

**IN THE SUPREME COURT OF OHIO**

League of Women Voters of Ohio, *et al.*,

Relators,

v.

Ohio Redistricting Commission, *et al.*,

Respondents.

Case No. 2021-1193

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Bria Bennett, *et al.*,

Relators,

v.

Ohio Redistricting Commission, *et al.*,

Respondents.

Case No. 2021-1198

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Ohio Organizing Collaborative, *et al.*,

Relators,

v.

Ohio Redistricting Commission, *et al.*,

Respondents.

Case No. 2021-1210

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**RESPONDENTS HUFFMAN AND CUPP'S BRIEF ON THE IMPACT OF ARTICLE  
XI, SECTION 8(C)(1)**

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## INTRODUCTION

Respondents Senate President Matt Huffman and House Speaker Robert Cupp (“Respondents”) hereby file this brief pursuant to this Court’s order, dated December 13, 2021. Under this order, the parties were directed to file a brief addressing “[w]hat impact, if any, [] Article XI, Section 8(C)(1) of the Ohio Constitution ha[s] on the Supreme Court of Ohio’s authority to grant the relief requested by relators when the Ohio Redistricting Commission adopted the district plan by a simple majority vote of the commission.” Respondents’ position is that Section 8 of Article XI may be construed as foreclosing judicial review of a four-year plan by the Ohio Supreme Court, but that if such review is authorized, the Court may not award Relators any relief absent the findings required by Article XI, Section 9(D)(3). In either case, Relators are not entitled to any relief and their Complaints should be dismissed.

## BACKGROUND

### **1. Textual Differences Between Article XI, Section 8(C)(1)(a) and 8(C)(1)(b)**

Article XI is structured such that the Ohio Redistricting Commission may adopt a general assembly district plan of different durations. Up until September 1 of a year ending in the numeral 1, for a general assembly district plan to last the full ten years before the next decennial census, the plan must be approved by at least four members of the Commission, including at least two members of the Commission who represent each of the two largest political parties represented in the general assembly. Article XI, Section 1(B)(3), (C).

If the Commission does not adopt such a plan by September 1, the Commission must adopt a general assembly district plan by September 15. During this period, if the Commission adopts a general assembly district plan with the approval of at least four members of the Commission, including at least two members of the Commission who represent each of the two largest political



parties represented in the general assembly, the plan will be effective for ten years. Article XI, Section 8(B). However, if the Commission adopts a general assembly district plan by a simple majority vote of the Commission, the plan will be in place for only two (2) general elections for the house of representatives or four years (“four-year plan”). Article XI, Section 8(C)(1)(a). At the end of a four-year plan, if a new general assembly district plan is adopted by a simple majority of the Commission, that plan will remain effective for the remaining six years before the next decennial census (a “six-year plan”). Article XI, Section 8(C)(1)(b).

There is an important difference between the text of Article XI, Section 8(C)(1)(a) as compared to Section 8(C)(1)(b). The latter states that a six-year plan adopted by a simple majority will expire after six years “except as provided in Section 9 of this article.” No similar condition can be found in the text of Section 8(C)(1)(a). To fully answer the question posed by the Court, it is important to first review the procedural history of the 2014 joint resolution that amended Article XI, which was ultimately approved of by the voters of Ohio.

## **2. Procedural History of HJR 12 and the Difference between House and Senate Resolutions.**

What eventually would become Article XI began as House Joint Resolution no. 12 (“HJR 12”).<sup>1</sup> The resolution was passed by the Ohio House of Representatives on December 4, 2014. See Exhibit 1; *See also* <http://archives.legislature.state.oh.us/JournalText130/HJ-12-04-14.pdf>.

The Ohio Senate then passed an amended version of HJR 12 on December 11, 2014. See Exhibit 2; *See also* <http://archives.legislature.state.oh.us/JournalText130/SJ-12-11-14.pdf>. The Ohio House of Representatives then concurred in the Senate’s amendments to HJR 12 on December 17, 2014. *See* <http://archives.legislature.state.oh.us/JournalText130/HJ-12-17-14.pdf>. As a result, the

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<sup>1</sup> The procedural history of HJR 12 can be found at: <http://lsc.state.oh.us/pages/reference/archives/notes/srl/default.aspx?G=130&T=HJR&N=0012>.

Senate's amended version of HJR 12 represents the final version of Article XI that was approved by the voters on November 3, 2015.

Given the Court's inquiry regarding Section 8(C)(1), it is important to compare how the text of the House version of Section 8(C) was subsequently amended by the Senate version. A side by side comparison of the two versions is listed below:

<b><u>Article XI, Section 9 (House passed) (Exhibit 1 page 8)</u></b>	<b><u>Article XI, Section 8 (Senate passed) (Exhibit 2 page 10)</u></b>
<p>(B) If the commission adopts a final general assembly district plan in accordance with division (A) (3) of this section by the vote required to adopt a plan under division (B) of Section 1 of this article, the plan shall take effect upon filing with the secretary of state and shall remain effective until the next year ending in the numeral one, <b><u>except as provided in Section 10<sup>2</sup> of this article.</u></b></p> <p>(C) (1) If the commission adopts a final general assembly district plan in accordance with division (A) (3) of this section by a simple majority vote of the commission, the plan shall take effect upon filing with the secretary of state and shall remain effective until two general elections for the house of representatives have occurred under the plan or until a year ending in the numeral one, whichever is earlier.</p>	<p>(B) If the commission adopts a final general assembly district plan in accordance with division (A) (3) of this section by the vote required to adopt a plan under division (B) (3) of Section 1 of this article, the plan shall take effect upon filing with the secretary of state and shall remain effective until the next year ending in the numeral one, <b><u>except as provided in Section 9 of this article.</u></b></p> <p>(C) (1) (a) Except as otherwise provided in division (C) (1) (b) of this section, if the commission adopts a final general assembly district plan in accordance with division (A) (3) of this section by a simple majority vote of the commission, and not by the vote required to adopt a plan under division (B) (3) of Section 1 of this article, the plan shall take effect upon filing with the secretary of state and shall remain effective until two general elections for the house of representatives have occurred under the plan.</p> <p>(b) If the commission adopts a final general assembly district plan in accordance with division (A) (3) of this section by a simple majority vote of the commission, and not by the vote required to adopt a plan under division (B) of Section 1 of this Article, and that plan is adopted to replace a plan that ceased to be effective under division (C) (1) (a) of this section before a year ending in the numeral one, the plan adopted under this division shall take effect upon filing with the secretary of state and shall remain effective until a year ending in the numeral one, <b><u>except as provided in Section 9 of this article.</u></b></p>

<sup>2</sup> Section 10 of the original House version of HJR 12 corresponds to the Senate's Section 9 and Section 9 of Article XI today.

It is important to note that under the House passed version of HJR 12, the original version of what would become Article XI, Section 8(C) applied to any simple majority plan adopted by the Redistricting Commission.<sup>3</sup> In the Senate version of what would eventually become Article XI, Section 8(C), the Senate distinguished four-year plans from six-year plans. In what would become Section 8(C)(1)(b), six-year plans would remain in effect until the next year ending in numeral 1 (i.e. six-years), “except as provided by Section 9 of this article.” That language was taken directly from what would eventually become Article XI, Section 8(B), which the Senate did not amend.

To the contrary, no similar condition or restriction was included in the Senate version of HJR 12 for four-year plans enacted by a simple majority of the Commission. *See* Article XI, Section 8(C)(1)(a).

It is also important to highlight that both the House and Senate versions of HJR 12 contained identical language for what would become Section 9, including the provisions of Section 9(D)(3)(c), which limits this Court’s authority to review “a plan adopted under division (C) of Section 8 of this article. . . .” only if there is a prerequisite violation of Section 2, 3, 4, 5, or 7 of Article XI. *Compare* Article XI, Section 9(D)(3)(c) at Exhibit 1, page 10 *with* Exhibit 2, page 13.

### **ARGUMENT**

**1. Regardless of how the Court ultimately interprets Article XI, Section 8(C)(1), Relators’ Complaints must be dismissed.**

Article XI, Section 8(C)(1)(b) states that a six-year plan will remain in effect until the next year ending in the numeral 1, “except as provided in Section 9 of this article.” In contrast, Section

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<sup>3</sup> The House passed version of HJR 12 did not include a “six-year map”. Instead, it contemplated the possibility of two four-year maps, and one remaining 3-year map, in a given decade.

8(C)(1)(a) states that a four-year plan will remain effective until two general elections for the house of representatives have occurred. Unlike Section 8(C)(1)(b), there is no reference in Section 8(C)(1)(a) to the provisions of Section 9. Because Section 9 is referenced as applying to six-year plans, but not four-year plans, this Court could reasonably construe Section 8(C)(1)(a) as divesting this Court of any authority to review or enjoin four-year plans.

Alternatively, Article XI, Section 9(D)(3) gives this Court the authority to “determine that a general assembly district plan adopted by the commission does not comply with the requirements of Section 2, 3, 4, 5, or 7.” Moreover, Article XI, Section 9(D)(3)(c) gives the Court the authority to review “a plan adopted under division (C) of Section 8 of this article” if the Court first finds that a general assembly district plan does not comply with the requirements of Section 2, 3, 4, 5, or 7. A four-year plan is a plan adopted by the Commission. Section 9(D)(3)(c) does not distinguish between four-year plans adopted under Section 8(C)(1)(a) versus six-year plans adopted under Section 8(C)(1)(b). Thus, one reasonable interpretation of this language would be that this Court may review four-year plans adopted pursuant to Section 8(C)(1)(a) to determine whether any such plan violates Sections 2, 3, 4, 5, or 7 of Article XI. However, since there are no allegations that the 2021 general assembly district plan violates any of those mandatory construction requirements of Sections 2, 3, 4, 5 or 7 of Article XI, the Court lacks the ability to address any remaining issues raised under Section 9(D)(3)(c) of Article XI.

Thus, Relators’ Complaints must be dismissed regardless of whether the Court finds that it has the authority to review four-year plans pursuant to Section 8(C)(1) of Article XI.

## **2. Standard of Review**

Acts of the Commission are entitled to a presumption of constitutionality, and Plaintiffs must prove beyond a reasonable doubt that the apportionment plan is constitutional. *See Wilson v.*

*Kasich*, 134 Ohio St. 3d 221, 227–228, 2012-Ohio-5367, 915 N.E.2d 814, ¶ 21, 22 (2012) (quoting *State ex rel. Skaggs v. Brunner*, 120 Ohio St.3d 506, 2008 Ohio-6333, 900 N.E.2d 982, ¶ 51 (2008)) (internal quotations omitted).

Under this Court’s rules of construction, the Court cannot judicially amend Article XI to either expressly add or delete a phrase from Article XI, Sections 8 or 9. *See Northeast Ohio Regional Sewer Dist. v. Bath Twp.*, 144 Ohio St.3d 387, 2015-Ohio-2705 at ¶¶ 13-14 (“[I]t is well known that our duty is to give effect to the words used, not to delete words used or to insert words not used.”) (internal quotations omitted); *Columbus-Suburban Coach Lines, Inc. v. Pub. Util. Comm.*, 20 Ohio St.2d 125, 127, 254 N.E.2d 8 (1969) (it is the Court’s duty to “give effect to the words used, not to delete words or to insert words not used”); *see also State ex rel. Carmean v. Hardin Cnty. Bd. of Edn.*, 170 Ohio St. 415, 522, 165 N.E.2d 918 (1960). (‘It is axiomatic in statutory construction that words are not inserted into an act without some purpose’); *see also Metro Sec. Co. v. Warren State Bank*, 117 Ohio St. 69, 76, 158 N.E. 81, 83 (1927) (having used certain language in the one instance and wholly different language in the other, it will be presumed that different results were intended).

In addressing the question raised by this Court’s order of December 13, 2021, the Court should read all of the sections of Article XI “*in pari materia.*” *Wilson*, 134 Ohio St. 3d 221, 228, 2012-Ohio-5367, 915 N.E.2d 814, ¶ 32. If there is an irreconcilable conflict, “the special provision prevails over the general provision, unless the general provision was adopted later and the manifest intent is that the general provision prevail.” *Id.* (internal citations omitted). But where the sections are “coequal—that is, if neither is more specific or adopted at the same time—then the apportionment board is empowered to apply either of them.” *Id.* at ¶ 33 (citation omitted). Where “coequal portions of Article XI . . . are irreconcilable, the apportionment board has the duty to

choose the proper course, and this court will not order it to correct one constitutional violation by committing another.” *Id.* (citation omitted).

While *Wilson* applies to the discretion of the apportionment board, or in this case the newly constituted Ohio Redistricting Commission, *Wilson*'s principles of judicial review are applicable to this Court's authority to interpret Sections 8 and 9 of Article XI. It would be reasonable for the Court to conclude that four-year plans are not subject to judicial review, given the omission of any reference to Section 9 in Section 8(C)(1)(a) as compared to the specific inclusion of a reference to Section 9 found in Sections 8(B) and 8(C)(1)(b). This interpretation is supported by the Senate's decision to amend HJR 12 in a manner that only made six-year plans—and not four-year plans—subject to Section 9. This interpretation is also supported by the overall carrot and stick approach the drafters carefully constructed in Article XI. The majority party has the incentive to negotiate successfully for a ten-year plan to avoid the draconian possibility that a four-year plan must be changed after it expires by a newly constituted version of the Redistricting Commission. Any newly constituted commission could reflect a completely different political balance thereby giving the party in the minority when the four-year plan was adopted the opportunity to become the majority party when a six-year plan must be adopted. On the other side, if four-year plans are not subject to judicial review, then the minority party would be equally incentivized to negotiate its position.

That very dynamic played out during the negotiations between Commission Members Huffman and Cupp with Commission members Senator Vernon Sykes and Representative Emilia Sykes. At the end of the day, Senator Huffman and Speaker Cupp gave up more Republican leaning districts than the number of Democrat leaning districts Senator Sykes and Representative Sykes were willing to give. As the facts show, Senator Sykes and Representative Sykes simply stopped

responding to requests for negotiation, and stood on their last offer, unwilling to budge from their interpretation of strict proportionality. *See* Merit Brief of Respondents Huffman and Cupp at 9-11; DEP00890-00891.

As suggested above, the Court could also conclude that Section 8(C)(1)(a) does not deprive it of authority because Section 9(D)(3) gives the Court authority to determine whether “a general assembly plan adopted by the commission does not comply with the requirements of Sections 2, 3, 4, 5, or 7.” Since the 2021 general assembly district plan is “a general assembly plan adopted by the commission”, Section 9(D)(3) could be interpreted as giving the Court authority to provide relief in this case despite the omission of any reference to Section 9 in Section 8(C)(1)(a). This interpretation is supported by the language of Section 9(D)(3)(c) which proscribes the Court’s authority when reviewing a “plan adopted under division (C) of Section 8 of this article. ...” Section 9(D)(3)(c) does not limit its scope to only plans adopted pursuant to 8(C)(1)(b). However, before the Court could possibly contemplate providing relief to Relators challenging a plan adopted under Section 8(C), the Court must first find that the challenged plan violates Section 2, 3, 4, 5, or 7. *See* Article XI, Sections 9(D)(3) and Section 9(D)(3)(c).

Accordingly, regardless of how the Court interprets Section 8(C)(1), the Relators’ claims in this action must be dismissed. The omission of a reference to Section 9 in Section 8(C)(1)(a) by the General Assembly when adopting HJR 12 reasonably supports a conclusion by this Court that it has no authority to review or enjoin a four-year plan. But if the Court interprets Section 9(D)(3)(c) as giving it the authority to review or enjoin a four-year plan, the Court cannot enjoin a plan unless that plan violates Sections 2, 3, 4, 5 or 7 of Article XI. In this case, there is no allegation or evidence that the 2021 general assembly district plan violated any of those mandatory

anti-gerrymandering requirements. Thus, even if the Court believes it has the authority to review a four-year plan, these claims must be dismissed.

Respectfully submitted this the 17th day of December, 2021.

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/s/Phillip J. Strach  
Phillip J. Strach

# **Exhibit 1**

**As Adopted by the House**

**130th General Assembly**

**Regular Session**

**2013-2014**

**Sub. H. J. R. No. 12**

**Representatives Huffman, Sykes**

**Cosponsors: Representatives Amstutz, Anielski, Ashford, Baker, Brown,  
Burkley, Clyde, Duffey, Grossman, Hackett, Hagan, C., Hayes, Kunze, Letson,  
McClain, McGregor, Patmon, Scherer, Schuring, Stebelton, Wachtmann,  
Speaker Batchelder**

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**JOINT RESOLUTION**

Proposing to enact new Sections 1, 2, 3, 4, 5, 6, 7, 1  
8, 9, 10, and 11 of Article XI and to repeal 2  
Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 3  
13, 14, and 15 of Article XI of the Constitution 4  
of the State of Ohio to revise the redistricting 5  
process for General Assembly districts. 6

Be it resolved by the General Assembly of the State of Ohio, 7  
three-fifths of the members elected to each house concurring 8  
herein, that there shall be submitted to the electors of the 9  
state, in the manner prescribed by law at the general election to 10  
be held on November 3, 2015, a proposal to enact new Sections 1, 11  
2, 3, 4, 5, 6, 7, 8, 9, 10, and 11 of Article XI of the 12  
Constitution of the State of Ohio to read as follows: 13

**ARTICLE XI** 14

Section 1. (A) The Ohio redistricting commission shall be 15  
responsible for the redistricting of this state for the general 16  
assembly. The commission shall consist of the following seven 17  
members: 18

<u>(1) The governor;</u>	19
<u>(2) The auditor of state;</u>	20
<u>(3) The secretary of state;</u>	21
<u>(4) One person appointed by the speaker of the house of representatives;</u>	22 23
<u>(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;</u>	24 25 26
<u>(6) One person appointed by the president of the senate; and</u>	27
<u>(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.</u>	28 29 30
<u>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.</u>	31 32 33 34 35
<u>No appointed member of the commission shall be a current member of congress.</u>	36 37
<u>(B) (1) Unless otherwise specified in this article, a simple majority of the commission members shall be required for any action by the commission.</u>	38 39 40
<u>(2) A majority vote of the members of the commission, including at least one member of the commission who is a member of each of the two largest political parties represented in the general assembly, shall be required to do any of the following:</u>	41 42 43 44
<u>(a) Adopt rules of the commission;</u>	45
<u>(b) Hire staff for the commission;</u>	46
<u>(c) Expend funds.</u>	47

(3) The affirmative vote of four members of the commission, 48  
including at least two members of the commission who represent 49  
each of the two largest political parties represented in the 50  
general assembly shall be required to adopt any plan. For the 51  
purpose of this division, a member of the commission shall be 52  
considered to represent a political party if the member was 53  
appointed to the commission by a member of that political party or 54  
if, in the case of the governor, the auditor of state, or the 55  
secretary of state, the member is a member of that political 56  
party. 57

(C) At the first meeting of the commission, which the 58  
governor shall convene only in a year ending in the numeral one, 59  
except as provided in Sections 9 and 10 of this article, the 60  
members shall set a schedule for the adoption of procedural rules 61  
for the operation of the commission. 62

The commission shall release to the public a proposed plan 63  
for the boundaries for each of the ninety-nine house of 64  
representatives districts and the thirty-three senate districts. 65  
The commission shall draft the proposed plan in the manner 66  
prescribed in this article. Before adopting, but after 67  
introducing, a general assembly district plan, the commission 68  
shall conduct a minimum of three public hearings across the state 69  
to present the plan and shall seek public input regarding the 70  
proposed plan. All meetings of the commission shall be open to the 71  
public. Meetings shall be broadcast by electronic means of 72  
transmission using a medium readily accessible by the general 73  
public. 74

The commission shall adopt final plans not later than the 75  
first day of September of a year ending in the numeral one. After 76  
the commission adopts a plan, the commission shall file the plan 77  
with the secretary of state. Upon filing with the secretary of 78  
state, the plan shall become effective. 79

Not more than six weeks after the adoption of a general assembly plan, the co-chairpersons of the commission shall jointly dissolve the commission. 80  
81  
82

(D) The general assembly shall be responsible for making the appropriations it determines necessary in order for the commission to perform its duties under this article. 83  
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Section 2. Each house of representatives district shall be entitled to a single representative in each general assembly. Each senate district shall be entitled to a single senator in each general assembly. 86  
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Section 3. (A) The whole population of the state, as determined by the federal decennial census or, if such is unavailable, such other basis as the general assembly may direct, shall be divided by the number "ninety-nine" and by the number "thirty-three" and the quotients shall be the ratio of representation in the house of representatives and in the senate, respectively, for ten years next succeeding such redistricting. 90  
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(B) The population of each house of representatives district shall be substantially equal to the ratio of representation in the house of representatives, and the population of each senate district shall be substantially equal to the ratio of representation in the senate, as provided in division (A) of this section. In no event shall any district contain a population of less than ninety-five per cent nor more than one hundred five per cent of the applicable ratio of representation. 97  
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Section 4. (A) (1) Any plan adopted by the commission shall comply with all applicable provisions of the constitutions of Ohio and the United States and of federal law, including, but not limited to, those provisions dealing specifically with the protection of minority voting rights. 106  
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(2) Every general assembly district shall be compact and 111

composed of contiguous territory, and the boundary of each 112  
district shall be a single nonintersecting continuous line. 113

(B) (1) House of representatives districts shall be created 114  
and numbered in the following order of priority, to the extent 115  
that such order is consistent with the foregoing standards: 116

(a) Proceeding in succession from the largest to the 117  
smallest, each county containing population greater than one 118  
hundred five per cent of the ratio of representation in the house 119  
of representatives, as provided in Section 3 of this article, 120  
shall be divided into as many house of representatives districts 121  
as it has whole ratios of representation. Any fraction of the 122  
population in excess of a whole ratio shall be a part of only one 123  
adjoining house of representatives district. 124

(b) Each county containing population substantially equal to 125  
one ratio of representation in the house of representatives, as 126  
provided in Section 3 of this article, but in no event less than 127  
ninety-five per cent of the ratio nor more than one hundred five 128  
per cent of the ratio, shall be designated a representative 129  
district. 130

(c) Representative districts shall be drawn so as to split 131  
the smallest possible number of municipal corporations and 132  
townships whose contiguous portions contain a population of more 133  
than fifty per cent, but less than one hundred per cent, of one 134  
ratio of representation. 135

(d) The remaining territory of the state shall be divided 136  
into representative districts by combining the areas of whole 137  
municipal corporations and townships. 138

(e) Where the requirements of division (B) (1) of this section 139  
and Section 3 of this article cannot feasibly be attained by 140  
forming a representative district from whole municipal 141  
corporations and townships, not more than one municipal 142



corporation or township may be split per representative district. 143

(2) If the commission must violate a standard listed in 144  
division (B) (1) of this section in order to draw a house of 145  
representatives district map, the commission shall violate the 146  
standard having the lowest possible priority, as listed in that 147  
division. If the commission violates a standard listed in that 148  
division, the commission shall include in the district plan a 149  
statement explaining which standard was violated and the reason 150  
the standard was violated. 151

(C) (1) Except as otherwise provided in division (C) (2) of 152  
this section, a county, municipal corporation, or township is 153  
considered to be split if any contiguous portion of its territory 154  
is not contained entirely within one district. 155

(2) Dividing, along a county line, a municipal corporation or 156  
township that has territory in more than one county shall not be 157  
considered splitting the municipal corporation or township. 158

Section 5. The Ohio redistricting commission shall attempt to 159  
draw a general assembly district plan that meets both of the 160  
following standards: 161

(A) No district plan shall be drawn primarily to favor or 162  
disfavor a political party. 163

(B) The statewide proportion of districts whose voters, based 164  
on recent statewide state and federal election results, favor each 165  
political party shall correspond closely to the statewide 166  
preferences of the voters of Ohio. 167

Section 6. Senate districts shall be composed of three 168  
contiguous house of representatives districts. A county having at 169  
least one whole senate ratio of representation shall have as many 170  
senate districts wholly within the boundaries of the county as it 171  
has whole senate ratios of representation. Any fraction of the 172  
population in excess of a whole ratio shall be a part of only one 173

adjoining senate district. Counties having less than one senate 174  
ratio of representation, but at least one house of representatives 175  
ratio of representation shall be part of only one senate district. 176

The number of whole ratios of representation for a county 177  
shall be determined by dividing the population of the county by 178  
the ratio of representation in the senate determined under Section 179  
3 of this article. 180

Senate districts shall be numbered from one through 181  
thirty-three and as provided in Section 8 of this article. 182

Section 7. Notwithstanding the fact that boundaries of 183  
counties, municipal corporations, and townships within a district 184  
may be changed, district boundaries shall be created by using the 185  
boundaries of counties, municipal corporations, and townships as 186  
they exist at the time of the federal decennial census on which 187  
the redistricting is based, or, if unavailable, on such other 188  
basis as the general assembly has directed. 189

Section 8. At any time the boundaries of senate districts are 190  
changed in any plan of redistricting made pursuant to any 191  
provision of this article, a senator whose term will not expire 192  
within two years of the time the plan of redistricting is made 193  
shall represent, for the remainder of the term for which the 194  
senator was elected, the senate district which contains the 195  
largest portion of the population of the district from which the 196  
senator was elected, and the district shall be given the number of 197  
the district from which the senator was elected. If more than one 198  
senator whose term will not so expire would represent the same 199  
district by following the provisions of this section, the district 200  
plan shall designate which senator shall represent the district 201  
and shall designate which district the other senator or senators 202  
shall represent for the balance of their term or terms. 203

Section 9. (A) (1) If the Ohio redistricting commission fails 204

to adopt a final general assembly district plan not later than the 205  
first day of September of a year ending in the numeral one, in 206  
accordance with Section 1 of this article, the commission shall 207  
introduce a general assembly district plan by a simple majority 208  
vote of the commission. 209

(2) After introducing a general assembly district plan under 210  
division (A)(1) of this section, the commission shall hold a 211  
public hearing concerning the introduced plan, at which the public 212  
may offer testimony and at which the commission may adopt 213  
amendments to the introduced plan. All members of the commission 214  
shall be required to attend the hearing. A quorum of the members 215  
of the commission is required to conduct the hearing. 216

(3) After the hearing described in division (A)(2) of this 217  
section is held, and not later than the fifteenth day of September 218  
of a year ending in the numeral one, the commission shall adopt a 219  
final general assembly district plan, either by the vote required 220  
to adopt a plan under division (B) of Section 1 of this article or 221  
by a simple majority vote of the commission. 222

(B) If the commission adopts a final general assembly 223  
district plan in accordance with division (A)(3) of this section 224  
by the vote required to adopt a plan under division (B) of Section 225  
1 of this article, the plan shall take effect upon filing with the 226  
secretary of state and shall remain effective until the next year 227  
ending in the numeral one, except as provided in Section 10 of 228  
this article. 229

(C)(1) If the commission adopts a final general assembly 230  
district plan in accordance with division (A)(3) of this section 231  
by a simple majority vote of the commission, the plan shall take 232  
effect upon filing with the secretary of state and shall remain 233  
effective until two general elections for the house of 234  
representatives have occurred under the plan or until a year 235  
ending in the numeral one, whichever is earlier. 236

(2) A final general assembly district plan adopted in 237  
accordance with division (A) (3) of this section by a simple 238  
majority vote of the commission shall include a statement 239  
explaining what the commission determined to be the statewide 240  
preferences of the voters of Ohio and the manner in which the 241  
statewide proportion of districts in the plan whose voters, based 242  
on recent election results, favor each political party corresponds 243  
closely to those preferences, as described in division (B) of 244  
Section 5 of this article. At the time the plan is adopted, a 245  
member of the commission who does not vote in favor of the plan 246  
may submit a declaration of the member's opinion concerning the 247  
statement included with the plan. 248

(D) After a plan adopted under division (C) of this section 249  
ceases to be effective, and not earlier than the first day of July 250  
of the year following the year in which the plan ceased to be 251  
effective, the commission shall be reconstituted as provided in 252  
Section 1 of this article, convene, and adopt a new general 253  
assembly district plan in accordance with this article, to be used 254  
until the next time for redistricting under this article. The 255  
commission shall draw the new plan using the same population and 256  
county, municipal corporation, and township boundary data as were 257  
used to draw the plan adopted under division (C) of this section. 258

Section 10. (A) The supreme court of Ohio shall have 259  
exclusive, original jurisdiction in all cases arising under this 260  
article. 261

(B) In the event that any section of this constitution 262  
relating to redistricting or any plan of redistricting made by the 263  
Ohio redistricting commission is determined to be invalid by an 264  
unappealed final order of a court of competent jurisdiction then, 265  
notwithstanding any other provisions of this constitution, the 266  
commission shall be reconstituted as provided in Section 1 of this 267  
article, convene, and ascertain and determine a plan of 268

redistricting in conformity with such provisions of this 269  
constitution as are then valid, including establishing terms of 270  
office and election of members of the general assembly from 271  
districts designated in the plan, to be used until the next 272  
regular redistricting in conformity with such provisions of this 273  
constitution as are then valid. 274

(C) Notwithstanding any provision of this constitution or any 275  
law regarding the residence of senators and representatives, a 276  
plan of redistricting made pursuant to this section shall allow 277  
thirty days for persons to change residence in order to be 278  
eligible for election. 279

(D) (1) No court shall order, in any circumstance, the 280  
implementation or enforcement of any plan that has not been 281  
approved by the commission in the manner prescribed by this 282  
article. 283

(2) If the supreme court of Ohio determines that a general 284  
assembly district plan adopted by the commission does not comply 285  
with the standards set forth in this article, the available 286  
remedies shall be as follows: 287

(a) If the court finds that the district plan violates the 288  
requirements of Section 2, 3, 6, 7, or 8 or division (A) (2), (B), 289  
or (C) of Section 4 of this article, the court shall order the 290  
commission to correct the violation. 291

(b) If, in considering a district plan adopted under division 292  
(C) of Section 9 of this article, the court determines that both 293  
of the following are true, the court shall order the commission to 294  
adopt a new general assembly district plan in accordance with this 295  
article: 296

(i) The plan significantly violates the requirements of 297  
Section 2, 3, 6, 7, or 8 or division (A) (2), (B) (1) (a), (B) (1) (b), 298  
(B) (1) (c), (B) (1) (e), (B) (2), or (C) of Section 4 of this article 299

in a manner that materially affects the ability of the plan to 300  
contain districts whose voters favor political parties in an 301  
overall proportion that corresponds closely to the statewide 302  
political party preferences of the voters of Ohio, as described in 303  
division (B) of Section 5 of this article. 304

(ii) The statewide proportion of districts in the plan whose 305  
voters, based on recent statewide state and federal election 306  
results, favor each political party does not correspond closely to 307  
the statewide preferences of the voters of Ohio. 308

Section 11. The various provisions of this article are 309  
intended to be severable, and the invalidity of one or more of 310  
such provisions shall not affect the validity of the remaining 311  
provisions. 312

EFFECTIVE DATE AND REPEAL 313

If adopted by a majority of the electors voting on this 314  
proposal, new Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, and 11 of 315  
Article XI take effect January 1, 2021, and Sections 1, 2, 3, 4, 316  
5, 6, 7, 8, 9, 10, 11, 12, 13, 14, and 15 of Article XI of the 317  
Constitution of the State of Ohio are repealed from that effective 318  
date. 319

# **Exhibit 2**

**As Adopted by the Senate**

**130th General Assembly**

**Regular Session**

**2013-2014**

**Am. Sub. H. J. R. No. 12**

**Representatives Huffman, Sykes**

**Cosponsors: Representatives Amstutz, Anielski, Ashford, Baker, Brown, Burkley, Clyde, Duffey, Grossman, Hackett, Hagan, C., Hayes, Kunze, Letson, McClain, McGregor, Patmon, Scherer, Schuring, Stebelton, Wachtmann, Speaker Batchelder Senators Faber, Coley, Bacon, Balderson, Beagle, Burke, Eklund, Gardner, Gentile, Hite, LaRose, Lehner, Peterson, Sawyer, Schiavoni, Turner, Widener**

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**JOINT RESOLUTION**

Proposing to enact new Sections 1, 2, 3, 4, 5, 6, 7, 1  
8, 9, and 10 of Article XI and to repeal Sections 2  
1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, and 3  
15 of Article XI of the Constitution of the State 4  
of Ohio to revise the redistricting process for 5  
General Assembly districts. 6

Be it resolved by the General Assembly of the State of Ohio, 7  
three-fifths of the members elected to each house concurring 8  
herein, that there shall be submitted to the electors of the 9  
state, in the manner prescribed by law at the general election to 10  
be held on November 3, 2015, a proposal to enact new Sections 1, 11  
2, 3, 4, 5, 6, 7, 8, 9, and 10 of Article XI of the Constitution 12  
of the State of Ohio to read as follows: 13

**ARTICLE XI** 14

Section 1. (A) The Ohio redistricting commission shall be 15  
responsible for the redistricting of this state for the general 16



assembly. The commission shall consist of the following seven 17  
members; 18

(1) The governor; 19

(2) The auditor of state; 20

(3) The secretary of state; 21

(4) One person appointed by the speaker of the house of 22  
representatives; 23

(5) One person appointed by the legislative leader of the 24  
largest political party in the house of representatives of which 25  
the speaker of the house of representatives is not a member; 26

(6) One person appointed by the president of the senate; and 27

(7) One person appointed by the legislative leader of the 28  
largest political party in the senate of which the president of 29  
the senate is not a member. 30

The legislative leaders in the senate and the house of 31  
representatives of each of the two largest political parties 32  
represented in the general assembly, acting jointly by political 33  
party, shall appoint a member of the commission to serve as a 34  
co-chairperson of the commission. 35

(B) (1) Unless otherwise specified in this article, a simple 36  
majority of the commission members shall be required for any 37  
action by the commission. 38

(2) (a) Except as otherwise provided in division (B) (2) (b) of 39  
this section, a majority vote of the members of the commission, 40  
including at least one member of the commission who is a member of 41  
each of the two largest political parties represented in the 42  
general assembly, shall be required to do any of the following: 43

(i) Adopt rules of the commission; 44

(ii) Hire staff for the commission; 45

(iii) Expend funds. 46

(b) If the commission is unable to agree, by the vote 47  
required under division (B) (2) (a) of this section, on the manner 48  
in which funds should be expended, each co-chairperson of the 49  
commission shall have the authority to expend one-half of the 50  
funds that have been appropriated to the commission. 51

(3) The affirmative vote of four members of the commission, 52  
including at least two members of the commission who represent 53  
each of the two largest political parties represented in the 54  
general assembly shall be required to adopt any general assembly 55  
district plan. For the purpose of this division, a member of the 56  
commission shall be considered to represent a political party if 57  
the member was appointed to the commission by a member of that 58  
political party or if, in the case of the governor, the auditor of 59  
state, or the secretary of state, the member is a member of that 60  
political party. 61

(C) At the first meeting of the commission, which the 62  
governor shall convene only in a year ending in the numeral one, 63  
except as provided in Sections 8 and 9 of this article, the 64  
commission shall set a schedule for the adoption of procedural 65  
rules for the operation of the commission. 66

The commission shall release to the public a proposed general 67  
assembly district plan for the boundaries for each of the 68  
ninety-nine house of representatives districts and the 69  
thirty-three senate districts. The commission shall draft the 70  
proposed plan in the manner prescribed in this article. Before 71  
adopting, but after introducing, a proposed plan, the commission 72  
shall conduct a minimum of three public hearings across the state 73  
to present the proposed plan and shall seek public input regarding 74  
the proposed plan. All meetings of the commission shall be open to 75  
the public. Meetings shall be broadcast by electronic means of 76  
transmission using a medium readily accessible by the general 77

public. 78

The commission shall adopt a final general assembly district 79  
plan not later than the first day of September of a year ending in 80  
the numeral one. After the commission adopts a final plan, the 81  
commission shall promptly file the plan with the secretary of 82  
state. Upon filing with the secretary of state, the plan shall 83  
become effective. 84

Four weeks after the adoption of a general assembly district 85  
plan, the commission shall be automatically dissolved. 86

(D) The general assembly shall be responsible for making the 87  
appropriations it determines necessary in order for the commission 88  
to perform its duties under this article. 89

Section 2. Each house of representatives district shall be 90  
entitled to a single representative in each general assembly. Each 91  
senate district shall be entitled to a single senator in each 92  
general assembly. 93

Section 3. (A) The whole population of the state, as 94  
determined by the federal decennial census or, if such is 95  
unavailable, such other basis as the general assembly may direct, 96  
shall be divided by the number "ninety-nine" and by the number 97  
"thirty-three" and the quotients shall be the ratio of 98  
representation in the house of representatives and in the senate, 99  
respectively, for ten years next succeeding such redistricting. 100

(B) A general assembly district plan shall comply with all of 101  
the requirements of division (B) of this section. 102

(1) The population of each house of representatives district 103  
shall be substantially equal to the ratio of representation in the 104  
house of representatives, and the population of each senate 105  
district shall be substantially equal to the ratio of 106  
representation in the senate, as provided in division (A) of this 107  
section. In no event shall any district contain a population of 108

less than ninety-five per cent nor more than one hundred five per cent of the applicable ratio of representation. 109  
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(2) Any general assembly district plan adopted by the commission shall comply with all applicable provisions of the constitutions of Ohio and the United States and of federal law. 111  
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(3) Every general assembly district shall be composed of contiguous territory, and the boundary of each district shall be a single nonintersecting continuous line. 114  
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(C) House of representatives districts shall be created and numbered in the following order of priority, to the extent that such order is consistent with the foregoing standards: 117  
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(1) Proceeding in succession from the largest to the smallest, each county containing population greater than one hundred five per cent of the ratio of representation in the house of representatives shall be divided into as many house of representatives districts as it has whole ratios of representation. Any fraction of the population in excess of a whole ratio shall be a part of only one adjoining house of representatives district. 120  
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(2) Each county containing population of not less than ninety-five per cent of the ratio of representation in the house of representatives nor more than one hundred five per cent of the ratio shall be designated a representative district. 128  
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(3) The remaining territory of the state shall be divided into representative districts by combining the areas of counties, municipal corporations, and townships. Where feasible, no county shall be split more than once. 132  
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(D) (1) (a) Except as otherwise provided in divisions (D) (1) (b) and (c) of this section, a county, municipal corporation, or township is considered to be split if any contiguous portion of its territory is not contained entirely within one district. 136  
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(b) If a municipal corporation or township has territory in more than one county, the contiguous portion of that municipal corporation or township that lies in each county shall be considered to be a separate municipal corporation or township for the purposes of this section.

(c) If a municipal corporation or township that is located in a county that contains a municipal corporation or township that has a population of more than one ratio of representation is split for the purpose of complying with division (E) (1) (a) or (b) of this section, each portion of that municipal corporation or township shall be considered to be a separate municipal corporation or township for the purposes of this section.

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

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

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

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

hundred per cent, of one ratio of representation. 171

(b) Notwithstanding division (D) (2) of this section, the 172  
commission shall create the district by splitting a municipal 173  
corporation or township whose contiguous portions contain a 174  
population of more than fifty per cent, but less than one hundred 175  
per cent, of one ratio of representation. 176

(c) Notwithstanding division (C) (2) of this section, the 177  
commission shall create the district by splitting, once, a single 178  
county that contains a population of not less than ninety-five per 179  
cent of the ratio of representation, but not more than one hundred 180  
five per cent of the ratio of representation. 181

(d) Notwithstanding division (C) (1) of this section, the 182  
commission shall create the district by including in two districts 183  
portions of the territory that remains after a county that 184  
contains a population of more than one hundred five per cent of 185  
the ratio of representation has been divided into as many house of 186  
representatives districts as it has whole ratios of 187  
representation. 188

(2) If the commission takes an action under division (E) (1) 189  
of this section, the commission shall include in the general 190  
assembly district plan a statement explaining which action the 191  
commission took under that division and the reason the commission 192  
took that action. 193

(3) If the commission complies with divisions (E) (1) and (2) 194  
of this section in drawing a district, the commission shall not be 195  
considered to have violated division (C) (1), (C) (2), (D) (2), or 196  
(D) (3) of this section, as applicable, in drawing that district, 197  
for the purpose of an analysis under division (D) of Section 9 of 198  
this article. 199

Section 4. (A) Senate districts shall be composed of three 200  
contiguous house of representatives districts. 201

(B) (1) A county having at least one whole senate ratio of 202  
representation shall have as many senate districts wholly within 203  
the boundaries of the county as it has whole senate ratios of 204  
representation. Any fraction of the population in excess of a 205  
whole ratio shall be a part of only one adjoining senate district. 206

(2) Counties having less than one senate ratio of 207  
representation, but at least one house of representatives ratio of 208  
representation, shall be part of only one senate district. 209

(3) If it is not possible for the commission to draw 210  
representative districts that comply with all of the requirements 211  
of this article and that make it possible for the commission to 212  
comply with all of the requirements of divisions (B) (1) and (2) of 213  
this section, the commission shall draw senate districts so as to 214  
commit the fewest possible violations of those divisions. If the 215  
commission complies with this division in drawing senate 216  
districts, the commission shall not be considered to have violated 217  
division (B) (1) or (2) of this section, as applicable, in drawing 218  
those districts, for the purpose of an analysis under division (D) 219  
of Section 9 of this article. 220

(C) The number of whole ratios of representation for a county 221  
shall be determined by dividing the population of the county by 222  
the ratio of representation in the senate determined under 223  
division (A) of Section 3 of this article. 224

(D) Senate districts shall be numbered from one through 225  
thirty-three and as provided in Section 5 of this article. 226

Section 5. At any time the boundaries of senate districts are 227  
changed in any general assembly district plan made pursuant to any 228  
provision of this article, a senator whose term will not expire 229  
within two years of the time the plan becomes effective shall 230  
represent, for the remainder of the term for which the senator was 231  
elected, the senate district that contains the largest portion of 232

the population of the district from which the senator was elected, 233  
and the district shall be given the number of the district from 234  
which the senator was elected. If more than one senator whose term 235  
will not so expire would represent the same district by following 236  
the provisions of this section, the plan shall designate which 237  
senator shall represent the district and shall designate which 238  
district the other senator or senators shall represent for the 239  
balance of their term or terms. 240

Section 6. The Ohio redistricting commission shall attempt to 241  
draw a general assembly district plan that meets all of the 242  
following standards: 243

(A) No general assembly district plan shall be drawn 244  
primarily to favor or disfavor a political party. 245

(B) The statewide proportion of districts whose voters, based 246  
on statewide state and federal partisan general election results 247  
during the last ten years, favor each political party shall 248  
correspond closely to the statewide preferences of the voters of 249  
Ohio. 250

(C) General assembly districts shall be compact. 251

Nothing in this section permits the commission to violate the 252  
district standards described in Section 2, 3, 4, 5, or 7 of this 253  
article. 254

Section 7. Notwithstanding the fact that boundaries of 255  
counties, municipal corporations, and townships within a district 256  
may be changed, district boundaries shall be created by using the 257  
boundaries of counties, municipal corporations, and townships as 258  
they exist at the time of the federal decennial census on which 259  
the redistricting is based, or, if unavailable, on such other 260  
basis as the general assembly has directed. 261

Section 8. (A)(1) If the Ohio redistricting commission fails 262  
to adopt a final general assembly district plan not later than the 263



first day of September of a year ending in the numeral one, in 264  
accordance with Section 1 of this article, the commission shall 265  
introduce a proposed general assembly district plan by a simple 266  
majority vote of the commission. 267

(2) After introducing a proposed general assembly district 268  
plan under division (A)(1) of this section, the commission shall 269  
hold a public hearing concerning the proposed plan, at which the 270  
public may offer testimony and at which the commission may adopt 271  
amendments to the proposed plan. Members of the commission should 272  
attend the hearing; however, only a quorum of the members of the 273  
commission is required to conduct the hearing. 274

(3) After the hearing described in division (A)(2) of this 275  
section is held, and not later than the fifteenth day of September 276  
of a year ending in the numeral one, the commission shall adopt a 277  
final general assembly district plan, either by the vote required 278  
to adopt a plan under division (B)(3) of Section 1 of this article 279  
or by a simple majority vote of the commission. 280

(B) If the commission adopts a final general assembly 281  
district plan in accordance with division (A)(3) of this section 282  
by the vote required to adopt a plan under division (B)(3) of 283  
Section 1 of this article, the plan shall take effect upon filing 284  
with the secretary of state and shall remain effective until the 285  
next year ending in the numeral one, except as provided in Section 286  
9 of this article. 287

(C)(1)(a) Except as otherwise provided in division (C)(1)(b) 288  
of this section, if the commission adopts a final general assembly 289  
district plan in accordance with division (A)(3) of this section 290  
by a simple majority vote of the commission, and not by the vote 291  
required to adopt a plan under division (B)(3) of Section 1 of 292  
this article, the plan shall take effect upon filing with the 293  
secretary of state and shall remain effective until two general 294  
elections for the house of representatives have occurred under the 295

plan. 296

(b) If the commission adopts a final general assembly district plan in accordance with division (A) (3) of this section by a simple majority vote of the commission, and not by the vote required to adopt a plan under division (B) of Section 1 of this article, and that plan is adopted to replace a plan that ceased to be effective under division (C) (1) (a) of this section before a year ending in the numeral one, the plan adopted under this division shall take effect upon filing with the secretary of state and shall remain effective until a year ending in the numeral one, except as provided in Section 9 of this article. 297  
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(2) A final general assembly district plan adopted under division (C) (1) (a) or (b) of this section shall include a statement explaining what the commission determined to be the statewide preferences of the voters of Ohio and the manner in which the statewide proportion of districts in the plan whose voters, based on statewide state and federal partisan general election results during the last ten years, favor each political party corresponds closely to those preferences, as described in division (B) of Section 6 of this article. At the time the plan is adopted, a member of the commission who does not vote in favor of the plan may submit a declaration of the member's opinion concerning the statement included with the plan. 307  
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(D) After a general assembly district plan adopted under division (C) (1) (a) of this section ceases to be effective, and not earlier than the first day of July of the year following the year in which the plan ceased to be effective, the commission shall be reconstituted as provided in Section 1 of this article, convene, and adopt a new general assembly district plan in accordance with this article, to be used until the next time for redistricting under this article. The commission shall draw the new general assembly district plan using the same population and county. 319  
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municipal corporation, and township boundary data as were used to 328  
draw the previous plan adopted under division (C) of this section. 329

Section 9. (A) The supreme court of Ohio shall have 330  
exclusive, original jurisdiction in all cases arising under this 331  
article. 332

(B) In the event that any section of this constitution 333  
relating to redistricting, any general assembly district plan made 334  
by the Ohio redistricting commission, or any district is 335  
determined to be invalid by an unappealed final order of a court 336  
of competent jurisdiction then, notwithstanding any other 337  
provisions of this constitution, the commission shall be 338  
reconstituted as provided in Section 1 of this article, convene, 339  
and ascertain and determine a general assembly district plan in 340  
conformity with such provisions of this constitution as are then 341  
valid, including establishing terms of office and election of 342  
members of the general assembly from districts designated in the 343  
plan, to be used until the next time for redistricting under this 344  
article in conformity with such provisions of this constitution as 345  
are then valid. 346

(C) Notwithstanding any provision of this constitution or any 347  
law regarding the residence of senators and representatives, a 348  
general assembly district plan made pursuant to this section shall 349  
allow thirty days for persons to change residence in order to be 350  
eligible for election. 351

(D) (1) No court shall order, in any circumstance, the 352  
implementation or enforcement of any general assembly district 353  
plan that has not been approved by the commission in the manner 354  
prescribed by this article. 355

(2) No court shall order the commission to adopt a particular 356  
general assembly district plan or to draw a particular district. 357

(3) If the supreme court of Ohio determines that a general 358

assembly district plan adopted by the commission does not comply 359  
with the requirements of Section 2, 3, 4, 5, or 7 of this article, 360  
the available remedies shall be as follows: 361

(a) If the court finds that the plan contains one or more 362  
isolated violations of those requirements, the court shall order 363  
the commission to amend the plan to correct the violation. 364

(b) If the court finds that it is necessary to amend not 365  
fewer than six house of representatives districts to correct 366  
violations of those requirements, to amend not fewer than two 367  
senate districts to correct violations of those requirements, or 368  
both, the court shall declare the plan invalid and shall order the 369  
commission to adopt a new general assembly district plan in 370  
accordance with this article. 371

(c) If, in considering a plan adopted under division (C) of 372  
Section 8 of this article, the court determines that both of the 373  
following are true, the court shall order the commission to adopt 374  
a new general assembly district plan in accordance with this 375  
article: 376

(i) The plan significantly violates those requirements in a 377  
manner that materially affects the ability of the plan to contain 378  
districts whose voters favor political parties in an overall 379  
proportion that corresponds closely to the statewide political 380  
party preferences of the voters of Ohio, as described in division 381  
(B) of Section 6 of this article. 382

(ii) The statewide proportion of districts in the plan whose 383  
voters, based on statewide state and federal partisan general 384  
election results during the last ten years, favor each political 385  
party does not correspond closely to the statewide preferences of 386  
the voters of Ohio. 387

Section 10. The various provisions of this article are 388  
intended to be severable, and the invalidity of one or more of 389

such provisions shall not affect the validity of the remaining 390  
provisions. 391

EFFECTIVE DATE AND REPEAL 392

If adopted by a majority of the electors voting on this 393  
proposal, new Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10 of 394  
Article XI take effect January 1, 2021, and Sections 1, 2, 3, 4, 395  
5, 6, 7, 8, 9, 10, 11, 12, 13, 14, and 15 of Article XI of the 396  
Constitution of the State of Ohio are repealed from that effective 397  
date. 398