**REDISTRICTING IN OHIO:**

**DRAWING STATE AND FEDERAL VOTING LINES**

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**Policy Brief**

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**Introduction**

In 2012, Barack Obama carried Ohio by 2 percentage points — yet Republicans won 62 of 99 state House seats and 12 of 16 federal Congressional seats. In 2014, four candidates elected to the Ohio Senate, 14 to the Ohio House, and one to the U.S. Congress faced no opponent at all in the general election.

How could one party gain such a large majority of seats, with so many of them uncontested, in a state that many political observers regard as the quintessential swing state? One word: gerrymandering — or the practice of attempting to establish a political advantage for a particular party by manipulating district boundaries to create partisan advantaged districts.

This policy brief will first explain why the way redistricting has been done in Ohio is problematic, and how the legislature and voting public have changed that process for state legislative districts. The brief will then examine proposed legislation to change the redistricting process for Ohio congressional districts. Finally, it will include recommendations that the Ohio Constitutional Modernization Commission should make regarding redistricting to the General Assembly.

**Background**

Every 10 years, the U.S. Census Bureau conducts a census and uses the results to determine the number of Congressional representatives each state gets. In 2010, Ohio lost two representatives due to its loss of population. As a result, the state redrew its federal and state legislative districts.

In Ohio, districts are drawn by the Apportionment Board, which is composed of the governor, state auditor, secretary of state, a member chosen by the House and Senate leaders of the majority party, and a member chosen by the House and Senate leaders of the minority party.

Such a system can work when the executive and legislative branches are held by different parties. However, if one party sweeps state elections, as the Republicans did in 2010, its leaders will do what one might expect: They will draw legislative districts to benefit themselves.

This is exactly what happened in the wake of the 2010 census and election. Rather than a swing state, Ohio became one of the most badly gerrymandered states in the country.

**Solution**

At issue right now in Ohio is redrawing of Congressional district lines. The state legislature, with the support of Ohio Constitutional Modernization Commission, has already worked out a plan to address redrawing of state legislative districts, which passed on 2015 state ballot as Issue 1.

**Our recommendation is to follow a parallel plan for redrawing federal voting district lines as the legislature has already approved for redrawing state voting district lines.**

We make this recommendation for several reasons:

* Government should be simple and transparent. Having one system for redrawing state and federal voting districts is fairer, easier, and less bureaucratic than having two.
* The plan for redrawing state legislative districts in Ohio is among the fairest systems of any state in the nation, and should be extended to federal legislative districts as well.
* There was no organized opposition to the plan for redrawing state legislative districts, and voters approved it. Voters will also have to approve any plan for redrawing federal legislative districts. Ohioans are not likely to see any reason why the system to redraw federal districts should be different from the one to redraw state districts.

**Redistricting Process**

Federal law empowers state legislatures to draw state legislative and federal Congressional districts. In Ohio, the legislature delegated redistricting to a five-member Apportionment Board consisting of the governor, state auditor, secretary of state, one person chosen by the leaders of the majority party, and one person chosen by the leaders of the minority party.

Many observers see the current system as ripe for gerrymandering. If one political party controls both the executive branch and legislative branches of government, then that party can push through whatever legislative district lines it wants because it controls four of the five votes on the Apportionment Board. The Democrats did it in the 1970s and 1980s, while the Republicans did it in the 1990s and 2000s (Hollon, 2015).

Ohio has seen several attempts to reform how state legislative and federal Congressional districts are drawn, but until now all of them have failed. In 2010, House Joint Resolution 15, which passed 68-27, identified objectives for redistricting such as representational fairness, competitiveness, geographical compactness, and the preservation of county and municipal borders. But it could not be reconciled with a joint resolution on redistricting in the Senate. In 2012, another redistricting initiative made it onto the Ohio ballot but was not approved by voters (Gunther, 2015).

This year, after consideration by legislators and the Ohio Constitutional Modernization Commission, another redistricting initiative made it onto the state ballot as Issue 1. Based on the bipartisan House Joint Resolution 12 of the 130th General Assembly, sponsored by Republican Matt Huffman and Democrat Vernon Sykes, Issue 1 proposed expanding the Apportionment Board to seven members:

* Governor
* Auditor of State
* Secretary of State
* A person appointed by the speaker of the House
* A person appointed by the House minority leader
* A person appointed by the president of the Senate
* A person appointed by the Senate minority leader

This approved initiative will not only increase the number of minority votes, but also require that both minority members approve any redistricting plan before it can go into effect for the full 10 years until the next census. If the plan does not get buy-in from both minority members, it will go into effect for only four years, during which time an election will take place.

This plan incentivizes majority board members to draw fair district lines for several reasons:

* In an election the majority party could change hands, leading to a new Apportionment Board, which could draw district lines very differently from the current board.
* Legislators of every party want stable district lines on which they can base campaign strategy. Lines that last only four years put all sitting legislators at a disadvantage.

**Federal districts**

Issue 1 affects only state legislative districts. During negotiations over this initiative, then-U.S. House Speaker John Boehner, who represented Ohio’s 8th Congressional district, asked state legislators to put a similar initiative regarding federal redistricting on hold until the Supreme Court ruled on a relevant case, *Arizona State Legislature v. Arizona Independent Redistricting*.

That case, which decided the constitutionality of using an independent commission rather than the state legislature to draw federal legislative districts, has since been resolved to approve use of an independent commission. So this year, legislators and the Ohio Constitutional Modernization Commission are once again considering redistricting, this time for federal legislative districts.

And again, legislators in the 131st General Assembly are taking a bipartisan approach. In the House, Reps. Kathleen Clyde and Michael Curtin, both Democrats, have introduced House Joint Resolution 2, while in the Senate, Sens. Frank LaRose, a Republican, and Tom Sawyer, a Democrat, have introduced Senate Joint Resolution 2. The wording of both resolutions is similar to Issue 1 regarding state legislative districts, except that SJR 2 also specifies that no member of the Apportionment Board can be a sitting member of Congress.

**Focus: Criteria for drawing legislative districts**

Key to both state and federal redistricting proposals are their strong criteria for drawing districts. “We’ve written the criteria so strictly and specifically that it really takes many of the tools of the gerrymanderer off the table,” said Ohio State political science professor emeritus Richard Gunther, who advised legislators throughout the process of formulating the resolution that became Issue 1 (Gunther, 2015).

**No other state has such detailed criteria and instructions for drawing legislative districts. That makes HJR 2/SJR 2 the gold standard for ensuring fairness in redistricting.**

Both Issue 1 on drawing state legislative districts and HJR 2/SJR 2 on drawing federal legislative districts say the Apportionment Board “shall attempt to draw” districts that:

* Are not designed primarily to favor or disfavor one political party.
* Correspond closely to the preferences of voters as expressed over the previous 10 years.
* Are compact, meaning that members of the district generally live near one another.

Both Issue 1 and HJR 2/SJR 2 also provide detailed instructions for how the Apportionment Board must draw legislative districts, although these instructions vary slightly between state and federal levels. That is appropriate because the number of state districts is mandated in the Ohio Constitution whereas the number of federal districts changes with each census.

On the federal level, HJR 2 requires the Apportionment Board to draw Congressional districts to meet the following criteria:

* The state population is divided by the number of federal House seats assigned to Ohio. The resulting number is known as the “ratio of representation.”
* The population in each federal House district must be as close as possible to the ratio of representation.
* Each federal House district must be composed of contiguous territory.
* Counties with population equal to the ratio of representation must be designated as one district.
* Counties with populations equal to more than one ratio of representation must be divided into equal ratios, with any leftover population going into only one adjoining district.
* Counties, cities, and townships with populations less than one ratio of representation must be combined into one district with as few splits as possible.
* Unless unavoidable, no county should be split across more than two districts.
* Within a county that is split across two districts, only one city or township should be split, and it should be the unit with the smallest population.

If it is not possible for the Apportionment Board to follow these criteria in drawing federal legislative districts, HJR 2 prescribes a series of steps for the board to take:

* Split the two units of a county, whether city or township, with the smallest population.
* Split a county that contains a population equal to the ratio of representation.
* Split the leftover population of a large county after it has been divided into ratios of representation.

**Recommendation**

Because the criteria for drawing federal legislative districts under HJR 2 are so strong, we recommend that it be combined with SJR 2 and placed on the ballot in 2016. However, we would like to see one change before that happens to make the initiative more transparent, fair, and consistent with Issue 1, which was approved by voters in 2015.

Both Issue 1 on the state level and HJR 2/SJR 2 on the federal level give jurisdiction in any legal challenge arising from redistricting to the Ohio Supreme Court. But only Issue 1, based on language in House Joint Resolution 12 from the 130th General Assembly, sets criteria for when the court must send a redistricting plan back to the Apportionment Board to be redrawn.

If the Supreme Court finds six or more unnecessary splits in counties, cities, and townships among Ohio House districts, and two or more unnecessary splits in counties, cities, and townships among Ohio Senate districts, the justices must send the plan back, HJR 12 says.

We recommend adding similar language into HJR 2/SJR 2 regarding federal legislative districts. The number of unnecessary splits may differ from those in HJR 12 because it pertained to state House and Senate districts, while HJR 2/SJR 2 pertains to federal House districts only.

Knowing that a certain number of unnecessary splits in a redistricting plan will trigger the Ohio Supreme Court to return the plan to the Apportionment Board for redrawing will incentivize members of the board to draw federal districts as simply and compactly as possible in the first place — again taking the tools of the gerrymanderer off the table.

**Call to Action**

While the political party in charge may be tempted to rig the system for its own short-term gain by gerrymandering legislative districts, no good can come of it. Gerrymandering is bad for:

* Voters, who are robbed of the chance to make a meaningful choice in who represents them.
* Representatives, who become increasingly complacent because they are guaranteed safe seats
* The state, which sees increasing polarization due to parties competing internally rather than against each other

The current system is unsustainable — but the legislature, supported by the Ohio Constitutional Modernization Commission, has devised a solution that is not only fairer but would make Ohio the gold standard for redistricting across the country. Now is the time to enact this solution. If we delay until the next census is within an election cycle, it will be too late for legislators to cast an objective vote, and Ohio may have to wait another decade for the opportunity to arise again. Acting now on federal redistricting serves the voters, legislators, and state for years to come.

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