

OREGON REDISTRICTING BALLOT MEASURE
CONGRESSIONAL FINDINGS

Whereas Election Day is when Oregonians exercise their right to vote and make their voice heard, and the people of Oregon need an independent commission to draw fair and impartial districts so that every vote matters; and

Whereas under current law, Oregon politicians draw the boundaries for their own congressional districts, a serious conflict of interest that harms voters; and

Whereas districting and redistricting rules should be determined by a politically neutral entity; and

Whereas Oregon state legislators draw district boundary maps every 10 years based on national census data; and

Whereas in the 2020 census, Oregon is projected to gain another U.S. congressional seat due to population growth, making fair districts more important than ever; and

Whereas 96.3% percent of incumbent politicians were re-elected in the districts they had drawn for themselves year after year; and

Whereas the people of Oregon believe in fairness, accountability and transparency in political processes; and

Whereas fully one in three Oregonians are not registered as either Democrats or Republicans, and have no representation in the United States Congress; and

Whereas Oregon congressional districts should be drawn to represent voters from all party affiliations, income levels, backgrounds, identities, and all corners of Oregon; and

Whereas voters across the country – from Arizona to California to Colorado to Michigan – have been moving to reject partisan gerrymandering, adopting reforms to make the redistricting process open and impartial so it is controlled by people, not partisan politicians; and

Whereas an independent Oregon Citizens Redistricting Commission voters provides a greater opportunity for under-represented communities like low-income Oregonians, persons of color, rural Oregonians and seniors to have a voice in their representation; and

Whereas the people of Oregon, find it necessary to create an independent Citizens Redistricting Commission to draw congressional districts in an impartial and fully transparent manner, that will promote inclusion and representation of all Oregonians; and

Whereas the people of Oregon find it necessary to reform Oregon’s congressional redistricting process to account for the projected addition of a new sixth congressional seat with a fair, open, multi-partisan commission to draw districts that represent all voters; and

Whereas the people of Oregon, find it necessary to give otherwise-affiliated voters—whose voices are under-represented in the United States Congress—an equal voice and vote on the commission alongside Democrats and Republicans; and

Whereas the people of Oregon, find it necessary to require the independent Citizens Redistricting Commission to draw congressional districts based on strict, nonpartisan rules designed to ensure fair representation, and to propose reform that will take redistricting out of the partisan battles of the Oregon Legislative Assembly and guarantees redistricting will be carried out by a group of impartial Oregonians, in open public meetings, without favor to incumbents or parties, and for every aspect of this process to be open to scrutiny by the public and the press; and

Whereas the people of Oregon, find it necessary to create an independent Citizens Redistricting Commission because we believe Oregon voters should choose their representatives—representatives should not choose their voters; and now, therefore,

POLICY AND PURPOSES

PARAGRAPH 1. The Constitution of the State of Oregon is amended by creating new sections 7a, 7b and 7c to be added to and made a part of Article IV, such section to read:

Sec. 7a. (1) The Citizens Redistricting Commission is established. The commission shall consist of twelve commissioners and be created no later than March 15, 2021, and thereafter no later than December 31 in each year ending in the number zero.

(2) The Secretary of State shall adopt rules the secretary considers necessary to facilitate and assist in achieving and maintaining a maximum degree of correctness, impartiality and efficiency in administration of subsections (3) and (5) of this section by the Office of the Secretary of State.

QUALIFICATIONS, DISQUALIFICATIONS

(3)(a) By December 3, 2020, and thereafter August 15 in each year ending in the number nine, the secretary shall initiate a process for individuals to apply for membership on the commission. The process must promote a diverse and qualified applicant pool.

Qualifications

(b) An individual may serve on the commission if the individual:

(A) Is registered to vote in this state;

(B) For the three years preceding the initiation of the application process has been registered in Oregon with the same political party or unaffiliated with a political party; and

(C) Voted in at least two of the three most recent general elections or has been a resident of Oregon for at least the previous three years.

Disqualifications

(c) Notwithstanding paragraph (b) of this subsection, an individual may not serve on the commission if the individual is or, within four years of the initiation of the application process, was:

(A) A holder of or candidate for federal, state, county or other elective office for which the holder receives compensation other than for expenses;

(B) An officer, employee or paid consultant of a political party;

(C)(i) An officer, director or employee of a campaign committee of a candidate for or holder of a federal or state office; or

(ii) A paid contractor or member of the staff of a paid contractor of a campaign committee of a candidate for or holder of a federal or state office.

(D) A member of a political party central committee;

(E) A registered federal, state or local lobbyist;

(F) A paid congressional or legislative employee;

(G) A member of the staff of a holder of a federal or state office;

(H) A legislative or campaign contractor, or staff of the contractor, to a holder of a federal or state office;

(I) An individual who has contributed \$2,700 or more in a calendar year to any single candidate for federal or state office; or

(J) A spouse, parent, child, sibling, in-law or cohabitating member of a household of an individual described in subparagraphs (A) to (I) of this paragraph;

(d) For purposes of this subsection, “state office” means the office of Governor, Secretary of State, State Treasurer, Attorney General, Commissioner of the Bureau of Labor and Industries, state Senator, state Representative, judge or district attorney.

REVIEW PANEL

(4)(a) No later than December 3, 2020, and thereafter January 5 of the year ending in zero, the Chief Administrative Law Judge of the Office of Administrative Hearings or its successor agency, shall designate a Review Panel composed of three administrative law judges to review the applications identified in subsection (5)(a) of this section. Notwithstanding any state law, the chief administrative law judge shall appoint individuals who are reflective of the diversity of this state, including but not limited to racial, ethnic, geographic, and gender diversity, and who possess the most relevant qualifications, including, but not limited to, relevant legal knowledge and decision-making experience, an appreciation for the diversity of the state and an ability to be impartial and promote consensus on the review panel.

(b) The review panel shall include only administrative law judges who have been registered to vote in Oregon and continuously employed by the office of administrative hearings for at least the two years prior to their appointment, who shall be appointed as follows:

(A) One administrative law judge must have been registered for at least the previous two years with the political party with the largest registration in this state.

(B) One administrative law judge must have been registered for at least the previous two years with the political party with the second largest registration in this state;

(C) One administrative law judge must not have been registered for at least the previous two years with either of the two largest political parties in this state.

(c) An administrative law judge may not serve on the review panel if the administrative law judge is an individual described in subsection (3)(c) of this section.

APPLICANT POOL

(5)(a) No later than January 1, 2021, and thereafter March 15 in each year ending with the number zero, after removing applicants with conflicts of interest from the applicant pool as described in subsection (3)(c) of this section, the secretary shall publicize the names of the individuals in the applicant pool in a manner that ensures widespread public access and provide the applications to the review panel.

(b) If the pool of qualified applicants is greater than or equal to 900, the review panel shall randomly select by lot from all of the eligible applicants the names of 300 applicants affiliated with the largest party, 300 applicants affiliated with the second largest party and 300 applicants affiliated with neither of the two largest parties. If any individual sub-pool of eligible applicants contains fewer than 300 applicants, no random selection shall occur for that sub-pool.

(c) No later than February 8, 2021, and thereafter May 15 in each year ending in the number zero, the review panel shall present to the secretary the names of 150 individuals from the applicant pool who possess the most relevant analytical skills, have the ability to be impartial and promote consensus on the commission and demonstrate an appreciation for and are reasonably reflective of the diversity of this state, including but not limited to racial, ethnic, geographic and gender diversity.

(d) The review panel shall choose the individuals for the applicant pool by unanimous vote, with three sub-pools of applicants chosen as follows:

(A) Fifty individuals must be registered with the largest political party in this state;

(B) Fifty individuals must be registered with the second largest political party in this state; and

(C) Fifty individuals must be registered with neither of the two largest political parties in this state.

(e) If fewer than fifty qualified individuals within each sub-pool have applied, the Review Panel shall choose all of the qualified individuals within such sub-pool.

(f) The members of the review panel may not communicate with a member of the Legislative Assembly or the United States Congress, or their agents, about any matter related to the selection of commissioners prior to the presentation of the 150-member applicant pool to the secretary.

RANDOMLY-SELECTED COMMISSIONERS

(6) No later than February 15, 2021, and thereafter July 5 in each year ending in the number zero, at a time and place accessible to members of the public, the secretary shall randomly select by lot six individuals to serve on the commission from the individuals presented under subsections (5)(c) to (e) of this section as follows:

(a) Two individuals must be from the sub-pool of individuals registered with the largest political party in this state;

(b) Two individuals must be from the sub-pool of individuals registered with the second largest political party in this state; and

(c) Two individuals must be from the sub-pool of individuals who are registered with neither of the two largest political parties in this state.

COMMISSIONER-SELECTED COMMISSIONERS

(7)(a) No later than March 15, 2021, and thereafter August 15 in each year ending in the number zero, the six commissioners under subsection (6) of this section shall review the remaining names in the sub-pools and select six additional commissioners. The commissioners shall, without the use of specific ratios or formulas, select additional commissioners who possess the most relevant analytical skills, have the ability to be impartial and promote consensus on the commission and demonstrate an appreciation for and are reasonably reflective of the diversity of this state, including but not limited to racial, ethnic, geographic and gender diversity. When selecting the six additional commissioners, the commissioners may take into account the additional commissioners' experience in organizing, representing, advocating for, adjudicating the interest of or actively participating in groups, organizations or associations in Oregon. The selection shall occur as follows:

(A) Two individuals must be from the sub-pool of individuals registered with the largest political party in this state;

(B) Two individuals must be from the sub-pool of individuals registered with the second largest political party in this state; and

(C) Two individuals must be from the sub-pool of individuals who are registered with neither of the two largest political parties in this state.

(b) Approval of the six additional commissioners requires four affirmative votes of the six initial commissioners, including at least one vote cast by a commission member registered with the largest political party in this state, one vote cast by a commission member registered with the second largest political party in this state and one cast by a commission member who is registered with neither of the two largest political parties in this state.

REMOVAL

(8) The Governor may remove a member of the commission in the event of a substantial neglect of duty or gross misconduct in office, or if a commission member is unable to discharge the duties of the office.

(a) To remove a member, the Governor must:

(A) Serve the member with written notice;

(B) Provide the member with an opportunity to respond; and

(C) Obtain concurring votes from two-thirds of the members of the Senate, which shall convene in special session if necessary.

(b) The member may contest the removal by means of an evidentiary hearing in circuit court in an action in the manner of an action for a declaratory judgment. The circuit court's determination shall take precedence over other matters before the circuit court. Any party may appeal the decision of the circuit court directly to the Supreme Court, which shall accord the highest priority to the matter.

(c) The removal, if contested by the member, shall not be effective until judicial review is concluded.

VACANCY

(9)(a) If a position among the first six randomly selected commissioners on the commission becomes vacant, the commission shall fill the vacancy within 30 days by randomly selecting an appointee from the same sub-pool from which the vacating member was selected. If a position among the final six appointed commissioners becomes vacant, the commission shall fill the vacancy within 30 days by a vote of a simple majority of the remaining commissioners, with at least one commissioner affiliated with each of the two largest political parties in this state and one cast by a commissioner who is registered with neither of the two largest political parties in this state.

(b) If no individual in the applicable sub-pool is available to serve, the review panel shall establish a new sub-pool as provided in subsection (5)(d) of this section, and the commission shall fill the vacancy from the new sub-pool.

HIRING; COMPENSATION; REIMBURSEMENT

(10)(a) The commission shall make all purchasing and hiring decisions and shall hire commission staff, legal counsel and consultants as needed. The commission shall establish clear criteria for the hiring and removal of individuals, conflicts of interest, communication protocols and a code of conduct. A member of the staff or a contractor of the commission or the secretary may not serve the commission or the review panel designated under subsection (4) of this section if the staff member or contractor is an individual described in subsection (3)(c) of this section other than by virtue of the individual being an employee or contractor of the secretary.

(b) The secretary shall provide staff and office support to the commission and the commission staff as needed.

(c)(A) For each day a member is engaged in the business of the commission, the member shall be compensated at a rate equivalent to the amount fixed for per diem allowance that is authorized by the United States Internal Revenue Service to be excluded from gross income without itemization.

(B) For each day a member of the review panel or a member of the commission is engaged in the business of the commission, the member shall receive mileage and reimbursement for other reasonable travel expenses.

(d)(A) An employer may not discharge, threaten to discharge, intimidate, coerce or retaliate against any employee by reason of the employee's service as a commissioner or staff of commission.

(B) If the employment of a member of the commission is interrupted because of the performance of official duties as a member of the commission, the member's employer shall restore the member to the employment status the member would have enjoyed if the member had continued in employment during the performance of the official duties.

(C) Subparagraph (B) of this paragraph does not apply if the employer is a small business. As used in this subparagraph, "small business" means an independent business with fewer than 20 employees and with average annual gross receipts over the last three years not exceeding \$1 million for construction firms and \$300,000 for nonconstruction firms. "Small business" does not include a subsidiary or parent company belonging to a group of firms that are owned and controlled by the same individuals and that

have average aggregate annual gross receipts in excess of \$1 million for construction firms or \$300,000 for nonconstruction firms over the last three years.

(D) Prior to the initiation of the process for individuals to apply for membership on the commission in each year ending with the number nine, the dollar amounts specified in subparagraph (C) of this paragraph shall be increased or decreased by the secretary based upon any increase or decrease in the Consumer Price Index for All Urban Consumers, West Region (All Items), as published by the Bureau of Labor Statistics of the United States Department of Labor or its successor during the preceding 10-year period. The amount determined under this subparagraph shall be rounded to the nearest \$1,000.

TERM OF SERVICE

(11)(a) Commissioners shall serve a term of office that expires upon the appointment of the first member of the succeeding commission. Other than activities expressly authorized by this section and section 7b of this Article, the commission shall only expend funds if there is active litigation or other ongoing commission business.

(b) During the term of office of the commissioners or for a period of three years after resignation or removal, a member of the commission may not:

(A) Hold, or be a candidate for, federal, state, county or other elective office for which the holder receives compensation other than expenses;

(B) Serve in an office for which the holder is appointed or selected by the Legislative Assembly or Congress or a member, committee or house of the Legislative Assembly or Congress;

(C) Receive compensation for serving as a consultant or advisor to a candidate for the Legislative Assembly or Congress or to a member, or committee or house of the Legislative Assembly or Congress; or

(D) Receive compensation for lobbying the Legislative Assembly or Congress.

BUDGET; DATABASE

(12) The Legislative Assembly shall:

(a) Appropriate the funds necessary to permit the commission to fulfill the commission's obligations. For the first year of the redistricting process, the Legislative Assembly shall dedicate funds for the commission from general tax revenues otherwise available for the operation of the Legislative Assembly. For the first year of the redistricting process, the Legislative Assembly shall appropriate or allocate funds to the commission in an amount not less than the Legislative Assembly appropriates or allocates to the legislative branch for redistricting in the 2019 – 21 biennium. In all future redistricting cycles, the appropriation may not be less than the amount appropriated in the previous redistricting cycle. If new expenditures are required, the dedicated funding source for the commission shall be the income tax. If, after the conclusion of any litigation involving the redistricting, the appropriations to the commission exceed the expenses of the commission, the commission shall return the excess to the General Fund.

(b) Make available a complete and accurate computerized database and precinct shapefiles for redistricting to the commission.

(13) Except for an Act appropriating monies in a manner described in subsection (12) of this section, the Legislative Assembly may enact an Act that directly impacts the functioning of the commission only when:

(a) The commission recommends by a vote meeting the requirements set forth in paragraph (c) of subsection (2) of section 7b of this Article that the Legislative Assembly enact an Act in order to enhance the ability of the commission to carry out the purposes of the commission;

(b) The commission provides language for the Act to the Legislative Assembly; and

(c) The Legislative Assembly enacts the exact language provided under paragraph (b) of this subsection.

Sec. 7b. (1) The Citizens Redistricting Commission shall:

(a) Conduct an open and transparent process enabling full public participation, including public consideration of and comment on the drawing of congressional district lines.

(b) Draw district lines according to the redistricting criteria specified in this section.

(c) Conduct all business of the commission with integrity, impartiality and fairness in a manner that reinforces public confidence in the integrity of the redistricting process, including adopting rules that further these purposes.

QUORUM; CHAIR; VOTING

(2)(a) Seven commissioners constitutes a quorum for the conduct of business.

(b) The commission shall select, by a majority vote, one member to serve as chair and one member to serve as vice chair. The chair and vice chair may not be of the same political affiliation.

(c) Official action by the commission requires an affirmative vote by seven or more commissioners.

(d) Approval of the final redistricting maps described in subsection (6) of this section requires seven or more affirmative votes, including at least one vote cast by a commission member registered with the largest political party in this state, one vote cast by a commission member registered with the second largest political party in this state and one cast by a member who is registered with neither of the two largest political parties in this state.

(e) No more than three commissioners may discuss the business of the commission other than in a public meeting.

TRANSPARENCY; PUBLIC INPUT

(3)(a) The commission shall provide at least 14 days' public notice for each meeting or hearing, except that meetings held within 15 days of August 15, in the year ending in the number one may be held with three days' notice. In the event that the commission must re-convene following a court order according to subsection (7)(d) of this section, meetings and hearings may be held with three days' notice.

(b)(A) The records of the commission pertaining to redistricting and all data considered by the commission in redistricting are public records.

(B) The commission must post records and data in a manner that ensures immediate and widespread public access.

(c) A member of the commission or commission staff or commission consultant may not communicate with an individual who is not a member of the commission or commission staff or commission consultant about redistricting other than in a public hearing. Any written communications regarding redistricting received by a member of the commission or commission staff or a commission consultant shall be considered a public record and shall be made available in a manner that ensures widespread public access.

MAPPING CRITERIA

(4)(a) The commission shall use a mapping process to establish districts for congressional districts, using the following criteria, to:

(A) Comply with provisions of the United States Constitution and the federal Voting Rights Act (42 U.S.C. 1971 et seq.) or its successor law.

(B) Achieve population equality as nearly as practicable using the total population of Oregon as determined by the decennial census preceding the redistricting process.

(C) Be geographically contiguous.

(D) To the extent practicable, and if possible without conflicting with the criteria set forth in subparagraphs (A), (B) and (C) of this paragraph, respect the geographic integrity and minimize the division of a city, county, local neighborhood, government jurisdiction or community of interest or other contiguous population that shares common social and economic interests and is cohesive for purposes of its effective and fair representation.

(E) To the extent practicable, and if possible without conflicting with the criteria set forth in subparagraphs (A), (B) and (C) of this paragraph, achieve competitiveness.

(b) The commission shall determine and adopt a measure or measures of competitiveness, as defined in paragraph (d) of this subsection, prior to any vote or discussion regarding any congressional district plans or proposals. The commission shall then apply such measure or measures when adopting congressional district plans or proposals.

(c) When establishing districts under this subsection, the commission may not:

(A) Consider the place of residence of a holder of or candidate for public office;

(B) Favor or discriminate against a holder of or candidate for public office or a political party; or

(C) Create a district for the purpose of or with the effect of diluting the voting strength of any language or ethnic identity group.

(d) As used in this subsection:

(A) Common social and economic interests are those common to an urban area, a rural area, an industrial area or an agricultural area and those common to areas in which individuals share similar living standards, use the same transportation facilities, reside in the same watershed, have similar work opportunities or have access to the same media of communication relevant to the election process. Common social and economic interests do not include relationships with political parties, incumbents or political candidates.

(B) Competitiveness means that voting blocs, including partisan and non-affiliated voters, must be substantially and similarly able to translate their popular support into representation in an elected body and that such representation is substantially and similarly reflective of shifts in the electorate's preferences.

HEARINGS

(5)(a) The commission shall hold at least 10 public hearings at locations throughout the state prior to proposing a redistricting plan.

(b) In addition to the hearings required under paragraph (a) of this subsection, the commission shall:

(A) Hold at least five public hearings after a redistricting plan is proposed, but before the plan is adopted; and

(B) Conduct the hearings required under this subsection in each congressional district of this state, specifically at least one hearing in each of Oregon's regions, including coastal, Portland, Willamette Valley, southern, central, and east of the Cascades.

(c) The adoption of a redistricting plan may not be delayed by the impracticability of holding one or more of the hearings required under this subsection.

(d) In holding the hearings required under paragraphs (a) and (b) of this subsection, the commission must:

(A) Provide appropriate public notice of the time and location of each hearing in a manner that ensures widespread public access;

(B) Hold at least one hearing required under paragraph (a) of this subsection and one hearing required under paragraph (b) of this subsection in areas that have experienced the largest shifts in population since the previous redistricting and prioritize holding additional public hearings in these areas; and

(C) Permit and make provision for individuals at remote sites throughout the state to provide public testimony at the hearings through the use of video technology.

ADOPTION OF FINAL MAPS – TIMING, REPORT

(6)(a) No later than August 15 in each year ending in the number one, the commission shall approve final maps that separately set forth the district boundary lines for congressional districts.

(b) The commission shall issue, with the final maps, a report that includes an explanation of the basis on which the commission established the districts, responded to public input, and achieved

compliance with the criteria listed in subsection (4) of this section and definitions of the terms and standards used in drawing each final map.

(c) If the commission does not approve a final map under subsection (2) of this section, any group of four or more commissioners including at least one commissioner from each sub-pool may submit a map to the Supreme Court by August 29.

COURT REVIEW

(7)(a) The Supreme Court shall adopt rules of procedure for review of redistricting maps. The Supreme Court's review shall take precedence over other matters before the Supreme Court.

(b) Any voter registered in this state may file with the Supreme Court a petition for review of final maps approved by the commission. The petition must be filed on or before September 1.

(c) If the Supreme Court determines that a map approved by the commission under subsection (6)(a) of this section substantially complies with the criteria set forth in subsection (4) of this section, the Supreme Court shall approve the map, which shall go into effect.

(d) If the Supreme Court determines a map approved by the commission under subsection (6)(a) of this section does not substantially comply with the criteria set forth in subsection (4) of this section, the Supreme Court shall remand the map to the commission for correction. The commission shall submit a corrected map within 14 days of the issuance of the remand. If the Supreme Court approves the corrected map, the corrected map shall go into effect. If the Supreme Court does not approve the corrected map, the Supreme Court shall remand the map to the commission for correction. The process of correction and approval or remand shall repeat until the Supreme Court approves a corrected map.

(e) To assist the Supreme Court in reviewing maps, the Supreme Court may appoint a special master and vest the special master with the powers needed to assist the Supreme Court. The powers of the special master shall not include the development of alternative maps.

(f) If one or more maps are submitted under subsection (6)(c) of this section, the Supreme Court shall:

(A) Establish a process for interested persons to become parties;

(B) Review all submitted maps for compliance with the criteria set forth in subsection (4) of this section; and

(C) Select the submitted map that best complies with the criteria set forth in subsection (4) of this section.

(g) The map selected by the Supreme Court shall go into effect without any further action by the commission.

(h) The Supreme Court must complete review or selection of redistricting maps by December 31 of the year in which the maps are due to be certified by the commission under subsection (6) of this section.

(i) Notwithstanding any other law, the Supreme Court has original and exclusive jurisdiction in all proceedings in which a certified final map is challenged.

SUPERSEDEDENCE, SEVERABILITY

(8) The provisions of this amendment supersede any section of this Constitution with which the provision may conflict. If any provision of this amendment is held to be invalid, the court shall sever the provision and the remaining provisions shall remain in full force and effect.

Sec. 7c. If at the election on this amendment the people adopt an amendment that establishes a Citizens Redistricting Commission for the purposes of drawing state legislative district lines, the Citizens Redistricting Commission established by this amendment shall be merged with the Citizens Redistricting Commission established for the purposes of the drawing state legislative district lines to form a commission of 12 members charged with drawing state legislative and congressional district lines.