

House Joint Resolution 41

Sponsored by Representative SCOTT, Senator FERRIOLI

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Proposes amendment to Oregon Constitution establishing commission to create legislative re-districting plan following each decennial census. Prohibits commission from using 2001 legislative re-districting plan as baseline for adopting new plan.

Refers proposed amendment to people for their approval or rejection at next regular general election.

JOINT RESOLUTION

Be It Resolved by the Legislative Assembly of the State of Oregon:

PARAGRAPH 1. The Constitution of the State of Oregon is amended by creating a new section 6a to be added to and made a part of Article IV, and by amending sections 3, 6 and 8, Article IV, such sections to read:

Sec. 6. (1) *[At the regular session of the Legislative Assembly next following an enumeration of the inhabitants by the United States Government, the number of Senators and Representatives shall be fixed by law and]* **In each year ending in the number one, Senators and Representatives shall be apportioned among legislative districts according to population and a re-districting plan adopted in the manner provided in this section.** A senatorial district shall consist of two representative districts. Any Senator whose term continues through the next regular legislative session after the *[effective]* **operative** date of the *[reapportionment]* **re-districting plan** shall be specifically assigned to a senatorial district. The ratio of Senators and Representatives, respectively, to population shall be determined by dividing the total population of the state by the number of Senators and by the number of Representatives. *[A reapportionment by the Legislative Assembly shall become operative no sooner than September 1 of the year of reapportionment.]*

(2) Not later than January 31 of each year ending in the number one, a commission shall be established to provide for the re-districting of state legislative districts.

(3)(a) The commission shall be composed of five members.

(b) Four members shall be appointed by the Supreme Court. A person is eligible to be appointed as a member of the commission by the Supreme Court if the person:

(A) Is a retired state judge or a federal judge who has served in a federal court in this state and has retired or taken senior status;

(B) Has never held a partisan public office;

(C) Is a member of one of the two largest political parties in this state; and

(D) Has not changed the person's political party affiliation indicated in the person's voter registration records during the five years immediately preceding appointment.

(c) One member shall be appointed by the four members appointed by the Supreme Court. A person is eligible under this paragraph if, during the three years immediately preceding appointment, the person:

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (A) Has not held a public office;

2 (B) Has not held the position of an officer of a political party; and

3 (C) Has not held the position of a compensated lobbyist.

4 (d) A person appointed to the commission under this subsection, before commencing
5 service on the commission, shall pledge in writing that during the person's service as a
6 member of the commission and for at least five years after the date the person's service as
7 a member of the commission is concluded the person will not seek, accept or hold:

8 (A) A public office;

9 (B) The position of an officer of a political party; or

10 (C) The position of a compensated lobbyist.

11 (e) The terms of office of members of the commission expire upon the last filing of a
12 redistricting plan under this section or upon discharge of the members by the Supreme Court
13 under paragraph (a) of subsection (10) of this section.

14 (4)(a) The Supreme Court shall identify qualified persons willing to serve as members of
15 the commission. From the list of qualified persons, the court shall appoint at random four
16 persons to serve as members of the commission. If the court appoints a panel in which more
17 than two members are registered to vote as members of one of the two largest political
18 parties in this state, then the court shall excuse one member of the panel by lot and ran-
19 domly appoint and excuse new members until a panel is appointed consisting of two members
20 belonging to each of the two largest political parties in this state.

21 (b) The four members of the commission appointed by the Supreme Court under para-
22 graph (a) of this subsection shall identify qualified persons willing to serve as the fifth
23 member of the commission. From the list of qualified persons, the four members shall ap-
24 point the fifth member by an affirmative vote of three-fourths of the members.

25 (5)(a) The commission is a public body for purposes of any statutory provisions applicable
26 to the meetings of public bodies.

27 (b) The commission shall give public notice of all meetings of the commission not less
28 than five calendar days prior to the meeting.

29 (c) All meetings and sessions of the commission shall be electronically recorded.

30 (d) The commission shall hold at least three public hearings throughout the state for
31 receiving and considering proposed redistricting plans and public comment from any member
32 of the Legislative Assembly or the public.

33 (6) The commission shall adopt a redistricting plan as soon as practicable following an
34 enumeration of the inhabitants by the United States Government, but not later than May 1.
35 An affirmative vote of at least three members of the commission is necessary for adoption
36 of the redistricting plan. The redistricting plan adopted by the commission may not provide
37 for a number of legislative districts that is different from the number established by the
38 Legislative Assembly. The commission shall submit the redistricting plan to the Legislative
39 Assembly no later than the next business day after adopting the plan.

40 (7) After submission of the redistricting plan by the commission, the Legislative Assem-
41 bly has until July 1 to amend the plan submitted by the commission. If the Legislative As-
42 sembly acts to amend the redistricting plan, an affirmative vote of two-thirds of the
43 members of each house is necessary for adoption of the amendment.

44 (8) The redistricting plan adopted by the commission or the plan as amended by the
45 Legislative Assembly shall be final upon adoption of the amendment or the expiration of the

1 time provided for legislative amendment under subsection (7) of this section, whichever oc-
2 curs first. The final plan constitutes the districting law applicable to this state for legislative
3 elections and becomes operative October 1.

4 (9) If the commission fails to adopt a redistricting plan within the time limitations pro-
5 vided in subsection (6) of this section, the Legislative Assembly shall adopt a redistricting
6 plan by July 1. The plan adopted by the Legislative Assembly under this subsection is final,
7 constitutes the districting law applicable to this state for legislative elections and becomes
8 operative October 1.

9 (10)(a) If the Legislative Assembly does not adopt a redistricting plan within the time
10 limitations provided in subsection (9) of this section, the Supreme Court shall discharge the
11 members of the commission and appoint new members of the commission as provided in
12 subsections (3) and (4) of this section. The commission appointed under this subsection shall
13 adopt a redistricting plan by September 1. The plan adopted by the commission is final,
14 constitutes the districting law applicable to this state for legislative elections and becomes
15 operative October 1.

16 (b) If the commission fails to adopt a redistricting plan under paragraph (a) of this sub-
17 section, the Supreme Court shall adopt a redistricting plan by October 1. The redistricting
18 plan becomes operative December 15.

19 (11) The Legislative Assembly may enact laws providing for the reconvening of a com-
20 mission for the purpose of modifying a districting law adopted under this section. A law
21 providing for the reconvening of the commission must be adopted by an affirmative vote of
22 two-thirds of the members of each house of the Legislative Assembly. An affirmative vote
23 of at least three members of the commission is necessary to adopt any modification of the
24 redistricting plan. Any modification adopted by the commission may be amended by an af-
25 firmative vote of two-thirds of the members of each house of the Legislative Assembly. The
26 districting law shall include the modifications, with any amendment adopted by the Legisla-
27 tive Assembly, and becomes operative on the date specified by the commission or the Legis-
28 lative Assembly, as appropriate.

29 (12) The Legislative Assembly may enact laws implementing subsections (2) to (13) of this
30 section. The laws may set additional standards to govern the commission. A vacancy on the
31 commission shall be filled by the Supreme Court or, if the position vacated was subject to
32 appointment pursuant to paragraph (b) of subsection (4) of this section, the four members
33 appointed by the Supreme Court in the manner specified in this section for selection of
34 members of the commission. The Legislative Assembly shall enact laws appropriating moneys
35 to enable the commission to carry out its duties under this section.

36 (13) Legislative districts may not be changed or established except pursuant to this sec-
37 tion. A redistricting plan adopted by the commission or the Legislative Assembly, or any
38 amendment adopted by the Legislative Assembly, is not subject to veto by the Governor.

39 [(2)] (14) This subsection governs judicial review and correction of a [*reapportionment enacted*
40 *by the Legislative Assembly*] redistricting plan adopted by the commission or adopted or
41 amended by the Legislative Assembly under this section.

42 (a) Original jurisdiction is vested in the Supreme Court, upon the petition of any elector of the
43 state filed with the Supreme Court on or before [*August*] **October 1** of the year in which the [*Leg-*
44 *islative Assembly enacts a reapportionment*] redistricting plan is adopted, to review any [*reappor-*
45 *tionment so enacted*] redistricting plan so adopted.

1 (b) If the Supreme Court determines that the [*reapportionment thus reviewed*] **redistricting plan**
2 complies with [*subsection (1)*] **subsections (1) to (13)** of this section and all law applicable thereto,
3 it shall dismiss the petition by written opinion on or before [*September*] **November 1** of the same
4 year, and the [*reapportionment shall become*] **redistricting plan becomes** operative [*on September*]
5 **November 1**.

6 (c) If the Supreme Court determines that the [*reapportionment*] **redistricting plan** does not
7 comply with [*subsection (1)*] **subsections (1) to (13)** of this section and all law applicable thereto,
8 the [*reapportionment*] **redistricting plan** shall be void. **The Supreme Court shall correct the re-**
9 **districting plan as the court determines is necessary. The corrected redistricting plan be-**
10 **comes operative December 15.** [*In its written opinion, the Supreme Court shall specify with*
11 *particularity wherein the reapportionment fails to comply. The opinion shall further direct the Secretary*
12 *of State to draft a reapportionment of the Senators and Representatives in accordance with the pro-*
13 *visions of subsection (1) of this section and all law applicable thereto. The Supreme Court shall file its*
14 *order with the Secretary of State on or before September 15. The Secretary of State shall conduct a*
15 *hearing on the reapportionment at which the public may submit evidence, views and argument. The*
16 *Secretary of State shall cause a transcription of the hearing to be prepared which, with the evidence,*
17 *shall become part of the record. The Secretary of State shall file the corrected reapportionment with the*
18 *Supreme Court on or before November 1 of the same year.*]

19 [(*d*) *On or before November 15, the Supreme Court shall review the corrected reapportionment to*
20 *assure its compliance with subsection (1) of this section and all law applicable thereto and may further*
21 *correct the reapportionment if the court considers correction to be necessary.*]

22 [(*e*) *The corrected reapportionment shall become operative upon November 15.*]

23 [(3) *This subsection governs enactment, judicial review and correction of a reapportionment if the*
24 *Legislative Assembly fails to enact any reapportionment by July 1 of the year of the regular session*
25 *of the Legislative Assembly next following an enumeration of the inhabitants by the United States*
26 *Government.*]

27 [(*a*) *The Secretary of State shall make a reapportionment of the Senators and Representatives in*
28 *accordance with the provisions of subsection (1) of this section and all law applicable thereto. The*
29 *Secretary of State shall conduct a hearing on the reapportionment at which the public may submit ev-*
30 *idence, views and argument. The Secretary of State shall cause a transcription of the hearing to be*
31 *prepared which, with the evidence, shall become part of the record. The reapportionment so made shall*
32 *be filed with the Supreme Court by August 15 of the same year. It shall become operative on September*
33 *15.*]

34 [(*b*) *Original jurisdiction is vested in the Supreme Court upon the petition of any elector of the state*
35 *filed with the Supreme Court on or before September 15 of the same year to review any reapportionment*
36 *and the record made by the Secretary of State.*]

37 [(*c*) *If the Supreme Court determines that the reapportionment thus reviewed complies with sub-*
38 *section (1) of this section and all law applicable thereto, it shall dismiss the petition by written opinion*
39 *on or before October 15 of the same year and the reapportionment shall become operative on October*
40 *15.*]

41 [(*d*) *If the Supreme Court determines that the reapportionment does not comply with subsection (1)*
42 *of this section and all law applicable thereto, the reapportionment shall be void. The Supreme Court*
43 *shall return the reapportionment by November 1 to the Secretary of State accompanied by a written*
44 *opinion specifying with particularity wherein the reapportionment fails to comply. The opinion shall*
45 *further direct the Secretary of State to correct the reapportionment in those particulars, and in no*

1 *others, and file the corrected reapportionment with the Supreme Court on or before December 1 of the*
 2 *same year.*]

3 [(e) *On or before December 15, the Supreme Court shall review the corrected reapportionment to*
 4 *assure its compliance with subsection (1) of this section and all law applicable thereto and may further*
 5 *correct the reapportionment if the court considers correction to be necessary.*]

6 [(f) *The reapportionment shall become operative on December 15.*]

7 [(4)] **(15)** Any [reapportionment] **redistricting plan** that becomes operative as provided in this
 8 section is a law of the state except for purposes of initiative and referendum. A [reapportionment
 9 shall] **redistricting plan may** not be operative before the date on which an appeal may be taken
 10 therefrom or before the date specified in this section, whichever is later.

11 [(5)] **(16)** Notwithstanding section 18, Article II of this Constitution, after the convening of the
 12 next regular legislative session following the [reapportionment] **operative date of a redistricting**
 13 **plan**, a Senator whose term continues through that legislative session is subject to recall by the
 14 electors of the district to which the Senator is assigned and not by the electors of the district ex-
 15 isting before the latest [reapportionment] **redistricting plan**. The number of signatures required on
 16 the recall petition is 15 percent of the total votes cast for all candidates for Governor at the most
 17 recent election at which a candidate for Governor was elected to a full term in the two represen-
 18 tative districts comprising the senatorial district to which the Senator was assigned.

19 **SECTION 6a. (1) A commission established under section 6 of this Article in the year 2011**
 20 **may not use the legislative redistricting plan adopted in 2001 as a baseline for adopting a new**
 21 **redistricting plan.**

22 **(2) This section is repealed January 1, 2014.**

23 **Sec. 3.** (1) The senators and representatives shall be chosen by the electors of the respective
 24 counties or districts or subdistricts within a county or district into which the state may from time
 25 to time be divided by law.

26 (2) If a vacancy in the office of senator or representative from any county or district or sub-
 27 district shall occur, such vacancy shall be filled as may be provided by law. A person who is ap-
 28 pointed to fill a vacancy in the office of senator or representative shall have been an inhabitant of
 29 the district the person is appointed to represent for at least one year next preceding the date of the
 30 appointment. However, for purposes of an appointment occurring during the period beginning on
 31 January 1 of the year next following the operative date of [an apportionment] **a redistricting plan**
 32 under section 6 of this Article, the person must have been an inhabitant of the district for one year
 33 next preceding the date of the appointment or from January 1 of the year following the [reappor-
 34 tionment] **operative date of the redistricting plan** to the date of the appointment, whichever is
 35 less.

36 **Sec. 8.** (1) No person shall be a Senator or Representative who at the time of election is not a
 37 citizen of the United States; nor anyone who has not been for one year next preceding the election
 38 an inhabitant of the district from which the Senator or Representative may be chosen. However, for
 39 purposes of the general election next following the operative date of [an apportionment] **a redis-**
 40 **tricting plan** under section 6 of this Article, the person must have been an inhabitant of the district
 41 from January 1 of the year following the [reapportionment] **operative date of the redistricting plan**
 42 to the date of the election.

43 (2) Senators and Representatives shall be at least twenty one years of age.

44 (3) No person shall be a Senator or Representative who has been convicted of a felony during:

45 (a) The term of office of the person as a Senator or Representative; or

1 (b) The period beginning on the date of the election at which the person was elected to the of-
2 fice of Senator or Representative and ending on the first day of the term of office to which the
3 person was elected.

4 (4) No person is eligible to be elected as a Senator or Representative if that person has been
5 convicted of a felony and has not completed the sentence received for the conviction prior to the
6 date that person would take office if elected. As used in this subsection, "sentence received for the
7 conviction" includes a term of imprisonment, any period of probation or post-prison supervision and
8 payment of a monetary obligation imposed as all or part of a sentence.

9 (5) Notwithstanding sections 11 and 15, Article IV of this Constitution:

10 (a) The office of a Senator or Representative convicted of a felony during the term to which the
11 Senator or Representative was elected or appointed shall become vacant on the date the Senator
12 or Representative is convicted.

13 (b) A person elected to the office of Senator or Representative and convicted of a felony during
14 the period beginning on the date of the election and ending on the first day of the term of office to
15 which the person was elected shall be ineligible to take office and the office shall become vacant
16 on the first day of the next term of office.

17 (6) Subject to subsection (4) of this section, a person who is ineligible to be a Senator or Rep-
18 resentative under subsection (3) of this section may:

19 (a) Be a Senator or Representative after the expiration of the term of office during which the
20 person is ineligible; and

21 (b) Be a candidate for the office of Senator or Representative prior to the expiration of the term
22 of office during which the person is ineligible.

23 (7) No person shall be a Senator or Representative who at all times during the term of office
24 of the person as a Senator or Representative is not an inhabitant of the district from which the
25 Senator or Representative may be chosen or has been appointed to represent. A person shall not
26 lose status as an inhabitant of a district if the person is absent from the district for purposes of
27 business of the Legislative Assembly. Following the operative date of [*an apportionment*] **a redis-**
28 **tricting plan** under section 6 of this Article, until the expiration of the term of office of the person,
29 a person may be an inhabitant of any district.

30
31 **PARAGRAPH 2. The amendment proposed by this resolution shall be submitted to the**
32 **people for their approval or rejection at the next regular general election held throughout**
33 **this state.**