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STATE OF OHIO

**OHIO CONSTITUTIONAL  
REVISION COMMISSION**

**Recommendations for Amendments to  
the Ohio Constitution**

**FINAL REPORT  
INDEX TO PROCEEDINGS AND RESEARCH**



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SERVICES OF MISSISSIPPI  
STATE HOUSE

## **Article XI Apportionment**

### **Present Constitution**

Section 1. The governor, auditor of state, secretary of state, one person chosen by the speaker of the house of representatives and the leader in the senate of the political party of which the speaker is a member, and one person chosen by the legislative leaders in the two houses of the major political party of which the speaker is not a member shall be the persons responsible for the apportionment of this state for members of the general assembly.

Such persons, or a majority of their number, shall meet and establish in the manner prescribed in this Article the boundaries for each of ninety-nine house of representatives districts and thirty-three senate districts. Such meeting shall convene on a date designated by the governor between August 1 and October 1 in the year one thousand nine hundred seventy-one and every tenth year thereafter. The governor shall give such persons two weeks advance notice of the date, time, and place of such meeting.

The governor shall cause the apportionment to be published no later than October 5 of the year in which it is made, in such manner as provided by law.

Section 2. The apportionment of this state for members of the general assembly shall be made in the following manner: 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 the quotient shall be the ratio of representation in the house of representatives for ten years next succeeding such apportionment. 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 "thirty-three" and the quotient shall be the ratio of representation in the senate for ten years next succeeding such apportionment.

Section 3. The population of each house of representatives district shall be substantially equal to the ratio of representation in the house of representatives, as provided in section 2 of this Article, and in no event shall any house of representatives district contain a population of less than ninety-five percent nor more than one hundred five percent of the ratio of representation in the house of representatives, except in those instances where reasonable effort is made to avoid dividing a county in accordance with section 9 of this Article.

Section 4. The population of each senate district shall be substantially equal to the ratio of representation in the senate, as provided in section 2 of this Article, and in no event shall any senate district contain a population of less than ninety-five percent nor more than one hundred five percent of the ratio of representation in the senate as determined pursuant to this Article.

Section 5. Each house of representatives district shall be entitled to a single representative in each General Assembly. Every senate district shall be entitled to a single senator in each General Assembly.

Section 6. District boundaries established pursuant to this Article shall not be changed until the ensuing federal decennial census and the ensuing apportionment or as provided in section 13 of this Article, notwithstanding the fact that boundaries of political subdivisions or city wards within the district may be changed during that time. District boundaries shall be created by using the boundaries of political subdivisions and city wards as they exist at the time of the federal decennial census on which the apportionment is based, or such other basis as the general assembly has directed.

Section 7. (A) Every house of representatives district shall be compact and composed of contiguous territory, and the boundary of each district shall be a single nonintersecting continuous line. To the extent consistent with the requirements of section 3 of the Article, the boundary lines of districts shall be so drawn as to delineate an area containing one or more whole counties.

(B) Where the requirements of section 3 of this Article cannot feasibly be attained by forming a district from a whole county or counties, such district shall be formed by combining the areas of governmental units giving preference in the order named to counties, townships, municipalities, and city wards.

(C) Where the requirements of section 3 of this Article cannot feasibly be attained by combining the areas of governmental units as prescribed in division (B) of this section, only one such unit may be divided between two districts, giving preference in the selection of a unit for division to a township, a city ward, a city, and a village in the order named.

(D) In making a new apportionment, district boundaries established by the preceding apportionment shall be adopted to the extent reasonably consistent with the requirements of section 3 of this Article.

Section 8. A county having at least one house of representatives ratio of representation shall have as many house of representatives districts wholly within the boundaries of the county 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.

The number of whole ratios of representation for a county shall be determined by dividing the population of the county by the ratio of representation for the house of representatives determined under section 2 of this Article.

Section 9. In those instances where the population of a county is not less than ninety percent nor more than one hundred ten percent of the ratio of representation in the house of representatives, reasonable effort shall be made to create a house of representatives district consisting of the whole county.

Section 10. The standards prescribed in sections 3, 7, 8, and 9 of this Article shall govern the establishment of house of representatives districts, which shall be created and numbered in the following order to the extent that such order is consistent with the foregoing standards:

(A) Each county containing population substantially equal to one ratio of representation in the house of representatives, as provided in section 2 of this Article, but in no event less than ninety-five percent of the ratio nor more than one hundred five percent of the ratio shall be designated a representative district.

(B) Each county containing population between ninety and ninety-five percent of the ratio or between one hundred five and one hundred ten percent of the ratio may be designated a representative district.

(C) Proceeding in succession from the largest to the smallest, each remaining county containing more than one whole ratio of representation shall be divided into house of representatives districts. Any remaining territory within such county containing a fraction of one whole ratio of representation shall be included in one representative district by combining it with adjoining territory outside the county.

(D) The remaining territory of the state shall be combined into representative districts.

Section 11. Senate districts shall be composed of three contiguous house of representatives districts. A county having at least one whole senate ratio of representation shall have as many senate districts wholly within the boundaries of the county as it has whole senate ratios of representation. Any fraction of the population in excess of a whole ratio shall be a part of only one adjoining senate district. Counties having less than one senate ratio of representation, but at least one house of representatives ratio of representation shall be part of only one senate district.

The number of whole ratios of representation for a county shall be determined by dividing the population of the county by the ratio of representation in the senate determined under section 2 of this Article.

Senate districts shall be numbered from one through thirty-three and as provided in section 12 of this Article.

Section 12. At any time the boundaries of senate districts are changed in any plan of apportionment made pursuant to any provision of this Article, a senator whose term will not expire within two years of the time the plan of apportionment is made shall represent, for the remainder of the term for which he was elected, the senate district which contains the largest portion of the population of the district from which he was elected, and the district shall be given the number of the district from which the senator was elected. If more than one senator whose term will not so expire would represent the same district by following the provisions of this section the persons responsible for apportionment, by a majority of their number, shall designate which senator shall represent the district and shall designate which district the other senator or senators shall represent for the balance of their term or terms.

Section 13. The supreme court of Ohio shall have exclusive, original jurisdiction in all cases arising under this Article. In the event that any section of this Constitution relating to apportionment or any plan of apportionment made by the persons responsible for apportionment, by a majority of their number, is determined to be invalid by either the supreme court of Ohio, or the supreme court of the United States, then notwithstanding any other provisions of this Constitution, the persons responsible for apportionment by a majority of their number shall ascertain and determine a plan of apportionment in conformity with such provisions of this Constitution as are then valid, including establishing terms of office and election of members of the general assembly from districts designated in the plan, to be used until the next regular apportionment in conformity with such provisions of this Constitution as are then valid.

Notwithstanding any provision of this Constitution or any law regarding the residence of senators and representatives, a plan of apportionment made pursuant to this section shall allow thirty days for persons to change residence in order to be eligible for election.

The governor shall give the persons responsible for apportionment two weeks advance written notice of the date, time, and place of any meeting held pursuant to this section.

Section 14. The boundaries of house of representatives districts and senate districts from which representatives and senators were elected to the 107th general assembly shall be the boundaries of house of representatives and senate districts until January 1, 1973, and representatives and senators elected in the general election in 1966 shall hold office for the terms to which they were elected. In the event all or any part of this apportionment plan is held invalid prior to the general election in the year 1970, the persons responsible for apportionment by a majority of their number shall ascertain and determine a plan of apportionment to be effective until January 1, 1973, in accordance with section 13 of this Article.

Section 15. The various provisions of this Article XI are intended to be severable, and the invalidity of one or more of such provisions shall not affect the validity of the remaining provisions.

#### **Commission Recommendation**

The Commission recommends no changes in Article XI.

#### **History and Background of Article**

Article XI of the Ohio Constitution provides a method for establishing the boundaries of districts for the election of representatives and senators to the Ohio General Assembly and establishes standards for drawing the boundaries. The number of representatives is fixed at 99, and the number of senators at 33; each senate district is composed of three house districts. All districts are single member districts. Apportionment of senate and house districts may only take place every 10 years, following the federal decennial census, by a constitutionally-designated group of persons: the Governor, Auditor of State, Secretary of State, and two persons of opposite parties chosen by the legislative leaders. The two appointees were legislators when apportionment

took place following the 1970 census. The Constitution establishes standards for the formation of House of Representative districts: population requirements; compact districts composed of contiguous territory; the boundary of each district shall be a single nonintersecting continuous line; counties may not be divided unless necessary to achieve the population standard; and if a county must be divided, preference is given to maintaining the integrity of townships, municipalities, and city wards, in that order; and others. Exclusive original jurisdiction is conferred on the Ohio Supreme Court to hear cases arising under the Article.

The Ohio Constitution does not deal with the task of creating congressional districts, which are drawn by the General Assembly. No law or constitutional provision, state or federal, prohibits the General Assembly from redrawing congressional districts as often as it is able to do so, although the number of representatives to which a state is entitled is determined only once every 10 years, following the federal census.

A constitutional provision on apportionment dates from 1851, when Article XI was adopted providing for decennial reapportionment, by dividing the population of the state as shown by the federal census by one hundred for the House and thirty-five for the Senate to establish the ratio of representation in each branch of the legislature for the succeeding 10 years. Every county having a population equal to one-half ratio was given one representative in the House. Whole counties were combined to form both House and Senate districts and additional representation was awarded one or more sessions during the 10-year period to take care of population over the ratio. In 1902 the formula was amended to grant each county at least one representative in the House, and the provision allowing House districts consisting of more than one county fell into disuse. The 1851 apportionment article placed the responsibility for determining the ratio of representation, and the number of representatives and senators to which each county or district was entitled with the Governor, Auditor, and Secretary of State, "or any two of them" (Section 11) to be completed at least six months prior to the October election.

The current constitutional provisions in Article XI represent a substantial revision of the apportionment article in 1967, during the "reapportionment revolution" of the 1960's that began in 1962 with the Supreme Court decision in *Baker v. Carr*, 369 U.S. 186. In that case, the Supreme Court acknowledged for the first time that federal courts have jurisdiction in cases where claims are made that state legislative apportionment violates the equal protection clause of the 14th Amendment to the U.S. Constitution. The significance of the case lay in the Court's ruling that the question was *justiciable*; prior decisions had held that the issues involved "political" questions, not appropriate for judicial solution.

The requirement of "one man, one vote" subsequently became the rule beginning with a case challenging the equality of districts for election of congressmen. In *Wesberry v. Sanders*, 376 U.S. 1 (1964), the Court said that "the command of Art. I, Section 2 (of the Federal Constitution), that Representatives be chosen by the people of the several States means that as nearly as is practicable one man's vote in a congressional election is to be worth as much as another's."

Also in 1964, in *Reynolds v. Sims* (377 U.S. 533) and five companion cases, all dealing with state legislatures, the Court held that the "overriding objective must be substantial equality of population among the various districts" based on the equal protection clause of the 14th Amendment. The Court didn't say how closely representation must follow population, but stated that mathematical exactness or precision was not workable. The Court noted that additional criteria could be taken into consideration, such as preservation of political subdivision boundaries, and compact, contiguous districts. The *Reynolds* Court recognized that disregard of historical or political lines invited gerrymandering -- districting along unnatural lines to achieve partisan advantage or other unfair objectives. The result of these cases and subsequent ones is that both houses of a state legislature, congressional districts, and local governing bodies were ordered apportioned according to population. Many commentators observed that mathematical precision based on population may have the effect of increasing the practice of gerrymandering, by cutting across natural and political boundaries. More recent cases indicate that the Court will permit greater deviation from mathematically "ideal" districts in state legislative districts than it will in congressional districts, but numbers are still emphasized.

In the extensive commentary on substantial equality in legislative and congressional districting, two solutions are suggested.<sup>1</sup> One is the devising of constitutional standards for the formation of districts that minimize mathematical inequality and, at the same time, require the maintenance of political subdivision boundaries to the greatest extent possible, or whatever other standards are deemed by the state to be in pursuance of a rational state policy for districting. The Ohio Constitution contains such standards for legislative districts. The second solution is to create a non-legislative board, commission, or other agency with either primary or secondary (advisory to the legislature) responsibility for legislative districting. In 25 states, such a non-legislative body exists to deal with legislative apportionment. Congressional redistricting continues to be done exclusively by the legislature in all states but Montana, where the non-legislative body is given that responsibility. Of the 25 states, 13 place primary responsibility on the legislature for legislative apportionment, with the non-legislative body serving as advisory, to submit plans to the legislature, etc. In 10 states, including Ohio, legislative apportionment is completely removed from the legislature. In Montana, the legislature has the opportunity to make recommendations to the commission, but the commission's plan becomes final.

### **Comment**

The What's Left Committee, after considerable study of the methods used in Ohio and other states, and the advantages and disadvantages of each, and after lengthy discussion of the problems of drawing legislative districts, concluded that the standards set forth in the Ohio Constitution for drawing districts need not be altered, that congressional districts should be drawn by the same commission that draws legislative districts, and only once every 10 years, and that the composition of Ohio's present apportionment body should be changed. Several organizations and individuals interested in the subject participated in committee discussions and made suggestions. The Commission considered two recommendations to amend Article XI: the one proposed by the What's Left Committee attempted to minimize partisanship, the one proposed by Mr. John McElroy, counsel to the Republican Party, accepted the partisan nature of apportionment, but opened the proceedings and plan for public review and comment.

The apportioning persons are considered of primary importance in the apportionment provision. One of the first conclusions reached by the committee was that the three elected executive officials presently designated by the Constitution should not be on the apportionment board. The committee proposal provided for a five member apportionment commission, with four members appointed by the legislative leaders of both parties in the General Assembly. The fifth member, who would be chairman, and would be a key person, would be selected by majority agreement of the four; if they fail to agree, the secretary of state would select the chairman by lot from nominees submitted by the commission. All meetings, including those to nominate a chairman and draw the apportionment plan, would be open to the public, and at least four weeks would be provided for public inspection of a tentative plan, in order to provide for public comment and input before final adoption of the plan. Under the present constitutional language, the public does not see the plan until after it is approved by the apportioning persons. Elected or appointed public officers other than members of the General Assembly could serve as members of the apportionment commission, which, in addition to redistricting for state legislators every 10 years, would be responsible for districting for the election of United States congressional delegates. The proposal was defeated by the Commission by a vote of 13 in favor, 13 opposed, and 2 passes.

<sup>1</sup>Terry B. O'Rourke, "Reapportionment - Law, Politics, Computers", reprinted in *American Enterprise Institute for Public Policy Research*, 1972.

Robert F. Eimers, "Legislative Apportionment: The Contents of Pandora's Box and Beyond", *1 Hastings Const. Law Quarterly* 289, 302 (1974).

Robert G. Dixon, Jr., "One Man, One Vote - What Happens Next?", *National Civic Review*, May 1971, p. 259.

Robert G. Dixon, Jr., *Democratic Representation, Reapportionment in Law and Politics*, Oxford University Press, 1968, pp. 327-328.

Robert G. Dixon, Jr. and G. Hatheway, Jr., "The Seminal Issue in State Constitutional Revision: Reapportionment Methods and Standards", *10 Wm. & Mary* 888 (1967), p. 907.

The Commission also rejected Mr. McElroy's alternative. That version retained the apportioning persons now specified in the Constitution; the governor, auditor, secretary of state, and two persons chosen by the legislative leaders, and made two major changes in the present apportioning procedures: it provided for a staff and staff director to formulate an apportionment plan, who would be appointed on the same partisan basis as the members themselves, and the proceedings and plan would be open to public inspection before the plan is adopted. The proposal would permit the legislature to provide for the apportioning persons to be responsible for districting for the election of U.S. congressional delegates. The Commission vote on the substitute proposal was 19 in favor, 10 opposed, and 1 pass.

**Apportionment  
Article XI  
Minority Report**

The undersigned persons support the amendment of Article XI, Section 1 of the Ohio Constitution as follows:

THE APPORTIONMENT COMMISSION SHALL DIVIDE THE STATE INTO DISTRICTS FOR THE ELECTION OF MEMBERS TO THE OHIO HOUSE OF REPRESENTATIVES AND SENATE IN ACCORDANCE WITH THE REQUIREMENTS OF THIS CONSTITUTION AND OF THE CONSTITUTION OF THE UNITED STATES. MEMBERS OF THE COMMISSION SHALL BE APPOINTED IN THE YEAR ONE THOUSAND NINE HUNDRED EIGHTY-ONE AND EVERY TENTH YEAR THEREAFTER. ONE MEMBER SHALL BE APPOINTED BY EACH OF THE FOLLOWING: ~~The governor, auditor of state, secretary of state, one person chosen by~~ the speaker of the house of representatives, ~~and~~ the leader in the senate of the political party of which the speaker is a member, and ~~one person chosen by~~ the legislative leaders LEADER in the EACH ~~two houses~~ HOUSE of the major political party of which the speaker is not a member ~~shall be the persons responsible for the apportionment of this state for members of the general assembly.~~

THE FOUR MEMBERS SHALL BE APPOINTED ON OR BEFORE MARCH 1 OF THE DESIGNATED YEAR, AND THEIR NAMES SHALL BE FILED WITH THE SECRETARY OF STATE. THEY SHALL MEET NOT LATER THAN APRIL 1 AT A TIME AND PLACE FIXED BY THE SECRETARY OF STATE, WHO SHALL CALL THE MEETING. EACH MEMBER MAY NOMINATE ONE OR MORE PERSONS, OTHER THAN A MEMBER, TO SERVE AS A FIFTH MEMBER, WHO SHALL BE CHAIRMAN OF THE COMMISSION. THE FIFTH MEMBER SHALL BE SELECTED BY THE AFFIRMATIVE VOTE OF AT LEAST THREE OF THE FOUR MEMBERS. IF THEY HAVE NOT SELECTED THE FIFTH MEMBER BY MAY 1, EACH MEMBER SHALL, AT A MEETING OF THE COMMISSION CALLED BY THE SECRETARY OF STATE AS SOON AS POSSIBLE AFTER THAT DATE, SUBMIT TO THE SECRETARY OF STATE IN WRITING THE NAME OF ONE PERSON, WHO WAS PREVIOUSLY NOMINATED, TO BE THE FIFTH MEMBER. THE FIFTH MEMBER SHALL BE CHOSEN BY LOT BY THE SECRETARY OF STATE AT SUCH MEETING FROM AMONG THE NAMES SO SUBMITTED. FAILURE TO SUBMIT A NAME IS DEEMED A WAIVER OF THE RIGHT TO SUBMIT A NAME. ELECTED OR APPOINTED PUBLIC OFFICERS OTHER THAN MEMBERS OF THE GENERAL ASSEMBLY MAY SERVE AS MEMBERS OF THE COMMISSION. A VACANCY IN THE COMMISSION SHALL BE FILLED IN THE SAME MANNER AS THE ORIGINAL APPOINTMENT. THE CHAIRMAN SHALL CONVENE THE COMMISSION AS OFTEN AS NECESSARY PRIOR TO AUGUST 1 FOR THE PURPOSE OF ORGANIZING, SELECTING STAFF, SECURING OFFICES AND EQUIPMENT, AND SIMILAR MATTERS.

~~Such persons, or a majority of their number,~~ THE APPORTIONMENT COMMISSION shall meet and establish in the manner prescribed in this Article the boundaries for each of ninety-nine house of representative districts and thirty-three senate districts. ~~Such~~ THE FIRST SUCH meeting shall convene ~~on a date designated by the governor~~ AT THE CALL OF THE CHAIRMAN between August 1 and ~~October 4~~ AUGUST 10 in the year one thousand nine hundred ~~seventy-one~~ EIGHTY-ONE and every tenth year thereafter. The ~~governor~~ CHAIRMAN shall give ~~such persons~~ THE OTHER MEMBERS two weeks advance notice of the date, time, and place of such meeting. THE COMMISSION SHALL MEET AS OFTEN AS NECESSARY IN ORDER TO COMPLETE AND

PUBLISH A TENTATIVE APPORTIONMENT PLAN NO LATER THAN SEPTEMBER 15. NO SOONER THAN FOUR WEEKS AFTER PUBLICATION OF THE TENTATIVE PLAN, THE COMMISSION SHALL MEET FOR THE PURPOSE OF ADOPTING A FINAL PLAN, AND SHALL CONSIDER THE COMMENTS, CRITICISMS, AND ALTERNATE PROPOSALS SUBMITTED BY ANY PERSON OR GROUP TO THE TENTATIVE PLAN. THE COMMISSION SHALL ADOPT A FINAL PLAN NO LATER THAN OCTOBER 20. THE CONCURRENCE OF AT LEAST A MAJORITY OF THE MEMBERS OF THE COMMISSION IS NECESSARY FOR THE ADOPTION OF BOTH THE TENTATIVE AND THE FINAL PLANS.

THE FINAL PLAN SHALL BE FILED WITH THE SECRETARY OF STATE WHO ~~The governor~~ shall cause the apportionment to be published no later than October 5-25 of the year in which it is made, in such manner as provided by law.

MEMBERS OF THE APPORTIONMENT COMMISSION SHALL SERVE WITHOUT COMPENSATION BUT SHALL BE REIMBURSED FOR ACTUAL AND NECESSARY EXPENSES. THE GENERAL ASSEMBLY SHALL APPROPRIATE MONEY FOR THE OPERATION OF THE COMMISSION, INCLUDING STAFF.

ALL MEETINGS OF THE APPORTIONMENT COMMISSION SHALL BE OPEN TO THE PUBLIC. ALL COMMUNICATIONS, SUGGESTIONS, CRITICISMS, PLANS, ALTERNATE PROPOSALS, AND OTHER DOCUMENTS RELATING TO THE PREPARATION AND ADOPTION OF THE TENTATIVE AND FINAL PLANS SHALL BE OPEN TO PUBLIC INSPECTION AND SHALL BE RETAINED BY THE COMMISSION DURING ITS EXISTENCE AND BY THE SECRETARY OF STATE FOR AT LEAST ONE HUNDRED EIGHTY DAYS AFTER COMPLETION OF THE COMMISSION'S WORK.

THE APPORTIONMENT COMMISSION SHALL BE RESPONSIBLE FOR DIVIDING THE STATE INTO DISTRICTS FOR THE ELECTION OF REPRESENTATIVES TO THE UNITED STATES CONGRESS.

#### **Comment**

The principal features of this minority proposal are as follows:

1. The Apportionment Commission replaces persons designated by the present constitutional provision: Governor, Auditor, Secretary of State, and two persons chosen by the House and Senate minority and majority leadership. The proposed Commission consists of five persons: the majority and minority leaders in the House and Senate each select one, and a fifth member, who shall be chairman, is selected by the four members. If they cannot agree on a chairman, the Secretary of State will select the chairman by lot from names of persons previously nominated submitted by the four members prior to the lottery meeting.
2. Elected or appointed public officers other than members of the General Assembly may serve as members of the Commission.
3. The Commission will be assisted in the preparation of an apportionment plan by staff, and the General Assembly is required to appropriate funds to support the work of the Commission.
4. The first plan published by the Apportionment Commission is a *tentative* plan. At least four weeks are provided during which the Commission shall consider comments, criticisms, and alternate proposals submitted by any person or group to the tentative plan.
5. All meetings of the Apportionment Commission are open to the public. Communications to the Commission, criticisms, plans, alternate proposals, etc., relating to the adoption of the tentative and final plans are open to public inspection and must be retained for 180 days after the completion of the Commission's work.
6. The Apportionment Commission shall be responsible for dividing the state into districts for the election of representatives to the United States Congress.

This recommendation was developed by the What's Left Committee after much study of apportionment and discussion with knowledgeable persons. The proposal is designed to lessen the influence of partisan politics as much as possible, by emphasizing a bi-partisan approach. The recourse of the lottery, for the selection of the chairman if the four members cannot agree, is intended to provide strong incentive for the members of both parties to come to some agreement on a fair and competent person to be chairman, rather than leave that important position to chance. The extensive requirements dealing with publication and public inspection of both the tentative and final plans, as well as the opportunity for public input, are intended to make the process as open as possible. As it is presently done, apportionment is a very closed process giving the public the opportunity to comment only after the plan is adopted.

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### **Article XIII Corporations**

#### **Present Constitution**

Section 1. The General Assembly shall pass no special act conferring corporate powers.

Section 2. Corporations may be formed under general laws; but all such laws may, from time to time, be altered or repealed. Corporations may be classified and there may be conferred upon proper boards, commissions or officers, such supervisory and regulatory powers over their organization, business and issue and sale of stocks and securities, and over the business and sale of the stocks and securities of foreign corporations and joint stock companies in this state, as may be prescribed by law. Laws may be passed regulating the sale and conveyance of other personal property, whether owned by a corporation, joint stock company or individual.

Section 3. Dues from private corporations shall be secured by such means as may be prescribed by law, but in no case shall any stockholder be individually liable otherwise than for the unpaid stock owned by him or her . . . .

Section 4. The property of corporations, now existing or hereafter created shall forever be subject to taxation, the same as the property of individuals.

#### **Commission Recommendation**

The Commission recommends the repeal of Article XIII, Sections 1, 2, 3, and 4, and the enactment of Article XV, Section 2 as follows:

Article XV, Section 2. CORPORATIONS NOT GOVERNED UNDER ARTICLE XVIII OF THIS CONSTITUTION MAY BE FORMED AND EMPOWERED, AND CORPORATIONS SO FORMED IN THIS STATE OR ELSEWHERE MAY BE CLASSIFIED, REGULATED, AND TAXED ONLY UNDER GENERAL LAWS WHICH MAY, FROM TIME TO TIME, BE ALTERED OR REPEALED. STOCK OWNERSHIP THEREIN SHALL NOT CREATE INDIVIDUAL LIABILITY FOR CORPORATE OBLIGATIONS IN EXCESS OF THE STOCKHOLDER'S UNPAID STOCK SUBSCRIPTION.

#### **Effect of Change**

The Commission recommends the enactment of a new section of the Constitution dealing with corporations, which would retain those provisions of the first four sections in Article XIII which the Commission believes should be retained in the Constitution, and the remaining language of those sections, which is statutory in nature, would be repealed. Only the first sentence of Section 3 is discussed in this portion of the report and the remainder is discussed together with Section 7. The new section would become Article XV, Section 2, a section which is now vacant.