

House Joint Resolution 204

Sponsored by Representative HEARD (Pre-session filed.)

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 Oregon Citizens Redistricting Commission to enact redistricting plans for state Senate and state House of Representatives.

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

JOINT RESOLUTION

Whereas there is a conflict of interest in allowing legislators to draw their own districts and pick their own voters; and

Whereas President Barack Obama said in 2016: "I think we've got to end the practice of drawing our congressional districts so that politicians can pick their voters and not the other way around. Let a bipartisan group do it"; and

Whereas President Ronald Reagan said in 1987: "The fact is gerrymandering has become a national scandal. . . . The congressional map is a horror show of grotesque, contorted shapes. Districts jump back and forth over mountain ranges, cross large bodies of water, send out little tentacles to absorb special communities and ensure safe seats"; and

Whereas the best way to fix Oregon's redistricting system is to create a citizen-driven process that places power back in the hands of average Oregonians, modeled after the widely acclaimed California Citizens Redistricting Commission; now therefore,

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

PARAGRAPH 1. Section 6, Article IV of the Constitution of the State of Oregon, is amended to read:

Sec. 6. (1) *[At]* **During** the odd-numbered year *[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 **by the Oregon Citizens Redistricting Commission in the manner set forth in this section**. A senatorial district shall consist of two representative districts. Any Senator whose term continues through the next odd-numbered year 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]* **commission** becomes operative as described in subsection *[(6)]* **(9)** of this section.

(2)(a) The Oregon Citizens Redistricting Commission shall consist of five commissioners.

(b) Except as provided in paragraph (e) of this subsection, in order to be eligible to serve as a commissioner, an elector:

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) For at least three years immediately preceding the date of appointment as a com-
2 missioner, must be:

3 (i) Continuously registered to vote in this state; and

4 (ii) Registered with the same political party or unaffiliated with a political party.

5 (B) In the five years immediately preceding the date of appointment as a commissioner,
6 may not have been, nor have been related to an immediate family member who was:

7 (i) A state or federal elected official;

8 (ii) A candidate for state or federal office;

9 (iii) An elected or appointed member of a political party central committee;

10 (iv) An officer, employee or paid consultant of a political party, of the campaign com-
11 mittee of a candidate for elective federal or state office or of a state or federal elected offi-
12 cial; or

13 (v) A registered federal, state or local lobbyist.

14 (c) Except as provided in paragraph (e) of this subsection, during the period of time an
15 elector serves as a commissioner, and for a period of 10 years following the elector's service
16 as a commissioner, the elector may not:

17 (A) Hold elected or appointed federal, state or local office; or

18 (B) Serve as a paid employee of Congress or the Legislative Assembly.

19 (d)(A) Four commissioners shall be chosen from electors in this state who:

20 (i) Agree to serve as commissioners;

21 (ii) Meet the conditions set forth in paragraph (b) of this subsection; and

22 (iii) Agree to the conditions on future activity set forth in paragraph (c) of this sub-
23 section.

24 (B) The selection of commissioners under this paragraph shall happen in the following
25 manner:

26 (i) One commissioner shall be selected by the leader of the political party with the largest
27 representation in the Senate;

28 (ii) One commissioner shall be selected by the leader of the political party with the sec-
29 ond largest representation in the Senate;

30 (iii) One commissioner shall be selected by the leader of the political party with the
31 largest representation in the House of Representatives; and

32 (iv) One commissioner shall be selected by the leader of the political party with the sec-
33 ond largest representation in the House of Representatives.

34 (e)(A) A fifth commissioner shall be selected from eligible electors in this state to serve
35 as chairperson of the commission. Except as provided in paragraph (f) of this subsection,
36 this selection shall be made by unanimous agreement among the political party leaders de-
37 scribed in subparagraph (B) of paragraph (d) of this subsection.

38 (B) The requirements to be a commissioner set forth in paragraphs (b) and (c) of this
39 subsection do not apply to the chairperson.

40 (C) In order to be eligible to be selected to serve as chairperson of the commission, an
41 elector shall:

42 (i) Have served for two years or longer as a judge or justice in this state; and

43 (ii) Agree not to serve as a paid employee of Congress or the Legislative Assembly during
44 the period of time the elector serves as chairperson of the commission, and for a period of
45 10 years following the elector's service as chairperson of the commission.

1 (f) Notwithstanding section 1, Article III or any other provision of this Constitution, if
 2 the political party leaders described in subparagraph (B) of paragraph (d) of this subsection
 3 are unable to unanimously agree on a qualified elector to serve as chairperson of the com-
 4 mission, the Supreme Court shall appoint the chairperson.

5 (3)(a) All meetings of the Oregon Citizens Redistricting Commission shall be open to the
 6 public.

7 (b) All documents produced by a commissioner, acting in an official capacity, or by the
 8 commission itself are public records that must be available to the public.

9 (c) The commission must hold public hearings throughout this state:

10 (A) Before adopting a proposed reapportionment; and

11 (B) After the adoption of a proposed reapportionment and before voting to enact a final
 12 reapportionment.

13 (d) Official action by the commission, including but not limited to the adoption of a pro-
 14 posed reapportionment or the enactment of a final reapportionment, requires an affirmative
 15 vote by four or more commissioners.

16 (4) In order to foster fairness and transparency in the creation of legislative districts:

17 (a) Any reapportionment enacted by the Oregon Citizens Redistricting Commission must:

18 (A) Comply with requirements of the United States Constitution and all federal laws;

19 (B) Comply with all other requirements set forth in this Constitution;

20 (C) Be drawn so that the districts are geographically contiguous; and

21 (D) Achieve population equality as nearly as is practicable, so that each senatorial dis-
 22 trict and representative district has a population that is equal, or is as close to equal as is
 23 practicable, to the populations of other districts represented by the same office. In satisfying
 24 the requirements of this subparagraph, a senatorial district or representative district may
 25 not have a population that varies by more than 0.1 percent from the population that each
 26 senatorial district or representative district would have if each district had the same popu-
 27 lation.

28 (b) Any reapportionment enacted by the commission may not:

29 (A) Consider the residence of an incumbent state Senator or state Representative, or the
 30 residence of a candidate for the office of state Senator or state Representative;

31 (B) Favor or discriminate against an incumbent in elected or appointed federal, state or
 32 local office, a political candidate or a political party; or

33 (C) Include an area in a district for the purpose of diluting the voting strength of any
 34 language or ethnic minority group.

35 (c) To the extent permissible under paragraphs (a) and (b) of this subsection, any reap-
 36 portionment enacted by the commission must also:

37 (A) Keep county, city and school district boundaries intact;

38 (B) Keep communities of interest intact; and

39 (C) Avoid legislative districts that cross major geographic barriers, such as mountains,
 40 rivers or freeways.

41 [(2)] (5)(a) This subsection governs judicial review and correction of a reapportionment enacted
 42 by the [Legislative Assembly] Oregon Citizens Redistricting Commission.

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

1 [(b)] (c) If the Supreme Court determines that the reapportionment thus reviewed complies with
 2 [subsection (1)] **subsections (1) and (4)** of this section and all law applicable thereto, it shall dismiss
 3 the petition by written opinion on or before September 1 of the same year and the reapportionment
 4 becomes operative as described in subsection [(6)] (9) of this section.

5 [(c)] (d) If the Supreme Court determines that the reapportionment does not comply with [sub-
 6 section (1)] **subsections (1) and (4)** of this section and all law applicable thereto, the reapportion-
 7 ment shall be void. In its written opinion, the Supreme Court shall specify with particularity wherein
 8 the reapportionment fails to comply. The opinion shall further direct the [Secretary of State] **com-**
 9 **mission** to draft a reapportionment of the Senators and Representatives in accordance with the
 10 provisions of [subsection (1)] **subsections (1) and (4)** of this section and all law applicable thereto.
 11 The Supreme Court shall file its order with the [Secretary of State] **commission** on or before Sep-
 12 tember 15. The [Secretary of State] **commission** shall conduct a hearing on the reapportionment at
 13 which the public may submit evidence, views and argument. The [Secretary of State] **commission**
 14 shall cause a transcription of the hearing to be prepared which, with the evidence, shall become part
 15 of the record. The [Secretary of State] **commission** shall file the corrected reapportionment with the
 16 Supreme Court on or before November 1 of the same year.

17 [(d)] (e) On or before November 15, the Supreme Court shall review the corrected reapportion-
 18 ment to [assure] **ensure** its compliance with [subsection (1)] **subsections (1) and (4)** of this section
 19 and all law applicable thereto and may further correct the reapportionment if the court considers
 20 correction to be necessary.

21 [(e)] (f) The corrected reapportionment becomes operative as described in subsection [(6)] (9) of
 22 this section.

23 [(3)] (6)(a) This subsection governs enactment, judicial review and correction of a reapportion-
 24 ment if the [Legislative Assembly] **Oregon Citizens Redistricting Commission** fails to enact any
 25 reapportionment by July 1 of the year of the odd-numbered year [regular session of the Legislative
 26 Assembly] next following an enumeration of the inhabitants by the United States Government.

27 [(a)] (b) **Notwithstanding section 1, Article III or any other provision of this Constitution,**
 28 the [Secretary of State] **chairperson of the commission** shall make a reapportionment of the Sen-
 29 ators and Representatives in accordance with the provisions of [subsection (1)] **subsections (1) and**
 30 **(4)** of this section and all law applicable thereto. The [Secretary of State] **chairperson** shall conduct
 31 a hearing on the reapportionment at which the public may submit evidence, views and argument.
 32 The [Secretary of State] **chairperson** shall cause a transcription of the hearing to be prepared which,
 33 with the evidence, shall become part of the record. The reapportionment so made shall be filed with
 34 the Supreme Court by August 15 of the same year. The reapportionment becomes operative as de-
 35 scribed in subsection [(6)] (9) of this section.

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

39 [(c)] (d) If the Supreme Court determines that the reapportionment thus reviewed complies with
 40 [subsection (1)] **subsections (1) and (4)** of this section and all law applicable thereto, it shall dismiss
 41 the petition by written opinion on or before October 15 of the same year and the reapportionment
 42 becomes operative as described in subsection [(6)] (9) of this section.

43 [(d)] (e) If the Supreme Court determines that the reapportionment does not comply with [sub-
 44 section (1)] **subsections (1) and (4)** of this section and all law applicable thereto, the reapportion-
 45 ment shall be void. The Supreme Court shall return the reapportionment by November 1 to the

1 [Secretary of State] **chairperson** accompanied by a written opinion specifying with particularity
 2 wherein the reapportionment fails to comply. The opinion shall further direct the [Secretary of
 3 State] **chairperson** to correct the reapportionment in those particulars, and in no others, and file
 4 the corrected reapportionment with the Supreme Court on or before December 1 of the same year.

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

9 [(f)] (g) The reapportionment becomes operative as described in subsection [(6)] (9) of this section.
 10 tion.

11 [(4)] (7) Any reapportionment that becomes operative as provided in this section is a law of the
 12 state except for purposes of initiative and referendum.

13 [(5)] (8) Notwithstanding section 18, Article II of this Constitution, after the convening of the
 14 next odd-numbered year regular legislative session following the reapportionment, a Senator whose
 15 term continues through that legislative session is subject to recall by the electors of the district to
 16 which the Senator is assigned and not by the electors of the district existing before the latest reapportionment.
 17 The number of signatures required on the recall petition is 15 percent of the total
 18 votes cast for all candidates for Governor at the most recent election at which a candidate for
 19 Governor was elected to a full term in the two representative districts comprising the senatorial
 20 district to which the Senator was assigned.

21 [(6)(a)] (9)(a) Except as provided in paragraph (b) of this subsection, a reapportionment made
 22 under this section becomes operative on the second Monday in January of the next odd-numbered
 23 year after the applicable deadline for making a final reapportionment under this section.

24 (b) For purposes of electing Senators and Representatives to the next term of office that commences
 25 after the applicable deadline for making a final reapportionment under this section, a reapportionment
 26 made under this section becomes operative on January 1 of the calendar year next
 27 following the applicable deadline for making a final reapportionment under this section.

28 (10) **The Legislative Assembly shall pass all laws necessary to fund and give full force and
 29 effect to this section.**

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.**