

May 1, 2023

On Implementing the Promote the Vote Constitutional Amendment

In a Nutshell

- The May election is the first since voters adopted the Promote the Vote constitutional amendment last fall.
- Some of the new voting/election practices will be in effect statewide for May’s local elections, while implementation of other provisions will occur on a rolling basis over subsequent elections.
- Recently released cost estimates prepared by the Secretary of State show that the amendment will cost state and local governments \$63 million in initial start-up costs and \$21 million each year; the Michigan Legislature has not yet authorized any dedicated funding to cover these costs.

At the November 2022 general election, Michiganders approved Proposal 2, the Promote the Vote constitutional amendment, with 60 percent of the vote. This wide-ranging amendment added several new voting rights to the 1963 Michigan Constitution, including enshrining into the constitution existing voting and election practices found in statutory law. Although the amendment took effect 45 days after the election, the practical effect is that voters will not see all the adopted election reforms in effect every election. That is because some provisions apply to ALL elections and others only to statewide/federal elections. Implementation of the different provisions will occur on a rolling basis over subsequent elections.

On May 2 voters in communities across 69 of Michigan’s 83 counties will head to the polls to weigh in on hundreds of local ballot proposals, most involve new or renewed taxes for public schools. Notably, this will be the first election since voters adopted the Promote the Vote amendment last year. This means that some provisions of Proposal 2, including the right to prepaid postage for returned absentee ballots and single-application absentee voting, will be in effect for the elections held in May. Other provisions, notably the marquee reform of the proposal that guarantees every eligible voter the right to nine days of early, in-person voting, must be implemented for the next statewide election. That is scheduled for March 2024.

At the same time that state and local officials are implementing elements of the Promote the Vote amendment, we are learning more about the estimated costs associated with key provisions of the new law. While it was generally understood that the amendment would come with substantial new costs, estimates were not available when voters considered Proposal 2 last fall. Since then, Secretary of State Jocelyn Benson has released cost estimates for the amendment. Totaling \$21 annually, some of these costs must be borne by the State of Michigan per the amendment with the rest falling to local governments to cover.

With elections happening this week across the state, we take a look at the implementation status of Proposal 2 and highlight some of the changes voters may experience when casting their ballot. Additionally, we share some insights regarding the estimated fiscal impact of implementing various provisions and the various changes to law that are still needed to align the Michigan Election Law with the new constitutional language.

Implementation Roll-Out – Early Voting on Hold for Now

The Promote the Vote constitutional amendment grants brand new voting rights to citizens, but it also codifies current Michigan Election Law provisions regarding voter identification and absent voter signature validation in the state constitution. By doing so, these provisions are protected from future legislative changes, a key impetus behind enshrining them in the state constitution. While the new voting rights, like early voting, will require changes to state law and local election practices to fully implement, the Michigan Election Law currently aligns with the new constitutional language regarding voter identification and signature validation. Therefore, these provisions will be implemented seamlessly and voters should not see any changes at the May election compared to previous elections.

This is not the case for several of the new voting rights included in the amendment. While the constitutional language is considered “self-executing”, the amendment will require statutory implementation. For example, making the right to early voting available to all registered voters will require changes to state election law to align with the broad constitutional framework and to flesh out the details. The Michigan Legislature is within its constitutional authority to provide the necessary statutory framework to implement this new right, just as it has in the past for other complex constitutional provisions.

Because the amendment guarantees the right to early voting only for statewide and federal elections (early voting is an option available to local clerks to use for other elections), changes to the state’s election law were not needed in advance of the May 2023 election. To comply with the amendment’s implementation timeline, the legislature will need to change state law to allow all registered voters access to early voting in advance of the next statewide election, the presidential primary in March 2024. However, if state lawmakers act sooner, local clerks could have the option of offering early voting at the upcoming regular elections in August and November 2023.

One provision of the amendment that will be effective with the May 2023 election allows absent military and overseas ballots to be counted if they arrive within six days after the election. The new provisions dealing absent military/overseas voting must be available for all elections – local and statewide. While voters will have to wait for early voting to come on line, this provision is in effect for this spring’s election.

Under current law, local clerks are not allowed to count ballots that arrive after the polls close on election day. State law must be amended to comply with constitutional language and to provide the necessary statutory details to authorize local clerks to implement the new voting right. That implementing legislation is moving through Lansing right now and will be effective for .

The right to prepaid state-funded return postage for all absent voter ballot applications and absent voter ballots is another new voting right in effect for the May election. Unless their city or township previously covered this expense, this provision relieves voters from having to affix postage when returning their applications and completed ballots. While the mailing of absent voter ballot applications and ballots to voters is the responsibility of municipal clerks, the constitutional amendment requires the state government to pick up the postage costs for returned applications and ballots. The state will have to develop a method for reimbursing local governments for these costs.

Statewide Cost Estimates Emerge, Legislature Still to Respond

In addition to approving the Promote the Vote constitutional amendment last November, Michiganders adopted Proposal 1 to modify state legislative term limits and require public financial disclosure by state lawmakers and executive branch officials. Both proposals were generally viewed by the public as addressing shortcomings in key democratic structures of state government. And, it was understood by voters at the time that implementing the various provisions of each proposal would require the legislature to change existing state laws or adopt new ones. For example, the financial disclosure reforms of Proposal 1 mandate that the legislature enact an implementing law by December 31, 2023.

While the legislature's role in implementing these pro-democracy reforms was clear from the amendment's language, the voting public probably did not appreciate the fact that several provisions would entail substantial new costs for running elections. Costs that the state government and local clerks would incur to implement new election/voting programs and processes, but also the resources needed to annually maintain these new government responsibilities.

Neither amendment came with a fiscal note to document these costs nor did they identify a funding source to cover these costs. This left the voting public in the dark as to what passage of the amendment would cost taxpayers and where the money would come from.

Last week, six months after voters approved the Promote the Vote amendment, Secretary of State Joceyln Benson released an estimate of the fiscal impact for each new voting right – early voting, prepaid postage, drop boxes, etc. In addition to the initial, one-time costs for state government and local clerks to implement each of these rights, she also provided an estimate of the annual, ongoing state and local costs for each. In total, the initial implementation costs are estimated at \$63 million; \$38 million falling on the local clerks to shoulder and another \$25 million in new state government costs. Not surprisingly, the most expensive voting reform (\$45 million of the total) is the guarantee of at least nine days of early voting in all state and federal elections. Statewide, this reform will cost local clerks \$36 million for new equipment and to compensate temporary election workers and cost the state another \$9 million.

Additionally, the Secretary of State anticipates that the Promote the Vote amendment will require \$21 million annually to cover related state and local costs, including staffing, computer programming, equipment purchase and maintenance. Annual costs break down roughly 50/50 between state and local responsibility. It is worth noting that the statewide estimate likely represents the "high-end" as it remains unknown how local election consolidations for early voting will create efficiencies and local cost savings.

Because the amendment did not identify existing or new sources of funding, governments will have to finance the related implementation and annual costs from their existing budgets. And, because the new voting rights are guaranteed by the state constitution, funding these costs will have to be a priority for state and local budget writers. Without new appropriation authority, however, funding for these costs may come at the expense of spending on discretionary budget items.

To date, the state has not approved any new funding tied to Promote the Vote. Governor Whitmer has recommended a \$10 million supplemental appropriation to cover the purchase and installation of 2,000 ballot drop boxes and associated security equipment. But nothing has been requested to pay for the early voting or other reforms that are part of the amendment. With the Secretary of State's updated fiscal impact of all the provisions, policymakers have a clearer picture of the overall costs of the amendment and what level of government will be responsible for funding.

As some of the provisions of the Promote the Vote amendment kick-in with each election, it is now incumbent on state lawmakers to decide how much of the implementation and ongoing costs will be covered through new state appropriations. With that answer, local governments will then have a sense for the financial burden they will have to shoulder. A burden that will definitely vary from community to community statewide based on the size, geography, and the ability to economize on early voting costs.

ABOUT THE AUTHOR

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Craig is the Research Council's Research Director and primary researcher of education and school finance issues. Prior to becoming Research Director, Craig served as the Director of State Affairs and as a Senior Research Associate. During his graduate school studies, he worked for the Council as a Lent Upson-Loren Miller Fellow from 1993 to 1995. Before joining the Council in 2006, Craig worked for ten years as a fiscal analyst at both the Senate Fiscal Agency and the House Fiscal Agency. He previously worked for the Michigan Department of State, Office of Policy and Planning and the United States Environmental Protection Agency in Chicago.

Craig holds a B.A. in Economics and Political Science from Kalamazoo College and a Masters in Public Administration from Wayne State University. He holds positions on various professional, nonprofit, and local government boards/associations.

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