As Introduced

126th General Assembly
Regular Session
2005-2006

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 apportionment 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 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 apportionment commission shall consist of seven members and shall be responsible for the apportionment of this state for congress and the general assembly. Beginning with the year 2011, after the first day of February but before the first day of March of each year ending in the numeral one, four members shall be appointed to the commission in the following manner:

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

(2) One member shall be appointed by the minority leader of the Ohio house of representatives;

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

(4) One member shall be appointed by the minority leader of the Ohio senate.

(B) All meetings of the Ohio apportionment commission shall be open to the public. The governor shall give such persons the four commission members appointed by the leaders in the general
assembly, and the public, at least two weeks advance notice of the date, time, and place of such the first meeting.

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

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

(C)(1) During a commission member's tenure on the Ohio apportionment 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 apportionment 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 United States Constitution.

(E) Unless otherwise specified in this article, a simple majority of its members shall be required for any action by the Ohio apportionment 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.

(F) The Ohio apportionment commission shall make the necessary provisions to allow for public input and to allow for any resident of Ohio to submit a congressional plan or a general assembly plan for consideration.

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

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

(I) Any vacancy on the Ohio apportionment commission shall be
filled in the same manner as the original appointment not later than thirty days after the vacancy occurs.

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

(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 apportionment commission shall jointly dissolve the commission.

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

Section 2. The apportionment 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 United States Constitution, 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. 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.

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.

(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 Sections 7 and 8 of this Article article.

(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.

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

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

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

Section 4. District boundaries established pursuant to this Article shall not be changed until the ensuing federal decennial census and the ensuing apportionment or as provided in this section and Section 12 of this Article, notwithstanding the fact that boundaries of political subdivisions or city wards within the district may be changed during that time. District boundaries shall be created by using the boundaries of political subdivisions and city wards as they exist at the time of the federal decennial census on which the apportionment is based, or such other basis as the general assembly has directed.

If the currently applicable apportionment plan is determined to be invalid by an unappealed final order of a court of competent jurisdiction, the Ohio apportionment commission shall be convened as directed by the court to adopt a new plan that is in compliance with the law, including the provisions of this article. 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.

Section 7. (A) Every house of representatives and general assembly district shall be compact and composed of contiguous territory, and the boundary of each district shall be a single nonintersecting continuous line. To the extent consistent with the requirements of section 3 of this Article, the boundary lines of districts shall be drawn as to delineate an area containing one or more whole counties.

(B) Any plan adopted by the Ohio apportionment commission shall comply with all applicable Ohio and federal constitutional
provisions, including, but not limited to, those dealing specifically with the protection of minority voting rights.

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

(D) Where the requirements of section 3 of this Article article cannot feasibly be attained by combining the areas of governmental units as prescribed in division (B)(C) of this section, only one two such unit units may be divided between two districts per district, giving preference in the selection of a unit for division to a township, a city ward, a city contiguous municipality, and a village in the order named, except that in the case of congressional districts the number of units divided per district may be more than two, but not more than necessary to achieve the ratio of representation in the congress as required by this article.

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

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

(1) The commission shall determine the three closest general elections by percentage for nonjudicial statewide or federal statewide office, including the elections of a president and vice president of the United States, held in the three previous
even-numbered years immediately preceding the year in which the commission meets to adopt new plans, provided that the two partisan candidates received at least ninety-five per cent of the total votes cast.

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

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

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

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

Section 8 2. A county having at least one house of representatives ratio of representation shall have as many house of representatives districts wholly within the boundaries of the county as it has whole ratios of representation. Any fraction of the population in excess of a whole ratio shall be a part of only one adjoining house of representatives district.

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 for the house of representatives determined under section Section 2 of this Article article.
Section 148. The standards prescribed in sections this section and Sections 3, 6, and 7, 8, and 9 of this Article article shall govern the establishment of house of representatives districts, which shall be created and numbered in the following order to the extent that such order is consistent with the foregoing standards:

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

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

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

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

Section 149. 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.

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.

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

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:

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

(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.

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

Section 12. At any time the boundaries of senate districts are changed in any plan of apportionment made pursuant to any provision of this article, a senator whose term will not
expire within two years of the time the plan of apportionment 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 Ohio apportionment, by a majority of their number, 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.

Section 12. The supreme court of Ohio or an applicable federal court shall have exclusive, original jurisdiction in all cases arising under this Article. In the event that any section of this Constitution relating to apportionment or any plan of apportionment made by the persons responsible for Ohio apportionment, by a majority of their number, 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 jurisdiction, then notwithstanding any other provisions of this Constitution, the persons responsible for Ohio apportionment by a majority of their number commission shall ascertain and determine a plan of apportionment in conformity with such provisions of this Constitution as are then valid, including establishing terms of office and election of members of the general assembly from districts designated in the plan, to be used until the next regular apportionment in conformity with such provisions of this Constitution as are then valid.

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

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

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 on January
1, 2007, 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 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.