



Office of Budget and Management

John R. Kasich
Governor

Timothy S. Keen
Director

October 3, 2012

The Honorable Jon Husted
Ohio Secretary of State
180 E. Broad Street, 16th Floor
Columbus, OH 43215



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Dear Secretary Husted:

Your office requested the Office of Budget and Management (OBM) to analyze the expenditure impact of proposed constitutional amendments pursuant to section 3519.04 of the Ohio Revised Code. The constitutional proposals have been placed on the November 2012 ballot as State Issue 2. Issue 2 would establish a new process to draw congressional districts and state legislative districts. This letter responds to that request for an expenditure analysis and includes a detailed attachment.

My office estimates that State Issue 2, to amend the Ohio constitution to create a new process to draw congressional districts and state legislative districts, would cost the state between \$11.0 million and \$15.2 million over the next eight years. This cost includes the establishment of the redistricting commission and the new district redrawing process required solely by the amendment. Between \$9.0 million and \$12.9 million of these costs will be incurred in the first two years after the November 2012 election and the remaining amount, which is estimated to be between \$2.0 million and \$2.3 million, will be incurred in the remaining six years (approximately) until the 2020 redistricting cycle begins.

The estimates contained in this analysis do not include costs for the 2020 redistricting cycle, which is expected to cost somewhat less because the 2020 process will be done under a longer timeframe. In addition, the incremental public expense of the 2020 cycle is expected to be lower still, because new public expenses will be partially offset by the public expenses that would have occurred under the current process, which would be replaced by the constitutional amendment.

State Issue 2 includes a provision requiring the General Assembly to "make appropriations necessary to adequately fund the activities of the Commission." The interpretation of this provision may increase the amount of resources provided to carry out the duties beyond the levels assumed in this analysis. The newly created Ohio Citizens Independent Redistricting Commission would be a new entity of a type that has no precedent in Ohio. OBM has done its best to estimate the potential costs of this commission, and of the entire redistricting effort

involved, but ultimately decisions and actions of the Commission, the General Assembly, or the courts if there is a legal challenge, will determine the actual costs.

I trust that this letter and attached analysis fulfills your request and statutory requirements. Please contact me if you have any questions concerning the content of either.

Sincerely,



Timothy S. Keen
Director

Attachment

State Issue 2

Description of Proposal

State Issue 2 on the November 6, 2012 ballot is a proposed amendment to the Ohio Constitution to change the current state legislative apportionment and congressional redistricting process by creating a new process to draw these districts under the supervision of an independent redistricting commission.

Currently, the Ohio Constitution authorizes an apportionment board made up of the governor, auditor of state, secretary of state, and two legislative appointees, to establish state legislative districts every ten years. Under current law, the General Assembly passes a law establishing congressional districts. If adopted by the voters, the proposed amendment would reassign the apportionment and redistricting processes to the Ohio Citizens Independent Redistricting Commission (hereafter "the Commission").

Under the proposed amendment, the Commission would be established and would be responsible for establishing the boundaries for Ohio's state legislative and congressional districts following approval of this amendment and again following each federal decennial census.

The timeline for drawing the new districts would differ in the initial period compared to each succeeding decade. These new district boundaries are to be established and published no later than October 1 of the year prior to the year elections shall be held in the new districts. The first set of new district boundaries are to be established and published by October 1, 2013. Following the 2020 Census, the new boundaries are to be established and published no later than October 1, 2021. The Commission must provide reasonable opportunities for the public to submit proposed redistricting plans in addition to opportunities to testify before commissioners.

The Commission would be made up of twelve members. In order to adopt a redistricting plan, an affirmative vote of at least seven of the twelve Commission members is required. The selection of the Commissioners has several discrete steps. First, the Chief Justice of the Supreme Court of Ohio shall select a panel of eight judges by lottery from the courts of appeal

in Ohio. No more than four of these judges may be from the same political party. This panel of judges would be responsible for selecting forty-two potential Commission members. After input from legislative leaders narrows the applicant pool to no fewer than twenty-four members, the panel of judges shall select by lottery nine of the twelve total Commission members. The nine selected Commission members would consist of three people from the majority party, three people from the second largest political party, and three people not affiliated with either party. Those nine commissioners would select the final three commissioners (one affiliated with the majority party, one affiliated with a second largest political party, and one not affiliated with either party). As a whole, the twelve member Commission shall consist of four members from each of the top two major political parties and four members who are not affiliated with either major political party.

The Secretary of State would be responsible for providing application forms, publicizing the application process, and receiving the applications and sending them to the panel of judges. To assist with this process, the panel of judges would select an independent auditor that would assist the panel in determining the eligibility of potential members of the Commission.

Summary of Fiscal Analysis

The total cost of the Commission operations for the first complete apportionment and redistricting process including the post-redistricting phase is estimated to be between \$11.0 million and \$15.2 million. Actual costs could be outside this range. State Issue 2 includes a provision requiring the General Assembly to “make appropriations necessary to adequately fund the activities of the Commission.” This report contains estimates of the total cost and of the costs of particular activities. Ultimately, the decisions and actions of the Commission, the General Assembly, or the courts if there is a legal challenge, will determine the actual costs.

| Redistricting Cost Summary (FY 2013-2020) | | | |
|--|---------------------|---------------------|---------------------|
| Cost Element | Cost Estimate | | Time Period |
| | Low | High | |
| Staff & Commission Member Selection & Training | \$2,000,000 | \$4,000,000 | First two years |
| Personnel – Staff and Commission members | \$2,900,000 | \$2,900,000 | First two years |
| Consulting services | \$750,000 | \$1,500,000 | First two years |
| Litigation | \$3,000,000 | \$4,000,000 | First two years |
| Travel & Public Outreach | \$275,000 | \$375,000 | First two years |
| Equipment and Office Space | \$50,000 | \$100,000 | First two years |
| Post-Redistricting Phase - Staff & Litigation | \$2,000,000 | \$2,350,000 | FY 2015-2020 |
| Total Costs | \$10,975,000 | \$15,225,000 | FY 2013-2020 |

The new process would entail costs to the Secretary of State in publicizing and processing applications, and costs to the courts of appeals whose judges are chosen to serve in selecting the Commission members. Costs to the Secretary of State are included in the selection and training and public outreach categories in the table below. Costs in the report are not

broken down by agency. The 2020 redistricting cycle is expected to cost a somewhat lower amount than the first redistricting cycle. This may seem counterintuitive because prices of labor and other items purchased by the Commission can be expected to rise in the intervening years. However, OBM has built in some additional cost to two elements of the first redistricting effort, namely member selection and consulting services, because the timeline for both processes will be shorter than in the 2020 cycle. This point is discussed in more detail in the following sections.

In addition, the incremental public expense is expected to be lower in the 2020 cycle, because new public expenses will be partially offset by public expenses that would have occurred under the current process. In the 2020 cycle, there would be only one redistricting process, the newly created one, rather than two redistricting processes, which would be the case this time if the amendment passes.

Components of the Fiscal Analysis

Estimation Methodology

OBM used three sources to estimate the costs of the new commission. First, in 2005, OBM prepared a fiscal analysis of Issue 4, which was a redistricting commission proposal on the ballot in November of 2005. That proposed amendment mandated the creation of a five member independent redistricting commission. OBM was able to use updated estimates of certain costs from that report, where applicable. Second, since 2005, there have been states such as Arizona and California that have created redistricting commissions similar to the one proposed by Issue 2. OBM has been able to acquire information on the actual expenses of the California commission – which was approved in 2008 and which has drawn maps to be used in the 2012 elections – and use them as the basis for estimating costs of activities such as commission member selection and litigation. Third and finally, OBM has used information on costs from Ohio's current redistricting process to estimate costs of certain commission activities.

To determine the fiscal impact of the amendment, OBM has estimated the direct costs.¹ These direct costs include the costs of salaries for members and staff, litigation, personnel selection and training, office space, equipment, and other operational expenditures such as travel, court reporting, and transcription services. Due to the cyclical nature of redistricting, the costs will depend on the year and stage of the redistricting cycle. We have attempted to differentiate the start-up and redistricting costs from costs incurred in post-redistricting years. Start-up and redistricting costs include all costs between November 2012 and October 2014. Post-redistricting costs include the costs during remaining years until the next redistricting process begins with the 2020 Census.

¹ OBM did not try to estimate indirect costs, such as costs to the courts that are incurred by having the eight appeals court judges taken from their usual duties and given the task of selecting Commission members. This new responsibility could require the courts to use additional resources to fulfill their responsibilities. Similarly, OBM has not estimated any costs to state agencies that may result from the general authority granted under the amendments to the Commission to "use the services of existing state employees in order to fulfill the Commission's responsibilities."

The language for the amendment allows a very brief timeline for plans to be completed after the appointment of Commission members. The amendment is likely to present a significant management challenge due to the timeline. It is likely that consultants will charge a premium and more staff will be needed than under the current process, in order to complete the objectives in the time allotted.²

Commission and Redistricting Costs

Direct Personnel Costs

Personnel costs will make up a significant portion of the total costs of the Commission. There will be twelve commission members along with support staff. The initiative states that “the Commission is authorized to hire necessary staff, experts, and legal counsel and use the services of existing state employees in order to fulfill the Commission’s responsibilities.” The costs of member and staff salary, office space, and equipment are estimated using assumptions from the Department of Administrative Services (DAS) Office of Properties and Facilities and from the Human Resources Division. At an estimated labor usage level of twenty hours per week in the first year (running up to October 1, 2013, when the finished maps are due) and only five hours per week in the second year, the cost of twelve Commission members is estimated to be approximately \$1,200,000. The cost of an Executive Director and additional staff members for two years is estimated at an additional \$1,700,000, for total personnel costs of approximately \$2,900,000 in the first two years. All personnel costs include an assumption of an additional thirty percent on top of wages dedicated to fringe benefits. OBM’s assumptions about the level of commission staffing are shown in the table below.

² In the 2020 cycle, the redistricting process would start on or before January 1, 2020 (with the selection of the eight appeals court judges) and end by October 1 of 2021. The process could thus take 21 months to complete. In the current cycle, the process would start on November 7, 2012 with the selection of the appeals court judges and would have to conclude by October 1, 2013, leaving slightly less than 11 months from start to finish.

| STAFF & COMMISSIONER TITLES | QUANTITY |
|----------------------------------|----------|
| Executive Director 1 | 1 |
| Administrative Professional 3 | 1 |
| Administrative Professional 2 | 1 |
| Attorney 2 | 1 |
| Attorney 6 (Chief Legal Counsel) | 1 |
| Fiscal Officer 4 | 1 |
| Information Technologist 2 | 1 |
| Human Capital Management Analyst | 1 |
| Board/Commission Member 3 | 12 |
| Board/Commission Secretary 2 | 1 |
| Office Manager | 1 |
| Data Entry Operator 2 | 3 |
| TOTAL | 25 |

Member Selection and Training Costs

Selection and training costs for staff and commission members must also be considered. These costs begin with the publicizing of the commission member positions and the processing of applications by the Secretary of State. Once applications are received, the amendment states that the panel of judges must appoint an independent auditor to help in determining the eligibility of applicants. This determination will include extensive background checking to determine whether the applicant or members of the applicant's immediate family have engaged in disqualifying activities, such as being a paid lobbyist, a campaign consultant, or a political party employee. It must also be determined whether the applicant has voted, made campaign contributions in excess of certain limits, etc. The exact time that the independent auditor may have to determine the eligibility of all applicants is unknown, since for this first cycle, after the selection of the panel of judges the amendment states that "the remaining time frames...shall be adjusted by this panel of judges." It is likely, though, that this time frame will be short, given that the panel of judges will need time to narrow the pool of applicants to forty-two potential members.³

³ Even in the 2020 cycle, this timeframe may be as short as three months, from May 1 to August 1.

Given the short timeline and the potentially large number of applications, this eligibility checking could be a costly endeavor. Based on the actual costs experienced in California for this process, and the short timeline, OBM estimates that the cost for staff and commission member selection and training is between \$2.0 million and 4.0 million.

Equipment and Office Space Costs

The constitutional amendment authorizes the procurement of equipment and office space for the performance of commission duties. Cost estimates for this report are based on estimates in OBM's 2005 report referencing DAS costs. The total cost for office space, equipment, furniture, wiring, and technology is approximately \$100,000. This would also include utility costs paid by building management. There are options the commission could choose to explore that may reduce the overall expense of operational space and materials such as using state salvage equipment or borrowing or renting space from another agency. We estimate that this could potentially reduce the office and equipment cost to only \$50,000.

Consulting Costs

Consulting is another significant expense in the redistricting process. Consulting includes costs related to information technology, mapping and research, planning, and auditing. Due to the technical nature of reapportionment and redistricting, OBM assumes consultants will provide a significant portion of the analysis and technical expertise for the project. Consulting costs encompass building the database to include both election information for each precinct in Ohio and demographic information from census data. Consulting costs would also cover the expense of a project team of unknown size. Based on prior redistricting efforts in Ohio and elsewhere, such a project team might consist of a lead consultant, demographer, political scientist, and clerical/ data entry staff.

For the current redistricting process, the Ohio Redistricting Task Force has a large contract for mapping and research with Cleveland State University. Similar contracting for this new process may be necessary. A survey of firms that specialize in election consulting suggested that a typical timeline would require at least one year for database development and

one year for plan comparisons. The process for the proposed amendment, however, requires a more compact timeframe, which may lead to higher costs than in the ordinary case.

If costs are about the same as in the ordinary case, then total consulting costs are estimated to be \$750,000, with an additional \$500,000 as provided in the past for county boards of elections to comply with the requirement of using Census Bureau geography to determine precinct boundaries. If instead there is a premium for doing the work faster than normally required, OBM estimates that the base consulting costs could be increased from \$750,000 to \$1,000,000. There is, however, a third possibility. If the Commission is able to use the existing database compiled from the 2010 Census for drawing its maps, then the costs could be significantly lower. OBM assumes that, in that case, base consulting costs could be reduced from \$750,000 to \$250,000.

Litigation Costs

Litigation is estimated to be the expense category with the highest total costs. It is expected that there will be contracting with law firms and payments to the Attorney General's Office for these litigation expenses. Significant litigation is expected in any redistricting process, but the extent of the litigation is very unpredictable. For the 1990 and 2000 redistricting cycles, litigation followed and lasted for several years. Likewise, the current 2010 redistricting exercise is currently undergoing litigation. Litigation under the amendment is estimated to be between \$4.25 million and \$5.25 million, with the cost being approximately \$1.5 million to \$2.0 million for each of the first two years and a total of an additional \$1.25 million after that. Current litigation expenses in Ohio as well as litigation expenses in California under the new commission arrangement were used as references for estimating litigation expenses under this amendment.

Travel and Public Outreach Costs

Finally, OBM expects that there would be Commission costs related to travel and receiving public input. Such travel for meetings held around Ohio to gather public input is not required by the amendment, but this analysis assumes that the Commission will generally follow the California model in this respect. Costs would include mileage reimbursement, lodging, hearing rooms, meeting costs, testimony, advertising, and soliciting voter input.

Utilizing OBM's 2005 report, court reporting services are estimated to cost about \$50,000. Estimates of a number of other expenses are based on both current Ohio redistricting and the California Citizens Redistricting Commission costs. These remaining costs are:

- Videographer expenses, \$75,000 (\$50,000 in year one and \$25,000 in year two);
- Public outreach and advertising costs, \$100,000 (\$65,000 in year one and \$35,000 in year two);
- Mileage reimbursement, \$50,000 to \$100,000 for two years;
- Hearing room and lodging expenses, \$50,000 to \$100,000 for two years.

Post-Redistricting Costs

There are also expected to be costs in the post-redistricting phase occurring in fiscal years 2015-2020. Since there will be much less staff, very little consulting, and relatively small litigation costs during these years, the costs in these years should be much less than in redistricting years. However, this may not be the case if litigation requires the commission to reconvene and redraw district boundaries.

Based on the California experience, OBM expects that there will likely be a small scaled-back agency consisting of some remaining staff members conducting only essential tasks. California actually has only one post-redistricting staff member for its commission. The essential tasks include defending action of final maps, maintaining the integrity and accessibility of records, responding to public records requests, maintaining open meetings, making necessary decisions relating to on-going issues, contracting out services as needed, and miscellaneous logistics expenses.

If the Ohio commission were able to operate with only one staff member in the post-redistricting phase, then the cost to the state to employ this person would be approximately \$105,000 per year for about six additional years until the new redistricting commission is established for the 2020 Census redistricting process. As in earlier estimates in this report, personnel costs include an assumption of an additional thirty percent dedicated to fringe benefits. Another staff member may also be needed during this period. If an experienced

administrative staff member is carried over from the redistricting phase, this will cause post-redistricting costs to be approximately \$57,000 more for each of these six additional years.

OBM also assumes that, in post-redistricting years, the Commission will pay approximately \$5,000 a year to rent a small amount of space from another agency. This estimate is based on current actual expenses of the California commission. Miscellaneous operating expenses are estimated to come out to about \$19,000 per year in post-redistricting years. This estimate is based on the current budget of the California commission currently in the post-redistricting phase. Finally, there is a contingency expense of \$1,250,000 for litigation in the post-redistricting phase. This is slightly less than the amount the California commission has been appropriated for the same purpose. The six year total cost of the post-redistricting phase is thus estimated to be between \$2.0 million to \$2.3 million which contributes to the grand total of between \$11.0 million and 15.2 million mentioned above.

Future Redistricting Cycle

The next redistricting cycle will be initiated by the new 2020 Census. Those redistricting costs are expected to be somewhat lower than the start-up and redistricting costs from November 2012 through October 2014, although some of the savings from having a longer timeline will be offset by inflation in the intervening years. The new districts drawn from that redistricting cycle will go into effect just before the November 2022 election and will stand for ten years. The incremental cost impact of the 2020 redistricting cycle under the proposed redistricting commission should be less than the overall cost of the new Commission in the 2010 redistricting cycle. This is because the costs in the 2020 redistricting cycle will be partially offset by costs of the current redistricting process that will no longer be necessary, which is not the case in the current redistricting cycle. In the current redistricting cycle, there would be costs from two separate redistricting efforts, both the current effort that has already taken place and the one proposed under the amendment.