

# House Joint Resolution 36

Sponsored by Representatives D EDWARDS, BRUUN; Representatives BAILEY, BARKER, BERGER, BUCKLEY, CANNON, FREEMAN, GARRETT, GILLIAM, HANNA, HARKER, HUFFMAN, KENNEMER, KOMP, MATTHEWS, OLSON, READ, RILEY, ROBLAN, SCHAUFLEER, SHIELDS, G SMITH, J SMITH, WHISNANT

## 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 panel of special masters to create state legislative and congressional redistricting plan following each federal decennial census.

Sets redistricting criteria.

Refers proposed amendment to people for their approval or rejection at special election held on date of next primary 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 apportioned among legislative districts according to population. A senatorial district shall consist of two representative districts. Any Senator whose term continues through the next regular legislative session after the operative date of the reapportionment 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 becomes operative as described in subsection (6) of this section.]*

*[(2) This subsection governs judicial review and correction of a reapportionment enacted by the Legislative Assembly.]*

*[(a) Original jurisdiction is vested in the Supreme Court, upon the petition of any elector of the state filed with the Supreme Court on or before August 1 of the year in which the Legislative Assembly enacts a reapportionment, to review any reapportionment so enacted.]*

*[(b) If the Supreme Court determines that the reapportionment thus reviewed complies with subsection (1) of this section and all law applicable thereto, it shall dismiss the petition by written opinion on or before September 1 of the same year and the reapportionment becomes operative as described in subsection (6) of this section.]*

*[(c) If the Supreme Court determines that the reapportionment does not comply with subsection (1) of this section and all law applicable thereto, the reapportionment shall be void. In its written opinion, the Supreme Court shall specify with particularity wherein the reapportionment fails to comply. The opinion shall further direct the Secretary of State to draft a reapportionment of the Senators and Representatives in accordance with the provisions of subsection (1) of this section and all law applica-*

**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 ble thereto. The Supreme Court shall file its order with the Secretary of State on or before September  
2 15. The Secretary of State shall conduct a hearing on the reapportionment at which the public may  
3 submit evidence, views and argument. The Secretary of State shall cause a transcription of the hearing  
4 to be prepared which, with the evidence, shall become part of the record. The Secretary of State shall  
5 file the corrected reapportionment with the Supreme Court on or before November 1 of the same  
6 year.]

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

10 [(e) The corrected reapportionment becomes operative as described in subsection (6) of this  
11 section.]

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

16 [(a) The Secretary of State shall make a reapportionment of the Senators and Representatives in  
17 accordance with the provisions of subsection (1) of this section and all law applicable thereto. The  
18 Secretary of State shall conduct a hearing on the reapportionment at which the public may submit ev-  
19 idence, views and argument. The Secretary of State shall cause a transcription of the hearing to be  
20 prepared which, with the evidence, shall become part of the record. The reapportionment so made shall  
21 be filed with the Supreme Court by August 15 of the same year. The reapportionment becomes operative  
22 as described in subsection (6) of this section.]

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

26 [(c) If the Supreme Court determines that the reapportionment thus reviewed complies with sub-  
27 section (1) of this section and all law applicable thereto, it shall dismiss the petition by written opinion  
28 on or before October 15 of the same year and the reapportionment becomes operative as described in  
29 subsection (6) of this section.]

30 [(d) If the Supreme Court determines that the reapportionment does not comply with subsection (1)  
31 of this section and all law applicable thereto, the reapportionment shall be void. The Supreme Court  
32 shall return the reapportionment by November 1 to the Secretary of State accompanied by a written  
33 opinion specifying with particularity wherein the reapportionment fails to comply. The opinion shall  
34 further direct the Secretary of State to correct the reapportionment in those particulars, and in no  
35 others, and file the corrected reapportionment with the Supreme Court on or before December 1 of the  
36 same year.]

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

40 [(f) The reapportionment becomes operative as described in subsection (6) of this section.]

41 [(4) Any reapportionment that becomes operative as provided in this section is a law of the state  
42 except for purposes of initiative and referendum.]

43 [(5) Notwithstanding section 18, Article II of this Constitution, after the convening of the next  
44 regular legislative session following the reapportionment, a Senator whose term continues through that  
45 legislative session is subject to recall by the electors of the district to which the Senator is assigned

1 and not by the electors of the district existing before the latest reapportionment. The number of signa-  
 2 tures required on the recall petition is 15 percent of the total votes cast for all candidates for Governor  
 3 at the most recent election at which a candidate for Governor was elected to a full term in the two  
 4 representative districts comprising the senatorial district to which the Senator was assigned.]

5 [(6)(a) Except as provided in paragraph (b) of this subsection, a reapportionment made under this  
 6 section becomes operative on the second Monday in January of the next odd-numbered year after the  
 7 applicable deadline for making a final reapportionment under this section.]

8 [(b) For purposes of electing Senators and Representatives to the next term of office that commences  
 9 after the applicable deadline for making a final reapportionment under this section, a reapportionment  
 10 made under this section becomes operative on January 1 of the calendar year next following the ap-  
 11 plicable deadline for making a final reapportionment under this section.]

12 **(1) In the year following the year in which the federal decennial census is taken under**  
 13 **the direction of the United States Congress, a panel of special masters composed of retired**  
 14 **judges shall adjust the boundaries of the state legislative and congressional districts in ac-**  
 15 **cordance with the provisions of this section and section 6a of this Article.**

16 **(2)(a) On or before January 15 of the year following the year in which the federal**  
 17 **decennial census is taken, the Legislative Assembly shall appoint pursuant to paragraph (b)**  
 18 **of this subsection a panel of special masters composed of retired judges to adopt a plan of**  
 19 **redistricting that adjusts the boundaries of the state legislative and congressional districts.**

20 **(b)(A) In sufficient time to allow the appointment of the panel, the Supreme Court shall**  
 21 **select by lot 24 retired judges who are willing to serve as special masters. A person is qual-**  
 22 **ified to serve as a special master if the person is a retired Oregon state or federal judge, has**  
 23 **never held elected partisan public office or political party office, has not changed the per-**  
 24 **son's political party affiliation indicated on the person's voter registration records since the**  
 25 **person's initial appointment or election to judicial office and during the 12 months imme-**  
 26 **diately preceding appointment to the panel has not received income from the Legislative**  
 27 **Assembly, the United States Congress, a committee of the Legislative Assembly or the**  
 28 **United States Congress, a political party or a candidate for partisan public office or a poli-**  
 29 **tical committee controlled by a candidate for partisan public office. Not more than 12 of the**  
 30 **24 retired judges may be members of the same political party. The two largest political par-**  
 31 **ties in the state shall be equally represented among the selected retired judges.**

32 **(B) Before commencing service as a special master, a person appointed to serve as a**  
 33 **special master shall pledge in writing that the person will not run for election in any state**  
 34 **legislative or congressional district adjusted by the panel of special masters under this sec-**  
 35 **tion and that the person will not accept Oregon state public employment or public office,**  
 36 **other than judicial employment, judicial office or a teaching position, for at least five years**  
 37 **from the date of appointment as a special master.**

38 **(C) Not later than six business days before the deadline for appointment of the panel, the**  
 39 **Speaker of the House of Representatives, the minority leader of the House of Represen-**  
 40 **tatives, the President of the Senate and the minority leader of the Senate shall each nomi-**  
 41 **nate three retired judges from the pool of retired judges selected by the Supreme Court. A**  
 42 **member of the Legislative Assembly who is authorized to make nominations under this**  
 43 **subparagraph shall nominate retired judges who are not registered as members of the same**  
 44 **political party as the member of the Legislative Assembly who is making the nomination. A**  
 45 **retired judge may not be nominated by more than one member of the Legislative Assembly.**

1 (D) If a member of the Legislative Assembly fails to nominate the required number of  
2 retired judges within the time period described in this section, the presiding officer of the  
3 member's house of the Legislative Assembly immediately shall draw by lot the remaining  
4 nominees for that member of the Legislative Assembly in accordance with the requirements  
5 of subparagraph (C) of this paragraph.

6 (E) Not later than four business days before the deadline for appointment of the panel,  
7 each member of the Legislative Assembly who is authorized to nominate a retired judge shall  
8 also be entitled to exercise a single peremptory challenge striking the name of any nominee  
9 of any other member of the Legislative Assembly.

10 (F) From the list of remaining nominees selected by authorized members of the Legisla-  
11 tive Assembly, the Speaker of the House of Representatives shall draw by lot the names of  
12 three persons to serve as special masters. If the drawing fails to produce at least one special  
13 master from each of the two largest political parties in the state, the drawing shall be con-  
14 ducted again until this requirement is met. If the list of remaining nominees does not include  
15 a retired judge from each of the two largest political parties, the drawing for the special  
16 master from the absent political party or parties shall be made from the original pool of 24  
17 retired judges selected by the Supreme Court, except that a retired judge whose name was  
18 struck under subparagraph (E) of this paragraph may not be appointed. In the event of a  
19 vacancy in the panel of special masters, the Speaker of the House of Representatives shall  
20 immediately draw by lot the name of a replacement who satisfies the composition require-  
21 ments for the panel under this section. The name of a replacement shall be drawn from the  
22 list of remaining nominees selected by authorized members of the Legislative Assembly or  
23 from the original pool of 24 retired judges, if necessary. A retired judge whose name was  
24 struck under subparagraph (E) of this paragraph may not be appointed to fill a vacancy.

25 (c) Each special master shall be compensated at a rate set by the Legislative Assembly  
26 by law. The term of office of a special master expires on the date a redistricting plan is ap-  
27 proved or rejected at an election held as provided in subsection (5) of this section.

28 (3)(a) The panel of special masters shall give public notice of all meetings of the panel.  
29 The panel is a public body for purposes of any statutory provisions applicable to the meetings  
30 of public bodies. All meetings and sessions of the panel shall be electronically recorded. The  
31 panel shall establish procedures that restrict ex parte communications from members of the  
32 public and the Legislative Assembly concerning the merits of any redistricting plan.

33 (b) The panel shall establish and publish a schedule for receiving and considering pro-  
34 posed redistricting plans and comments from any member of the Legislative Assembly or the  
35 public. The panel shall hold at least three public hearings throughout the state to consider  
36 redistricting plans. At least one of the hearings shall be held after the panel has submitted  
37 a proposed redistricting plan under paragraph (c) of this subsection but before adoption of  
38 the final redistricting plan.

39 (c) Before adopting a final redistricting plan, the panel shall submit a redistricting plan  
40 to the Legislative Assembly and allow members of the Legislative Assembly to comment on  
41 the redistricting plan within a time set by the panel. The panel shall address in writing each  
42 change to the redistricting plan that is recommended by the Legislative Assembly and in-  
43 corporated into the final redistricting plan.

44 (4)(a) Not later than September 1, the panel of special masters shall adopt by resolution  
45 a final redistricting plan. Adoption of the resolution approving the final redistricting plan

1 must be unanimous. The panel shall file the final redistricting plan with the Secretary of  
2 State.

3 (b) Except as provided in paragraph (c) of this subsection, a redistricting plan submitted  
4 by the panel to the Secretary of State becomes operative on the second Monday in January  
5 of the next odd-numbered year after the deadline for approving a final redistricting plan  
6 under this section.

7 (c) For purposes of electing officials to the next term of office that commences after the  
8 approval of a redistricting plan under this section, a redistricting plan approved under this  
9 section becomes operative on January 1 of the calendar year next following the approval of  
10 a redistricting plan under this section.

11 (d) If approved by the people as provided in subsection (5) of this section, the redistrict-  
12 ing plan shall remain in effect for succeeding elections until the next adjustment of bounda-  
13 ries required under this section.

14 (5)(a) The Secretary of State shall submit the final redistricting plan as if it were pro-  
15 posed as an initiative law under section 1 of this Article to the people at the general election  
16 next following approval of the redistricting plan by the panel of special masters under sub-  
17 section (4) of this section. The people shall vote to approve or reject the redistricting plan  
18 for use in succeeding elections until the next adjustment of boundaries is required. The ballot  
19 title shall read: "Shall the boundary lines of the state legislative and congressional districts  
20 adopted by special masters as required by Article IV of the Oregon Constitution, and used  
21 for this election, be used until the next constitutionally required adjustment of the bounda-  
22 ries?"

23 (b) If the redistricting plan is approved at an election under paragraph (a) of this sub-  
24 section, the redistricting plan shall be used in succeeding elections until the next adjustment  
25 of boundaries is required. If the redistricting plan is rejected at an election under paragraph  
26 (a) of this subsection, a new panel of special masters shall be appointed within 90 days in the  
27 manner provided in paragraph (b) of subsection (2) of this section for the purpose of pro-  
28 posing a new redistricting plan for use at the next statewide primary and general elections  
29 pursuant to this section. Any officials elected under a final redistricting plan shall serve out  
30 their terms of office notwithstanding the rejection at an election under paragraph (a) of this  
31 subsection of the redistricting plan for use in succeeding primary and general elections.

32 (6) The Legislative Assembly shall appropriate moneys as necessary to provide the panel  
33 of special masters with equipment, office space and necessary personnel, including counsel  
34 and independent experts in the fields of redistricting and computer technology, to assist the  
35 panel.

36 (7) Except for judicial decrees, the provisions of this section are the exclusive means of  
37 adjusting the boundaries of state legislative and congressional districts.

38 (8) Any action or proceeding alleging that the final redistricting plan adopted by a panel  
39 of special masters under this section does not conform with the requirements of this Con-  
40 stitution must be filed not later than 45 business days after the panel files the final redis-  
41 tricting plan with the Secretary of State. If any court finds the final redistricting plan to be  
42 in violation of a provision of this Constitution, the court may order that a new redistricting  
43 plan be adopted by a panel of special masters under this section. A court may order any  
44 remedy necessary to carry out the provisions of this section and section 6a of this Article.

45 SECTION 6a. (1) Each member of the Senate and House of Representatives and each

1 **Representative in Congress shall be elected from a single-member district. Districts of each**  
 2 **type shall be numbered consecutively commencing at the northern boundary of the state and**  
 3 **ending at the southern boundary.**

4 (2) **The population of all state legislative or congressional districts shall be as nearly**  
 5 **equal as practicable. The maximum population deviation between districts may not exceed**  
 6 **one percent or any stricter standard required by federal law.**

7 (3) **Every state legislative or congressional district shall be contiguous.**

8 (4) **State legislative or congressional district boundaries shall conform to the geographic**  
 9 **boundaries of cities and counties to the greatest extent practicable. Except as necessary to**  
 10 **comply with subsections (1) to (3) of this section, a redistricting plan shall comply with the**  
 11 **following criteria in descending order of importance:**

12 (a) **Highest possible number of counties undivided by district boundaries;**

13 (b) **Lowest possible number of county fragments created by district boundaries;**

14 (c) **Highest possible number of cities undivided by district boundaries; and**

15 (d) **Lowest possible number of city fragments created by district boundaries.**

16 (5) **Except as necessary to comply with subsections (1) to (4) of this section, every state**  
 17 **legislative or congressional district shall be as compact as practicable. To the extent practi-**  
 18 **cable, a contiguous area of population may not be bypassed to incorporate an area of popu-**  
 19 **lation more distant.**

20 (6) **A census block may not be fragmented unless required to satisfy the requirements**  
 21 **of the United States Constitution.**

22 (7) **Consideration may not be given to the potential effects of a redistricting plan on**  
 23 **incumbents or political parties. Except as required by federal law, data regarding the resi-**  
 24 **dence of an incumbent or of any other candidate or the party affiliation or voting history**  
 25 **of electors may not be used in the preparation of a redistricting plan.**

26 **Sec. 3.** (1) The [*senators and representatives*] **Senators and Representatives** shall be chosen  
 27 by the electors of the respective counties or districts or subdistricts within a county or district into  
 28 which the state may from time to time be divided by law.

29 (2)(a) If a vacancy occurs in the office of [*senator or representative*] **Senator or Representative**  
 30 from any county or district or subdistrict, the vacancy shall be filled as may be provided by law.

31 (b) Except as provided in paragraph (c) of this subsection, a person who is appointed to fill a  
 32 vacancy in the office of [*senator or representative*] **Senator or Representative** must be an inhabitant  
 33 of the district the person is appointed to represent for at least one year next preceding the date of  
 34 the appointment.

35 (c) For purposes of an appointment occurring during the period beginning on January 1 of the  
 36 year a [*reapportionment*] **redistricting plan** becomes operative under section 6 of this Article, the  
 37 person must have been an inhabitant of the district for one year next preceding the date of the ap-  
 38 pointment or from January 1 of the year the [*reapportionment*] **redistricting plan** becomes operative  
 39 to the date of the appointment, whichever is less.

40 **Sec. 8.** (1)(a) Except as provided in paragraph (b) of this subsection, a person may not be a  
 41 Senator or Representative if the person at the time of election:

42 (A) Is not a citizen of the United States; and

43 (B) Has not been for one year next preceding the election an inhabitant of the district from  
 44 which the Senator or Representative may be chosen.

45 (b) For purposes of the general election next following the applicable deadline for [*making a*

1 *final apportionment*] **approving a final redistricting plan** under section 6 of this Article, the person  
 2 must have been an inhabitant of the district from January 1 of the year following the applicable  
 3 deadline for [*making the final reapportionment*] **approving the final redistricting plan** to the date  
 4 of the election.

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

6 (3) A person may not be a Senator or Representative if the person has been convicted of a felony  
 7 during:

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

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

12 (4) A person is not eligible to be elected as a Senator or Representative if that person has been  
 13 convicted of a felony and has not completed the sentence received for the conviction prior to the  
 14 date that person would take office if elected. As used in this subsection, "sentence received for the  
 15 conviction" includes a term of imprisonment, any period of probation or post-prison supervision and  
 16 payment of a monetary obligation imposed as all or part of a sentence.

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

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

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

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

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

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

31 (7)(a) Except as provided in paragraph (b) of this subsection, a person may not be a Senator or  
 32 Representative if the person at all times during the term of office of the person as a Senator or  
 33 Representative is not an inhabitant of the district from which the Senator or Representative may  
 34 be chosen or which the Senator or Representative has been appointed to represent. A person does  
 35 not lose status as an inhabitant of a district if the person is absent from the district for purposes  
 36 of business of the Legislative Assembly.

37 (b) Following the applicable deadline for [*making a final apportionment*] **approving a final re-**  
 38 **districting plan** under section 6 of this Article, until the expiration of the term of office of the  
 39 person, a person may be an inhabitant of any district.

40  
 41 **PARAGRAPH 2. The amendment proposed by this resolution shall be submitted to the**  
 42 **people for their approval or rejection at a special election held throughout this state on the**  
 43 **same date as the next primary election.**