

ORIGINAL

In the
Supreme Court of Ohio

STATE OF OHIO, ex rel. OHIOANS FOR
FAIR DISTRICTS, et al.,

Relators,

v.

JON HUSTED, SECRETARY OF STATE, et
al.,

Respondent.

: Case No. 2011-1646
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: Original Action in Mandamus
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RESPONDENT SECRETARY OF STATE JON HUSTED'S MOTION TO EXPEDITE

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RESPONDENT SECRETARY OF STATE JON HUSTED'S MOTION TO EXPEDITE

Pursuant to S. Ct. Prac. R. 14.4, the Secretary of State respectfully moves this Court to expedite its consideration of this original mandamus action. At stake is the proper administration of Ohio's 2012 congressional election.

A. Relators ask this Court to delay the effective date of H.B. 319.

On September 26, 2011, Substitute House Bill 319 (H.B. 319) was signed into law by the Governor. H.B. 319 reapportions the State's territory from eighteen congressional districts into sixteen congressional districts. The law further directs the county boards of election to notify every registered voter in Ohio of their new congressional district and voting precinct. Finally, H.B. 319 appropriates \$2.75 million for election officials to remap and reprecinct Ohio's eighty-eight counties and to reprogram the State's voting systems and voting machines.

In Sections 6 and 7 of H.B. 319, the General Assembly specified that H.B. 319 should go into immediate effect.

The General Assembly undertook these actions in response to the 2010 Census, which reported a reduction in Ohio's share of the national population (and, consequently, prompted a reduction in the number of seats allotted to Ohio's congressional delegation in the U.S. House of Representatives).

On September 28, 2011, Relators filed an original action in this Court, seeking a writ of mandamus against the Secretary of State. They wish to exercise a right of referendum, as described in Sections 1c and 1d, Article II of the Ohio Constitution, on the sections in H.B. 319 that reapportion Ohio's congressional districts. See Compl. (Sept. 28, 2011), at 4. Relators ask this Court to compel the Secretary to specify, in both his paper and electronic journals, that H.B. 319 is "subject to the constitutional right of referendum" and that it "shall not be effective for

ninety (90) days.” *Id.* at 7. They further seek “an extension of the ninety (90) day period in which to submit the referendum petition.” *Id.*

B. Candidacy declarations for the 2012 congressional elections are due on December 7, 2011.

By command of statute, the Secretary of State must administer a primary election on March 6, 2012. See R.C. 3513.01 (primary elections shall be conducted “on the first Tuesday after the first Monday in March of 2000 and every fourth year thereafter”). The purpose of this election is to “nominat[e] persons as candidates of political parties for election to offices to be voted for at the succeeding general election.” *Id.* This includes candidates for the U.S. House of Representatives.

To qualify for the ballot, congressional candidates must file their declarations of candidacy with signatures from the requisite number of qualified electors by December 7, 2011. See R.C. 3513.05. The Secretary of State must then certify the forms of the official ballots to be used at the primary election by December 27, 2011. *Id.* The Secretary and the county boards of election must also certify the names of the candidates to be printed on those ballots by December 27, 2011. *Id.*

That certification then triggers the process by which the ballot is finalized and printed. Under state law, absentee ballots for the 2012 primary must be ready for uniformed and overseas voters by January 21, 2012, and for all other voters by January 31, 2012. See R.C. 3509.01.

In short, Ohio’s congressional maps need to be fixed *before December 7, 2011*. Candidates for the U.S. House of Representatives must know the boundaries of their congressional district so they can collect the required number of signatures from electors in their district. And election officials—the Secretary of State and the county election boards—need this information to

process those candidate petitions and certify the primary election ballot before the statutory deadlines.

C. Expedited consideration of Relators' complaint is necessary to ensure proper administration of the 2012 congressional election.

If this Court grants Relators' requested relief—a declaration that H.B. 319 is subject to referendum and, thus, not immediately effective—the State of Ohio could not simply revert to Ohio's old congressional boundaries. Those old boundaries presume an eighteen-member congressional delegation; as a matter of law, the 2010 Census means that Ohio's delegation must be reduced to sixteen members.

The ensuing vacuum would seriously impair the Secretary of State's ability to administer a congressional election in 2012. Absent fixed boundaries, the Secretary and county election officials cannot process petitions from congressional candidates, certify the primary election ballots with respect to these races, or inform voters of their new congressional district. The candidates themselves would not even know where to file—their old congressional district, their new congressional district under H.B. 319, or some other district.

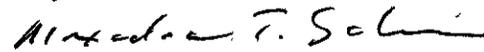
To ensure expeditious resolution of these issues and a full and fair election for Ohio, the Secretary of State requests that this Court expedite its consideration of Relators' mandamus complaint. A quick decision would provide prompt resolution to all affected parties—the candidates, the Secretary of State's Office, county election officials, and the people of Ohio.

For these reasons, the Secretary of State requests expedited consideration of Relators' mandamus complaint.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Motion was served by U.S. Mail this 6th day of

October, 2011, upon the following counsel:

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