

**TESTIMONY ON SB 259 A
CONGRESSIONAL REDISTRICTING TIMELINES
BEFORE THE HOUSE COMMITTEE ON RULES
JUNE 1, 2021**

**PRESENTED BY: AJA HOLLAND, ASSISTANT GENERAL COUNSEL
OREGON JUDICIAL DEPARTMENT**

Chair Smith Warner, Vice Chairs Drazan and Holvey, and Members of the Committee:

I am Aja Holland, Assistant General Counsel for the Oregon Judicial Department. The Department does not have a position on the bill, but I am here to provide some additional information regarding the direct appeal provisions of SB 259-A.

SB 259-A establishes the process for an elector to file a petition in the Marion County Circuit Court to challenge a 2021 legislatively adopted reapportionment plan or, in certain circumstances, to request a 2021 reapportionment plan. If one or more petitions is filed, the bill directs the Chief Justice to appoint a special judicial panel to resolve the petition(s). The deadline to file a case-initiating petition is October 25, 2021, and the panel must decide any petition by November 24, 2021.

SB 259-A provides for direct appeal of a judicial panel decision to the Oregon Supreme Court. Any notice of appeal is due on or before November 29, 2021, and the Supreme Court's decision is due by December 27, 2021. That four-week period allocated by the bill must include time for the petitioner to file its opening brief, for the respondent to file a brief, and for the petitioner to file a reply (if allowed by the court); and then time for the Supreme Court to decide all questions raised in each appeal. Because there may be multiple petitions filed, and each appeal can raise multiple issues, the depth and breadth of work required to issue decisions could be substantial.

Briefing timelines typically are governed by the Oregon Rules of Appellate Procedure (ORAPs), a body of rules adopted pursuant to ORS 2.120 and ORS 2.560(2). Because the ORAPs do not presently include a rule addressing congressional redistricting under ORS 188.125 (the statute on which SB 259-A is based), and other generally applicable ORAPs contain processes or timelines that are not workable, we anticipate that, if SB 259-A becomes law, the Supreme Court may adopt a temporary rule setting forth briefing timelines for an appeal filed under SB 259-A.

We anticipate the temporary rule would provide the court with a minimum of 14 days to decide the case after the respondent's brief (and potentially 11 days after the reply brief, if any) is filed. We anticipate the Supreme Court will need at least that amount of time to analyze and decide the issues raised.

The following table outlines the case timeline and the potential briefing schedule, if the Court adopts a temporary rule as described above:

Event	Deadline
Notice of Appeal Due	November 29
Petitioner's Brief Due	December 6
Respondent's Brief Due	December 13
Petitioner's Reply Due (if any)	December 16
Supreme Court's Decision Due	December 27

This testimony is intended to be informational and to give you an idea of how the Supreme Court may choose to implement the very limited timelines for direct appeal in SB 259-A. Ultimately, the decision of whether to adopt a temporary rule and the contents of that rule lies with the Supreme Court.

Thank you for taking the time to hear my testimony. I am happy to answer any questions.