



## OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

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### MINUTES OF THE LEGISLATIVE BRANCH AND EXECUTIVE BRANCH COMMITTEE

FOR THE MEETING HELD  
THURSDAY, MAY 12, 2016

#### **Call to Order:**

Chair Fred Mills called the meeting of the Legislative Branch and Executive Branch Committee to order at 3:04 p.m.

#### **Members Present:**

A quorum was present with Chair Mills, Vice-chair Brooks, and committee members Asher, Coley, Curtin, McColley, Taft, Talley, and Tavares in attendance.

#### **Approval of Minutes:**

The minutes of the April 14, 2016 meeting of the committee were approved.

#### **Report and Recommendation:**

Chair Mills provided a status update on a report and recommendation for a constitutional provision relating to Congressional redistricting. He said a couple of working group sessions have occurred in the last month, and that he thought the committee was making progress on a consensus opinion; however, there is “no consensus as of today.” He noted that the committee was sent a proposal by Senator Charleta Tavares in the form of a revised joint resolution that she would like to discuss. Observing that there has been a good faith effort on the part of all parties, including both the subcommittee and the working group, he called on Sen. Tavares to discuss her proposal.

Sen. Tavares agreed with Chair Mills, describing that the subcommittee had worked with individuals representing good government groups in trying to address differences of opinion about what the proposal should look like. She said the proposal designated “LSC 131 157-2” from the Legislative Service Commission (LSC) is fundamentally what was accepted by voters as Issue 1, involving legislative redistricting, in November 2015. She said the proposal has evolved due to the discussions that have occurred.

She noted that one of the issues the two sides have not agreed on is the number of splits of governmental units. She said some believe the fewer the splits, the less likely for there to be gerrymandering. She said the goal was to get as few splits as possible to ensure that communities that were similar would be maintained as much as possible. But, she said, “we are at an impasse at this point in time,” although it is “not for a lack of trying.” She said there were proposals from individuals on the subcommittee as well as from interested parties “who tried to work with us to ensure that we had a fair representational plan.”

Chair Mills then recognized Richard Gunther, professor emeritus of political science at the Ohio State University, who provided remarks about the status of negotiations.

Prof. Gunther said he strongly supported LSC 131 0157, but recommended that the committee consider two amendments being proposed in LSC 131 0157-2 in an effort to close the gap and move to a bipartisan consensus.

He said LSC 131 0157-2 eliminates technical flaws and clarifies and simplifies the language and structure of the proposal.<sup>1</sup> He noted two key amendments that were proposed by Sen. Tavares in February 2016 had been removed, “representing significant concessions in the bargaining process.” He said one amendment would have protected from splits counties with populations greater than 30 percent of a ratio of representation, while the other would have counted as splits the separation of non-contiguous township fragments into different districts.

He noted that, while no full agreement was reached within the working group, consensus appeared to have been established concerning some key issues, and the areas of disagreement were effectively reduced to three. He said the first issue is that of non-contiguous township fragments, which he said LSC 131 0157-2 addresses and resolves.

Identifying a second area of disagreement as “easily solvable,” Prof. Gunther said that issue involves the protection from splits of counties with populations between 50 percent and 100 percent of a ratio of representation. Noting that Jeff Jacobson had objected to this classification as an impediment to map drawing, particularly in Northeast Ohio, Prof. Gunther said this problem could be remedied by limiting this protection to counties also including a city whose population is greater than 15 percent of a ratio of representation. He proposed an amendment that would state:

Each county containing a population of more than fifty percent, but less than one hundred percent of one congressional ratio of representation which also contains a city of more than 15 percent of one congressional ratio of representation shall be included in only one congressional district.

Prof. Gunther identified a third area of disagreement as involving the number of allowable splits. He said, from a good government perspective, that the number of splits should be kept to a minimum. Asserting that the splitting of counties and cities violates the principle of community representation, Prof. Gunther said the larger the number of splits, the more opportunities to

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<sup>1</sup> A copy of the draft of LSC 131 015 -2 is provided as Attachment A.

divide communities in the pursuit of favoring one party over another. He said, while sufficient flexibility must be given to map-drawers, keeping the permissible number of splits low is the best protection against gerrymandering. He said the current draft allows for a maximum of one county split and one municipal or township split per Congressional district. He commented that, other things being equal, using that model would mean at least 72 of Ohio counties would remain whole. He further noted that viable maps can be drawn which allow fewer splits than the 16 that would be allowed under the current proposal, using as an example two previous statewide map-drawing competitions, in which ordinary citizens submitted 19 maps that included 13 or fewer splits; and eight maps that included nine or fewer splits.

Prof. Gunther noted that the working group was divided over what should be considered the maximum number of allowable splits, with preferences ranging between maintaining a strict limit of no more than one county split and one municipal/township split per district (a maximum total of 16 of each type statewide), and maintaining a limit of 1.5 county splits and 1.75 municipal/township splits per district. He said he regards the latter preference as much too high. Nevertheless, he said the key to reaching a bipartisan consensus in support of redistricting reform lies in reaching some kind of compromise between those two extremes, urging the committee to explore this option.

Senator Bill Coley asked about the map-drawing competition, wondering how many competitors met the “one man one vote” objective. Prof. Gunther said all maps had to include at least one majority and one minority district. He added that the United States Supreme Court recently ruled in *Tennant v. Jefferson Cty. Comm.*, 567 U.S. \_\_\_, 133 S.Ct. 3, 5 (2012), that a deviation of 0.79 is perfectly legitimate if the interest is to pursue other goals in keeping communities intact.

Sen. Coley expressed that no map matched what could be regarded as a perfect split. Speaking from the audience, Catherine Turcer, policy analyst for Common Cause Ohio, said that one map actually satisfied that goal as well as meeting the majority/minority split requirement.

Chair Mills then recognized Jeff Jacobson, a member of the Commission who participated in the working group consideration of the issue.

Mr. Jacobson testified that, in addition to being a current member of the Ohio Constitutional Modernization Commission, his experience includes 16 years as a member of the Ohio House and Senate. He added that, in the 130<sup>th</sup> General Assembly, he was the primary Republican negotiator for H.J.R. 12, a bipartisan joint resolution for legislative redistricting reform that culminated in the passage of Issue 1 on the November 2015 ballot.

He explained the reason that Issue 1 only dealt with state legislative redistricting, rather than Congressional redistricting, was that Republican negotiators were concerned that including Congress would sink chances of getting legislative redistricting through the General Assembly and approved by the voters. He said he had promised at the time that he would be back to address bipartisan reform of Congressional districts, and has been working with the committee to consider options for Congressional redistricting reform.

Mr. Jacobson said he is pleased to see that proposals under consideration retain the Issue 1 framework. However, he said there are two serious deviations from the bipartisan spirit of Issue

1. He noted he had raised his concerns in emails to members of the committee, observing that Chair Mills had formed a subcommittee to work through the areas of disagreement.

He said Republicans joined those discussions in good faith and attended several “working group” meetings with Democrats and Prof. Gunther, who was representing the “good government” groups. He said the last working group meeting was held four weeks ago, and Republicans had been awaiting a reaction from the other side to compromises that had been put forward at the end of that meeting. He said no response to the last proposal was forthcoming until yesterday, when an email was sent with a new proposal.

Mr. Jacobson explained there were several versions that had been worked on and discussed as negotiators sought a bipartisan solution; however, the latest proposal in front of the committee does not contain important elements of those prior versions, but is the same amendment negotiators started with several months ago. He said, “while Republicans offered compromise after compromise in an attempt to reach agreement, every single proposal was rejected. Not once did the negotiators from the other side give an inch – other than the one time they said, ‘we will do it your way when both sides agree, but our way when they can’t agree.’ That is not compromise, that is not bipartisanship, and that is not at all how we forged Issue 1.”

He then focused on the proposal on the table, indicating it deviates in two ways from Issue 1.

First, he said, the proposal requires that counties with populations greater than half a district cannot be split, but allows any other county to be split. According to Mr. Jacobson, the proposal creates an imbalance of power that favors heavily-Democratic urban centers at the expense of suburban and rural voters in three ways: (1) suburban and rural residents in large counties are required to be kept in the same districts with city residents who outvote them; (2) by forcing those suburban and rural voters to be included with urban centers, the proposal artificially raises the voting power of these Democratic-leaning urban centers at the expense of the rest of the state; and, (3) the proposal provides no protection whatsoever against gerrymandering for residents of smaller counties.

He explained, further, that while the six largest counties containing half of Ohio’s population have special protections, there is nothing to prevent the other half living in the remaining 82 other counties from being assigned, county by county, to districts with no regard to enhancing or even keeping together their voting power. He said, while northeast Ohio has protection, northwestern, southeastern, north central, southern, and western Ohio have no such protection.

Contrasting the proposal with the language in Issue 1, he noted Issue 1 did not give any special protection to counties. Instead, it required that the splitting of large cities be minimized, but gave freedom to line drawers to combine cities and townships to create districts, without regard to most county boundaries. He said cities and townships are the building blocks of Issue 1.

Mr. Jacobson said Republicans first proposed maintaining Issue 1’s rules, offering to reduce Issue 1’s intactness threshold for cities and townships. He added Republicans, in search of a bipartisan solution, offered a compromise that would allow most of the large counties to have some special treatment, as well as offering protection for cities on top of that county protection. He said those options were rejected without any compromise being offered.

Mr. Jacobson noted that he is not referring to the very largest counties that have populations so large that an entire district or more could be drawn from that county alone. He said both Issue 1 and this proposal retain that concept from the old 1967 constitutional amendment.

He continued that, if gerrymandering is the splitting of voting blocs into smaller pieces and combining them in ways that minimizes the impact of some votes, this proposal gerrymanders suburban residents of large counties and fails to provide any protection to small county residents. He added, while this proposal does not allow more than one of those small counties to be split per district, that measure does not prevent gerrymandering, noting “you don’t need to split a small county to gerrymander it – you only have to assign these small counties to districts where they have little impact. The gerrymandering happens because small counties can be assigned to districts however the line drawers wish.” Using a Central Ohio example, he said residents of Dublin in Franklin County would be outvoted by their neighbors in Columbus, while residents of Dublin in Union or Delaware County have no protections whatsoever. He said, if that plan is followed, half of Ohioans residing in counties that mostly favor Republicans may be gerrymandered under this proposal, while the other half residing in counties that mostly favor Democrats must be kept intact. He commented that, “if either Representative Vernon Sykes or I had insisted on anything so partisan, Issue 1 would never even have made it to the House floor.”

Moving on to the other problem he noted with the current proposal, Mr. Jacobson said the proposal allows only one smaller county and one city to be split between districts, with the exception that, if it is impossible to draw the map with only one split, then a second county/city may be split. He said that plan has two problems. First, he said, while Ohio constitutional law has allowed population deviations of 10 percent (or in limited cases under the old system 20 percent), federal courts allow only a much smaller deviation between congressional districts. He said there is no way to ensure for the next fifty years that, as a result of each decennial census, county populations will line up to allow two perfectly-sized districts to be drawn with only one county split between them. He added that, if Ohio has an odd number of districts after the next census, as most experts predict, then one of the districts will not be able to have any split county and must be formed from entire counties. He commented that making a perfect district with only whole counties and no splits is even more difficult than finding two districts that match up perfectly with one split between them. Second, he noted that if line drawers actually were to conclude that they need to make a second split, opponents will use a supercomputer to analyze millions of potential districts to find the one version that does not need a second split, and the map will be invalidated in court.

He said Issue 1 negotiators rejected “gotcha” line drawing rules that were so restrictive as to make compliance virtually impossible, explaining the reason for this was that experience with prior reapportionments had demonstrated the Ohio Supreme Court would “throw up its hands at having too many rules that could not all be followed at the same time, if at all.”

Instead, he said Issue 1 negotiators chose to adopt very specific rules that protected what was most important, and thus ensured that the rules could be followed and would be enforced. He noted, “Because our rules were specific and followable, the negotiators were able to agree to tough enforcement provisions should those rules be violated. If you can draw districts without violating the rules, and you instead choose to violate them, shame on you and there will be real consequences.” He said his concern is that the current proposal risks that the rules could not be followed and the Court would again have to decide whether to impose a punishment for a

violation that could not be avoided. He said, in an effort to avoid this problem, Republicans were willing to look for a method to minimize splitting counties and cities while still ensuring that compliant districts could always be drawn. He said the resulting numbers were high enough to ensure that Ohio map drawers would not need what he called “win-the-lottery luck” to be able to draw districts that do not violate the rules.

He cautioned there is a larger deviation from the spirit of Issue 1, which is that the proposals being considered limit flexibility and make it difficult to produce any legal map. He said Issue 1 provided a fair amount of flexibility with clear rules, allowing the two parties to negotiate to find a map that both sides believe is fair. However, he said the current proposal makes it more likely that the map will be drawn by supercomputers capable of analyzing millions of different combinations of counties, cities, townships, and splits to find the one map that is both legal and most favorable to the majority. He commented “when human beings in good faith are not capable of obeying the Ohio Constitution without the use of supercomputers, we have strayed too far from the democratic process.”

Mr. Jacobson concluded by urging the committee to adopt a proposal that simply applies Issue 1’s rules to Congressional districts.

Sen. Coley noted that, although the courts permit some variations, he has seen courts say the General Assembly did things that the General Assembly did not do. He noted that if a plan is even one person off the target number, the federal courts can strike down the plan.

Mr. Jacobson said it is “win the lottery luck to say whatever the number might be I can find exact pairs of districts and will be able to do that for the whole state.”

Ms. Brooks asked Mr. Jacobson who he is representing in the negotiations. Mr. Jacobson said he does not know how he became the Republican negotiator on Issue 1, but regarding Congressional redistricting he raised objections and concerns as a member of the Commission, and participated as an expert and colleague to Republican members of the Legislative Branch and Executive Branch Subcommittee on Congressional Redistricting.

Committee member Herb Asher asked Prof. Gunther to explain the issue regarding 16 splits versus eight pairs. Prof. Gunther said his major point was there easily can be discussion over how many splits are allowable, a key difference between the position of Democrats and Republicans. He observed this is the easiest kind of issue to resolve because doing so involves developing clear counting rules. He said his reading of that issue depends on the exact language that is used and how that is translated into drawing boundaries, and that the issue is negotiable.

Mr. Jacobson agreed, saying if Prof. Gunther is happy with that, he is happy with that. He noted “it is only when you are allowed to split one between the pair, that there is a problem.” He said the 72-county result is acceptable to him.

Chair Mills then recognized Bethany Sanders, legal counsel for the Ohio Senate Democratic Caucus, who worked with Mr. Jacobson on language and participated in the negotiations.

Ms. Sanders said the definition of what counts as a split is primarily that splits are counted based on the number of splits per district. She said if a portion of county or city is in one district and a

portion is in another district, that arrangement counts as a split. She said she agrees with Prof. Gunther's opinion regarding counties that could be split, a number she would argue is closer to eight, but that has been the position the whole time. She said part of the issue is that negotiators do not know where the votes are on the committee, and would like feedback on what kind of compromise might be acceptable.

Sen. Coley asked how Ms. Sanders is counting, wondering about cities that are in multiple counties. Referencing line 175 of LSC 131 157-2, he said the draft indicates if a municipal corporation or township has territory in more than one county, the portion in each county is considered a separate municipal corporation or township.

There being no further comments or questions, Chair Mills noted the committee was scheduled to discuss other Article II sections by way of planning its next steps but that, in the interests of time, that discussion would occur at another meeting.

Chair Mills expressed disappointment that he had not been briefed on developments and discussions of the working group, commenting that he was unaware of testimony that would be provided at the committee meeting until just before the meeting occurred. He said, in the future, Congressional redistricting negotiations would go through the subcommittee formed for this purpose, and that he would schedule a subcommittee meeting.

**Adjournment:**

There being no further business to come before the committee, the meeting was adjourned at 3:50 p.m.

**Approval:**

The minutes of the May 12, 2016 meeting of the Legislative Branch and Executive Branch Committee were approved at the July 14, 2016 meeting of the committee.

/s/ Frederick E. Mills  
Frederick E. Mills, Chair

Paula Brooks  
Paula Brooks, Vice-chair

**LSC 131 0157-2**

**131st General Assembly  
Regular Session  
2015-2016**

**J. R. No.**

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**JOINT RESOLUTION**

Proposing to amend the versions of Sections 1, 2, 3, 1  
4, 6, 8, and 9 of Article XI that are scheduled to 2  
take effect January 1, 2021; to amend, for the 3  
purpose of adopting new section numbers as 4  
indicated in parentheses, the versions of Sections 5  
3 (4), 4 (5), 5 (6), 6 (7), 7 (8), 8 (9), 9 (10), 6  
and 10 (11) of Article XI that are scheduled to 7  
take effect January 1, 2021; and to enact new 8  
Section 3 of Article XI of the Constitution of the 9  
State of Ohio to revise the redistricting process 10  
for congressional districts. 11

Be it resolved by the General Assembly of the State of Ohio, 12  
three-fifths of the members elected to each house concurring 13  
herein, that there shall be submitted to the electors of the 14  
state, in the manner prescribed by law at the general election to 15  
be held on November 8, 2016, a proposal to amend the versions of 16  
Sections 1, 2, 3, 4, 6, 8, and 9 of Article XI that are scheduled 17  
to take effect January 1, 2021; to amend, for the purpose of 18  
adopting new section numbers as indicated in parentheses, the 19  
versions of Sections 3 (4), 4 (5), 5 (6), 6 (7), 7 (8), 8 (9), 9 20  
(10), and 10 (11) of Article XI that are scheduled to take effect 21  
January 1, 2021; and to enact new Section 3 of Article XI of the 22  
Constitution of the State of Ohio to read as follows: 23

ARTICLE XI

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Section 1. (A) The Ohio redistricting commission shall be responsible for the redistricting of this state for congress and for the general assembly. The commission shall consist of the following seven members:

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(1) The governor;

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(2) The auditor of state;

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(3) The secretary of state;

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(4) One person appointed by the speaker of the house of representatives;

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(5) One person appointed by the legislative leader of the largest political party in the house of representatives of which the speaker of the house of representatives is not a member;

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(6) One person appointed by the president of the senate; and

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(7) One person appointed by the legislative leader of the largest political party in the senate of which the president of the senate is not a member.

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No appointed member of the commission shall be a current member of congress.

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The legislative leaders in the senate and the house of representatives of each of the two largest political parties represented in the general assembly, acting jointly by political party, shall appoint a member of the commission to serve as a co-chairperson of the commission.

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(B)(1) Unless otherwise specified in this article, a simple majority of the commission members shall be required for any action by the commission.

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(2)(a) Except as otherwise provided in division (B)(2)(b) of this section, a majority vote of the members of the commission, including at least one member of the commission who is a member of

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each of the two largest political parties represented in the 54  
general assembly, shall be required to do any of the following: 55

(i) Adopt rules of the commission; 56

(ii) Hire staff for the commission; 57

(iii) Expend funds. 58

(b) If the commission is unable to agree, by the vote 59  
required under division (B)(2)(a) of this section, on the manner 60  
in which funds should be expended, each co-chairperson of the 61  
commission shall have the authority to expend one-half of the 62  
funds that have been appropriated to the commission. 63

(3) The affirmative vote of four members of the commission, 64  
including at least two members of the commission who represent 65  
each of the two largest political parties represented in the 66  
general assembly shall be required to adopt any congressional or 67  
general assembly district plan. For the purpose of this division, 68  
a member of the commission shall be considered to represent a 69  
political party if the member was appointed to the commission by a 70  
member of that political party or if, in the case of the governor, 71  
the auditor of state, or the secretary of state, the member is a 72  
member of that political party. 73

(C) At the first meeting of the commission, which the 74  
governor shall convene only in a year ending in the numeral one, 75  
except as provided in Sections ~~8~~ 9 and 9 10 of this article, the 76  
commission shall set a schedule for the adoption of procedural 77  
rules for the operation of the commission. 78

The commission shall release to the public a proposed general 79  
assembly district plan for the boundaries for each of the 80  
ninety-nine house of representatives districts and the 81  
thirty-three senate districts. The commission also shall release 82  
to the public a proposed congressional district plan for the 83  
boundaries for the prescribed number of congressional districts as 84

apportioned to the state pursuant to Section 2 of Article I of the 85  
Constitution of the United States. The commission shall draft the 86  
proposed ~~plan~~ plans in the manner prescribed in this article. 87

Before 88

Before adopting, but after introducing, a proposed plan, the 89  
commission shall conduct a minimum of three public hearings across 90  
the state to present the proposed plan and shall seek public input 91  
regarding the proposed plan. All meetings of the commission shall 92  
be open to the public. Meetings shall be broadcast by electronic 93  
means of transmission using a medium readily accessible by the 94  
general public. 95

The commission shall adopt a final congressional district 96  
plan and a final general assembly district plan not later than the 97  
first day of September of a year ending in the numeral one. After 98  
the commission adopts a final plan, the commission shall promptly 99  
file the plan with the secretary of state. Upon filing with the 100  
secretary of state, the plan shall become effective. 101

Four weeks after the adoption of a congressional district 102  
plan or a general assembly district plan, whichever is later, the 103  
commission shall be automatically dissolved. 104

(D) The general assembly shall be responsible for making the 105  
appropriations it determines necessary in order for the commission 106  
to perform its duties under this article. 107

**Section 2.** Each congressional district shall be entitled to a 108  
single representative in the United States house of 109  
representatives in each congress. Each house of representatives 110  
district shall be entitled to a single representative in each 111  
general assembly. Each senate district shall be entitled to a 112  
single senator in each general assembly. 113

**Section 3.** (A) The whole population of the state, as 114  
determined by the federal decennial census or, if such is 115

unavailable, such other basis as the general assembly may direct, 116  
shall be divided by the number of congressional districts 117  
apportioned to the state pursuant to Section 2 of Article I of the 118  
Constitution of the United States, and the quotient shall be the 119  
congressional ratio of representation for ten years next 120  
succeeding such redistricting. 121

(B) A congressional district plan shall comply with all of 122  
the requirements of division (B) of this section. 123

(1) The commission shall minimize the extent to which each 124  
congressional district's population differs from the congressional 125  
ratio of representation, as is practicable, while taking into 126  
account other legitimate state objectives in the creation of 127  
congressional districts. The commission may include in a 128  
congressional district plan an explanation of the reason that any 129  
district contains a population that is not equal to the 130  
congressional ratio of representation. 131

(2) Any congressional district plan adopted by the commission 132  
shall comply with all applicable provisions of the constitutions 133  
of Ohio and the United States and of federal law. 134

(3) Every congressional district shall be composed of 135  
contiguous territory, and the boundary of each district shall be a 136  
single nonintersecting continuous line. 137

(C) Congressional districts shall be created and numbered in 138  
the following order of priority, to the extent that such order is 139  
consistent with the foregoing standards: 140

(1) Proceeding in succession from the largest to the 141  
smallest, each county containing population greater than one 142  
congressional ratio of representation shall be divided into as 143  
many congressional districts contained entirely within that county 144  
as it has whole ratios of representation. Any fraction of the 145  
population that remains after the county has been divided into as 146

many congressional districts as it has whole ratios of 147  
representation shall be a part of only one adjoining congressional 148  
district. 149

(2) Each county containing population substantially equal to 150  
the congressional ratio of representation shall be designated a 151  
congressional district. 152

(3) Each county containing a population of more than fifty 153  
per cent, but less than one hundred per cent, of one congressional 154  
ratio of representation shall be included in only one 155  
congressional district. 156

(4) Except as otherwise provided in division (C)(5) of this 157  
section, the remaining territory of the state shall be divided 158  
into congressional districts by combining the areas of whole 159  
counties, municipal corporations, and townships. 160

(5)(a) Except as otherwise provided in division (C)(5)(b) of 161  
this section, in drawing each congressional district, the 162  
commission may split one county, except as prohibited under 163  
division (C)(1), (2), or (3) of this section, and one municipal 164  
corporation or township, in order to create a district that 165  
complies with the requirements of this article. 166

(b) If it is not possible to comply with division (C)(5)(a) 167  
of this section in creating a congressional district, the 168  
commission may split two counties, except as prohibited under 169  
division (C)(1), (2), or (3) of this section, and two municipal 170  
corporations or townships in order to create the district. 171

(c) Except as required under division (C)(1) of this section, 172  
no county, municipal corporation, or township shall be included in 173  
more than two congressional districts. 174

(D)(1) Except as otherwise provided in division (D)(2) of 175  
this section, a county, municipal corporation, or township is 176  
considered to be split if any contiguous portion of its territory 177

is not contained entirely within one district. 178

(2) If a municipal corporation or township has territory in 179  
more than one county, the contiguous portion of that municipal 180  
corporation or township that lies in each county shall be 181  
considered to be a separate municipal corporation or township for 182  
the purposes of this section. 183

**Section 3 4.** (A) The whole population of the state, as 184  
determined by the federal decennial census or, if such is 185  
unavailable, such other basis as the general assembly may direct, 186  
shall be divided by the number "ninety-nine" and by the number 187  
"thirty-three" and the quotients shall be the ratio of 188  
representation in the house of representatives and in the senate, 189  
respectively, for ten years next succeeding such redistricting. 190

(B) A general assembly district plan shall comply with all of 191  
the requirements of division (B) of this section. 192

(1) The population of each house of representatives district 193  
shall be substantially equal to the ratio of representation in the 194  
house of representatives, and the population of each senate 195  
district shall be substantially equal to the ratio of 196  
representation in the senate, as provided in division (A) of this 197  
section. In no event shall any district contain a population of 198  
less than ninety-five per cent nor more than one hundred five per 199  
cent of the applicable ratio of representation. 200

(2) Any general assembly district plan adopted by the 201  
commission shall comply with all applicable provisions of the 202  
constitutions of Ohio and the United States and of federal law. 203

(3) Every general assembly district shall be composed of 204  
contiguous territory, and the boundary of each district shall be a 205  
single nonintersecting continuous line. 206

(C) House of representatives districts shall be created and 207  
numbered in the following order of priority, to the extent that 208

such order is consistent with the foregoing standards: 209

(1) Proceeding in succession from the largest to the 210  
smallest, each county containing population greater than one 211  
hundred five per cent of the ratio of representation in the house 212  
of representatives shall be divided into as many house of 213  
representatives districts as it has whole ratios of 214  
representation. Any fraction of the population in excess of a 215  
whole ratio shall be a part of only one adjoining house of 216  
representatives district. 217

(2) Each county containing population of not less than 218  
ninety-five per cent of the ratio of representation in the house 219  
of representatives nor more than one hundred five per cent of the 220  
ratio shall be designated a representative district. 221

(3) The remaining territory of the state shall be divided 222  
into representative districts by combining the areas of counties, 223  
municipal corporations, and townships. Where feasible, no county 224  
shall be split more than once. 225

(D)(1)(a) Except as otherwise provided in divisions (D)(1)(b) 226  
and (c) of this section, a county, municipal corporation, or 227  
township is considered to be split if any contiguous portion of 228  
its territory is not contained entirely within one district. 229

(b) If a municipal corporation or township has territory in 230  
more than one county, the contiguous portion of that municipal 231  
corporation or township that lies in each county shall be 232  
considered to be a separate municipal corporation or township for 233  
the purposes of this section. 234

(c) If a municipal corporation or township that is located in 235  
a county that contains a municipal corporation or township that 236  
has a population of more than one ratio of representation is split 237  
for the purpose of complying with division (E)(1)(a) or (b) of 238  
this section, each portion of that municipal corporation or 239

township shall be considered to be a separate municipal 240  
corporation or township for the purposes of this section. 241

(2) Representative districts shall be drawn so as to split 242  
the smallest possible number of municipal corporations and 243  
townships whose contiguous portions contain a population of more 244  
than fifty per cent, but less than one hundred per cent, of one 245  
ratio of representation. 246

(3) Where the requirements of divisions (B), (C), and (D) of 247  
this section cannot feasibly be attained by forming a 248  
representative district from whole municipal corporations and 249  
townships, not more than one municipal corporation or township may 250  
be split per representative district. 251

(E)(1) If it is not possible for the commission to comply 252  
with all of the requirements of divisions (B), (C), and (D) of 253  
this section in drawing a particular representative district, the 254  
commission shall take the first action listed below that makes it 255  
possible for the commission to draw that district: 256

(a) Notwithstanding division (D)(3) of this section, the 257  
commission shall create the district by splitting two municipal 258  
corporations or townships whose contiguous portions do not contain 259  
a population of more than fifty per cent, but less than one 260  
hundred per cent, of one ratio of representation. 261

(b) Notwithstanding division (D)(2) of this section, the 262  
commission shall create the district by splitting a municipal 263  
corporation or township whose contiguous portions contain a 264  
population of more than fifty per cent, but less than one hundred 265  
per cent, of one ratio of representation. 266

(c) Notwithstanding division (C)(2) of this section, the 267  
commission shall create the district by splitting, once, a single 268  
county that contains a population of not less than ninety-five per 269  
cent of the ratio of representation, but not more than one hundred 270

five per cent of the ratio of representation. 271

(d) Notwithstanding division (C)(1) of this section, the 272  
commission shall create the district by including in two districts 273  
portions of the territory that remains after a county that 274  
contains a population of more than one hundred five per cent of 275  
the ratio of representation has been divided into as many house of 276  
representatives districts as it has whole ratios of 277  
representation. 278

(2) If the commission takes an action under division (E)(1) 279  
of this section, the commission shall include in the general 280  
assembly district plan a statement explaining which action the 281  
commission took under that division and the reason the commission 282  
took that action. 283

(3) If the commission complies with divisions (E)(1) and (2) 284  
of this section in drawing a district, the commission shall not be 285  
considered to have violated division (C)(1), (C)(2), (D)(2), or 286  
(D)(3) of this section, as applicable, in drawing that district, 287  
for the purpose of an analysis under division (D) of Section 9 10 288  
of this article. 289

**Section 4 5.** (A) Senate districts shall be composed of three 290  
contiguous house of representatives districts. 291

(B)(1) A county having at least one whole senate ratio of 292  
representation shall have as many senate districts wholly within 293  
the boundaries of the county as it has whole senate ratios of 294  
representation. Any fraction of the population in excess of a 295  
whole ratio shall be a part of only one adjoining senate district. 296

(2) Counties having less than one senate ratio of 297  
representation, but at least one house of representatives ratio of 298  
representation, shall be part of only one senate district. 299

(3) If it is not possible for the commission to draw 300  
representative districts that comply with all of the requirements 301

of this article and that make it possible for the commission to 302  
comply with all of the requirements of divisions (B)(1) and (2) of 303  
this section, the commission shall draw senate districts so as to 304  
commit the fewest possible violations of those divisions. If the 305  
commission complies with this division in drawing senate 306  
districts, the commission shall not be considered to have violated 307  
division (B)(1) or (2) of this section, as applicable, in drawing 308  
those districts, for the purpose of an analysis under division (D) 309  
of Section ~~9~~ 10 of this article. 310

(C) The number of whole ratios of representation for a county 311  
shall be determined by dividing the population of the county by 312  
the ratio of representation in the senate determined under 313  
division (A) of Section ~~3~~ 4 of this article. 314

(D) Senate districts shall be numbered from one through 315  
thirty-three and as provided in Section ~~5~~ 6 of this article. 316

**Section ~~5~~ 6.** At any time the boundaries of senate districts 317  
are changed in any general assembly district plan made pursuant to 318  
any provision of this article, a senator whose term will not 319  
expire within two years of the time the plan becomes effective 320  
shall represent, for the remainder of the term for which the 321  
senator was elected, the senate district that contains the largest 322  
portion of the population of the district from which the senator 323  
was elected, and the district shall be given the number of the 324  
district from which the senator was elected. If more than one 325  
senator whose term will not so expire would represent the same 326  
district by following the provisions of this section, the plan 327  
shall designate which senator shall represent the district and 328  
shall designate which district the other senator or senators shall 329  
represent for the balance of their term or terms. 330

**Section ~~6~~ 7.** The Ohio redistricting commission shall attempt 331  
to draw a congressional district plan and a general assembly 332  
district plan that ~~meets~~ meet all of the following standards: 333

(A) No congressional district plan or general assembly 334  
district plan shall be drawn primarily to favor or disfavor a 335  
political party. 336

(B) The statewide proportion of districts whose voters, based 337  
on statewide state and federal partisan general election results 338  
during the last ten years, favor each political party shall 339  
correspond closely to the statewide preferences of the voters of 340  
Ohio. 341

(C) ~~General~~ Congressional districts and general assembly 342  
districts shall be compact. 343

Nothing in this section permits the commission to violate the 344  
district standards described in Section 2, 3, 4, 5, 6, or 7 8 of 345  
this article. 346

**Section 7 8.** Notwithstanding the fact that boundaries of 347  
counties, municipal corporations, and townships within a district 348  
may be changed, district boundaries shall be created by using the 349  
boundaries of counties, municipal corporations, and townships as 350  
they exist at the time of the federal decennial census on which 351  
the redistricting is based, or, if unavailable, on such other 352  
basis as the general assembly has directed. 353

**Section 8 9.** (A)(1) If the Ohio redistricting commission 354  
fails to adopt a final congressional district plan or a final 355  
general assembly district plan not later than the first day of 356  
September of a year ending in the numeral one, in accordance with 357  
Section 1 of this article, the commission shall introduce a 358  
proposed ~~general assembly~~ district plan of the applicable type by 359  
a simple majority vote of the commission. 360

(2) After introducing a proposed ~~general assembly~~ district 361  
plan under division (A)(1) of this section, the commission shall 362  
hold a public hearing concerning the proposed plan, at which the 363  
public may offer testimony and at which the commission may adopt 364

amendments to the proposed plan. Members of the commission should 365  
attend the hearing; however, only a quorum of the members of the 366  
commission is required to conduct the hearing. 367

(3) After the hearing described in division (A)(2) of this 368  
section is held, and not later than the fifteenth day of September 369  
of a year ending in the numeral one, the commission shall adopt a 370  
final ~~general assembly~~ district plan of the applicable type, 371  
either by the vote required to adopt a plan under division (B)(3) 372  
of Section 1 of this article or by a simple majority vote of the 373  
commission. 374

(B) If the commission adopts a final ~~general assembly~~ 375  
district plan in accordance with division (A)(3) of this section 376  
by the vote required to adopt a plan under division (B)(3) of 377  
Section 1 of this article, the plan shall take effect upon filing 378  
with the secretary of state and shall remain effective until the 379  
next year ending in the numeral one, except as provided in Section 380  
9 10 of this article. 381

(C)(1)(a) Except as otherwise provided in division (C)(1)(b) 382  
of this section, if the commission adopts a final congressional 383  
district plan in accordance with division (A)(3) of this section 384  
by a simple majority vote of the commission, and not by the vote 385  
required to adopt a plan under division (B)(3) of Section 1 of 386  
this article, the plan shall take effect upon filing with the 387  
secretary of state and shall remain effective until two general 388  
elections for the United States house of representatives have 389  
occurred under the plan. 390

Except as otherwise provided in division (C)(1)(b) of this 391  
section, if the commission adopts a final general assembly 392  
district plan in accordance with division (A)(3) of this section 393  
by a simple majority vote of the commission, and not by the vote 394  
required to adopt a plan under division (B)(3) of Section 1 of 395  
this article, the plan shall take effect upon filing with the 396

secretary of state and shall remain effective until two general 397  
elections for the house of representatives have occurred under the 398  
plan. 399

(b) If the commission adopts a final ~~general assembly~~ 400  
district plan in accordance with division (A)(3) of this section 401  
by a simple majority vote of the commission, and not by the vote 402  
required to adopt a plan under division (B) of Section 1 of this 403  
article, and that plan is adopted to replace a plan that ceased to 404  
be effective under division (C)(1)(a) of this section before a 405  
year ending in the numeral one, the plan adopted under this 406  
division shall take effect upon filing with the secretary of state 407  
and shall remain effective until a year ending in the numeral one, 408  
except as provided in Section ~~9~~ 10 of this article. 409

(2) A final ~~general assembly~~ district plan adopted under 410  
division (C)(1)(a) or (b) of this section shall include a 411  
statement explaining what the commission determined to be the 412  
statewide preferences of the voters of Ohio and the manner in 413  
which the statewide proportion of districts in the plan whose 414  
voters, based on statewide state and federal partisan general 415  
election results during the last ten years, favor each political 416  
party corresponds closely to those preferences, as described in 417  
division (B) of Section ~~6~~ 7 of this article. At the time the plan 418  
is adopted, a member of the commission who does not vote in favor 419  
of the plan may submit a declaration of the member's opinion 420  
concerning the statement included with the plan. 421

(D) After a ~~general assembly~~ district plan adopted under 422  
division (C)(1)(a) of this section ceases to be effective, and not 423  
earlier than the first day of July of the year following the year 424  
in which the plan ceased to be effective, the commission shall be 425  
reconstituted as provided in Section 1 of this article, convene, 426  
and adopt a new ~~general assembly~~ district plan of the applicable 427  
type in accordance with this article, to be used until the next 428

time for redistricting under this article. The commission shall 429  
draw the new ~~general assembly~~ district plan using the same 430  
population and county, municipal corporation, and township 431  
boundary data as were used to draw the previous plan adopted under 432  
division (C) of this section. 433

**Section 9 10.** (A) The supreme court of Ohio shall have 434  
exclusive, original jurisdiction in all cases arising under this 435  
article. 436

(B) In the event that any section of this constitution 437  
relating to redistricting, any congressional or general assembly 438  
district plan made by the Ohio redistricting commission, or any 439  
district is determined to be invalid by an unappealed final order 440  
of a court of competent jurisdiction then, notwithstanding any 441  
other provisions of this constitution, the commission shall be 442  
reconstituted as provided in Section 1 of this article, convene, 443  
and ascertain and determine a ~~general assembly~~ district plan of 444  
the applicable type in conformity with such provisions of this 445  
constitution as are then valid, including, if applicable, 446  
establishing terms of office and election of members of the 447  
general assembly from districts designated in the plan, to be used 448  
until the next time for redistricting under this article in 449  
conformity with such provisions of this constitution as are then 450  
valid. 451

(C) Notwithstanding any provision of this constitution or any 452  
law regarding the residence of senators and representatives, a 453  
general assembly district plan made pursuant to this section shall 454  
allow thirty days for persons to change residence in order to be 455  
eligible for election. 456

(D)(1) No court shall order, in any circumstance, the 457  
implementation or enforcement of any congressional or general 458  
assembly district plan that has not been approved by the 459  
commission in the manner prescribed by this article. 460

(2) No court shall order the commission to adopt a particular 461  
congressional or general assembly district plan or to draw a 462  
particular district. 463

(3) If the supreme court of Ohio determines that a 464  
congressional or general assembly district plan adopted by the 465  
commission does not comply with the requirements of Section 2, 3, 466  
4, 5, 6, or 7 8 of this article, the available remedies shall be 467  
as follows: 468

(a) If the court finds that the plan contains one or more 469  
isolated violations of those requirements, the court shall order 470  
the commission to amend the plan to correct the violation. 471

(b) ~~If~~ In the case of a congressional district plan, if the 472  
court finds that it is necessary to amend not fewer than two 473  
congressional districts to correct violations of those 474  
requirements, the court shall declare the plan invalid and shall 475  
order the commission to adopt a new congressional district plan in 476  
accordance with this article. 477

In the case of a general assembly district plan, if the court 478  
finds that it is necessary to amend not fewer than six house of 479  
representatives districts to correct violations of those 480  
requirements, to amend not fewer than two senate districts to 481  
correct violations of those requirements, or both, the court shall 482  
declare the plan invalid and shall order the commission to adopt a 483  
new general assembly district plan in accordance with this 484  
article. 485

(c) If, in considering a plan adopted under division (C) of 486  
Section ~~8~~ 9 of this article, the court determines that both of the 487  
following are true, the court shall order the commission to adopt 488  
a new congressional or general assembly district plan, as 489  
applicable, in accordance with this article: 490

(i) The plan significantly violates those requirements in a 491

manner that materially affects the ability of the plan to contain 492  
districts whose voters favor political parties in an overall 493  
proportion that corresponds closely to the statewide political 494  
party preferences of the voters of Ohio, as described in division 495  
(B) of Section ~~6~~ 7 of this article. 496

(ii) The statewide proportion of districts in the plan whose 497  
voters, based on statewide state and federal partisan general 498  
election results during the last ten years, favor each political 499  
party does not correspond closely to the statewide preferences of 500  
the voters of Ohio. 501

**Section ~~10~~ 11.** The various provisions of this article are 502  
intended to be severable, and the invalidity of one or more of 503  
such provisions shall not affect the validity of the remaining 504  
provisions. 505

EFFECTIVE DATE AND REPEAL 506

If adopted by a majority of the electors voting on this 507  
proposal, Sections 1, 2, 3 (4), 4 (5), 5 (6), 6 (7), 7 (8), 8 (9), 508  
9 (10), and 10 (11) of Article XI amended by this proposal and 509  
Section 3 of Article XI enacted by this proposal take effect 510  
January 1, 2021, and the existing versions of Sections 1, 2, 3, 4, 511  
5, 6, 7, 8, 9, and 10 of Article XI of the Constitution of the 512  
State of Ohio that were scheduled to take effect January 1, 2021, 513  
are repealed from that effective date. 514