

## HOUSE AMENDMENTS TO A-ENGROSSED SENATE BILL 259

By COMMITTEE ON RULES

June 7

- 1 On page 2 of the printed A-engrossed bill, delete lines 15 through 45.  
2 Delete pages 3 and 4.  
3 On page 5, delete lines 1 through 5 and insert:  
4 **“SECTION 1. (1) Notwithstanding ORS 188.125, this section provides the exclusive method**  
5 **for an elector to file a petition with a circuit court on or before December 31, 2022, to:**  
6 **“(a) Challenge a legislatively adopted reapportionment plan; or**  
7 **“(b) Request a reapportionment of congressional districts.**  
8 **“(2) An elector may file a petition in Marion County Circuit Court on or before October**  
9 **12, 2021, to:**  
10 **“(a) Challenge a legislatively adopted reapportionment plan; or**  
11 **“(b) Request a reapportionment of congressional districts if:**  
12 **“(A) The Legislative Assembly failed to pass a reapportionment of congressional districts**  
13 **by September 27, 2021; or**  
14 **“(B) The Governor vetoed the reapportionment of congressional districts passed by the**  
15 **Legislative Assembly and the Legislative Assembly did not override the veto.**  
16 **“(3) The Secretary of State shall serve as respondent in any petition filed under sub-**  
17 **section (2) of this section.**  
18 **“(4) An elector may file a petition in Marion County Circuit Court on or before October**  
19 **15, 2021, to intervene in a petition filed under subsection (2) of this section.**  
20 **“(5)(a) A petition filed under subsection (2) or (4) of this section may include any mate-**  
21 **rials from the legislative record relating to congressional reapportionment plans.**  
22 **“(b) A petition filed under subsection (2) of this section must include:**  
23 **“(A) The legislatively adopted reapportionment plan that is being challenged and an ex-**  
24 **planation of the factual and legal defects in the plan.**  
25 **“(B) If no legislatively adopted reapportionment plan was passed, the petitioner’s pro-**  
26 **posed reapportionment plan and an explanation of how the plan complies with all applicable**  
27 **statutes and the United States and Oregon Constitutions.**  
28 **“(c) A petition to intervene filed under subsection (4) of this section must include an**  
29 **explanation of the factual and legal defects with assertions made in a petition filed under**  
30 **subsection (2) of this section.**  
31 **“(6) On September 28, 2021, the Chief Justice of the Supreme Court shall appoint a special**  
32 **judicial panel. The panel shall consist of one state circuit court judge, senior judge or judge**  
33 **who is serving as a judge pro tempore under ORS 238.535 (1)(c) from each congressional**  
34 **district in this state. The Chief Justice shall also select one of the appointed judges to preside**  
35 **over the special judicial panel and to make all rulings on procedural and evidentiary matters**

1 before the panel.

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

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

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

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

12 “(8) The special judicial panel shall employ the following standards in deciding upon a  
13 reapportionment plan:

14 “(a) For a legislatively adopted reapportionment plan, the panel must affirm the plan if  
15 the plan complies with all applicable statutes and the United States and Oregon Consti-  
16 tutions. If the panel finds that the legislatively adopted reapportionment plan does not com-  
17 ply with applicable statutes or the United States or Oregon Constitution, the panel may  
18 create its own reapportionment plan. A reapportionment plan adopted by the panel under  
19 this paragraph must comply with all applicable statutes and the United States and Oregon  
20 Constitutions.

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

25 “(9)(a) On or before October 22, 2021, the special judicial panel shall set a schedule to  
26 receive written memoranda and supporting evidence in support of or in opposition to any  
27 petitions filed under subsection (2) of this section and a date to hear oral arguments on the  
28 petitions.

29 “(b) The special judicial panel shall decide whether to dismiss a petition filed under sub-  
30 section (2) of this section that challenges a legislatively adopted reapportionment plan by  
31 November 24, 2021.

32 “(c) If the panel dismisses the petition under this subsection, a party to the action may  
33 appeal the decision by filing a notice of appeal with the Supreme Court on or before No-  
34 vember 29, 2021.

35 “(10)(a) The special judicial panel shall decide all other petitions filed under subsection  
36 (2) of this section, including petitions challenging a legislatively adopted reapportionment  
37 plan that the panel does not dismiss under subsection (9)(a) of this section, by November 24,  
38 2021.

39 “(b) A party to the action may appeal a decision reached under this subsection by filing  
40 a notice of appeal with the Supreme Court on or before November 29, 2021.

41 “(11) The Supreme Court shall:

42 “(a) On or before November 30, 2021, set a schedule to receive written memoranda and  
43 a date to hear oral arguments, if any, on any appeal brought under subsection (9) or (10) of  
44 this section;

45 “(b) Hear any appeal brought under subsection (9) or (10) of this section; and

1       “(c) Employ the following standards in deciding upon a reapportionment plan affirmed  
2 or adopted by the special judicial panel:

3       “(A) For a legislatively adopted reapportionment plan, the Supreme Court must affirm  
4 the plan if the plan complies with all applicable statutes and the United States and Oregon  
5 Constitutions. If the court finds that the legislatively adopted reapportionment plan does not  
6 comply with applicable statutes or the United States or Oregon Constitution, the court may  
7 create its own reapportionment plan. A reapportionment plan adopted by the Supreme Court  
8 under this subparagraph must comply with all applicable statutes and the United States and  
9 Oregon Constitutions.

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

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

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

28       “(a) The Supreme Court shall decide whether to approve the legislatively adopted reap-  
29 portionment plan without any changes by January 3, 2022.

30       “(b) If the Supreme Court determines that the legislatively adopted reapportionment plan  
31 must be amended or substituted, by January 3, 2022, the court shall direct the special judicial  
32 panel to make such changes.

33       “(c) The special judicial panel shall make any required changes and submit a revised re-  
34 apportionment plan to the Supreme Court by January 24, 2022.

35       “(d) The Supreme Court shall review the reapportionment plan revised by the special ju-  
36 dicial panel and approve a final reapportionment plan by February 7, 2022.

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

39       “(a) The Supreme Court shall decide whether to approve a legislatively adopted reappor-  
40 tionment plan or a reapportionment plan that was unanimously adopted by the special judi-  
41 cial panel without any changes by January 3, 2022.

42       “(b) The Supreme Court shall decide whether to approve a less than unanimous decision  
43 of the special judicial panel without any changes by January 3, 2022.

44       “(c) If the Supreme Court determines that changes are required for a reapportionment  
45 plan approved by the special judicial panel, by January 3, 2022, the Supreme Court shall direct

1 the panel to make such changes.

2 “(d) The special judicial panel shall make any required changes and submit a revised re-  
3 apportionment plan to the Supreme Court by January 24, 2022.

4 “(e) The Supreme Court shall review the reapportionment plan revised by the special ju-  
5 dicial panel and approve a final reapportionment plan by February 7, 2022.

6 “(14) A final reapportionment plan resulting from a petition filed under subsection (2) or  
7 (4) of this section becomes operative on the later of:

8 “(a) January 1, 2022; or

9 “(b) The day after the reapportionment plan is approved and becomes final under this  
10 section.

11 “(15) As used in this section, ‘elector’ and ‘legislatively adopted reapportionment plan’  
12 have the meanings given those terms in ORS 188.125.”.

13 In line 29, delete “26” and insert “13”.

14 In line 35, delete “25” and insert “12”.

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