



# **City Club *of* Portland**

Good citizens are the riches of a city

## **REDISTRICTING IN OREGON**

**Comprehensive Study Charge  
December 2010**

**Approved for Study  
by the Board of Governors on December 13, 2010**

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## BACKGROUND

In January 2009, the City Club of Portland officially endorsed the recommendations contained in [\*Bridging the Partisan Divide: A City Club Report on Reducing Excessive Partisanship in the Oregon Political System\*](#). Two of the recommendations in that report sought to advance the establishment of a nonpartisan redistricting commission for the state of Oregon:

1. "The Legislature should refer to voters a constitutional amendment establishing a nonpartisan redistricting commission."
2. "City Club of Portland should establish a research committee to prepare a detailed recommendation for a nonpartisan redistricting commission."

In 2010, the Partisanship Advocacy Committee, organized to further the recommendations in the report, officially requested that City Club act upon the second recommendation above. The work proposed under this study charge would complement the work of the City Club Partisanship Advocacy Committee in that it would result in a detailed redistricting commission proposal.

Oregon's Constitution requires the Legislature to redraw state legislative districts in the first session after each United States Census. Therefore, the state will undertake redistricting in early 2011, based upon the census data collected in 2010. The Legislature must propose its redistricting plan by July 1, 2011. The Constitution also gives the Oregon Supreme Court original jurisdiction to review redistricting enacted by the Legislature. If the Legislature fails to complete the task in a timely manner, if the governor vetoes the plan, or if the Supreme Court rejects the proposed redistricting plan, the secretary of state has 45 days to propose new districts for review by the Supreme Court. The redistricting plan must be finalized by the end of 2011.

While the Oregon Constitution establishes a process for state legislative redistricting, it does not include a provision regarding congressional redistricting. As a practical matter, the Oregon Legislature attempts that redistricting each time there is a census. The failure of the Legislature to develop a plan or to propose a plan acceptable to the governor, however, does not trigger the same processes triggered for state legislative redistricting. When there is no redistricting plan in time for the potential member of Congress to be appointed or elected before the next session, some interested party files a lawsuit in state court challenging the proposed redistricting plan (or the absence thereof), and the issue is decided in the court with ultimate decision by the Supreme Court.

ORS 188.010 sets out standards for redistricting and prohibits drawing districts to favor a political party, incumbent legislator, or other person, or to dilute the voting strength of minorities. Oregon Administrative Rules Chapter 165, Division 8 sets out the rules for implementing ORS 188.010. Although redistricting is supposed to avoid diluting the strength of minorities, the Oregon Legislature does not currently reflect the state's population. While eighty percent of Oregon's population is white, not of Hispanic or Latino heritage, 97 percent of the 2008 legislators were white, not of Hispanic or Latino heritage. The very nature of partisan redistricting allows for the perception of unfairness to whatever party or interest group is out of power if the districts of that group's representatives are adversely affected by redistricting efforts, eroding confidence in the electoral process even if the criticisms are unfounded.

The issue of redistricting is particularly timely given the parallels between the political makeup of the state's legislative and executive branches in 2001 and 2011. In the last redistricting effort in 2001, the Legislature was closely divided, while Democrats John Kitzhaber and Bill Bradbury served, respectively, as governor and secretary of state. The failure of the Legislature to submit a redistricting plan prior to the end of the legislative session resulted in Secretary of State Bradbury producing the final redistricting plan. In 2011, Democrats and Republicans will be evenly divided in the House of Representatives, and Democrats will hold sixteen seats to Republicans' fourteen in the Senate; John Kitzhaber will again serve as governor, while Kate Brown, a Democrat will serve as secretary of state. Given the parallels, redistricting may once again fall to a Democratic secretary of state.

## ISSUES AND CHALLENGES

- Not since 1911 has the Oregon Legislature produced a redistricting plan that has taken effect. For example, in 1961 and 1981, legal challenges tied up the plan, as is possible in 2011, with the Oregon legislature closely divided. In 1971 and 1991, the Legislature failed to complete its redistricting plan on time because the two legislative houses were controlled by different parties; the Oregon Legislature in 2011 will be split in nearly the same way.
- So long as the redistricting process is controlled by partisan elected officials, many voters will assume that the political party in power is taking advantage of the redistricting process to gerrymander districts to assure that incumbents of that party are reelected and to make it more difficult for representatives of the minority party to be elected or reelected.
- Thirteen states have established nonpartisan redistricting commissions, and eight other states have provisions for backup commissions or advisory commissions. The research committee will have a variety of models to study, and the committee should consider which models might be successful in Oregon.
- There has been interest in amending the redistricting process. A ballot measure was proposed for the 2010 ballot to change Oregon's process to one based on a committee of retired judges. The initiative did not qualify for the ballot, although it came close, and it seems likely that proponents of similar or alternative measures will try again in coming years.
- City Club's Partisanship Advocacy Committee proposed a study of nonpartisan redistricting. A number of redistricting commissions exist in other states; some, but not all, are nonpartisan. Some national citizen groups have proposed informal processes like "shadow redistricting commissions" to provide citizen input and oversight of redistricting efforts in order to assure that redistricting accomplishes the goals of the citizenry rather than those of the party in power. These informal processes do not require changes in the law since they function outside the formal process. The research committee should consider such options as these in addition to changes in the law. The committee should consider all of these models and recommend which would work best in Oregon.
- The research committee will need to examine whether the criteria set out in ORS 188.010 should also be changed in order to increase the chances that the Legislature fairly reflects the

makeup of Oregon's population, and whether in fact redistricting criteria can improve compliance with federal requirements.

- The work of the committee will take place as the 2011 redistricting process occurs. The committee should discuss how the actual process compares to the proposals which the committee makes.

## STUDY OBJECTIVES

The research committee will be asked to prepare a study report addressing the following issues:

1. Describe the historical means by which Oregon has established districts after each census, and the problems which Oregon has faced in concluding redistricting efforts, including:
  - An analysis of the legal requirements of redistricting in Oregon;
  - A discussion of how redistricting has been accomplished in Oregon historically;
  - An analysis of what the goals of the present system are and whether and how the present system is geared to accomplishing those goals;
  - An analysis of what problems have arisen in redistricting and whether and how those problems may be affected by changes in the Constitutional or statutory processes for redistricting;
  - An examination of the 2011 redistricting process.
2. Describe redistricting models in other states and evaluate whether those efforts have been effective or not, including:
  - An analysis of what the goals of redistricting should be;
  - An analysis of what "effective" means;
  - A discussion of whether the goals of redistricting efforts in other states are the same as the research committee decides should guide Oregon's commission;
  - A description of what problems other states have confronted, whether Oregon is likely to encounter the same problems, and if so, how Oregon's commission should be structured to avoid or mitigate such problems.
3. Given that City Club has recommended the establishment of a redistricting commission, describe how such a commission should be organized, including:
  - Whether the committee actually agrees with the recommendation to establish a redistricting commission;
  - Whether such a commission should be nonpartisan or should follow a different model;
  - The size and make up of such a commission;
  - How the commission should be formed, whether by election or appointment, and if by appointment, what kinds of restrictions should be placed on such appointment;
  - What administrative, legislative or judicial review should be allowed, if any, for appointment to such a commission;
  - Whether members should be prohibited from engaging in partisan political activities before, during, and/or after their terms on the commission;

- How to assure that such a commission fairly represents all the communities in Oregon, taking into account not only race and ethnicity, but also the various cultural divisions which exist in rural and urban Oregon;
  - What budget such a commission should expect, and whether the commission members should be volunteers or paid members.
4. Describe what provisions should be made for review of redistricting plans proposed by this commission, if any, considering the kinds of reviews that are available under the present Oregon process and the processes used by states which have redistricting commissions.

## **SCOPE**

This research study will focus on Oregon's process for redistricting although the committee will be asked to examine the processes for redistricting used by other states. The study should provide analysis of what has worked historically in Oregon and what has not and how a redistricting commission could improve the process. The study should provide specific recommendations for what kind of redistricting commission Oregon should adopt. The committee should keep its focus on proposals for redistricting in Oregon and should not propose to change federal voting rights requirements.

## **TENTATIVE REPORT OUTLINE**

### Executive Summary

- I. Introduction and charge
  - a. Background and legal requirements of redistricting
  - b. History of redistricting in Oregon
  - c. Redistricting processes used in other states
  - d. Committee charge and goals of research
- II. Goals for redistricting
  - a. Historical
  - b. Proposed (in the event changes have been proposed or passed)
  - c. Committee's proposals for the goals of redistricting
- III. Evaluation of how current and proposed plans meet or do not meet goals
- IV. Conclusions
- V. Recommendations

## **TIME FRAME**

Comprehensive studies should take 13 months from the time of the first meeting of the Study Committee to the vote of the membership on the report. The Research Board must approve any exceptions to this time frame.