

## Overview of Article III

### Distribution of Powers of Government

Though this Article is brief, it is one of the most fundamental in the Constitution since it outlines the basic framework under which state government is divided into three branches: (1) the legislative, (2) the executive and (3) the judicial. This is the basic framework of the federal government as well the framework of each state.

The Article consists of only three sections, two of which (sections 42 and 43) were adopted as part of the original 1901 Constitution, and one of which (section 43.01) was adopted in 1996 as Amendment 582, as located in this Article pursuant to the Official Recompilation of the Constitution.

- A. Section 42: Establishment of Three Branches: This section actually divides the powers of state government into three branches, the legislative, the executive, and the judiciary and establishes each of those branches or “distinct departments” or, in the wording of the section, to a “separate body of magistracy.”
- B. Section 43: Separation of Powers: While Section 42 established the three branches of state government, Section 43 is the section that restrains each branch from exercising the powers of either of the other two. It is this restraint that creates what as a matter of basic civics we refer to as “separation of powers” and “checks and balances.” The concluding phrase states the purpose in a familiar phrase, “to the end that it may be a government of laws and not of men.”
- C. Section 43.01 is an amendment addressing a specific issue of separation of powers. Section 43.01 provides that a judicial order directing disbursement of state funds is binding on the state only when approved by a simple majority of each house of the legislature. Exceptions to that requirement of legislative action are also set forth in the Section.