



STATEWIDE BALLOT PROPOSAL 22-2: PROMOTE THE VOTE 2022

In a Nutshell

Proposal 2 would amend the Michigan Constitution to include several voting and elections provisions.

If Proposal 2 is adopted, several new voting rights will be enshrined in the Michigan Constitution, many of which are currently included in the Michigan Election Law. Others would be entirely new, such as the early voting provisions. Proposal 2 would clarify existing voting provisions added to the constitution in 2018 by providing definitions for specific terms and laying out processes and procedures related to voting and election administration. Also, Proposal 2 would define and further clarify the roles and responsibilities of the Board of State Canvassers and boards of county canvassers.

If Proposal 2 is rejected, these rights would not be constitutionally protected, but the legislature would continue to exercise its roles and responsibilities for regulating voting and elections through changes in the Michigan Election Law. For example, if lawmakers wanted to provide citizens with access to in-person, early voting, as contemplated in Proposal 2, state law could be amended to implement it.

Major Issues to Consider: Like the 2018 version of Promote the Vote that contained several voting- and elections-related constitutional provisions, Promote the Vote 2022 addresses multiple topics related to voting and elections. Proponents argue that the proposed constitutional changes would make voting more “secure, modern, and accessible.” In considering the issues addressed and the specific changes put forward by advocates, voters face an all-or-nothing proposition with Proposal 2; a “yes” vote will adopt all provisions. Voters do not have the ability to pick and choose from the menu of proposed changes. As was the case with the 2018 version, the primary issue for voters to consider is whether the totality of policy preferences advocated by the proponents of Promote the Vote 2022 should be enshrined in the state constitution. Or, given the fact that the Michigan Constitution provides the legislature with the responsibility to regulate the “time, place and manner” of all elections, should these policy preferences be left to the legislative arena and dealt with through statutory law rather than inclusion in the state constitution.

Background

The Promote the Vote 2022 proposal can be understood as a reaction to recent voting- and election-related reforms proposed by the current Republican-led legislature.

In the fall of 2021, the Republican majorities in both chambers of the Michigan Legislature passed several bills dealing with voting and election administration. The legislation included, among other things, provisions to tighten voter identification requirements,

limit absentee ballot application mailings, and prohibit elections officials from accepting private funding to administer elections. Governor Whitmer vetoed several of the bills and argued that the legislation would make voting more difficult, disenfranchise voters, particularly voters in minority communities and senior citizens, and would not address claims of voter fraud emanating from the 2020 presidential election in Michigan and across the country.

Following the governor’s veto, proponents of the legislation set out to collect the required number of petition signatures for a wide-ranging statutory initiative. The proposed initiated statute to amend the Michigan Election Law, referred to as Secure MI Vote, encompasses many of the same election/voting provisions contained in the legislation vetoed by the governor in October 2021.

Secure MI Vote proponents submitted more than the requisite 340,000 signatures needed to present the petitions to the current Republican-led legislature with the goal of having it adopted before the end of the current legislative session in December 2022. Under the Michigan Constitution’s unique indirect initiative process (Article II, Section 9), the governor’s signature is not required for a petition adopted by legislature to become law nor can the governor veto such a petition.

The Secure MI Vote petitions await the official canvass by the State Board of Canvassers to determine whether the requisite number of qualified and registered signatures were submitted. If the petitions are certified by the Board of State Canvassers to have met the signature requirement, the legislature would have 40 days to enact it without change or reject it and propose an alternative measure. If the legislature does not adopt it, or rejects and proposes an alternate, the Secure MI Vote petition would be placed on the November 2024 general election ballot for voters to decide. The petition cannot appear on the November 2022 ballot because the deadline for petition certification has passed. To be clear, Secure MI Vote proponent’s main objective is to have the proposal voted and approved by the Michigan Legislature, rather than send it to a statewide vote.

Overview - Promote the Vote 2022

In direct response to the Republican-led legislature’s voting- and elections-related bills and the existence of the ongoing Secure MI Vote petition, a coalition of voting-rights groups has proposed to amend the 1963 Michigan Constitution to insert their voting- and elections-related policy preferences into the state constitution. These preferences include granting citizens new voting rights, but also safeguarding several current requirements and processes contained in state law from future legislative changes.

Proposal 2 on the November 8, 2022, statewide ballot would amend Article II (Elections), Sections 4 (place and manner of elections) and 7 (boards of canvassers) of the Michigan Constitution to:

- Recognize voting as a fundamental right.
- Require military or overseas ballots be counted if postmarked by Election Day.
- Provide voters the right to verify identity

- with a signed statement if they cannot produce government issued identification.
- Require a new state-funded system for tracking submitted absentee voter applications, including prepaid postage for return applications and voted ballots.
- Require the state to fund at least one secure drop box per city and township for absentee ballots.
- Allow voters to request an absentee ballot for all future elections.
- Require nine days of in-person early voting.
- Require election audits be conducted in public, by state and county election officials, based on established guidelines to promote accuracy and transparency.
- Require canvassing boards to certify election results based only on the official records of votes cast.

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While some of the provisions of Proposal 2 already exist in state law (e.g., voter identification requirements), others require completely new election practices (e.g., in-person early voting). Further, Proposal 2 would add new language to the state constitution recognizing voting as a fundamental right, a concept already well established by both the U.S. Supreme Court and the Michigan Supreme Court. By including existing or new statutory provisions within the state constitution, the proposal would effectively insulate them from future legislative modification. If adopted by voters, any future changes to a provision contained in Proposal 2 would require a separate statewide vote to amend the state constitution.

Military and Overseas Voting

Statewide adoption of Proposal 2018-3, the first Promote the Vote proposal, established in the state constitution a new “voting right” for Michigan voters that are overseas or serving in the military and unable to vote in person. This relatively small group of voters has a constitutional right to have an absentee voter ballot sent to them at least forty-five (45) days before an election.

Proposal 2, if adopted, would expand those voting rights granted to Michigan overseas/military voters by extending the timeframe in which their ballots must be accepted and counted. Current Michigan election law requires that all Michigan overseas/military ballots received by 8:00 pm on Election Day be counted. The proposal would grant these voters a right to have their absentee ballots deemed “timely received if postmarked on or before election day and received by the appropriate election official within six (6) days after such election”. It also includes detailed definitional language to provide a very clear criteria (i.e., postmark date) for determining whether to count an overseas/military ballot received by a local clerk.

States differ in how they handle receiving and counting overseas/military ballots with different timeframes for postmarking and receiving overseas/military ballots. For example, Ohio and Indiana allow ballots postmarked on or before Election Day to be counted for another 10 days, while Illinois provides an additional 14 days for these ballots to be counted. Wisconsin, like Michigan, currently requires all

overseas/military ballots to be received by the time polls close on Election Day.

Voter Identification

Proposal 2 seeks to codify current Michigan Election Law provisions regarding voter identification in the state constitution, thus protecting the current provisions from future legislative changes.

Under current state law, registered voters (i.e., those appearing in the state’s Qualified Voter File or those with a voter registration receipt from an election official) seeking to vote in person on Election Day or applying in person at their local clerk’s office for an absentee voter ballot must show their photo identification to receive a ballot. Under the law, if they are unable to present acceptable identification to an election official, then they can sign an affidavit verifying their identification and receive a ballot.

The proposed constitutional language stipulates that a registered voter who executes an affidavit would be allowed to vote on a regular ballot. The language further provides that a registered voter, who signs an affidavit, would not be required to vote on a provisional ballot. As a result, the voter would not have to subsequently verify their identification and proof of residence as is required for a provisional ballot.

Under current law, a provisional ballot may be issued to an individual that appears at a polling site on Election Day but does not appear in the Qualified Voter File or does not have a voter registration receipt issued by an election official. To have that ballot tabulated, the individual must subsequently provide identification and proof of current residence to an election official within six days after the election.

Absentee Ballot Application and Voting

Michigan has experienced an explosion in “no reason” absentee voting since voters gained the constitutional right to vote in this manner in 2018. Some 3.3 million people (60 percent of all ballots cast) voted absentee in the 2020 presidential election. More recently, about 50 percent of the total votes cast at the August 2022 primary election (2.1 million) used the absentee voting option. This compares to less than 25 percent of all ballots cast via absentee at the November 2018 general election.

With expanded access to this method and more voters using it, some observers have challenged the security surrounding the absentee voting process and have recommended changes to it. For example, the Secure MI Vote petition would require citizens to provide, in addition to their signature, their driver license number, state-issued personal identification number, or last four digits of their social security number when they apply for an absentee ballot. Proposal 22-2 can be seen as an attempt to head off such future legislative changes by codifying existing provisions in the state constitution.

Signature Validation. Proposal 2 also affirms current law that provides eligible voters with the right to be able to prove their identity by supplying a signature to the local election official when requesting an absentee ballot or when voting by absentee ballot through the mail. Further, the proposal details the procedure that local officials must follow to verify the signature supplied on an absentee ballot application or on a returned completed absentee ballot. In both cases, the proposed constitutional language directs the election official to compare the signature provided by the voter to that voter's signature contained in the state's Qualified Voter File. The language further states that if an official is unable to match the signature provided, or the voter fails to sign either the application or absentee ballot, the voter has the right to be notified and afforded due process, including an "equitable opportunity" to correct the signature issue.

This provision for signature comparison matches how election officials currently process mail-in absentee ballot applications and voting under Michigan law. Like the in-person voter identification provisions of the proposal, this section of Promote the Vote would establish this process as a separate voting right in the state constitution.

Postage Costs. If voters approve Proposal 2, the State of Michigan would be required to cover postage costs associated with returning absentee ballot applications and ballots. Current absentee voting practices in Michigan are mixed on this issue. Some communities cover postage costs for applications and ballots. Many communities also provide access to drop boxes for electors to return these materials. In many areas, however, residents are responsible for these postage costs to return an application or

a completed ballot. Some observers see the cost of postage as a barrier to returning a ballot, or as a type of poll tax.

According to the National Conference of State Legislatures, 19 states and Washington, D.C., require local election officials to provide return postage for mailed ballots. This is typically a business-reply mailing, so that local officials only pay for return postage for the ballots that are actually returned via the U.S. Postal Service. The NCSL notes that the U.S. Postal Service has a policy of prioritizing election mail, especially ballots, and will deliver a ballot envelope even if it does not have sufficient postage. In such cases, the Postal Service will bill the local jurisdictions for the price of postage.

Application/Ballot Tracking. Proposal 2 would require the state to operate a system to track absentee ballot applications and ballots. The system must provide citizens with the ability to obtain the status of their submitted absentee applications/ballots and it must provide voters with notification and instructions about any deficiencies in their submitted applications/ballots. The Michigan Department of State currently operates and maintains such a system as part of the Michigan Voter Information Center; it allows voters access to information about their absentee ballot and provides additional elections-related information (e.g., voter registration status, local clerk name, polling location, etc.). Michigan is one of 20 states that provide their local jurisdictions with access to such an application/ballot tracking system currently. Effectively, then this provision simply requires the state to maintain the functionality of the current system.

Drop Boxes. Under Proposal 2, the State of Michigan would be responsible for supplying every municipality (cities, villages and townships as they are responsible for running elections) with a secure drop-box to accept absentee applications/ballots. Local jurisdictions with 15,000 or more registered voters would be provided multiple drop-boxes at state expense with the requirements that the boxes are distributed "equitably throughout the municipality" and accessible 24-hours a day for the 40 days prior to Election Day and until 8:00 pm on Election Day.

Currently, local governments have complete discre-

tion over the availability, number, and placement of absentee voting drop-boxes in their jurisdictions. However, state law was amended in 2020 to require all drop-boxes installed by a local government after October 1, 2020, to meet certain state requirements for structural design, labeling/identification, and security (including video monitoring and lighting). The state-funded drop-boxes required in Proposal 2 would have to meet these state requirements.

The Citizens Research Council estimates the state's roughly 1,750 cities, villages and townships would require just under 2,000 secure drop-boxes under this provision of the proposal. While more than 1,650 of these governments would receive just a single box, 107 municipalities have more than 15,000 register voters and would be eligible for additional boxes per the proposal. For example, Detroit would be eligible to receive 29 state-funded boxes, Grand Rapids 10, and Warren seven. The state's largest township, Clinton Township in Macomb County, would be eligible for six boxes.^a

Absentee Ballot List. Another absentee voting provision included in Proposal 2 would allow registered voters to request an absentee ballot for all future elections by making a single, signed application. The right to receive future absentee ballots could only be rescinded under four conditions: 1) voter request, 2) voter is no longer qualified to vote, 3) voter has moved, and 4) voter fails to vote for six consecutive years. This provision is intended to require local clerks to maintain "permanent" absentee voter lists for their jurisdictions and require them to send absentee ballots for each election. The postage costs for required mailings would be covered by the State of Michigan under the proposal.

Early Voting

Proposal 2 would provide qualified voters with a new in-person early voting option for all statewide and federal elections. Voters would not need an excuse to exercise this right, just as they are no longer required to provide an excuse to request and vote an absentee voter ballot. But unlike absentee voting that largely occurs through mail-in ballots, in-person

early voting would take place at designated voting sites. These sites would be required to operate the same way and be subject to the same requirements as polling places on Election Day. Similarly, voters at these sites would have the same rights and be subject to the same requirements (e.g., photo identification) that govern in-person voters casting their ballots on Election Day.

Under the proposal, all citizens would have access to early voting sites for at least nine consecutive days before Election Day. At a minimum, early voting polling sites would have to be open beginning on the second Saturday before Election Day and remain open through the Sunday before Election Day for at least eight hours each day. Local clerks could allow early voting sites in their jurisdictions to be open for additional days and/or hours at their discretion. All costs associated with operating early voting sites would be borne by local communities.

The proposal permits municipalities within the same county to share early voting sites. For example, neighboring cities would be allowed to coordinate and combine their efforts to offer in-person early voting for residents of the two municipalities. The proposal also allows an early voting site to serve voters from more than six precincts, the current limit for combining precincts for in-person voting. In such cases, a combined early voting site would not be subject to the statutory limit on the number of voters assigned to a precinct (2,999 registered voters).

Permissive Early Voting Provisions. It should be noted that Proposal 2 includes permissive powers granted to local governments responsible for conducting elections. These are not requirements. It allows local governments within the same county to contract with their county clerk to conduct early voting. Also, for non-statewide elections, local governments would be allowed to provide early, in-person voting. If a local government chooses to provide residents with an early voting option for a non-statewide election, it would be subject to the same early voting provisions for statewide and federal elections (e.g., minimum days/hours available for early voting).

Reporting Results. Importantly, the proposal prohibits state and local election officials from re-

^a This estimate is based on a voter registration file graciously provided to the Research Council by Practical Political Consulting, Inc.

porting any results from early voting until after 8:00 pm on Election Day, the same time that in-person voting sites close. It should be noted that state and local election officials currently are prohibited from reporting preliminary results before 8:00 pm on Election Day.

Interstate Comparisons. Early voting is not a well-defined term across the United States and different states may use varying terminology to refer to this method of voting. Using a very expansive definition of the term, the U.S. Vote Foundation notes that Alabama and Oregon are the only two states that do not allow some form of early voting (Note: Oregon conducts its elections with mail ballots only). Twenty-four states, including Michigan, authorize in-person absentee voting. In Michigan, every qualified voter has a constitutional “right” to obtain an absentee ballot 40 days prior to the election. During this 40-day period, voters can pick up their absentee ballot from a local clerk’s office. The completed ballot may be submitted in person to the clerk or mailed in.

The type of in-person early voting that would be required in Michigan under Proposal 2, is available in 34 states. A handful of states allow both in-person absentee voting and in-person early voting. For example, Michigan’s neighboring states are a mixed lot in terms of early voting options for residents. Ohio allows both forms, while Indiana law authorizes in-person absentee voting and Illinois provides in-person early voting like what is being proposed for Michigan.

The details of how early voting works in each state vary considerably. For example, states set different lengths for their early voting periods with the average of 23 days among states that allow this method of casting ballots according to the National Conference of State Legislatures. Similarly, there is variation across the states in terms of start/end dates for the early voting periods, as well as making in-person polling sites open during the weekend. Proposal 2 sets a minimum of nine days, for a minimum of eight hours per day, of early voting. But it also provides local clerks the discretion to extend the voting period, as well as expand the hours early voting sites are open for statewide elections held in their jurisdictions.

Other Provisions

Additional voting- and elections-related provisions are included as new subsections in Article II (Elections), Sections 4 (Place and Manner of Elections) and 7 (Boards of Canvassers). Some of the proposed new language is intended to further clarify existing provisions, including content added by the 2018 Promote the Vote amendment. For example, it required audits of statewide election results, while Proposal 2 would clarify this requirement to grant audit authority exclusively to the Secretary of State with the assistance of county election officials. Further, it would prohibit members and officers of political parties from having a role in such audits. Another example of clarifying content is the proposed language for dealing with the roles and responsibilities of boards of canvassers, including the Board of State Canvassers. The language does not add to the powers or duties, nor does it change the fundamental structure or functioning, of these ministerial boards.

Canvassing Election Results. Perhaps to reinforce the fact that current Michigan law assigns these boards largely ministerial roles in conducting elections, Proposal 2 proposes to re-order Section 7; a new lead subsection (#1) states, “The outcome of every election in this state shall be determined solely by the vote of electors casting ballots in the election.” All the material that follows this new introductory language pertains to the roles and responsibilities of individual board members, as well as the boards themselves.

Breaking Ties. The proposed constitutional language would direct the bi-partisan, four-member Board of State Canvassers how to specifically resolve an election outcome where two or more candidates are tied. Currently, the process for breaking a tie vote spelled out in the Michigan Election Law requires the Board to first certify the result of the vote for a particular office and then requires the Michigan Legislature (in joint convention) to determine the winner of a tied election. The current process is not dissimilar to the U.S. Constitution provision that, if the Electoral College is unable to elect the president and vice-president, the election is decided by the U.S. House of Representatives.

By state law, the Board of State Canvassers is respon-

sible for canvassing and certifying election results for President and Vice-President of the United States, state officers (e.g., governor, lieutenant governor, attorney general, secretary of state), U.S. senators, U.S. representatives, Michigan Supreme Court justices, court of appeals judges, circuit court judges, and state senators and representatives elected to a district located in more than one county. The Board is also responsible for canvassing and certifying statewide petitions, including constitutional amendments and other proposals placed before statewide voters. The Michigan Election Law authorizes boards of county canvassers to canvass and certify election results for those offices and petitions not subject to the Board of State Canvassers review.

Currently, the Board of State Canvassers uses a different process than county canvassers for determining the winner of any tied election. Proposal 2 would make the process consistent, regardless of the entity responsible for canvassing and certifying an election result. Under current state law, boards of county canvassers determine a winner of an election ending in a tie by “drawing lots”, basically picking a name out of a hat. The proposed language would require the Board of State Canvassers to also “draw lots” to resolve all ties for elections it is responsible for certifying.

Private Donations for Elections. Proposed language for Section 4 would give authority to counties, cities, and townships to accept and use publicly disclosed charitable and in-kind donations to conduct elections in their jurisdictions. This provision, generally, reflects current allowable procedures related to receiving in-kind and charitable assistance running elections. Local officials regularly rely on in-kind donations (e.g., polling space) by churches and other organizations to host elections. Local governments would have the sole decision-making authority whether to accept and use allowable private resources for election administration. Resources from a foreign entity would be prohibited. The language would add a requirement to disclose allowable contributions and donations as well as a prohibition for the receipt and use of such resources.

The provision is intended to thwart legislative efforts, including the Secure MI Vote petition, that would prohibit local clerks from accepting private funding and

assistance to carry out elections. The primary motivation behind such a prohibition is related to the private financial assistance provided to local governments nationwide for the 2020 presidential election by a private nonprofit organization backed by Facebook CEO Mark Zuckerberg. Hundreds of Michigan local governments applied for, and received, grants from the nonprofit Center for Tech and Civic Life to help them conduct the 2020 election. Supporters of the Secure MI Vote petition assert that this organization targeted Democratic cities to boost turnout. While such a prohibition, if adopted, would prevent local governments from receiving similar private grants, it would also bar them from accepting in-kind and charitable donations from churches and others.

Fiscal Impact

The various new voting rights contained in Proposal 2 would result in some additional election administration costs. These costs, while indeterminate, are likely to fall primarily on cities and townships, as they are responsible for conducting all elections. For example, there will be additional local costs associated with implementing the early voting provisions, which will primarily entail staffing costs for the in-person early voting sites operated by local jurisdictions. The proposal allows jurisdictions to operate these sites either separately or in conjunction with neighboring municipalities or with their county. The increased costs would have to be included in local governments’ budgets and likely funded through their general funds.

Currently, some local jurisdictions, at their discretion, cover the postage costs for returned absentee voter applications and ballots. During the 2020 presidential election, local jurisdictions could ask the State of Michigan to reimburse them for paid postage on ballot return envelopes. If approved, however, Proposal 2 would require state government to pick up the pre-paid postage costs associated with returned absentee voter applications and ballots for every jurisdiction in the state. These costs will vary from election to election based on the number of ballot applications returned for processing and the number of absentee voter ballots returned for tabulation. Postage costs also will vary by jurisdiction based on the length of the ballot; longer, heavier ballots require more postage. For the 2022 August prima-

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ry, about 1.3 million Michigan voters requested an absentee ballot and roughly 85 percent (1.1 million) voted absentee. Based on these figures, statewide absentee voting pre-paid postage would have totaled about \$1.7 million.

If approved, Proposal 2 would guarantee every local jurisdiction with at least one state-funded absentee ballot drop box. The associated costs for these drop boxes, as with the pre-paid postage costs, would have to be appropriated in the state budget.

The Potential Conflict Between Secure MI Vote and Promote the Vote 2022

The purpose of this report is to provide an overview and analysis of Proposal 2. However, the analysis would not be complete without a general understanding of some of the provisions contained in the Secure MI Vote petition effort that is progressing along a parallel path (i.e., petition signatures submitted and awaiting certification). For this reason, this analysis includes occasional references to the Secure MI Vote petition and some of its specific provisions, especially where they differ from Proposal 2 language. Therefore, it is instructive to examine how conflicting provisions would be resolved if the Secure MI Vote petition eventually becomes law, and voters adopt Proposal 2.

For specific provisions where there is a potential conflict, the language of the Michigan Constitution always takes precedent over statutory law. This applies to citizen-initiated laws like Secure MI Vote. For example, this would be the case with respect to the voter identification requirements addressed in both the Secure MI Vote and Proposal 2. Proposal 2 would establish a constitutional right that allows voters to prove their identification for voting in person either by presenting a photo identification or signing an affidavit. Under the Secure MI Vote petition, in-person voters without photo identification would be required to vote a provisional ballot.

It must be noted that the Secure MI Vote petition includes a severability clause to clarify that if any provision is found to conflict with the Michigan Constitution, the U.S. Constitution, or federal law, it can be severed from the petition and all other provisions implemented. In other words, only the conflicting provisions can be stripped from the Secure MI Vote petition if voters adopt Proposal 2.

Further, all the new voting rights established in Proposal 2, are “self-executing”. This means that the entirety of the amendment can go into effect without any additional legislative action. Also, existing constitutional language provides that all voting rights listed in Article II, Section 4 of the Michigan Constitution represent a minimum or floor and nothing prevents the legislature from expanding voters’ rights beyond what is included in the state constitution.

The Key Question – Constitutional Material

Voting and access to the ballot are fundamental to a thriving, well-functioning democracy. While citizens have a responsibility to vote on Election Day, government must ensure that all aspects of the voting process are efficient, secure, transparent, fair, and accurate. This applies to everything from voter registration to election certification. Because of the importance of the franchise, many voting rights are spelled out in the Michigan Constitution. Additionally, the people have entrusted the legislative branch with the responsibility to implement the constitutional elections provisions and “regulate the time, place and manner of all elections”. To carry out these duties and responsibilities, the legislature enacted the Michigan Election Law. The legislature, with the approval of the governor, can modify different aspects of the voting franchise spelled out in the Michigan Election Law.

The important issues raised within Proposal 2 and the specific policy positions contained therein may very well be good, sound positions. And many Michiganders exercising their fundamental right to vote in the future might benefit from their adoption and inclusion. Several of the provisions will make voting more accessible and convenient, while protecting the integrity and security of the franchise. And, clearly, many of the topics addressed via the proposal have been the subject of public debate within the Michigan Legislature. During the current legislative session, Republican majorities in both chambers passed several bills related to voting and elections that were subsequently vetoed by Governor Whitmer

because they would make it more difficult for certain individuals to exercise their right to vote.

The key issue raised by the proposal deals less with the specific policies themselves than whether these policies should be enshrined within the state’s fundamental law – the state constitution. Nothing would prevent the legislature, under its constitutional authority, from adopting any of the policies contained within Proposal 2 without a constitutional amendment mandating them. However, advocates for the constitutional amendment seek to bypass the legislative process to safeguard some new, and many current, voting and election processes and practices from future legislative discussion and modification. But in doing so, these provisions can only be changed through another statewide vote.

In this regard, Proposal 2 joins a long list of proposed amendments to the 1963 Michigan Constitution submitted to voters (either by the legislature or by the people themselves) that contain detailed policy prescriptions that are essentially legislative matters intended to be safeguarded from future legislative involvement. Housing public policy preferences within the state constitution makes it more difficult to remove or modify them, effectively insulating them from legislative responsibility and discretion. Voters would be well served to consider whether these preferences are constitutional “material” or matters ordinarily and appropriately reserved for the legislative process.

A Fact Tank Cannot Run on Fumes

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