OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

LEGISLATIVE BRANCH AND EXECUTIVE BRANCH COMMITTEE

Thursday, November 13, 2014
2:30 a.m.
Statehouse Room 017

Agenda

Note: if you wish to make comments during the meeting please turn on and speak into your microphone.

I. Call to Order

II. Roll Call

III. Approval of Minutes

- Meeting of October 9, 2014

IV. Committee Discussion

- Continuing discussion among committee members regarding the topics of Apportionment and Redistricting
- Future topics for consideration

V. Adjourn

As Introduced

130th General Assembly
Regular Session
2013-2014

H. J. R. No. 11

Representative Huffman

JOINT RESOLUTION

Proposing to enact Section 43 of Article II of the Constitution of the State of Ohio to establish a constitutional process for congressional redistricting.

Be it resolved by the General Assembly of the State of Ohio, three-fifths of the members elected to each house concurring herein, that there shall be submitted to the electors of the state, in the manner prescribed by law at the general election to be held on November 3, 2015, a proposal to enact Section 43 of Article II of the Constitution of Ohio to read as follows:

ARTICLE II

Section 43. (A)(1) The general assembly shall be responsible for the redistricting of this state for congress based on the prescribed number of congressional districts apportioned to the state pursuant to Section 2 of Article 1 of the Constitution of the United States. Each congressional district shall be entitled to a single representative in the United States house of representatives in each congress.

(2) Congressional districts shall be created in the following order:

(a) The whole population of the state, as determined by the federal decennial census, shall be divided by the number of congressional districts apportioned to the state pursuant to

Section 2 of Article 1 of the Constitution of the United States, and the quotient shall be the congressional ratio of representation for the ten years next succeeding such apportionment.

(b) Proceeding in succession from the largest to the smallest, each county that, based on population, could contain more than one whole congressional district shall be divided into not more congressional districts than the number of whole congressional districts the county could contain, plus one.

(c) The remaining territory of the state shall be combined into congressional districts.

(3) A congressional district plan shall comply with all applicable provisions of the Constitution of the United States and of federal law.

(B) Except as otherwise provided in division (D) of this section or by a final unappealed order of a court of competent jurisdiction, a congressional district plan shall become effective only in a year ending in the numeral one.

(C)(1)(a) A joint legislative committee shall be responsible to propose a congressional district plan. The committee shall consist of the following six members, each of whom shall be a current member of the general assembly:

(i) Two persons appointed by the speaker of the house of representatives;

(ii) Two persons appointed by the president of the senate;

(iii) One person appointed by the legislative leader of the largest political party in the house of representatives of which the speaker is not a member;

(iv) One person appointed by the legislative leader of the largest political party in the senate of which the president of

the senate is not a member.

(b) Not later than the fifteenth day of August of a year ending in the numeral one, the committee shall propose a congressional district plan to the general assembly by the affirmative vote of four members of the committee, including at least one member of the committee who is a member of the largest political party represented in the general assembly and one member of the committee who is a member of the second largest political party represented in the general assembly.

(c) If the committee fails to propose a congressional district plan to the general assembly not later than the fifteenth day of August of a year ending in the numeral one, in accordance with division (C)(1)(b) of this section, the committee shall propose a congressional district plan to the general assembly not later than the fifteenth day of September of that year. The proposal of a district plan under this division shall require the affirmative vote of four members of the committee, including at least two members of the committee who are representatives and two members of the committee who are senators.

(2)(a) Notwithstanding division (A) of Section 15 of this article, the general assembly shall vote on whether to adopt a plan proposed under division (C)(1) of this section, without amendment, by joint resolution. If the district plan was proposed under division (C)(1)(b) of this section, the general assembly shall vote on whether to adopt the proposed plan not later than the thirty-first day of August of that year. If the district plan was proposed under division (C)(1)(c) of this section, the general assembly shall vote on whether to adopt the proposed plan not later than the first day of October of that year. The adoption of the proposed district plan shall require the affirmative vote of a majority of the members elected to each house of the general assembly. After the district plan is adopted, it shall be filed

with the secretary of state. Upon filing with the secretary of state, the plan shall become effective.

(b) If the general assembly fails to adopt the proposed congressional district plan not later than the applicable deadline prescribed by division (C)(2)(a) of this section, the proposed congressional district plan shall be filed with the secretary of state. Upon filing with the secretary of state, the plan shall become effective.

(D)(1) A district plan that meets any of the following conditions shall be effective for elections occurring in the year following the year in which the plan became effective and shall be subject to a vote of the electors as provided in division (D)(2) of this section:

(a) The plan was proposed under division (C)(1)(b) of this section, was not adopted by the general assembly, and became effective under division (C)(2)(b) of this section.

(b) The plan was proposed under division (C)(1)(c) of this section and was adopted by the general assembly under division (C)(2)(a) of this section.

(c) The plan was proposed under division (C)(1)(c) of this section, was not adopted by the general assembly, and became effective under division (C)(2)(b) of this section.

(2) At the general election conducted in the year following the year in which the plan became effective, the following question shall be submitted to the electors of the state:

"Shall the Ohio General Assembly draw new congressional districts?"

(3) If a majority of the electors vote in favor of requiring the general assembly to draw new congressional districts, not earlier than the first day of February of the following year, the

joint legislative committee shall propose, and the general assembly shall adopt, new congressional districts in accordance with this section. The new plan shall be drawn using the same population data as were used to draw the plan described in division (D)(1) of this section.

(4) If a majority of the electors vote against requiring the general assembly to draw new congressional districts, the district plan described in division (D)(1) of this section shall remain in effect until one-half of the general elections for congress scheduled to occur during the period beginning after the election at which the electors voted not to require the general assembly to draw new congressional districts and ending in the next year ending in the numeral one have occurred. If an odd number of applicable elections are scheduled to occur during that period, the number of general elections to be held using the plan described in division (D)(1) of this section shall be determined by rounding up to the next whole number. After a plan described in division (D)(1) of this section ceases to be effective under this division, and not earlier than the first day of February of the year following the year in which the plan ceased to be effective, the joint legislative committee shall propose, and the general assembly shall adopt, new congressional districts, in accordance with this section, to be used until the next time for redistricting under this section. The new plan shall be drawn using the same population data as were used to draw the plan described in division (D)(1) of this section.

(E) A congressional district plan that becomes effective under this section is not subject to the referendum and is not subject to the veto of the governor. The electors may not propose a congressional district plan by initiative.

EFFECTIVE DATE

If adopted by a majority of the electors voting on this

proposal, Section 43 of Article II of the Constitution of the 147
State of Ohio takes effect January 1, 2021. 148

As Introduced

130th General Assembly
Regular Session
2013-2014

H. J. R. No. 12

Representative Huffman

JOINT RESOLUTION

Proposing to amend Sections 1, 2, 6, 7, 12, and 13; to amend, for the purpose of adopting a new section number as indicated in parentheses, Section 13 (14); to enact new Section 13; and to repeal Section 14 of Article XI of the Constitution of the State of Ohio to revise the redistricting process for General Assembly districts.

Be it resolved by the General Assembly of the State of Ohio, three-fifths of the members elected to each house concurring herein, that there shall be submitted to the electors of the state, in the manner prescribed by law at the general election to be held on November 3, 2015, a proposal to amend Sections 1, 2, 6, 7, 12, and 13; to amend, for the purpose of adopting a new section number as indicated in parentheses, Section 13 (14); and to enact new Section 13 of Article XI of the Constitution of the State of Ohio to read as follows:

ARTICLE XI

Section 1. ~~The~~ (A) The Ohio redistricting commission shall be responsible for the redistricting of this state for the general assembly. The commission shall consist of the following seven members:

(1) The governor~~,~~;

(2) The auditor of state~~,~~;

(3) The secretary of state~~, one~~;

(4) One person ~~chosen~~ appointed by the speaker of the house of representatives ~~and~~;

(5) One person appointed by the ~~leader in~~ president of the senate ~~of the political party of which the speaker is a member, and one~~;

(6) One person ~~chosen~~ appointed by the legislative ~~leaders in the two houses~~ leader of the ~~major~~ largest political party in the house of representatives of which the speaker is not a member ~~shall be the persons responsible for the apportionment of this state for members of the general assembly~~;

(7) One person appointed by the legislative leader of the largest political party in the senate of which the president of the senate is not a member.

~~Such persons, or a majority of their number, shall meet and establish in the manner prescribed in this Article the boundaries for each of ninety nine house of representatives districts and thirty three senate districts. Such meeting shall convene on a date designated by the governor between August 1 and October 1 in the year one thousand nine hundred seventy one and every tenth year thereafter. The governor shall give such persons two weeks advance notice of the date, time, and place of such meeting.~~

~~The governor shall cause the apportionment to be published no later than October 5 of the year in which it is made, in such manner as provided by law.~~

No appointed member of the commission shall be a current member of congress.

(B) Unless otherwise specified in this Article, a simple majority of the commission members shall be required for any

action by the commission. Except as otherwise provided in Section 14 of this Article, the affirmative vote of four members of the commission, including at least one member of the commission who is a member of the largest political party represented in the general assembly and at least one member of the commission who is a member of the second largest political party represented in the general assembly, shall be required to adopt any plan.

(C) At the first meeting of the commission, which the governor shall convene only in a year ending in the numeral one, except as provided in Sections 13 and 14 of this Article, the members shall select co-chairpersons, one of whom shall be a member of the largest political party represented in the general assembly and one of whom shall be a member of the second largest political party represented in the general assembly, and shall set a schedule for the adoption of procedural rules for the operation of the commission.

The commission may release to the public a proposed plan for the boundaries for each of the ninety-nine house of representatives districts and the thirty-three senate districts. The commission shall draft a proposed plan in the manner prescribed in this Article. Before adopting a final general assembly district plan, the commission shall conduct a minimum of three public hearings across the state to seek public input regarding the redistricting process and any proposed plan. All meetings of the commission shall be open to the public. Meetings shall be broadcast by electronic means of transmission using a medium readily accessible by the general public, subject to the discretion of the commission.

The commission shall adopt a final plan not earlier than the last week of August of a year ending in the numeral one but not later than the thirty-first day of August of a year ending in the numeral one. After the commission adopts a plan, the commission

shall file the plan with the secretary of state. Upon filing with the secretary of state, the plan shall become effective.

Not more than six weeks after the adoption of a general assembly plan, the co-chairpersons of the commission shall jointly dissolve the commission.

(D) The general assembly shall be responsible for making the appropriations it determines necessary in order for the commission to perform its duties under this Article.

Section 2. The ~~apportionment~~ redistricting of this state for members of the general assembly shall be made in the following manner: The whole population of the state, as determined by the federal decennial census or, if such is unavailable, such other basis as the general assembly may direct, shall be divided by the number "ninety-nine" and the quotient shall be the ratio of representation in the house of representatives for ten years next succeeding such ~~apportionment~~ redistricting. The whole population of the state as determined by the federal decennial census or, if such is unavailable, such other basis as the general assembly may direct, shall be divided by the number "thirty-three" and the quotient shall be the ratio of representation in the senate for ten years next succeeding such ~~apportionment~~ redistricting.

Section 6. District boundaries established pursuant to this Article shall not be changed until the ensuing federal decennial census and the ensuing ~~apportionment~~ redistricting or as provided in section 13 or 14 of this Article, notwithstanding the fact that boundaries of political subdivisions or city wards within the district may be changed during that time. District boundaries shall be created by using the boundaries of political subdivisions and city wards as they exist at the time of the federal decennial census on which the ~~apportionment~~ redistricting is based, or such other basis as the general assembly has directed.

Section 7. (A) Every house of representatives district shall be compact and composed of contiguous territory, and the boundary of each district shall be a single nonintersecting continuous line. ~~To~~

(B) The commission shall minimize the splitting of political subdivisions. As used in this section, "political subdivision" means a county, a municipal corporation, a township, or a municipal ward.

(1) Dividing a noncontiguous political subdivision shall not be considered splitting the political subdivision if its noncontiguous portions are included in separate districts. However, dividing a noncontiguous political subdivision shall be considered splitting the political subdivision if any noncontiguous portion is divided into separate districts.

(2) Dividing, along a county line, a political subdivision that has territory in more than one county shall not be considered splitting the political subdivision.

(C) To the extent consistent with the requirements of section 3 of this Article, the boundary lines of house of representatives districts shall be so drawn as to delineate an area containing one or more whole counties.

~~(B)~~(D) Where the requirements of section 3 of this Article cannot feasibly be attained by forming a house of representatives district from a whole county or counties, such district shall be formed by combining the areas of ~~governmental units giving preference in the order named to counties, townships, municipalities, and city wards~~ whole political subdivisions, other than a county.

~~(C)~~(E) Where the requirements of section 3 of this Article cannot feasibly be attained by combining the areas of ~~governmental units~~ whole political subdivisions, other than a county, as

prescribed in division ~~(B)~~(D) of this section, only one such ~~unit~~ political subdivision may be divided between two house of representatives districts~~, giving preference in the selection of a unit for division to a township, a city ward, a city, and a village in the order named~~.

~~(D)~~(F) In making a new ~~apportionment~~ redistricting plan, house of representatives district boundaries established by the preceding apportionment shall be adopted to the extent reasonably consistent with the requirements of section 3 of this Article.

Section 12. At any time the boundaries of senate districts are changed in any plan of ~~apportionment~~ redistricting made pursuant to any provision of this Article, a senator whose term will not expire within two years of the time the plan of ~~apportionment~~ redistricting is made shall represent, for the remainder of the term for which ~~he~~ the senator was elected, the senate district which contains the largest portion of the population of the district from which ~~he~~ the senator was elected, and the district shall be given the number of the district from which the senator was elected. If more than one senator whose term will not so expire would represent the same district by following the provisions of this section, the ~~persons responsible for apportionment~~ commission, by a majority of ~~their~~ its number, shall designate which senator shall represent the district and shall designate which district the other senator or senators shall represent for the balance of their term or terms.

Section 13. (A) If the Ohio redistricting commission fails to adopt a final general assembly district plan not later than the thirty-first day of August of a year ending in a numeral one, in accordance with Section 1 of this Article, the following procedure shall apply:

(1) Not later than the twenty-third day of September of that year, the governor, the auditor of state, and the secretary of

state, acting independently of the commission and by a simple majority vote of their number, shall create a general assembly district plan.

(2) Not later than the thirtieth day of September of that year, the governor, the auditor of state, and the secretary of state shall call a meeting of the commission and shall provide the commission with a final opportunity to adopt the plan created under division (A)(1) of this section by the affirmative vote of four members of the commission, including at least one member of the commission who is a member of the largest political party represented in the general assembly and at least one member of the commission who is a member of the second largest political party represented in the general assembly, in accordance with Section 1 of this Article.

(3) If the commission fails to adopt the plan created under division (A)(1) of this section not later than the first day of October of that year, the governor shall file the plan with the secretary of state. Upon filing with the secretary of state, the plan shall become effective.

(B) A general assembly district plan that becomes effective under division (A)(3) of this section shall be effective for elections occurring in the year following the year in which the plan was adopted. At the general election conducted in that year, the following question shall be submitted to the electors of the state:

"Shall the Ohio Redistricting Commission convene to draw new General Assembly districts?"

(C) If a majority of the electors vote in favor of convening the commission to adopt a new general assembly district plan, the commission shall convene not earlier than the first day of February of the following year to adopt a plan in accordance with

this Article. The commission shall draw the new plan using the same population and political subdivision and city ward boundary data as were used to draw the plan that became effective under division (A)(3) of this section.

(D) If a majority of the electors vote against convening the commission to adopt a new general assembly district plan, the district plan that became effective under division (A)(3) of this section shall remain in effect until one-half of the general elections for the general assembly scheduled to occur during the period beginning after the election at which the electors voted not to convene the commission for the plan and ending in the next year ending in the numeral one have occurred. If an odd number of applicable elections are scheduled to occur during that period, the number of general elections to be held using the plan that became effective under division (A)(3) of this section shall be determined by rounding up to the next whole number. After a plan that became effective under division (A)(3) of this section ceases to be effective under this division, and not earlier than the first day of February of the year following the year in which the plan ceased to be effective, the commission shall convene to adopt a plan, in accordance with this Article, to be used until the next time for redistricting under this Article. The commission shall draw the new plan using the same population and political subdivision and city ward boundary data as were used to draw the plan that became effective under division (A)(3) of this section.

Section ~~13~~ 14. (A) The supreme court of Ohio shall have exclusive, original jurisdiction in all cases arising under this Article. ~~In~~

(B) In the event that any section of this Constitution relating to ~~apportionment~~ redistricting or any plan of ~~apportionment~~ redistricting made by the ~~persons responsible for apportionment, by a majority of their number,~~ Ohio redistricting

commission is determined to be invalid by ~~either the supreme court of Ohio, or the supreme~~ an unappealed final order of a court of ~~the United States~~ competent jurisdiction, then notwithstanding any other provisions of this Constitution, the ~~persons responsible for apportionment by a majority of their number~~ commission shall reconvene to ascertain and determine a plan of ~~apportionment~~ redistricting in conformity with such provisions of this Constitution as are then valid, including establishing terms of office and election of members of the general assembly from districts designated in the plan, to be used until the next regular ~~apportionment~~ redistricting in conformity with such provisions of this Constitution as are then valid.

(C) Notwithstanding any provision of this Constitution or any law regarding the residence of senators and representatives, a plan of ~~apportionment~~ redistricting made pursuant to this section shall allow thirty days for persons to change residence in order to be eligible for election.

~~The governor shall give the persons responsible for apportionment two weeks advance written notice of the date, time, and place of any meeting held pursuant to this section.~~

(D) No court shall order, in any circumstance, the implementation or enforcement of any plan that has not been approved by the commission in the manner prescribed by this Article.

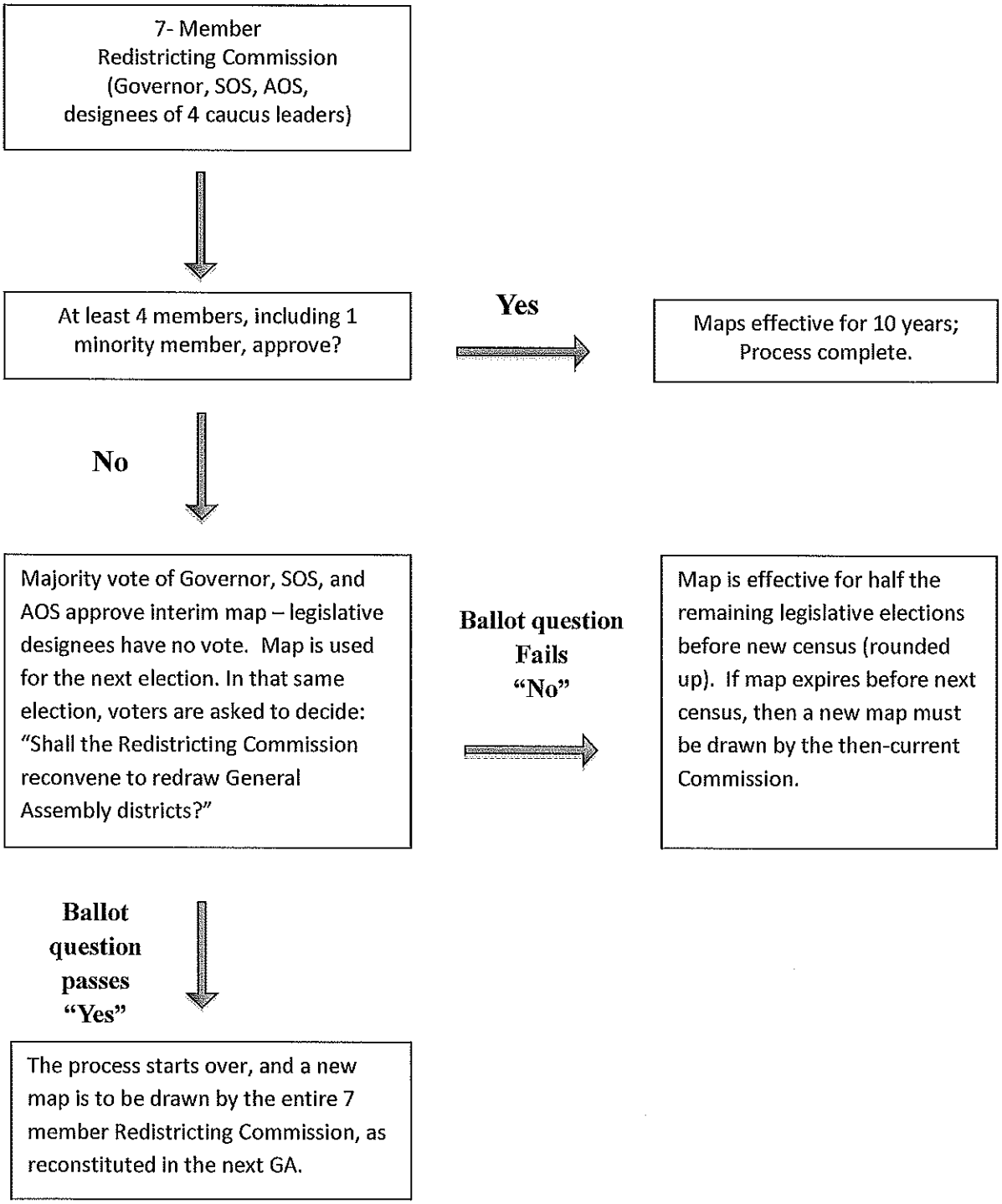
EFFECTIVE DATE AND REPEAL

If adopted by a majority of the electors voting on this proposal, Sections 1, 2, 6, 7, 12, and 13 (14) of Article XI amended or amended and renumbered by this proposal and new Section 13 of Article XI enacted by this proposal take effect January 1, 2021, and existing Sections 1, 2, 6, 7, 12, and 13 and Section 14 of Article XI of the Constitution of the State of Ohio are repealed from that effective date.

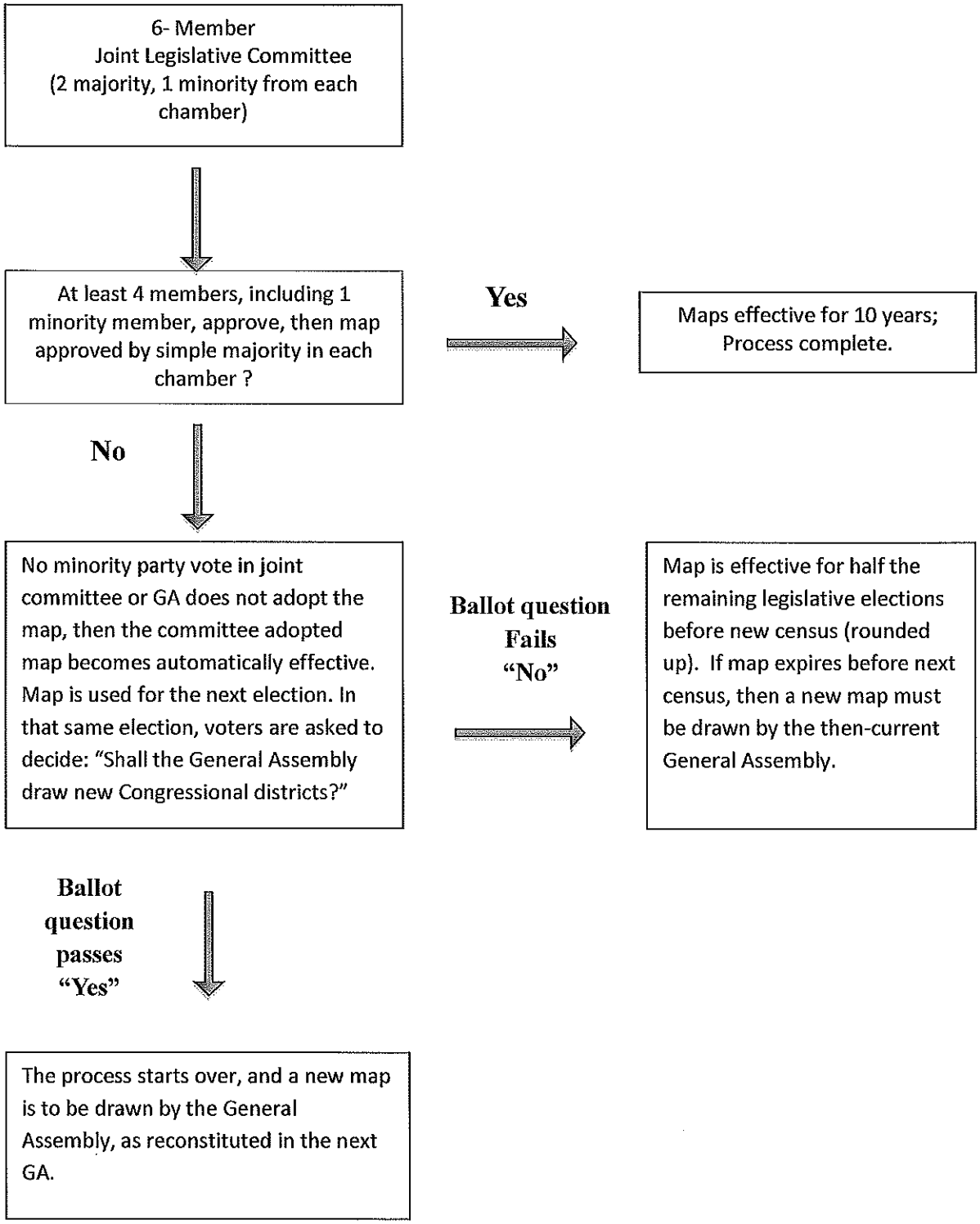
SCHEDULE 274

The amendments to Section 12 of Article XI of the Ohio 275
Constitution in part substitute gender neutral for gender specific 276
language. These gender neutralizing amendments are not intended to 277
make a substantive change in the Ohio Constitution. The gender 278
neutral language is to be construed as a restatement of, and 279
substituted in a continuing way for, the corresponding gender 280
specific language existing prior to adoption of the gender 281
neutralizing amendments. 282

Proposed General Assembly Redistricting Flow Chart



Proposed Congressional Redistricting Flow Chart



Ohio
COMMON CAUSE
Holding Power Accountable

LWV

Testimony Before the Ohio Constitutional Modernization Commission

Catherine Turcer, Common Cause Ohio
Ann Henkener, League of Women Voters of Ohio
November 13, 2014

For the last several years, Republicans, Democrats, and voters of all political persuasions agreed on one thing – the way Ohio redistricts General Assembly and Congressional districts is in need of reform. It is clear that our winner-take-all system produces an Ohio legislature and a Congressional delegation that does not reflect the political will of Ohio voters, whether the redistricting is done by the Democrats or by the Republicans.

As 2014 draws to a close, Common Cause Ohio and the League of Women Voters of Ohio had expected that we would be engaged in a campaign supporting a redistricting reform proposal passed by the Constitutional Modernization Commission and placed on the ballot by the General Assembly. The Ohio Senate passed SJR 5 in 2012 on a bi-partisan basis with only one dissenting vote. That bill was to have provided a framework for this body's deliberations. On November 14, 2013 Ohio Secretary of State Jon Husted highlighted the urgency of reform to this Commission. However, despite redistricting reform being articulated as a priority for this body, little apparent progress has been made.

A good reform proposal need meet only a few simple goals. The reform measure should provide for strong input from both political parties in drawing maps. Ohio voters are relatively evenly split between the two major parties, and generally speaking, its General Assembly and Congressional delegations should reflect those political choices. The districts should also be drawn to provide voters choices in general elections and to have geographical shapes that make sense to voters.

Common Cause Ohio and the League of Women Voters of Ohio urge this body to renew its efforts to come to consensus on a reform proposal. Fairly drawn districts would go a long way towards restoring voters' trust in the political process and providing the accountability they deserve from their elected officials.

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Comments on Rep. Huffman's Proposed Congressional Redistricting "Reform"

By Richard Gunther, Professor Emeritus of Political Science,
Ohio State University

There are several viable initiatives that could serve as the basis for a meaningful reform of Ohio's redistricting procedures, including:

> SJR-5 from 2009 (sponsored by Jon Husted and co-sponsored by 12 Republicans including Keith Faber), which was passed by the Senate.
>
> SJR-1 currently pending Senate ratification (passed by a vote of 32-1 in 2012, revived in the current legislative session and improved by amendments passed unanimously by the relevant committee).

The proposal for altering our Congressional redistricting procedures introduced by Rep. Huffman is not one of them. While it calls itself reform, what it proposes is worse than the current redistricting procedure, which has resulted in one of the most egregious partisan gerrymanders in US history. It would it actually reinforce the majoritarian, winner-take-all excesses of our current system, and remove important checks and balances currently in the Ohio Constitution.

The Huffman proposal establishes a 6-member board for the drawing of Congressional district lines, with two members representing the majority party in the Ohio House, two representing the majority party in the Senate, and one each from the minority party in the House and Senate.

Under this proposal, a new Congressional map could be adopted with the approval of at least four members including at least one member from of the minority party. But if no such bipartisan support can be obtained, it would allow four members from the majority party to draw the district lines, subject to ratification by majorities in both houses of the legislature. And since the bill contains no criteria that would encourage fair representation, competitiveness or community representation, they would be unconstrained in doing so, except for the few requirements imposed by the federal government.

The Huffman proposal is worse than what we have now in two important ways. Under the current constitutional provisions, one way in which fundamental change from our current pattern of one-party domination could occur is if the now-minority party were to win the 2018 gubernatorial election and the governor would exercise his/her right to veto the map passed by the legislature. But the Huffman bill would eliminate the governor's veto from the constitutional provisions affecting redistricting. Worse, still, it would prevent the voters from enacting their own plan through referendum. In short, provisions in the current constitution that could limit the excesses of majoritarian, winner-take-all behavior by the majority party would be removed.

The bill claims that, if no minority party support for the bill can be obtained, limiting the duration of the new map to the next two election cycles, coupled with placing on the ballot the question "Shall the Ohio General Assembly draw new congressional districts?" should provide sufficient incentive to encourage the majority party to eschew excessive partisanship and obtain

the support of the minority party. With regard to congressional redistricting, this does not represent a credible deterrent to partisan gerrymandering.

First, if the electorate struck down a plan, the new map would be devised by the legislature under control of the same majority party. And given the extent of gerrymandering that established our current state-legislative district boundaries, there is virtually no possibility that a change in control of either house will occur: In the 2014 elections, for example, just 7 of 99 house-district elections were decided by a vote of 10% or less, and in 4 of the 7 they were decided by at least 8%. Even worse, no senate elections were competitive even to that degree. Given this lack of competitiveness, it is virtually impossible that the minority party can become a majority party under the present redistricting plan.

Second, there is no guidance concerning what a "new" map would entail. It could be claimed, for example, that switching one ward per congressional district is a "new congressional map" (and the recent experience in Florida makes this a likely outcome). Accordingly, the "uncertainty" and "disruption" that proponents of Rep. Huffman's bill claim would serve as a disincentive for the majority party would be negligible.

These provisions virtually guarantee that the current unfair map (whose electoral disproportionality score of 23 makes it the third-worst in the democratic world) will be fundamentally unchanged until at least 2032.

This proposal does not represent "reform;" it is a giant step backward that would perpetuate one-party domination in Ohio over the next decade and a half and possibly even beyond. And it is a distraction from the more credible reform initiatives mentioned above.

The voters of Ohio deserve better.