

IN THE SUPREME COURT OF THE STATE OF OREGON

MICHELE M. FLETCHALL, CHARLES E. LEE, and KEVIN L. MANNIX,)	Supreme Court
)	Case No. _____
)	
Petitioners,)	PETITION TO REVIEW BALLOT
)	TITLE CERTIFIED BY THE
v.)	ATTORNEY GENERAL
)	
ELLEN ROSENBLUM, Attorney General, STATE OF OREGON,)	Initiative 2020-005
)	
Respondent.)	
)	
)	

Initiative Petition No. 5 (2020)
Ballot Title Certified on January 7, 2019

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PETITION

Petitioners herein are the Chief Petitioners on a citizen initiative which amends the Oregon Constitution. Petitioners filed the text of the proposed amendment with the Secretary of State on June 19, 2018. Exhibit A. Thereafter, Petitioners filed the required 1,000 verified voter signatures to proceed with this citizen initiative, which is now Initiative Petition 5 (2020). The Attorney General issued a draft ballot title on December 5, 2018. Exhibit B. Petitioners filed a comment letter. On January 7, 2019, the Attorney General issued a certified ballot title. Exhibit C.

Pursuant to ORS 250.085(2) and ORAP 11.30, Petitioners ask the Court to review the Certified Ballot Title for this Initiative Petition. Petitioners ask the Court to either modify the ballot title of the Court's own accord, or to refer the ballot title back to the Attorney General for modification.

PETITIONERS' INTEREST

Petitioners Michele M. Fletchall, Charles E. Lee, and Kevin L. Mannix are Oregon electors who are the Chief Petitioners for this Initiative Petition and who seek review of this ballot title in their individual capacities as electors. As Chief Petitioners on this measure, Petitioners have a keen interest in ensuring that this measure has an accurate and informative ballot title. Petitioners reviewed the draft ballot title, and submitted comment to the Attorney General. Accordingly, Petitioners have standing under ORS 250.085(2) to seek review of the certified ballot title in this matter.

ARGUMENTS AND AUTHORITIES

I. Introduction

The legislative redistricting process is established in Article IV, Section 6 of the Oregon Constitution. This provides that the Legislative Assembly will carry out the redistricting

process following the census every 10 years, so as to establish Senate and House Districts with equal portions of population in each district.

The apportionment (redistricting) as to congressional districts is outlined in ORS 188.010, 188.016, and 188.025. This measure only addresses apportionment of the Legislative Assembly.

This measure establishes a Citizen Commission on Legislative Redistricting (Citizen Commission) composed of 11 persons appointed by county commissioners. Each Citizen Commission member is a registered Oregon voter who resides within the county or counties where county commissioners select the Citizen Commission member. The measure prohibits any person from serving on the Citizen Commission if the person has served in a partisan elective office or a political party elective office within the previous 10 years. The measure prohibits county commissioners, members of the Legislative Assembly, or their spouses or domestic partners from serving on the Citizen Commission.

The 36 counties of Oregon are grouped so as to assign one Citizen Commission position to each group of counties (Multnomah County is assigned one position and Washington County is assigned one position). Those counties are clustered so that they are within proximity to one another. A map demonstrating the counties included for each position is attached, marked as Exhibit D. All of the county commissioners assigned to a given Citizen Commission position meet as one consolidated body, with each county commissioner having one vote, regardless of the number of commissioners from a given county. The county commissioners then vote to select the Citizen Commission member for their assigned position.

Each Citizen Commission member receives a stipend for each day of work on the Commission, but receives no other employment benefits or retirement benefits.

The measure provides that the Citizen Commission shall apply certain criteria when apportioning the state, including that each district: shall be as compact an area as possible and

the aggregate linear distance of all district boundaries shall be as short as possible; shall be contiguous and be of equal population within a range of two-percent plus or minus variation; shall utilize existing geographic or political boundaries to the extent practicable in the context of other requirements.

The Citizen Commission will adopt a preliminary redistricting plan, receive public comments, and conduct at least one public hearing in each congressional district to receive public testimony. The Citizen Commission will then adopt a final redistricting plan.

The Oregon Supreme Court has jurisdiction to review the final redistricting plan as to any challenge that the plan does not conform to the requirements of the United States Constitution and the Oregon Constitution. If any violation is found, the Supreme Court may itself correct the plan or take such other action as it deems necessary to remedy the violation.

II. The Caption

The certified ballot title contains the following Caption:

Amends Constitution: Transfers legislative redistricting to commission; commission over-represents rural areas; changes redistricting requirements; limits judicial review

The law requires that the ballot title contain "A caption of not more than 15 words that reasonably identifies the subject matter of the state measure..." ORS 250.035 (2)(a).

The "subject matter" is "the 'actual major effect' of a measure or, if the measure has more than one major effect, all such effects (to the limit of the available words)." *Lavey v. Kroger*, 350 Or. 559, 563, 258 P3d 1194 (2011). To identify the "actual major effect" of a measure, the Attorney General must consider the "changes that the proposed measure would enact in the context of existing law." *Rasmussen v. Kroger*, 350 Or. 281, 285, 253 P3d 1031 (2011).

This caption fails to properly describe the actual major effects of the measure.

There is no description of the nature of the “commission.” The current process, run by 90 partisan office-holders is changed to one run by nonpartisan, non-elected citizens.

The Citizen Commission is designed to be as non-partisan as possible. It is not staffed by government officials. Citizen Commission members serve only until their work is done. They are not full-time, are not salaried, and receive no personnel benefits. All they receive is a per diem for each day of service. The “citizen” component of this commission deserves mention. Citizen Commission members “represent” the entire state even though each one resides in one of the eleven geographic areas assigned to each position.

The caption should reflect the above elements as much as possible. The failure to do so is compounded by the focus on over-representation of rural areas, as the commission members are redistricting for the state.

We challenge the inclusion of the phrase “commission over-represents rural areas.” There are over 300 boards and commissions in the State of Oregon. Secretary of State, Oregon Blue Book (2017); Data.Oregon.Gov Oregon Agencies, Board and Commissions. None of these boards or commissions apportion all commission or board members by population.

In accordance with the geographic diversity as to Citizen Commission membership presented in this Oregon measure, we can point to a significant number of boards and commissions that require geographic diversity regardless of population. These include but are not limited to: Land Conservation and Development Commission; Water Resources Commission; Oregon Liquor Control Commission; Oregon State Board of Education; Oregon Business Development Commission; State Fish and Wildlife Commission; State Parks and Recreation Commission; Oregon Transportation Commission; State Aviation Board; State Board of Forestry; Columbia River Gorge Commission; Oregon Investment Board; Ocean Policy Advisory Council; and Oregon Public Health Advisory Board.

There is nothing unusual in having a state commission whose members are not apportioned by population. In fact, this is the norm.

As to the failure to refer to the nonpartisan and citizen components of the Citizen Commission: There is no magic formula for the composition or selection of a Citizen Commission to oversee redistricting. The 14 States which have adopted some form of commission have 14 different versions. Each state's approach is described in Exhibit E. The caption and the full ballot title should give voters a good idea as to the composition of the Citizen Commission on Legislative Redistricting, which excludes those who have held partisan offices in the previous 10 years. Some states have some similar restrictions, but these are not nearly as strong as our Oregon measure. See Exhibit E.

As to the nonpartisan element of the measure's position selection process, please see Exhibit F, which lists the counties assigned for the selection of each Citizen Commission position and the nonpartisan nature of their commissioners. Six Positions are assigned to counties where all county commissioners are elected on a nonpartisan basis. Four Positions are assigned to counties where a majority of the county commissioners are elected on a nonpartisan basis. For Position 5, three county commissioners are nonpartisan, three are Democrats, and three are Republicans. Exhibit F. In essence, Citizen Commission members are themselves as nonpartisan as reasonably possible and those who select them are as nonpartisan as reasonably possible.

The caption must accurately describe the subject matter "accurately and in terms that will not confuse or mislead potential signers and voters." *Greene v. Kulongoski*, 322 Or 169, 174-175, 903 P2d 366 (1995). With this in mind, the phrase "Limits judicial review" is misleading. At present, this Court has jurisdiction to review legislative apportionment as to the standards of the United States Constitution, the Oregon Constitution, and Oregon statutory provisions. This measure changes this system by putting all reapportionment standards in the

Oregon Constitution. The statutory provisions disappear. So, substantially, the Oregon Supreme Court will still have jurisdiction to review the redistricting process as to compliance, since all the standards will be in the Oregon Constitution, not the statutes.

The caption should mention the measure’s new objective standard for redistricting, which is that districts be maximally compact based on census tracts. The “maximally compact districts” phrase is a shorthand statement to describe the general concept of making districts as compact as possible, based on population and geography. This is an academic concept. See, e.g., Roland G. Fryer and Richard Holden, “Measuring the Compactness of Political Redistricting Plans,” *Journal of Law and Economics*, University of Chicago Press, vol. 54, no. 3 (August 2011), 493-535. It is, however, a good shorthand phrase to describe the new objective standard in the measure.

It is possible to address the major elements of this measure in the caption. The Attorney General’s version does not do so; it fails the statutory standard. We present the following alternative caption:

Amends Constitution: Nonpartisan Citizen Commission, not Legislature, conducts Legislature redistricting; requires census-based maximally compact districts.

This covers the most important features in the context of the 15 words available.

III. The Result of “Yes” Vote Language

This part of the certified ballot title reads:

Result of “Yes” Vote: “Yes” vote transfers legislative redistricting to commission; commission over-represents rural areas. Changes redistricting requirements; limits “aggregate linear distance” of borders. Fewer hearings. Limits judicial review.

This is not a “simple and understandable statement...that describes the result if the state measure is approved.” ORS 250.035 (2)(b). First, the Attorney General is again way over-focused on the idea that the commission is not itself apportioned according to population. Next,

the fact that this is a citizen, nonpartisan commission should be reiterated here, as these elements are major results. The Attorney General studiously avoids using the phrase “Citizen Commission” anywhere in the 175-word ballot title, even though the measure itself uses this phrase at least 38 times. The Attorney General also never uses the word “nonpartisan” to refer to the nature of the membership of the Citizen Commission.

The language “limits ‘aggregate linear distance’ of borders” is an extreme example of technical language which is not understandable and is, indeed, misleading. This Court has noted that “parroting the precise words of a measure is not always adequate to communicate its major effect.” *Wilson v. Rosenblum*, 362 Or 226, 231, 407 P3d 825 (2017). This definitely applies here. The measure requires that each district “shall be as compact in area as possible and the aggregate linear distance of all district boundaries shall be as short as possible.” Subsection (7)(a) of proposed Section 6, Article IV, in the measure. We have synthesized this complex approach in our proposed caption by describing it as “maximally compact districts.” An average voter will get better sense from such a term than the partial quotation of one piece of the definition, which is, on its face, unintelligible.

The measure authorizes the Supreme Court, if necessary, to produce its own redistricting plan. The Result of “Yes” Vote language should reflect this, rather than the misleading “Fewer hearings. Limits judicial review.”

We have already discussed the problem with “Limits judicial review.” As to the “Fewer hearings” language, this is a minor feature, and it is best discussed in the summary, if at all. This language is also misleading because the measure does not require fewer hearings. The measure provides that the Citizen Commission “shall receive public comment and shall conduct at least one public hearing in each congressional district to receive public testimony...” (emphasis supplied). Subsection 8 of proposed Section 6, Article IV, in the measure. In this

modern era, with the opportunity to communicate by electronic means, the conduct of in-person hearings is less significant. Further, the measure does not prevent more public hearings.

The ballot title language here is also misleading because the current requirement for public hearings as to the legislature's redistricting is statutory, not constitutional. ORS 188.016. The only Oregon Constitution requirements for public hearings relate to revision of a reapportionment plan, or enactment of a plan, by the Secretary of State. Oregon Constitution, Article IV, Section 6, subsections (2) (c) and (3) (a).

There is an approach which meets the statutory requirements for the Result of "Yes" Vote. Here is our alternative, which does so:

Result of "Yes" Vote: "Yes" vote changes constitution so nonpartisan Citizen Commission conducts legislative redistricting after each census, based on constitutional criteria; upon default, Oregon Supreme Court produces plan.

IV. Result of "No" Vote

The ballot title contains the following Result of "No" Vote language:

Result of "No" Vote: "No" vote retains redistricting by legislature. Statutory, constitutional criteria. Minimum ten public hearings. Upon default, Secretary of State adopts plan. Elector can seek court review.

We recognize the statutory requirement that both the Result of "Yes" Vote statement and the Result of "No" Vote statements "shall be described using the same terms in both statements, to the extent practical." ORS 250.035(2) (c). That does not mean that misleading and incomplete language in the Result of "Yes" Vote provision should be replicated in the Result of "No" Vote provision. Our concerns regarding the language of the ballot title is Result of "Yes" Vote provision are equally applicable here. The solution here is to replace the Attorney General's erroneous and misleading Result of "Yes" Vote language with the correct and understandable language we recommend, and to use parallel language for the Result of "No" Vote provision. Here, besides the change from the legislature to the Citizen Commission, we have a change where, upon default, the Supreme Court (rather than the Secretary of State)

produces or supervises the production of the plan.

A correct and parallel Result of “No” Vote should read:

Result of “No” Vote: “No” vote retains process of legislative redistricting by legislature after each census based on statutory criteria; if legislature defaults, Secretary of State produces plan.

V. The Summary

The summary is a “concise and impartial statement of not more than 125 words summarizing the state measure and its major effect.” ORS 250.035 (2)(d)

The Summary in the certified ballot title reads as follows:

Summary: Amends constitution. Currently, legislature reapportions legislative districts after census, following at least 10 public hearings. Criteria set by statute and Constitution. If legislature defaults, Secretary of State completes redistricting. Any elector may petition Oregon Supreme Court to review compliance with law; if deficient, court may create plan. Measure replaces current process with 11-member commission. County Commissioners appoint members (excluding recent elected officials, spouses, and some political party officials). Rural areas receive disproportionately high representation. Changes constitutional, statutory requirements; district boundaries must have shortest possible “aggregate linear distance.” Five public hearings required. Plan adopted by majority commission vote. Legislature funds commission, otherwise uninvolved. 15 electors required to petition Supreme Court. Court review limited to constitutional defects. Upon default, Supreme Court completes redistricting. Other provisions.

A summary should provide voters with enough information to understand what will happen if the measure is approved and the “breadth of its impact.” *Fred Meyer, Inc. v Roberts*, 308 Or 169, 175, 777 P2d 406 (1989).

We reiterate our points, above, regarding the failure to describe the Citizen Commission as nonpartisan and the failure to describe it as a citizen commission. The summary ought to, at least once, refer to the Citizen Commission by its official title: Citizen Commission on Legislative Redistricting.

The error as to “representation” of rural areas on Citizen Commission is replicated here. The erroneous statement as to “limited” Supreme Court review is repeated here. We have discussed the merits of these issues earlier in this petition.

The most egregious error in the summary is the partial definition of the compact district requirement: “district boundaries must have shortest possible ‘aggregate linear distance.’ ” Most readers will ask themselves: What the heck does THAT mean? There are times when the use of literal terms of a measure may obscure meaning rather than convey the practical information that ORS 250.035 requires. See *Cross v. Rosenblum*, 359 Or 136, 145, 373 P3d 125 (2016); *Frazzini v. Myers*, 344 Or 663, 667, 188 P3d 258 (2008). This is such a case.

If the compact district requirement is to be mentioned in the summary, it should be reflected in a phrase such as “maximally compact districts based on census tracts.” Or, the full definition can be presented based on the language of subsection 7(a), in the proposed new Article IV, Section 6 in the measure: “Each district shall be based on census tracts. Each district shall be as compact in area as possible and the aggregate linear distance of all district boundaries shall be as short as possible.”

We present our own alternative ballot title, including a summary, in Exhibit G.

CONCLUSION

For the reasons stated above, Petitioners request that this court refer the ballot title to the Attorney General for modification to correct the errors described herein.

DATED this 22nd day of January 2019.

Respectfully Submitted,
KEVIN L. MANNIX, P.C.



By: Kevin L. Mannix, OSB #742021
Of Attorneys for Chief Petitioners
Michele M. Fletchall, Charles E. Lee,
and Kevin L. Mannix

The Constitution of the State of Oregon is amended by repealing section 6, Article IV, and by adopting the following new section 6 in lieu thereof:

Section 6. (1) In each year ending in the number one, Senators and Representatives shall be apportioned among legislative districts according to population and a redistricting plan adopted in the manner provided in this Section. A senatorial district shall consist of two representative districts. Any Senator whose term continues through the next regular legislative session after the operative date of the redistricting plan 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.

(2) Not later than January 31 of each year ending in the number one, a Citizen Commission on Legislative Redistricting shall be established to provide for the redistricting of state legislative districts.

(3)(a) The Citizen Commission shall be composed of eleven persons appointed by county commissioners as provided in this section.

(b) Each Citizen Commission member shall be a registered Oregon voter who resides within the county or counties assigned to the numbered position held by the Citizen Commission member.

(c) No Citizen Commission member may have served in a partisan government elective office, or have served in a political party elective office as an officer (other than precinct committee person), during the 10 years previous to the person's appointment to the Citizen Commission.

(d) No Citizen Commission member shall be a county commissioner or a member of the Legislative Assembly. No Citizen Commission member shall be a spouse, or domestic partner, of a county commissioner or a member of the Legislative Assembly.

(4)(a) The Citizen Commission is a part of the Executive Department of state government for budgeting and administrative purposes. The Legislative Assembly shall appropriate sufficient funds to provide administrative support to carry out the work of the Citizen Commission. Each Citizen Commission member shall receive a stipend for each day of work on the Commission equal to the daily salary rate of a state legislator, plus per diem for travel and expenses equal to the per diem allowed a state legislator. Each Commission member shall receive no other employment benefits or retirement benefits for service on the Commission.

(b) The Citizen Commission shall comply with all laws on the disclosure of records and the openness of meetings that apply to the Executive Department of state government.

(c) The Citizen Commission shall elect a chair from among its own members. The chair shall preside over the proceedings of the Citizen Commission and shall, subject to the approval of the Citizen Commission, select an executive director to assist the Citizen Commission in the execution of its duties. All additional staff support and services for the Citizen Commission shall be provided for by the Office of the Secretary of State, provided that such staff support and services shall be under the direction of the Citizen Commission, its chair, and its executive director.

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(5)(a) Each of the eleven Citizen Commission members shall be assigned to a position as numbered below and shall be appointed by majority vote of all the county commissioners for the listed county or counties for a given position. The position assignments are:

Position Number	County or Counties
1	Multnomah
2	Washington
3	Clackamas, Hood River
4	Clatsop, Columbia, Tillamook, Yamhill, Lincoln
5	Polk, Benton, Marion
6	Linn, Lane
7	Coos, Douglas
8	Curry, Josephine, Jackson
9	Klamath, Lake, Harney, Malheur, Deschutes, Crook
10	Wasco, Sherman, Gilliam, Morrow, Jefferson, Wheeler
11	Umatilla, Union, Wallowa, Grant, Baker

(b) Such appointments shall be made by the county commissioners within the 60 days before January 31 of each year ending in the number one. The county commissioners acting to make a Citizen Commission appointment may meet in person or by electronic communication, providing the appointment approval vote meets public meeting requirements. Where county commissioners from multiple counties act together to appoint a Citizen Commission member, such county commissioners shall meet as one consolidated body, and each county commissioner shall have one vote, regardless of the number of commissioners from a given county. The county commissioners shall ensure that their selection meets the qualifications set forth in Section 6, paragraph 3. The Office of the Secretary of State shall assist the county commissioners in carrying out the appointment process.

(c) After the initial eleven appointments are completed, any vacancy in a Citizen Commission position shall be filled by the appropriate county commissioners within 30 days of the vacancy.

(d) Should any Citizen Commission position be unfilled, or should any vacancy occur in a Citizen Commission position, the Citizen Commission shall proceed with its work and shall not delay its work due to such vacancy.

(6) An affirmative vote of a majority of sitting Citizen Commission members is necessary for the adoption of any Preliminary or Final Redistricting Plan. In all other

respects, the Citizen Commission may establish its own rules and procedures as necessary to accomplish its work. The Citizen Commission shall not be subject to statutory restrictions or directives affecting its decisions.

(7) The Citizen Commission shall consider the following criteria when apportioning the state into legislative districts:

(a) Each district shall be based on census tracts. Each district shall be as compact in area as possible and the aggregate linear distance of all district boundaries shall be as short as possible. Each district shall:

(A) Be contiguous;

(B) Be of equal population within a range of two percent plus or minus variation; and

(C) Utilize existing geographic or political boundaries to the extent practicable in the context of other requirements.

(b) No district shall be drawn for the purpose of favoring any political party, incumbent legislator or other person.

(c) No district shall be drawn for the purpose of affecting the voting strength of any language or ethnic group.

(d) Two state House of Representatives districts shall be wholly included within a single state Senate district.

(8) The Citizen Commission shall adopt a Preliminary Redistricting Plan as soon as practicable following the enumeration of the inhabitants of this state by the United States government, but not later than June 1. Upon adoption of the Preliminary Redistricting Plan, the Citizen Commission shall receive public comment and shall conduct at least one public hearing in each congressional district to receive public testimony regarding the Preliminary Redistricting Plan.

(9) After conducting public hearings, the Citizen Commission shall adopt a Final Redistricting Plan no later than September 1.

(10) Original jurisdiction is vested in the Oregon Supreme Court, upon the petition of any 15 electors of the state filed with the Supreme Court on or before October 1 of the year in which the Final Redistricting Plan is adopted, to review the Final Redistricting Plan.

(11) If, upon challenge properly filed with the Supreme Court, the Court determines that the Final Redistricting Plan conforms to the requirements of the United States Constitution and the Oregon Constitution, it shall dismiss the challenge and approve the plan. No error or errors by the Citizen Commission shall be grounds for modification of the Final Redistricting Plan unless the error or errors constitute a violation of this Constitution or of the United States Constitution. If any such violation is found, the Supreme Court may itself correct the Final Redistricting Plan, or take such other action as it deems necessary to remedy the violation. The Supreme Court shall render its final decision as to any challenge no later than December 31 of the same year the Final Redistricting Plan was adopted by the Citizen Commission.

(12)(a) If the Citizen Commission does not adopt a Final Redistricting Plan by September 1, then the Citizen Commission shall be disbanded and the Supreme Court shall prepare the Final Redistricting Plan by December 31 of the same year the plan was due from the Citizen Commission. The Supreme Court may appoint one or more senior judges as special masters to assist with the Final Redistricting Plan.

(b) A Final Redistricting Plan that is approved or prepared by the Supreme Court, or for which no challenge is timely filed, is not subject to revision by any Act of the Legislative Assembly.

(13) The Final Redistricting Plan shall be operative on December 31 of the year ending in the number one and shall be in effect for all Legislative Assembly elections after the operative date.

(14) Upon completion of this reapportionment process, the Citizen Commission shall be disbanded.

(15) Any reapportionment that becomes operative as provided in this section is a law of the state except for purposes of initiative and referendum.

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

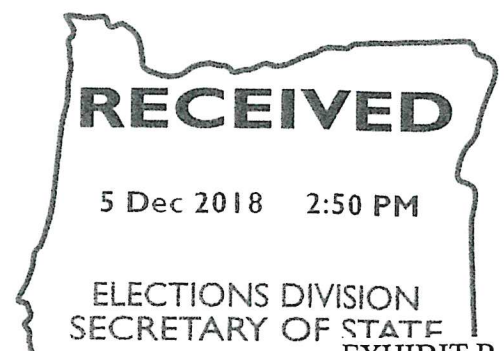
DRAFT BALLOT TITLE

Amends Constitution: Creates commission for legislative redistricting, changes redistricting requirements; commissioners represent areas with very unequal populations

Result of “Yes” Vote: “Yes” vote creates commission for legislative redistricting, constitutional requirements; commission members represent geographic areas of very unequal populations; upon default, Oregon Supreme Court produces plan

Result of “No” Vote: “No” vote retains process of legislative redistricting by Legislative Assembly after each census based on statutory criteria; if legislature defaults, Secretary of State produces plan

Summary: Amends Constitution. Currently, legislature reapportions state’s legislative districts based on population every ten years, following census, using statutory criteria. If legislature defaults, Secretary of State completes redistricting after public hearing. Oregon Supreme Court may review plan for compliance with applicable laws. Measure replaces current process with redistricting by 11-member commission. Members appointed by County Commissioners, represent geographic areas of very unequal population (one member from each higher population county, combined smaller population counties). Establishes district requirements (modified) in constitution. Commission takes public comment, holds public hearing, must adopt plan by majority vote within time limit. Legislature must fund commission, may not revise plan. Supreme Court may review plan only for constitutional defects. If commission fails to enact plan, Supreme Court completes redistricting. Other provisions



Certified by Attorney General on January 7, 2019.

/s/ Jona Maukonen
Assistant Attorney General

BALLOT TITLE

Amends Constitution: Transfers legislative redistricting to commission; commission over-represents rural areas; changes redistricting requirements; limits judicial review

Result of “Yes” Vote: “Yes” vote transfers legislative redistricting to commission; commission over-represents rural areas. Changes redistricting requirements; limits “aggregate linear distance” of borders. Fewer hearings. Limits judicial review.

Result of “No” Vote: “No” vote retains redistricting by legislature. Statutory, constitutional criteria. Minimum ten public hearings. Upon default, Secretary of State adopts plan. Elector can seek court review.

Summary: Amends Constitution. Currently, legislature reapportions legislative districts after census, following at least 10 public hearings. Criteria set by statute and Constitution. If legislature defaults, Secretary of State completes redistricting. Any elector may petition Oregon Supreme Court to review compliance with law; if deficient, court may create plan. Measure replaces current process with 11-member commission. County Commissioners appoint members (excluding recent elected officials, spouses, and some political party officials). Rural areas receive disproportionately high representation. Changes constitutional, statutory requirements; district boundaries must have shortest possible “aggregate linear distance.” Five public hearings required. Plan adopted by majority commission vote. Legislature funds commission, otherwise uninvolved. 15 electors required to petition Supreme Court. Court review limited to constitutional defects. Upon default, Supreme Court completes redistricting. Other provisions.

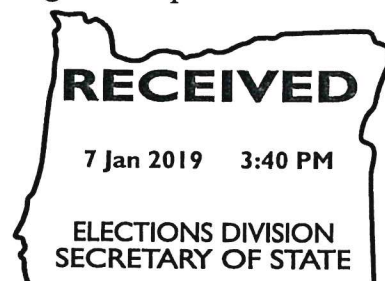
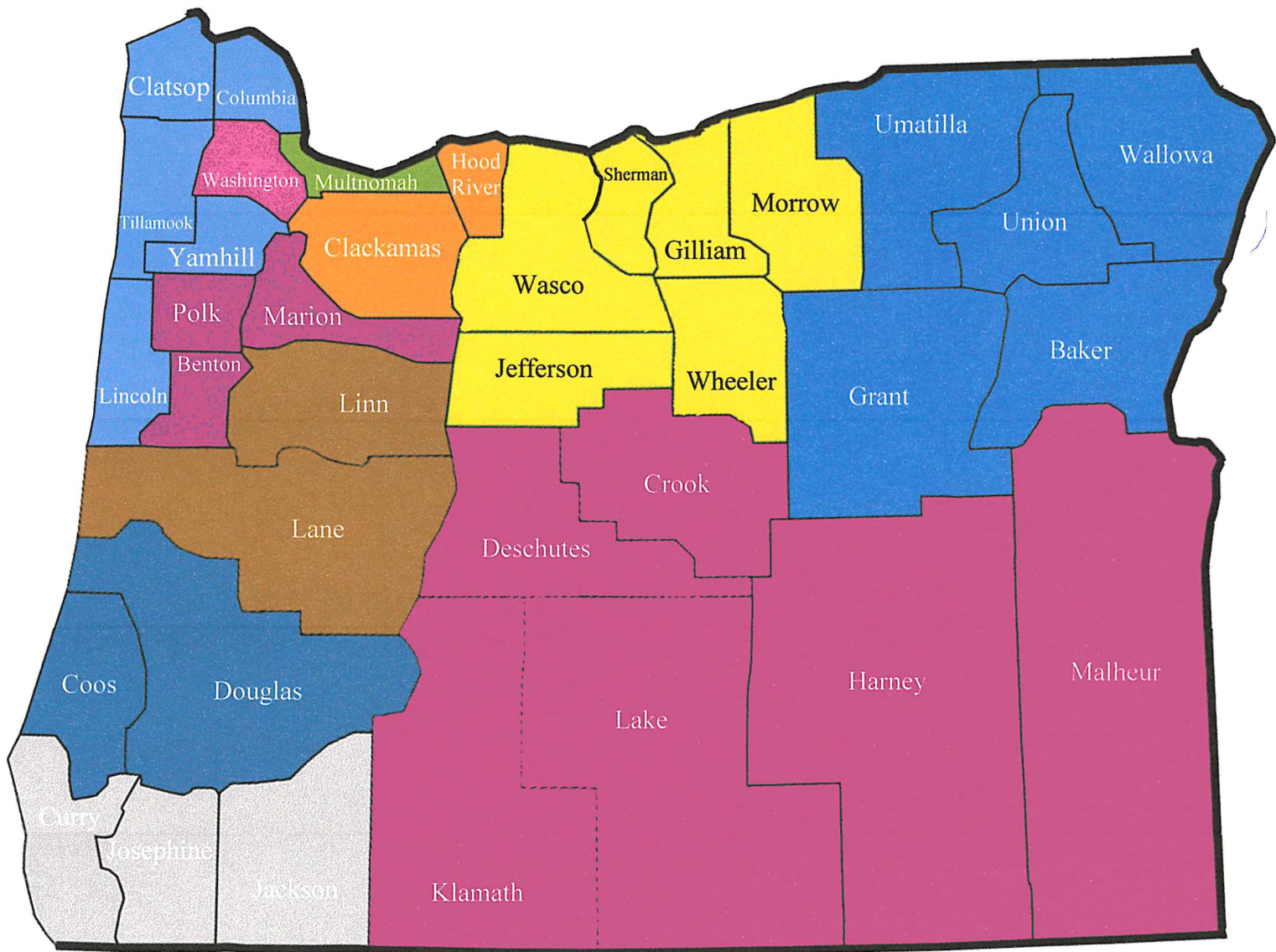


EXHIBIT C



Color-coded designation of 11 groups of counties assigned to each Citizen Commission position

Redistricting Reform by State

State	Method of Selection for Redistricting Committee
Alaska	5-member commission. Governor selects 2 commissioners. Alaska Senate President and Alaska Speaker select 1 commissioner each for a total of 2. Final commissioner chosen by Alaska Chief Justice. Appointments made without regard to party affiliation. Commissioners cannot be a public employee or official and cannot run for election in the following general election. Legislative districts only. Similar to Ohio.
Arkansas	3-member commission. Governor, Secretary of State, and Attorney General. Congressional seats drawn by legislature.
Arizona	5-member commission. Arizona Commission on Appellate Court Appointments nominates 25 people, 10 Republicans, 10 Democrats, 5 Independents. Majority and minority leaders in each legislative chamber appoint 1 member each from pool for a total of 4. These 4 choose a fifth voting member to chair the commission. Commissioner cannot have been or be a public official, lobbyist, or party official in the 3 years prior to or after service on commission. Commissioners must have been a member of their respective party for last 3 years. Similar to Idaho, Pennsylvania, and Washington.
California	14-member commission. State auditor chooses 20 Democrats, 20 Republicans, and 20 nonaffiliated. The legislature can strike 8 people from this pool. 8 commission members chosen randomly. Then those 8 choose the remaining 6. Must be 5 Dems, 5 Reps, 4 unaffiliated. Commissioner cannot have been or be a public official, lobbyist, or party official in the 10 years prior to or after service on commission. Commissioners must have been a member of their respective party for last 5 years. Other "conflict" rules involving government contracts, immediate family, and campaign contributions. Similar to Michigan.
Colorado*	12-member commission. 6 selected by retired Colorado judges, 2 Dems, 2 Reps, 2 unaffiliated. 4 selected by legislature, the 2 largest parties getting 2 appointments each. 2 non-affiliated selected by the commission. 4 Reps, 4 Dems, 4 unaffiliated. Commissioner cannot have been a public official, lobbyist, or party official in the 5, or sometimes 3, years prior to service on commission. Must have voted in last two elections and have been a member of their respective party for last five years. Separate commissions for Congressional and legislative districts. Colorado Supreme Court approval required.
Hawaii	9-member commission. Majority and minority leaders in each legislative chamber appoint 2 members each for a total of 8. The 8 commissioners then choose a ninth commissioner. If they cannot decide on a 9 th , the Hawaii Supreme Court chooses the 9 th commissioner. Commissioners

	cannot run for office in the two following elections. Similar to New Jersey.
Idaho	6-member commission. Majority and minority leaders in each legislative chamber appoint 1 member each for a total of 4. Leaders of 2 largest parties in state choose 1 each for the remaining 2. Commissioners cannot have been an elected official during the past 2 years, or a registered lobbyist within the past year. Cannot serve in the legislature for 5 years following service on the commission. Similar to Arizona, Pennsylvania, and Washington.
Michigan*	13-member commission. 4 Dems, 4 Reps, 5 unaffiliated. Secretary of State selects at random from a pool of applicants: 30 Dem voters, 30 Rep voters, and 40 unaffiliated voters. The legislature gets 20 preemptive strikes, 5 by each legislative chamber majority/minority leader. From remaining pool, Secretary of State chooses at random the commission members. Commissioner cannot have been or be a public official, lobbyist, or party official in the 6 years prior to or 5 years after service on commission. Rules for immediate family members. Similar to California.
Missouri*	State demographer redistricts. Demographer chosen by auditor, state Senate Majority/Minority leader get to preempt auditor and agree on the demographer if they can do so jointly. Demographer draws map in accordance with certain restrictive criteria. Demographer cannot have been or be a public official, lobbyist, or party official in the 4 years prior to or after service on commission. Rules for immediate family members. The senate map must then be approved by 10-member (5 Dems/5 Reps) commission, with certain 4-year future public office restrictions. This house map must then be approved by 16-member (8 Dems/8 Reps) commission, with certain 4-year future public office restrictions. Legislative districts only.
New Jersey	13-member commission for Congressional redistricting. Majority and minority leaders in each legislative chamber appoint 2 members each for a total of 8. Leaders of 2 largest political parties choose 2 each for a total of 4. Final member is chosen by commission, or if commission cannot agree, the New Jersey Supreme Court. Cannot be a Congressional member. 11-member commission for Legislative redistricting. Leaders of two largest political parties choose 5 each for a total of 10. The remaining 10 then choose a chair and if they cannot agree, the New Jersey Supreme Court chooses. Similar to Hawaii.
Ohio	7-member commission. Includes Governor, State Auditor, Secretary of State, then the Ohio Speaker, Ohio House Minority Leader, Ohio Senate President, and Ohio Senate Minority Leader appoint 1 member each. Cannot be a member of Congress. Legislative redistricting only by commission. Congressional redistricting can be done by 3/5 vote of Ohio legislative, if they fail to get a 3/5 vote, then Congressional redistricting handed-over to the 7-member commission. Similar to Alaska.

Pennsylvania	5-member commission. Majority and minority leaders of each legislative chamber make up the first 4 commissioners. Commissioner 5, the chair, is chosen by the commission, or if the commission cannot agree, the Pennsylvania Supreme Court. The chair cannot hold public office or be affiliated with party leadership. Congressional districts drawn by legislature. Similar to Arizona, Idaho, and Washington.
Utah*	7-member commission that can be significantly over-ridden by the legislature. Governor appoints the chair. Majority and minority leaders in each legislative chamber appoint 1 member each for a total of 4. Party leaders of 2 largest parties appoint 1 member each for a total of 2. Commissioners cannot be a public office holder, party official, or lobbyist in the prior 4 years. The 2 commissioners appointed by each party leadership must be unaffiliated. Legislature can then enact or reject the commission plan or create a new plan. If it rejects it must give a reason why and commission can give input. Unique in that legislature retains significant power, however, similar to Arizona, Idaho, and Pennsylvania.
Washington	5-member commission. Majority and minority leaders in each legislative chamber appoint 1 member each for a total of 4. These 4 choose a fifth non-voting member to chair the commission. Commissioners cannot have been a lobbyist, elected public official, or party officer in prior two years. Can be amended by 2/3 of the Washington legislature. Similar to Arizona, Idaho, and Pennsylvania.

County Commission Breakdown for Redistricting Proposal

Po. #	County	# of Comm.	Non-Partisan	If Partisan, Breakdown
1	Multnomah	5	Yes	
2	Washington	5	Yes	
3	Clackamas	5	Yes	
3	Hood River	5	Yes	
4	Clatsop	5	Yes	
4	Columbia	3	Yes	
4	Lincoln	3	Yes	
4	Tillamook	3	Yes	
4	Yamhill	3	Yes	
5	Benton	3	No	3 Democrats
5	Marion	3	No	3 Republicans
5	Polk	3	Yes	
6	Linn	3	No	3 Republicans
6	Lane	5	Yes	
7	Coos	3	Yes	
7	Douglas	3	Yes	
8	Curry	3	Yes	
8	Jackson	3	No	3 Republicans
8	Josephine	3	Yes	
9	Crook	2 plus Judge	Yes	
9	Deschutes	3	No	3 Republicans
9	Harney	2 plus Judge	Yes	
9	Klamath	3	Yes	
9	Lake	3	Yes*	
9	Malheur	2 plus Judge	Judge Only	2 Republicans
10	Gilliam	2 plus Judge	Judge Only	2 Democrats
10	Jefferson	3	Yes	
10	Morrow	3	Yes	
10	Sherman	2 plus Judge	Judge Only	2 Republicans
10	Wasco	3	Yes	
10	Wheeler	2 plus Judge	Judge Only	2 Republicans**
11	Baker	3	Yes	
11	Grant	2 plus Judge	Yes	
11	Umatilla	3	Yes	
11	Union	3	Yes	
11	Wallowa	3	Yes	

Table reflects changes after Nov. 8, 2018 election

-Source: Association of Oregon Counties, see attached sheet & Oregon Blue Book via SOS website & 2018 election results per the SOS

*AOC sheet lists Lake County as partisan, per the Lake County administrative assistant, it is actually non-partisan

**Wheeler County is changing to non-partisan in 2020

BALLOT TITLE PROPOSED BY CHIEF PETITIONERS

Amends Constitution: Nonpartisan Citizen Commission, not Legislature, conducts Legislature redistricting; requires census-based maximally compact districts.

Result of “Yes” Vote: “Yes” vote changes constitution so nonpartisan Citizen Commission conducts Legislature redistricting after each census based on constitutional criteria; upon default, Oregon Supreme Court produces plan.

Result of “No” Vote: “No” vote retains process of legislative redistricting by legislature after each census based on statutory criteria; if legislature defaults, Secretary of State produces plan.

Summary: Amends Constitution. Currently, legislature reapportions state’s legislative districts based on population every ten years, following census, using statutory criteria. If legislature defaults, Secretary of State completes redistricting. Oregon Supreme Court may review plan. Measure replaces current process with redistricting by 11-member nonpartisan Citizen Commission on Legislative Redistricting; Commission members appointed by groups of county commissioners, from eleven geographic areas; legislative district standards require equal apportionment by population, allow consideration of geographic and political boundaries; measure requires maximally compact districts based on census tracts. Citizen Commission holds public hearings, adopts plan by majority vote. Legislature may not revise plan. Supreme Court may review plan for constitutional defects. If Citizen Commission fails to enact plan, Supreme Court completes redistricting. Other provisions.

CERTIFICATE OF FILING

I certify that I directed the original of the PETITION TO REVIEW BALLOT TITLE CERTIFIED BY THE ATTORNEY GENERAL (Initiative 2020-005) to be filed electronically with the Oregon Appellate Court e-Filing system, on January 22, 2019.

CERTIFICATE OF SERVICE

I certify that I served the foregoing PETITION TO REVIEW BALLOT TITLE CERTIFIED BY THE ATTORNEY GENERAL (Initiative 2020-005), by delivering a true, full, and exact copy thereof, by hand delivery and by email to:

Honorable Ellen F Rosenblum, OSB #753239
Jona Jolyne Maukonen, OSB #043540
Oregon Department of Justice
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Salem OR 97301-4096
Phone: (503) 378-4402
Fax: (503) 378-6306
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Dennis Richardson
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255 Capitol St. NE, Ste 501
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DATED this 22nd day of January, 2019.



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