

**TESTIMONY ON HB 2887  
BEFORE THE HOUSE RULES COMMITTEE  
MARCH 4, 2013**

**PRESENTED BY: BRUCE C. MILLER, OFFICE OF THE STATE COURT ADMINISTRATOR**

Thank you for giving us the opportunity to review this bill and offer our comments. We have identified the following items that you may want to address as you consider the bill:

- Section 2(1)
  - Make clear for venue and filing that a party is required to file the party's petition in Marion County circuit court
  - Make clear that in order for the panel to review the Legislature's failure to enact a reapportionment, a party must file a petition on or before August 15
  - Allow consolidation of cases
  - Allow filing and consideration of *amicus* briefs and oral argument by *amicus curiae*
- Section 2(2)
  - Remove the chief judge and the presiding judge from the panel to reduce the panel to one judge from each congressional district
    - Avoids representation by 2 or 3 judges from a given congressional district
    - Makes the panel a more workable size
  - Remove "five" since the number of congressional districts may change
  - Specify that the Chief Justice will appoint the judges, and designate one as the presiding judge of the panel, from the existing pool of circuit court and senior circuit court judges
    - The measure is silent on who appoints the judges to the panel
    - The inclusion of senior judges adds experience and enlarges the pool
  - Remove selection at random to add flexibility and better assurance of getting judges who are willing and able to serve
  - Extend the deadline for a panel decision to account for the time needed to appoint a panel
  - Specify that a party may file a petition (rather than a notice of appeal) with the Supreme Court
  - Extend the deadline for a Supreme Court decision to account for the later panel deadline and to line up with the current final date for a S Ct decision

We believe these changes will create a smoother process for judicial review of a reapportionment. We have included an edited, red-lined version of the bill incorporating our suggestions (Attachment A) as well as an edited, clean version of the bill incorporating our suggestions (Attachment B).

## 77th OREGON LEGISLATIVE ASSEMBLY--2013 Regular Session

House Bill 2887

## SECTION 1.

Section 2 of this 2013 Act is added to and made a part of ORS 188.010 to 188.295.

## SECTION 2.

- (1) In the year following the federal decennial census, jurisdiction is vested in a panel of judges to decide ~~upon a~~ challenges to reapportionment of congressional districts.:
- (a) ~~Upon~~ upon the petition of any elector filed ~~with the panel in Marion County circuit court~~ on or before August 15:
- (a) ~~\_\_\_\_\_~~ \_\_\_\_\_ challenging a reapportionment of congressional districts enacted by the Legislative Assembly; or
- (b) challenging the Legislative Assembly's inaction and requesting a reapportionment of congressional districts. In the event if the Legislative Assembly failed to enact a reapportionment of congressional districts by the date of adjournment sine die of that year's Legislative Assembly.
- (2) The panel may:
- (a) consolidate all cases initiated under this section and
- (b) allow filing and consideration of briefs and oral argument presented by amicus curiae.
- (23) The panel of judges shall consist of ~~seven members as follows:~~
- (a) ~~Five a~~ Five a circuit court judges or senior circuit court judge from each congressional district selected at random by the Chief Justice of the Oregon Supreme Court, ~~one representing each congressional district;~~ The Chief Justice shall appoint one of the judges to preside over the panel of judges and to make all rulings on procedural and evidentiary matters.
- (b) ~~The Chief Judge of the Court of Appeals; and~~
- (c) ~~The presiding judge of the Circuit Court of Marion County.~~
- (34) The panel of judges shall decide upon a reapportionment of congressional districts on or before ~~September~~ October 30. A reapportionment decided upon by the panel may be appealed by a party only by filing a ~~notice of appeal~~ petition with the Supreme Court on or before October 15. The Supreme Court shall review and decide upon a final reapportionment on or before ~~November 15~~ December 15.
- (4) ~~The presiding judge of the Circuit Court of Marion County shall preside over the panel of judges and make all rulings on procedural and evidentiary matters.~~
- (5) ~~The venue for a proceeding by a panel of judges under this section lies in Marion County.~~

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SECTION 1.

Section 2 of this 2013 Act is added to and made a part of ORS 188.010 to 188.295.

SECTION 2.

- (1) In the year following the federal decennial census, jurisdiction is vested in a panel of judges to decide challenges to reapportionment of congressional districts upon the petition of any elector filed in Marion County circuit court on or before August 15:
  - (a) challenging a reapportionment of congressional districts enacted by the Legislative Assembly; or
  - (b) challenging the Legislative Assembly's inaction and requesting a reapportionment of congressional districts if the Legislative Assembly failed to enact a reapportionment of congressional districts by the date of adjournment sine die of that year's Legislative Assembly.
- (2) The panel may:
  - (a) consolidate all cases initiated under this section and
  - (b) allow filing and consideration of briefs and oral argument presented by *amicus curiae*.
- (3) The panel of judges shall consist of a circuit court judge or senior circuit court judge from each congressional district selected by the Chief Justice of the Oregon Supreme Court. The Chief Justice shall appoint one of the judges to preside over the panel of judges and to make all rulings on procedural and evidentiary matters.
- (4) The panel of judges shall decide upon a reapportionment of congressional districts on or before October 30. A reapportionment decided upon by the panel may be appealed by a party only by filing a petition with the Supreme Court on or before October 15. The Supreme Court shall review and decide upon a final reapportionment on or before December 15.