 195
substantially equal to the ratio of representation in the senate, 196
as provided in Section 2 of this article, and in no event shall 197
any senate district contain a population of less than ninety-five 198
per cent nor more than one hundred five per cent of the ratio of 199
representation in the senate as determined pursuant to this 200
article. 201

Section 5 4. ~~Each~~ (A) Each congressional district shall be 202
entitled to a single representative in the United States house of 203
representatives in each congress. 204

(B) Each house of representatives district shall be entitled 205
to a single representative in each ~~General Assembly~~ general 206
~~assembly.~~ Every 207

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

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 provided in ~~section 13~~ this section and Section 12 of this ~~Article~~ article, notwithstanding the fact that boundaries of political subdivisions or ~~city~~ municipal wards within the district may be changed during that time. District boundaries shall be created by using the boundaries of political subdivisions and ~~city~~ municipal wards as they exist at the time of the federal decennial census on which the ~~apportionment~~ redistricting is based, or, if unavailable, on such other basis as the general assembly has directed.

If the currently applicable redistricting plan is determined to be invalid by an unappealed final order of a court of competent jurisdiction, the court shall convene the Ohio redistricting commission to adopt a new plan that is in compliance with the law, including the provisions of this article. In convening the commission under this section, the court may adjust the timelines established in this article as necessary for the timely adoption of a new plan. In such a circumstance, the leaders in the general assembly at the time shall each make a new appointment in the manner specified in division (A) of Section 1 of this article. Those four commission members shall then select the remaining three commission members in the manner specified in division (B) of Section 1 of this article.

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

Section 7 6. (A) Any plan adopted by the Ohio redistricting

commission shall comply with all applicable Ohio and federal 239
constitutional provisions and all applicable federal statutory 240
provisions, including, but not limited to, those dealing 241
specifically with the protection of minority voting rights. 242

~~(B)~~ Every house of representatives congressional and general 243
assembly district shall be compact and composed of contiguous 244
territory, and the boundary of each district shall be a single 245
nonintersecting continuous line. To the extent consistent with the 246
requirements ~~of section 3~~ of this ~~Article~~ article, the boundary 247
lines of districts shall be ~~so~~ drawn as to delineate an area 248
containing one or more whole counties. 249

~~(B)~~(C) Where the requirements of ~~section 3~~ of this ~~Article~~ 250
article cannot feasibly be attained by forming a district from a 251
whole county or counties, such district shall be formed by 252
combining the whole areas of governmental units giving preference 253
in the order named to counties, townships, municipalities, and 254
~~city~~ municipal wards. 255

~~(C)~~(D) Where the requirements ~~of section 3~~ of this ~~Article~~ 256
article cannot feasibly be attained by combining the areas of 257
governmental units as prescribed in division ~~(B)~~(C) of this 258
section, only ~~one~~ two such ~~unit~~ units may be divided ~~between two~~ 259
~~districts, giving preference in~~ per house of representatives 260
district. In the case of congressional districts, the number of 261
units divided per district may be more than two, but not more than 262
necessary to achieve the ratio of representation in the congress 263
as required by this article. In the selection of a unit for 264
division under division (D) of this section, preference shall be 265
given to a township, ~~a city ward,~~ a ~~city~~ contiguous municipality, 266
and a village in the order named. 267

~~(D)~~ In making a new apportionment, district boundaries 268
established by the preceding apportionment shall be adopted to the 269
extent reasonably consistent with the requirements of section 3 of 270

this Article. 271

(E) Where their formation does not conflict with the other 272
principles established by this article, the Ohio redistricting 273
commission shall make its best efforts to maximize the number of 274
competitive districts using the following criteria: 275

(1) The commission shall determine the three closest general 276
elections by percentage for nonjudicial statewide state or federal 277
office, including the elections of a president and vice president 278
of the United States, where the candidates receiving the highest 279
and second highest number of votes were the nominees of political 280
parties held in the three previous even-numbered years immediately 281
preceding the year in which the commission meets to adopt new 282
plans, provided that the two partisan candidates combined received 283
at least ninety-five per cent of the total votes cast. 284

(2) Using the three closest elections selected under division 285
(E)(1) of this section, the commission shall determine the average 286
partisan indexes for each proposed district by doing the 287
following: 288

(a) Taking the percentage of the vote received in the 289
district for each of the two partisan candidates who received the 290
highest vote totals counting only the votes cast for those two 291
partisan candidates, then 292

(b) Averaging together the three voting percentages for the 293
candidates with the same partisan affiliation by dividing the sum 294
of the percentages by the number three to yield the average 295
partisan indexes for that district. 296

(3) Unless the Ohio redistricting commission adopts a 297
different definition, a "competitive district" is a district where 298
the average partisan indexes determined by this section are not 299
more than five per cent apart. 300

Section 8 7. A county having at least one house of 301
representatives ratio of representation shall have as many house 302
of representatives districts wholly within the boundaries of the 303
county as it has whole ratios of representation. Any fraction of 304
the population in excess of a whole ratio shall be a part of only 305
one adjoining house of representatives district. 306

The number of whole ratios of representation for a county 307
shall be determined by dividing the population of the county by 308
the ratio of representation for the house of representatives 309
determined under ~~section~~ Section 2 of this ~~Article~~ article. 310

Section 10 8. The standards prescribed in ~~sections~~ this 311
section and Sections 3, 6, and 7, 8, and 9 of this ~~Article~~ article 312
shall govern the establishment of house of representatives 313
districts, which shall be created and numbered in the following 314
order to the extent that such order is consistent with the 315
foregoing standards: 316

(A) Each county containing population substantially equal to 317
one ratio of representation in the house of representatives, as 318
provided in ~~section~~ Section 2 of this ~~Article~~ article, but in no 319
event less than ninety-five ~~percent~~ per cent of the ratio nor more 320
than one hundred five ~~percent~~ per cent of the ratio shall be 321
designated a representative district. 322

(B) Each county containing population between ninety and 323
ninety-five ~~percent~~ per cent of the ratio or between one hundred 324
five and one hundred ten ~~percent~~ per cent of the ratio may be 325
designated a representative district. 326

(C) Proceeding in succession from the largest to the 327
smallest, each remaining county containing more than one whole 328
ratio of representation shall be divided into house of 329
representatives districts. Any remaining territory within such 330
county containing a fraction of one whole ratio of representation 331

shall be included in one representative district by combining it
with adjoining territory outside the county.

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

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

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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~~
Section 2 of this Article article.

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Senate districts shall be numbered from one through
thirty-three and as provided in ~~section 12~~ Section 11 of this
~~Article article.~~

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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:

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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.

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(B) Proceeding in succession from the largest to the

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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.

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

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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
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.

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Section 13 12. 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~~ Ohio ~~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~~

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~~of the United States~~ an unappealed final order of a court of 394
competent jurisdiction, then notwithstanding any other provisions 395
of this Constitution, the ~~persons responsible for apportionment by~~ 396
~~a majority of their number~~ Ohio redistricting commission shall 397
ascertain and determine a plan of ~~apportionment~~ redistricting in 398
conformity with such provisions of this Constitution as are then 399
valid, including establishing terms of office and election of 400
members of the general assembly from districts designated in the 401
plan, to be used until the next regular ~~apportionment~~ 402
redistricting in conformity with such provisions of this 403
Constitution as are then valid. 404

Notwithstanding any provision of this Constitution or any law 405
regarding the residence of senators and representatives, a plan of 406
~~apportionment~~ redistricting made pursuant to this section shall 407
allow thirty days for persons to change residence in order to be 408
eligible for election. 409

~~The governor shall give the persons responsible for~~ 410
~~apportionment two weeks advance written notice of the date, time,~~ 411
~~and place of any meeting held pursuant to this section.~~ 412

Section 15 13. The various provisions of this ~~Article XI~~ 413
article are intended to be severable, and the invalidity of one or 414
more of such provisions shall not affect the validity of the 415
remaining provisions. 416

EFFECTIVE DATE AND REPEAL 417

If adopted by a majority of the electors voting on this 418
proposal, Sections 1, 2, 3, 5 (4), 6 (5), 7 (6), 8 (7), 10 (8), 11 419
(9), 12 (11), 13 (12), and 15 (13) of Article XI amended or 420
amended and renumbered by this proposal and new Section 10 of 421
Article XI enacted by this proposal shall take effect on January 422
1, 2007, and existing sections 1, 2, 3, 5, 6, 7, 8, 10, 11, 12, 423
13, and 15 of Article XI and Sections 4, 9, and 14 of Article XI 424
of the Constitution of Ohio are repealed from that effective date. 425

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SCHEDULE

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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.

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