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# Getting the “Dys” out of Michigan’s Dysfunctional Legislature

The Michigan legislature has exhibited dysfunctional behavior from the perspective of good government. The just concluded legislative session, in which the Democratic party enjoyed control of the governor’s office, the House of Representatives, and the Senate, is the most recent example. Similar patterns were evident in earlier sessions when the Republican party had this trifecta of control. Besides the idea that a dysfunctional legislature paints a poor picture of the body as a representation of the state, it does not bode well for the perception that the institution can work for all of the residents to make hard decisions on difficult issues to move the state forward.

Skepticism and distrust are part of our birthrights as U.S. citizens dating back to the Boston Tea Party and the American Revolution. Still, acceptance of the role of government and confidence that representatives are working in the interest of the citizens go far in creating governmental structures we trust to use our tax dollars efficiently and encourage civic participation. It is for that reason that we must recognize that the dysfunction in the Michigan legislature is eroding confidence in government.

It need not be this way. It is possible to make institutional and constitutional changes to lessen the level of dysfunctional (I wouldn’t claim that we can make it all go away).

Over the past several years we’ve watched legislative leaders scheduling minimal session days. In the interest of one party’s priorities, bills were pushed without any substantive hearings. Controversial bills are enacted with appropriations attached to protect them from the threat of referendum. As with national officials, there is the ongoing perception of money driving the legislative priorities and perhaps voting patterns.

These signs of dysfunction are driven both by the hyper-partisan politics that now characterizes America’s two-party political system and misguided concepts about the role of the legislative process. Notwithstanding evidence of cross-party collaboration evident on less controversial matters, the desire and ability to work as statesmen seems to have been lost. This starts with those selected to lead the chambers and the party caucuses but extends to the rank-and-file members that select those leaders and function within the processes put in place.

The hyper-partisan approach to government has made it a “winner-take-all” sport. The goal has become to impose the policy preferences of the majority party without compromise or efforts to seek the middle ground. Those in the majority push through their policy priorities and take actions to protect those policies from becoming undone. Conversely, those in the minority object, obstruct, and refuse to participate in efforts to keep unfriendly policies from being enacted. Even when policies may be acceptable, they take actions to keep the majority party from achieving wins that could be used in future campaigns for political offices.

Clearly hyper-partisan politics is not constrained to Michigan. Within Congress and in other states, the political parties appear to have multiple factions characterized along a spectrum from very conservative to very progressive. These factions seem less content to provide input and more determined to impose their political philosophy.

## A Collaborative Approach

This dysfunction is in part a result of misguided conceptions about having the majority, and how the benefits of being the majority party should influence decision making.

Perhaps the easiest, but hardest, thing to change this attitude of the leaders and rank-and-file members. It is easiest because it does not require gaining the consensus of legislators or the citizens to enact a law or a constitutional amendment. It is hardest because we cannot legislate good behavior or force people to act as we might wish.

Michigan is a "purple" state, with the voting population virtually split between liberal and conservative preferences, and large numbers of "undecided" voters. Since the legislative districts were redrawn in 2021 incorporating the system established by the Voters Not Politicians constitutional amendment, Michigan has a relatively high number of swing districts. This means just more than half of the voters in these districts got their representatives elected. A little less than half of the voters were not able to get their candidate elected. Unlike some coastal "blue" states or southern "red" states, Michigan legislators do not have a clear mandate to make state policies conservative or liberal.

When elected officials treat their time in the majority as an opportunity to rule rather than govern, the result is what Business Leaders for Michigan called "the Michigan 180." The 180 reflects the idea that leadership changes lead the new majority party to change course from the previous path, leaving businesses and citizens dizzy trying to keep up. This is detrimental for business leaders looking for predictability and citizens trying to navigate busy lives.

My concept of the role of government is that it exists to manage the interactions among people. People are willing to participate in this management if they feel their voices were heard.

This requires listening, collaborating and compromising. It requires legislators to build relationships across the political aisle. It requires state officials to listen to local government officials, school leaders, and others.

So partisanship is getting worse and the divide seems to be affecting the ability of legislative leaders to be good stewards of good government norms. We should not be naïve to think just identifying the problem will lead to change. So we need to think about the structures that the legislature operates within to limit the dysfunction.

## Professional or Part-Time Legislature

Some might argue that dysfunction is the result of term limits and the budget cuts at the turn of the century that minimized legislative staff and the resources available. The serious nature of many issues confronting the state suggests that the legislature needs to be more professionalized, with larger staff budgets and higher salaries available to those staff. The amount of turnover and brain drain, as well as the inability to form lasting relationships has made things much worse.

The alternative is to adjust the structure of the legislature to meet the available resources. A part-time, or hybrid form, would have a limited number of session days with legislators and staff working to address constituent needs, meeting in committees, and performing other tasks throughout the year.

With the House of Representatives only in session 54 days (61 percent of the norm in election years) and the Senate only in session 62 days (72 percent of the norm in election years) in 2024, the Michigan legislature in some ways resembles a part-time legislature with the session drawn out over the full year. The legislature was in session fewer days than in some part-time sessions.

Michigan had what we would consider a part-time legislature until the early 1970s. The lack of specificity for the duration of sessions in the constitution allowed the session lengths to stretch to a full year. House and Senate leaders have the latitude to operate in a part-time manner.

Strengthening the professional nature of the legislature are policy and budget decisions.

Limiting the number of session days to force their hands would require a constitutional amendment. According to the National Conference of State Legislatures, Michigan is one of four states (others are California, New York, and Pennsylvania) that have a full-time, professional legislature. An additional seven states (Alaska, Illinois, Florida, Ohio, Massachusetts, New Jersey, and Wisconsin) have nearly full-time legislatures, defined as those in which legislators spend 80 percent or more of the time required by a full-time job on attending legislative sessions, committee work, studying issues, assisting constituents, and campaigning for election. The other states are considered part-time or a hybrid, with time spent addressing constituent concerns and in committee hearings but limited numbers of session days.

## Address Lame Duck Sessions

Some sense of dysfunction stems from the habit of addressing large numbers of issues in lame duck sessions, often with little time or opportunity for hearings or debate.

The lame duck session is the term often applied to the period after the election and before sine die adjournment when legislators seemingly feel more empowered to vote on controversial subjects without fear of their vote haunting them in their efforts for reelection. Michigan has had a fair number of lame duck sessions recently.

There are no easy answers for dealing with the propensity to stretch out legislative sessions and push (too much) activity into lame duck sessions.

The lack of time constraints for legislative sessions in the Michigan Constitution is a factor that contributes greatly to lame duck sessions being a bigger issue in Michigan than in most other states. One way to address this issue is to send the legislators home. When the legislature went home mid-year, before evolving into a full-time legislature, if policies were not taken up in normal session but needed to be addressed it was the prerogative of the governor to call a special session.

Another policy response would require a supermajority of legislators in each chamber to pass legislation in lame duck sessions. This would discourage pushing bills into the lame duck sessions and concentrate the focus on important issues that should not be pushed to the next legislative session. There have been joint resolutions proposed every session for years to amend the constitution for this purpose.

## Transparency

The Citizens United decision by the United States Supreme Court limits what can be done to constrain the role of money to support political campaigns. With that in mind, it is important to strengthen the reporting and accountability mechanisms so that it is clear who is wielding influence. Proposal 22-1 attempted to address this issue, but the requirements drafted by legislators to shine light on their conduct was rather weak. These reporting requirements would have to be as strengthened to match requirements in many other states and reporting requirements for lobbyists would need to be strengthened to know about those spending money to sway legislators.

Similarly, extending the freedom of information act requirements to the legislature would shine more sunshine on the processes.

## Elections

Rather than focusing on the conduct of legislators, we could address how they become legislators. If the composition of the elected representatives is made to look more like the state, extreme positions may become less common.

Currently, enough legislative districts are safe for one party or the other, even after the Michigan Constitution

was amended with the Voters Not Politicians redistricting reforms, that the winners of the primary election are nearly guaranteed election in the general election. The result – candidates can campaign to be the most conservative or most liberal to win the primary elections, and then they are elected in the general elections with little connection or concern for voters in their districts preferring the minority party or undecided voters.

The system currently is structured to accommodate the two-party system with the top nominee from each party running in the general election (yes, there are spots on the ballot for third party candidates, but few ever get enough votes to make a difference).

We could change the dynamics of elections so that legislators are less likely to be elected with extreme political positions. Top two elections and ranked choice voting changes the dynamics so that candidates on the far right or far left must lean into the middle to garner sufficient votes to gain the needed number of votes in the general election. Instead of a general election being between the Republican and Democratic primary winners, a top two election is a runoff of the two candidates receiving the most votes in the primary election. This method is used in many cities mayoral races that are not built around the two-party system. The top two vote getters in the primary election face off in the general election.

Rank choice elections are a bit more complicated, asking voters to list their preference for candidates and the system finds the one acceptable to most voters. In both systems, candidates that do not campaign on extreme ideologies are therefore more likely to win the votes of voters preferring the opposite parties and undecided voters.

## Strengthen Right to Referendum

The interpretation of certain constitutional provisions has empowered the parties to act on controversial topics while protecting them from opposition outside of the chamber.

Legislators from both parties have used a provision in the constitution protecting laws that include an appropriation from being subject to referendum. This provision was included to protect appropriations bills and prevent a referendum-caused shutdown of whole departments or the entire state government. However, the provision has been used instead to referendum proof particular bills. Over the years, with each party in control of the legislature at different times, the majority party has used this provision to its advantage by attaching token funding amounts to make the law an appropriation and thus protect it from being changed or undone by voter referendum.

We could look at changes to weaken the protections of controversial laws.

If this provision was tightened up and returned to its original purpose, legislators could not force extreme policies down on the opposition. The real threat of a referendum might force them to compromise.

## Conclusion

Michigan can do several things to take the “dys” out of the dysfunctional legislature. It begins legislators approaching their jobs with a goal of operating collaboratively. If that fails, we could look to improve transparency on forces swaying their votes, moving to a part-time legislature, changing how legislators are elected, and weaken the opportunities to protect controversial laws from citizens wishing to voice their opinions through referenda. The question of convening a constitutional convention will be on the ballot in November of 2026. Voters may wish to think about these issues when assessing their vote on that question.

## ABOUT THE AUTHOR

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Eric has been President of the Citizens Research Council since September of 2014. He has been with the Citizens Research Council since 1987, the first two years as a Lent Upson-Loren Miller Fellow, and since then as a Research Associate and, later, as Director of Local Affairs. Eric has researched such issues as state taxes, state revenue sharing, highway funding, unemployment insurance, economic development incentives, and stadium funding. His recent work focused on local government matters, including intergovernmental cooperation, governance issues, and municipal finance. Eric is a past president of the Governmental Research Association and also served as vice-chairman of the Governmental Accounting Standards Advisory Council (GASAC), an advisory body for the Governmental Accounting Standards Board (GASB), representing the user community on behalf of the Governmental Research Association.

Eric holds a B.A. in International Relations from James Madison College at Michigan State University and a Masters in Public Administration from Wayne State University.

Founded in 1916, the Citizens Research Council of Michigan works to improve government in Michigan. The organization provides factual, unbiased, independent information concerning significant issues of state and local government organization, policy, and finance. By delivery of this information to policymakers and citizens, the Citizens Research Council aims to ensure sound and rational public policy formation in Michigan. For more information, visit [www.crcmich.org](http://www.crcmich.org).

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