

A-Engrossed
House Bill 2887

Ordered by the House June 4
Including House Amendments dated June 4

Sponsored by COMMITTEE ON RULES

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.

Prescribes process for adjudicating reapportionment of congressional districts.

[Forms panel of judges to decide upon reapportionment in event that Legislative Assembly fails to enact reapportionment or upon petition challenging reapportionment enacted by Legislative Assembly.]

Forms special judicial panel to decide upon reapportionment upon petition either challenging reapportionment enacted by Legislative Assembly or proposing reapportionment in event Legislative Assembly fails to enact reapportionment.

Allows appeal to Supreme Court.

A BILL FOR AN ACT

1
2 Relating to reapportionment of congressional districts.

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

4 **SECTION 1. Section 2 of this 2013 Act is added to and made a part of ORS 188.010 to**
5 **188.295.**

6 **SECTION 2. (1) As used in this section:**

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

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

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

13 (a) Challenge a legislatively adopted reapportionment plan; or

14 (b) Request a reapportionment of congressional districts if:

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

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

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

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

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

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

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) The legislatively adopted reapportionment plan that is being challenged and an ex-
2 planation of the factual and legal defects in the plan.

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

6 (c) A petition to intervene filed under subsection (4) of this section must include an ex-
7 planation of the factual and legal defects with assertions made in a petition filed under sub-
8 section (2) of this section.

9 (6) If an elector files a petition under subsection (2) of this section, the Chief Justice of
10 the Supreme Court shall appoint a special judicial panel. The panel shall consist of one state
11 circuit court judge, senior judge or judge who is serving as a judge pro tempore under ORS
12 238.535 (1)(c) from each congressional district in this state. The Chief Justice shall also select
13 one of the appointed judges to preside over the special judicial panel and to make all rulings
14 on procedural and evidentiary matters before the panel.

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

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

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

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

25 (8) The special judicial panel shall employ the following standards in deciding upon a re-
26 apportionment plan:

27 (a) For a legislatively adopted reapportionment plan, the panel must affirm the plan if
28 the plan complies with all applicable statutes and the United States and Oregon Consti-
29 tutions. If the panel finds that the legislatively adopted reapportionment plan does not com-
30 ply with applicable statutes or the United States or Oregon Constitution, the panel may
31 create its own reapportionment plan. A reapportionment plan adopted by the panel under
32 this paragraph must comply with all applicable statutes and the United States and Oregon
33 Constitutions.

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

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

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

44 (10)(a) The special judicial panel shall decide all other petitions filed under subsection (2)
45 of this section, including petitions challenging a legislatively adopted reapportionment plan

1 that the panel does not dismiss under subsection (9)(a) of this section, by October 1.

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

4 (11) The Supreme Court shall:

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

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

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

15 (B) For a reapportionment plan that was adopted unanimously by the special judicial
16 panel, the Supreme Court must affirm the plan if the plan complies with all applicable stat-
17 utes and the United States and Oregon Constitutions. If the court finds that the unanimously
18 adopted reapportionment plan does not comply with applicable statutes or the United States
19 or Oregon Constitution, the court may create its own reapportionment plan. A reapportion-
20 ment plan adopted by the Supreme Court under this subparagraph must comply with all ap-
21 plicable statutes and the United States and Oregon Constitutions.

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

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

33 (a) The Supreme Court shall decide whether to approve the legislatively adopted reap-
34 portionment plan without any changes by October 1.

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

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

40 (d) The Supreme Court shall review the reapportionment plan revised by the special ju-
41 dicial panel and approve a final reapportionment plan by December 15.

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

44 (a) The Supreme Court shall decide whether to approve a legislatively adopted reappor-
45 tionment plan or a reapportionment plan that was unanimously adopted by the special judi-

1 **cial panel without any changes by November 1.**

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

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

7 **(d) The special judicial panel shall make any required changes and submit a revised re-**
8 **apportionment plan to the Supreme Court by December 1.**

9 **(e) The Supreme Court shall review the reapportionment plan revised by the special ju-**
10 **dicial panel and approve a final reapportionment plan by December 15.**

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

14