

PRELIMINARY DISCUSSION DRAFT

Measure Number: Initiative Petition 2020-057

Subject: Amends Constitution: Repeals legislative redistricting process; creates congressional/state redistricting commission; equal number of Democrats, Republicans, others.

Government Unit Affected: Statewide elected Legislators

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Comments:

The United States Constitution requires every state and the five territories to conduct a census every ten years to determine their population. Upon completion of the census the 435 seats in the United States House of Representatives are redistributed based upon the resulting gains or losses of population within each state. Similarly, the Oregon Constitution requires the legislature to reapportion state legislative and congressional districts every ten years. Redistricting is the process of redrawing district boundaries of the state's House, Senate, and Congressional districts based upon shifts in population.

Oregon's current redistricting process is enacted under Article IV, Section 6 of the Oregon Constitution, where the Legislative Assembly is responsible for drawing legislative and Congressional maps. The Legislative Assembly passes redistricting plans as bills that place census blocks into each of the districts. If the maps are not enacted by Sine Die of the Legislative Session, the responsibility of drawing the maps falls upon the Secretary of State. The Governor has the power to veto the plans, and petition challenges to the plans are reviewed by the Oregon Supreme Court. If the Supreme Court concurs with the challenge, then the Secretary of State is required to correct the plan. If the Legislative Assembly is not able to enact a Congressional plan, or it is challenged in court, a special judicial panel appointed by the Chief Justice is be directed to develop the Congressional plan.

Initiative Petition 57 (IP 57) amends the Oregon Constitution to repeal the current state constitutional and legislative process and creates a twelve-member commission to draw both congressional and state legislative districts. IP 57 would direct the Secretary of State to randomly select the first six members, the remaining six members would be chosen by the first six. Membership to the commission will be restricted based upon the length of residence/party affiliation, recent political work, political contributions, or family members who engaged in certain political activity. Four of the members must be registered with each of the largest two political parties, the remaining four members will be unaffiliated or from other political parties. At minimum, one member from each of the three groups must agree for the commission to approve the redistricting map or take other actions.

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Fiscal Impact Summary

Executive Branch Assumptions:

This measure requires that the Legislative Assembly appropriate General Fund to support the operation of the citizen commission. In particular, in the first year of the redistricting process, this measure will require the Legislative Assembly to fund the commission through funds originally appropriated to the legislative branch for redistricting in the 2019-21 biennium. The commission is empowered to make all purchasing and hiring decisions, including hiring staff, legal counsel and other consultants. Each member engaged in the business of the commission will be compensated at a rate equivalent to the amount fixed for per diem authorized by the United States Internal Revenue Service. Each member will also receive a reimbursement for mileage and other reasonable travel expenses incurred while performing the duties of the commission.

The Oregon Judicial Department, Office of Administrative Hearings, and the Secretary of State determined that there was a minimal fiscal burden as the initiative is currently written. However, each agency accepts that there are certain unknowns to this petition as it would be a new endeavor to undertake, leaving a potentially higher fiscal impact than originally thought.

The financial impact of this measure is indeterminate. The commission is given constitutional authority to hire an unknown number of staff members for an unknown amount of time. The commission will hold at least 15 public hearing throughout the state incurring an unknown financial impact. There are many lingering questions regarding the start-up costs, reoccurring costs, and unknown costs to the General Fund to initiate activities required under the Act. Once the program is established, ongoing costs will be better understood per every redistricting cycle, which will be covered by general tax revenues. If new expenditures are required, the dedicated funding source for the Commission will be through the income tax.

The Oregon Judicial Department (OJD) anticipates that if the initiative is approved, the procedure for judicial review set forth in the initiative will supersede the current constitutional (Article IV, sections 6 & 7) and statutory (ORS 188.125) judicial review processes. Although there are some differences between current processes and the process established in IP 57, OJD assumes that the costs of implementing judicial review pursuant to the initiative will be similar to the cost of judicial review under current law. OJD anticipates that any additional impact can be absorbed with existing resources.

The Office of Administrative Hearings (OAH) estimates that it would require approximately 560 hours of staff time, costing \$42,842 in General Fund to review the applications, attend meetings, evaluate candidates, and vote. This figure is variable depending on size of the applicant pool, and the ability of the Chief Administrative Law Judge to find three Administrative Law Judges to meet the criteria of this measure. The OAH is normally reimbursed through charges to agencies for services. It is unclear whether these funds would be distributed through the Commission as appropriated via Section 12a, since the Commission would not yet exist at the time OAH is performing this work, or whether the Secretary of State would be responsible for the cost of these services.

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The Secretary of State estimates that it would require one position and 0.25 FTE costing \$30,000 General Fund to implement the duties necessary to support the Commission. Specifically to implement administrative rules, facilitate certain aspects of the commission's work and enter data into the Oregon Centralized Voter Registration system.

The Legislative Administration provides centralized administrative and budgetary services to the Legislative Branch. This measure will require the Legislative Assembly to fund the commission through General Fund originally appropriated to the Legislative Branch for redistricting in the 2019-21 biennium.

Local Government Assumptions:

The Association of Oregon Counties, the League of Oregon Cities, and the Special Districts Association of Oregon each determined that if IP 57 passes on the November ballot, there would be no fiscal impact.

Estimate of Financial Impact

This measure amends the Constitution to repeal the current legislative process and create a twelve-member citizen commission to draw both congressional and state legislative districts. The measure requires the Legislative Assembly appropriate General Fund to support the commission however the measure itself does not require a certain amount. The financial impact to the state is indeterminate. Local government expenditures will not be impacted.