

Enrolled
House Bill 2887

Sponsored by COMMITTEE ON RULES

CHAPTER

AN ACT

Relating to reapportionment of congressional districts.

Be It Enacted by the People of the State of Oregon:

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) As used in this section:

(a) "Elector" has the meaning given that term in ORS 247.002.

(b) "Legislatively adopted reapportionment plan" means a plan for the reapportionment of congressional districts that has passed the Legislative Assembly and that is signed, or allowed to become law without signature, by the Governor.

(2) An elector may file a petition in Marion County Circuit Court on or before August 1 in the year following the federal decennial census to:

(a) Challenge a legislatively adopted reapportionment plan; or

(b) Request a reapportionment of congressional districts if:

(A) The Legislative Assembly failed to pass a reapportionment of congressional districts by July 1 of a regular session of the Legislative Assembly held in that same year; or

(B) The Governor vetoed the reapportionment of congressional districts passed by the Legislative Assembly and the Legislative Assembly did not override the veto.

(3) The Secretary of State shall serve as respondent in any petition filed under subsection (2) of this section.

(4) An elector may file a petition in Marion County Circuit Court on or before August 15 to intervene in a petition filed under subsection (2) of this section.

(5)(a) A petition filed under subsection (2) or (4) of this section may include any materials from the legislative record relating to congressional reapportionment plans.

(b) A petition filed under subsection (2) of this section must include:

(A) The legislatively adopted reapportionment plan that is being challenged and an explanation of the factual and legal defects in the plan.

(B) If no legislatively adopted reapportionment plan was passed, the petition must include the petitioner's proposed reapportionment plan and an explanation of how the plan complies with all applicable statutes and the United States and Oregon Constitutions.

(c) A petition to intervene filed under subsection (4) of this section must include an explanation of the factual and legal defects with assertions made in a petition filed under subsection (2) of this section.

(6) If an elector files a petition under subsection (2) of this section, the Chief Justice of the Supreme Court shall appoint a special judicial panel. The panel shall consist of one state

circuit court judge, senior judge or judge who is serving as a judge pro tempore under ORS 238.535 (1)(c) from each congressional district in this state. The Chief Justice shall also select one of the appointed judges to preside over the special judicial panel and to make all rulings on procedural and evidentiary matters before the panel.

(7) Jurisdiction is vested in the special judicial panel described in subsection (6) of this section to decide any petitions filed under subsections (2) and (4) of this section. The panel may:

(a) Consolidate some or all petitions filed under subsections (2) and (4) of this section.

(b) Allow amicus curiae to file briefs and participate in oral arguments.

(c) Request that the Chief Justice appoint a special master to receive evidence and to prepare recommended findings of fact. Upon receiving such a request from the special judicial panel, the Chief Justice shall appoint a special master. A special master appointed by the Chief Justice under this paragraph must be a state circuit court judge, senior judge or judge who is serving as a judge pro tempore under ORS 238.535 (1)(c).

(8) The special judicial panel shall employ the following standards in deciding upon a reapportionment plan:

(a) For a legislatively adopted reapportionment plan, the panel must affirm the plan if the plan complies with all applicable statutes and the United States and Oregon Constitutions. If the panel finds that the legislatively adopted reapportionment plan does not comply with applicable statutes or the United States or Oregon Constitution, the panel may create its own reapportionment plan. A reapportionment plan adopted by the panel under this paragraph must comply with all applicable statutes and the United States and Oregon Constitutions.

(b) If no legislatively adopted reapportionment plan was passed, the panel must consider all plans submitted by petitioners and intervenors, but may create its own reapportionment plan. A reapportionment plan adopted by the panel under this paragraph must comply with all applicable statutes and the United States and Oregon Constitutions.

(9)(a) The special judicial panel shall decide whether to dismiss a petition filed under subsection (2) of this section that challenges a legislatively adopted reapportionment plan by September 1.

(b) If the panel dismisses the petition under this subsection, a party to the action may appeal the decision by filing a notice of appeal with the Supreme Court on or before September 15.

(10)(a) The special judicial panel shall decide all other petitions filed under subsection (2) of this section, including petitions challenging a legislatively adopted reapportionment plan that the panel does not dismiss under subsection (9)(a) of this section, by October 1.

(b) A party to the action may appeal a decision reached under this subsection by filing a notice of appeal with the Supreme Court on or before October 15.

(11) The Supreme Court shall:

(a) Hear any appeal brought under subsection (9) or (10) of this section; and

(b) Employ the following standards in deciding upon a reapportionment plan affirmed or adopted by the special judicial panel:

(A) For a legislatively adopted reapportionment plan, the Supreme Court must affirm the plan if the plan complies with all applicable statutes and the United States and Oregon Constitutions. If the court finds that the legislatively adopted reapportionment plan does not comply with applicable statutes or the United States or Oregon Constitution, the court may create its own reapportionment plan. A reapportionment plan adopted by the Supreme Court under this subparagraph must comply with all applicable statutes and the United States and Oregon Constitutions.

(B) For a reapportionment plan that was adopted unanimously by the special judicial panel, the Supreme Court must affirm the plan if the plan complies with all applicable statutes and the United States and Oregon Constitutions. If the court finds that the unanimously

adopted reapportionment plan does not comply with applicable statutes or the United States or Oregon Constitution, the court may create its own reapportionment plan. A reapportionment plan adopted by the Supreme Court under this subparagraph must comply with all applicable statutes and the United States and Oregon Constitutions.

(C) For a reapportionment plan that was created or adopted by the special judicial panel by a less than unanimous decision, the Supreme Court may, in its discretion, try the cause anew upon the record. This review must be based on the record created by the special judicial panel, but the Supreme Court may make its own determinations of law or underlying findings of fact. After conducting its review, the Supreme Court may affirm the panel's reapportionment plan, amend the panel's reapportionment plan or adopt a new reapportionment plan. A reapportionment plan decided upon by the Supreme Court under this subparagraph must comply with all applicable statutes and the United States and Oregon Constitutions.

(12) If a party to an action files a notice of appeal with the Supreme Court under subsection (9) of this section:

(a) The Supreme Court shall decide whether to approve the legislatively adopted reapportionment plan without any changes by October 1.

(b) If the Supreme Court determines that the legislatively adopted reapportionment plan must be amended or substituted, by November 1 the court shall direct the special judicial panel to make such changes.

(c) The special judicial panel shall make any required changes and submit a revised reapportionment plan to the Supreme Court by December 1.

(d) The Supreme Court shall review the reapportionment plan revised by the special judicial panel and approve a final reapportionment plan by December 15.

(13) If a party to an action files a notice of appeal with the Supreme Court under subsection (10) of this section:

(a) The Supreme Court shall decide whether to approve a legislatively adopted reapportionment plan or a reapportionment plan that was unanimously adopted by the special judicial panel without any changes by November 1.

(b) The Supreme Court shall decide whether to approve a less than unanimous decision of the special judicial panel without any changes by November 15.

(c) If the Supreme Court determines that changes are required for a reapportionment plan approved by the special judicial panel, by November 15 the Supreme Court shall direct the panel to make such changes.

(d) The special judicial panel shall make any required changes and submit a revised reapportionment plan to the Supreme Court by December 1.

(e) The Supreme Court shall review the reapportionment plan revised by the special judicial panel and approve a final reapportionment plan by December 15.

(14) A final reapportionment plan resulting from a petition filed under subsection (2) or (4) of this section becomes operative on January 1 of the calendar year next following the applicable deadline for deciding on a final reapportionment plan under this section.

Passed by House June 6, 2013

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Ramona J. Line, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate June 26, 2013

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Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2013

Approved:

.....M,....., 2013

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M,....., 2013

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Kate Brown, Secretary of State