

First in a series of papers about state constitutional issues

At the November 3, 2026, general election, Proposal 2026-01 will ask voters whether a constitutional convention should be convened for the purpose of a general revision of the 1963 Michigan Constitution. Article XII, Section 3 provides that in 1978 and every 16 years thereafter the question of a general revision of the constitution shall be submitted to voters. If the question is approved, the convention would convene in Lansing on October 5, 2027. If rejected, it will automatically appear on the ballot again in 2042.

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Shall a convention of elected delegates be called for the purpose of a general revision of the Michigan Constitution, any such revision to be submitted to the voters for ratification?

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GENERAL REVISION OF THE MICHIGAN CONSTITUTION

Proposal 2026-01 will ask Michigan voters to assess how well the fundamental law of the state serves as a framework for efficient, accountable government services that meet today's economic and social needs. In November, voters will choose: to convene a constitutional convention to draft a revised constitution to deal in a holistic manner with issues perceived to be problematic; or to allow the 1963 Michigan Constitution to continue in its present form.

If Proposal 2026-01 is approved, Article XII, Section 3 of the Michigan Constitution requires a special primary and an election to be held within six months to select convention delegates. Michigan's election law allows for four election dates in a calendar year. The partisan primary election would occur in February 2027, and the general election would be held in June 2027. Article XII, Section 3 of the Constitution further provides that the voters in each of the 110 House districts and 38 Senate districts shall elect one delegate to the convention. In total, voters would seat 148 delegates to the convention following the June 2027 election.

The 1963 Constitution provides that the convention would convene in Lansing on October 5, 2027. The delegates are empowered to choose their own officers, determine the rules of proceedings and judge the qualifications, elections and returns of their members. The delegates will be compensated for their time and to incur additional costs through the appointment of such officers, employees, and assistants as it deems necessary; printing and distribution of documents, journals, and proceeds; and explanations and information dissemination about the proposed constitution. The Constitution does not limit the amount of time that a convention can meet to complete its work and draft a revised constitution.

The expense of holding a convention in 2027 would be borne by taxpayers and likely require a state appropriation(s) to cover the operating costs of delegate salaries, staff salaries, technology, but also election costs related to delegate selection and voting on a final drafted constitution submitted to the voters. A key cost factor would be the length of time the convention meets; the 1961 convention met from October 1961 to August 1962. Based on current-day estimates of the cost to host the 1961 convention and the costs of running three statewide elections, a 2027 convention might cost taxpayers \$50 to \$60 million.

If Proposal 2026-01 is rejected, the 1963 Constitution will remain in effect. The legislature and voters may continue to adapt the Constitution to future economic and social needs by offering amendments to reform specific sections viewed as problematic. If rejected, the question will automatically appear on the statewide ballot again in November 2042.

Michigan voters decided against calling a convention each time the question has appeared on the statewide ballot under the automatic 16-year schedule (see Table 1).

Table 1
Results of Statewide Question to Call a Constitutional Convention

Year	Votes For	Votes Against	Result
1978	640,286 (23%)	2,112,549 (77%)	Rejected
1994	777,779 (28%)	2,008,070 (72%)	Rejected
2010	983,019 (33%)	1,960,573 (67%)	Rejected

Source: Michigan Department of State

The 1963 Constitution has proven to be a living document, having been amended numerous times since its adoption.

Wholesale Revision

A state constitutional convention elected by the people is free to fashion any kind of document it pleases, subject only to restraints imposed by the United States Constitution and subject, of course, to having its final product ratified by the state’s voters. While Michigan’s history with constitutional revision has tended to incrementally build on existing constitutions, nothing would bind a 2027 constitutional convention to such an approach.

Further, while several voters may agree upon issues in need of constitutional reform, there are no single, correct reforms to most of the large and important

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questions that would confront a convention. These are matters of opinion and judgment, and honest differences of view can readily be entertained.

In the end, a convention must submit the results of its deliberations to the state's voters for approval. To merit this approval, a proposed revision of the constitution must be a document that can be read and understood by citizens and which in meritorious features commends itself to the people as a worthy instrument for the furtherance of effective and responsible government directed to the end of serving and promoting the common good.

The Nature and Purpose of a State Constitution

The idea of a written constitution defining the structure of government and enumerating the rights of the people as a limitation on the powers of government is deeply rooted in Anglo-American history. The adoption of the first state constitutions preceded the drafting of the United States Constitution by the Philadelphia convention of 1787 which established the federal system under which we now operate—a system under which governmental power is divided between the federal or central government and the fifty states.

A constitution should serve the purpose of a fundamental organic document: establishing, defining and limiting the basic organs of power, stating general principles, and declaring the rights of the people.

American constitutionalism presupposes certain basic principles that find expression either expressly or impliedly in state constitutions as well as the constitution of the United States. Some of these are so fundamental and familiar and their implications so plain that they need not be developed at length:

- That political power rests ultimately in the people;
- That the popular will is reflected in the constitution and in the institutions of representative government designed to serve the interests and welfare of the people;
- That the organs of government are subject to the limitations imposed by the people and by the rights retained by them;
- That a constitution is fundamental and supreme law; and
- That the courts in the exercise of the power of judicial review have the responsibility and the duty to uphold this fundamental law and to refuse to enforce legislative and other acts of government found to be in conflict with it.

In addition to these principles, a state constitution can be expected to achieve several fundamental objectives. First, to establish the organs of governmental power, to define and distribute authority among them, and to state limitations on these powers. Second, the questions of direct participation by the electors in the legislative process by means of the referendum and initiative and the mechanics of these processes require attention. Finally, it may be suggested that since the political process is such an inherent part of government and the operation of representative government, attention may

well be given in the constitution to the roles that political parties may play in Michigan's state and local government.

Apart from the electorate and the three branches of government, the other organs or bodies that may be vested with constitutional status are public corporations. These may be divided into two categories: (1) municipal corporations and other local governmental units including counties, cities, and townships; and (2) public corporations organized for specific purposes such as local school districts and state universities. With respect to both classes, the questions respecting constitutional position and authority—including, in the case of those in the first class, the important questions of home rule status—are matters of basic concern.

In addition to establishing the structure of state government, municipal corporations and other local governments, and public corporations, alteration of a state constitution has the potential to alter the basis upon which state laws and judicial decisions are based. Amending or revising the state constitution could affect broad concepts, such as home rule for local governments, the involvement of citizens through elections, initiatives, and referenda, and the state's responsibility for funding public education. It also could affect more narrow concepts, such as government finance, the death penalty, and eminent domain.

A constitution should not be an elaborate document. It should be relatively compact and economical in its general arrangement and draftsmanship. Details should be avoided and matters appropriate for legislation should not be incorporated into the organic document. United States Supreme Court Chief Justice Marshall stated this idea in classic form in his famous opinion in *McCulloch v. Maryland*.

A Constitution to contain an accurate detail of all the subdivisions of which its great powers will admit, and of all the means by which they may be carried into execution, would partake of a prolixity of a legal code, and could scarcely be embraced by the human mind. It would probably never be understood by the public. Its nature, therefore, requires that only its great outlines should be marked, its important objects designated, and the minor ingredients which compose those objects be deduced from the nature of the objects themselves... . In considering this question, then, we must never forget that it is a Constitution we are expounding.

In a similar vein, U.S. Supreme Court Justice Cardozo stated the matter more succinctly:

A Constitution states or ought to state not rules for the passing hour but principles for an expanding future¹

1 Benjamin N. Cardozo, *The Nature of the Judicial Process*. New Haven: Yale University Press, 1921.

The Michigan Constitution

The 1963 Michigan Constitution contains 12 articles, with several sections contained within each article. In brief, these articles are:

Article I – Declaration of Rights sets forth basic individual liberties which are to be secure from impairment by the actions of state government.

Article II – Elections defines the qualifications of electors and provides for the place, manner, and time of elections. Article II also discusses the board of state canvassers, recalls, the powers of initiative and referendum, and term limitation. Additional provisions for term limitations are found in Articles IV, V, and XII.

Article III – General Government establishes Lansing as the seat of government and provides for a separation of the powers within the structure of state government.

Article IV – Legislative Branch establishes the constitutional framework for the conduct of legislative powers through a Senate and House of Representatives.

Article V – Executive Branch establishes the constitutional framework for the conduct of executive powers by the governor, lieutenant governor, attorney general, secretary of state, and certain boards and commissions.

Article VI – Judicial Branch establishes the constitutional framework for the general authority of the judiciary to interpret the law.

Article VII – Local Government contains many of the provisions regarding the system of local government in Michigan, which includes counties, townships, cities and villages, and authorities.

Article VIII – Education defines the role and responsibility of the state for elementary-secondary education and higher education.

Article IX – Finance and Taxation contains various limitations upon the otherwise plenary power of the legislature to raise funds through taxation, ranging from the proportion of value at which property may be taxed, to requiring voter approval before local governments may increase certain taxes and indebtedness, to specifying how certain revenues are to be expended.

Article X – Property creates limitations on the powers of eminent domain and escheats and entrusts to the state general supervisory jurisdiction over all state owned lands.

Article XI – Public Officers and Employment provides for an oath of office for public officers, the beginning of terms of office, a classified state civil service, a merit system for employees of local governments, and for the impeachment of civil officers.

Article XII – Amendment and Revision provides for the amendment and general revision of the Constitution.

The 1963 Constitution, Michigan's fourth, is now 64 years old. Over that time Michigan's population has grown from 8 million to more than 10 million. Transportation and communication networks have developed to connect people and population centers. The roles of governments have expanded to support welfare programs and to more actively attract and encourage economic development. Although certain provisions of the 1963 Michigan Constitution are in violation of the United States Constitution, the framework for Michigan government is generally workable. Since adoption, 82 constitutional amendments have been proposed; 39 of which have gained approval from the voters. If a constitutional convention is convened, it will have the goal of making Michigan government work better, not to solve a constitutional crisis.

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A BRIEF MICHIGAN CONSTITUTIONAL HISTORY

The people of Michigan have adopted four constitutions (1835, 1850, 1908 and 1963) and have rejected two (1867 and 1873). Further, voters have failed to approve the calling of a constitutional convention on 12 occasions, including the last three occasions when the question appeared on the statewide ballot (most recently in 2010). The current 1963 Constitution is Michigan's fourth adopted constitution. Only seven states have revised and adopted a greater number of state constitutions. Michigan was one of 11 states to revise their state constitution between 1948 and 1975. Only two states (Georgia in 1983 and Rhode Island in 1986) have gone through the revision exercise in the years since.

Early Constitutions

The 1835 Constitution

In 1835, the territorial council provided for an election of delegates to a constitutional convention. Ninety-one delegates assembled in Detroit in May and concluded their deliberations in June. The proposed constitution was submitted to the voters of the territory in October 1835, 15 months before Michigan was admitted into the Union. It was overwhelmingly approved (6,299 in favor, 1,359 opposed).

The 1835 Constitution has been praised by many political scientists who claim it to be the best among the four Michigan constitutions because of its brevity and simplicity. It provided for election of only members of the Michigan Legislature, Governor, and Lieutenant Governor, with other state offices filled

by appointment. It was the first state constitution to provide for the appointment of a state superintendent of public instruction.

The 1850 Constitution

In 1849, the Michigan Legislature submitted to the voters the question of calling a constitutional convention to revise the 1835 Constitution. The voters approved the question and 100 delegates were elected in 1850. The delegates convened in June and adjourned in August. The proposed constitution was twice the length of the 1835 Constitution and its detailed provisions reflected the prevalent tendency of that period to incorporate into basic law provisions more properly left to statutes. In November 1850, the voters overwhelmingly approved the proposed constitution (36,169 in favor, 9,433 opposed). The 1850 Constitution included the provision that every 16 years, and at other times as provided by law, the question of calling a constitutional convention automatically be submitted to the voters. However, calling a convention required approval of a majority of those voting at the election and not just a majority of those voting on the question.

Revision Attempts, 1867 to 1904

General dissatisfaction with the 1850 document led voters to approve by a three to one margin the calling of a constitutional convention in 1866, pursuant to the 16-year requirement. The 100 delegates were elected in April 1867; convened in Lansing in May; and adjourned in August 1867. The proposed constitution was rejected by the voters in 1868 (71,733 in favor, 110,582 opposed).

In 1873, the Legislature authorized the Governor to appoint an 18-member commission to study the 1850 Constitution and propose amendments and revisions. The commission submitted its formal report for a revised constitution to the Governor and the Legislature placed it on the ballot. In November 1874, the voters rejected the proposed constitution by a three to one margin (39,285 in favor, 124,034 opposed).

Following the 1874 attempt to revise the 1850 document, the question of calling a constitutional convention was rejected by the voters five more times. Legislative action placed the question on the ballot in 1890, 1892, and 1904, and the 16-year constitutional provision submitted the question to the voters in 1882 and 1898. In each instance, the majority of those voting in the election failed to approve the proposal, although in 1892, 1898 and 1904 the majority of those voting on the question gave their approval.

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The 1908 Constitution

In April 1906, the voters approved the question of a general constitutional revision that had been placed on the ballot by legislative action. Ninety-six delegates were elected. The convention convened in Lansing in October 1907 and adjourned in March 1908. The proposed constitution reflected characteristics of the progressive reform movement including home rule for cities. It was approved by the voters in November 1908 (244,705 in favor, 130,783 opposed).

Over the ensuing 53 years, the 1908 Constitution was subject to constant revision. Michigan voters were asked to amend the 1908 Constitution 122 times; of which 66 proposed amendments were adopted and 56 were rejected. By 1960, the Michigan Constitution had grown to 15,323 words. Despite the continuous attention and amendment, a general dissatisfaction with the document created a growing desire to revise the constitution.

Attempts to Revise the 1908 Constitution

Between 1926 and 1961, there were five referenda on the question of revising the 1908 Constitution. The first effort, pursuant to the 16-year requirement, was rejected by the voters in November 1926 (119,491 in favor, 285,252 opposed). The next vote on calling a convention in November 1942, again pursuant to the 16-year constitutional requirement, was rejected by the voters. It received approval by a majority of those voting on the question (468,506 in favor, 408,188 opposed), but not a majority of those voting in the election.

In November 1948, the Michigan Legislature submitted the question of general constitutional revision to the voters. Although the majority of the votes on the question favored the proposal as they had in 1942, it failed due to the constitutional provision requiring a majority of votes cast in the election.

In 1958, the 16-year requirement again placed a ballot proposal for a general constitutional revision before the voters. This effort also failed. Once again, it lacked the necessary majority of votes cast in the election, although the proposal received the majority of votes on the issue (821,282 in favor, 608,365 opposed). In 1958, 2,341,829 votes were cast in the election, but only 1,429,647 (or 61 percent) voted on the question of calling a convention.

In effect, failure to vote on the ballot question was counted as a vote against the calling of a convention under this provision.

It is significant that the vote favoring constitutional conventions increased with each successive revision attempt between 1926 and 1958, with substantial favorable majorities of those voting on the issue achieved in 1948 and 1958. The next step in the effort to call a constitutional convention was to change the requirement for calling a convention from a majority of electors voting in the election to a majority of those voting on the question.

Gateway Amendment and the April 1961 Referendum

In 1960, leading Michigan civic organizations developed an initiative proposal to amend the 1908 Constitution to simplify the calling of a constitutional convention. It provided for approval of a convention call by a simple majority of those voting on the issue, and altered the basis of representation by authorizing one convention delegate from each state House and Senate district. The proposal called for submission of the question of general constitutional revision at the 1961 spring election, specified time limits for electing delegates and specified when and where the convention should convene. The gateway amendment was approved by the voters in November 1960 (1,312,215 in favor, 959,527 opposed).

Pursuant to the new amendment, the question of a general constitutional revision was submitted to the voters in April 1961. The proposal was approved by a margin of only 23,421 votes (596,433 in favor, 573,012 opposed). It is noteworthy that if the former constitutional requirement of a majority of those participating in the election had applied, the proposal would have failed.

Constitutional Convention of 1961

Delegates to the 1961 Constitutional Convention were nominated in July 1961 and the 144 delegates were elected in September on a partisan ballot from single-member districts, one each from the 110 House and 34 Senate districts. The convention was convened in October 1961 and after seven months of work, recessed. On August 1, 1962, the final document of 19,203 words was approved by the convention for submission to the voters on April 1, 1963.

Constitutional Issues in 1960

Prior to the 1961 Constitutional Convention, Michiganders were dealing with several notable challenges. The state had been hit hard by a national recession in the late 1950s. Residents had a growing sense that state government was dysfunctional: unable to manage available resources and efficiently deliver services.

There were several issues that citizens considered before deciding whether to convene a constitutional convention.

Declaration of Rights Issues

Most of the civil rights and liberties established in the 1963 Constitution were similar to those that existed in the 1908 constitution, with some changes made to refine existing sections. The most notable exception to this was the adoption of an equal protection clause which prohibited discrimination based on religion, race, color or national origin and the associated creation of the Michigan Civil Rights Commission.

In the years since the 1963 Constitution was adopted, particularly in the last 30 years, the focus has shifted to debates around “social issues,” with same-sex marriage, affirmative action, stem-cell research, and abortion being the subject of amendments. These amendments would likely be revisited and the scope of Article I would be a major topic of debate at a convention.

Legislative Branch Issues

Political control of the legislature was a primary issue. Under the 1908 Constitution, Southeast Michigan had a growing sense of underrepresentation. The three southeastern Michigan counties of Wayne, Oakland, and Macomb had about 48 percent of the state’s population, but only 26 percent of the senate seats and 43 percent of the house seats.

Southeast Michigan does not suffer the same sense of underrepresentation under the 1963 Michigan Constitution. Since the voters approved Proposal 2018-02, responsibility for redrawing the boundaries for the districts of legislative and congressional representatives is vested in the Citizens Independent Redistricting Commission. Since adopting the current constitution, voters have amended the document twice (1992 and 2022) to add/modify term limitations for state lawmakers, suggesting that this issue may be ripe for convention consideration.

Executive Branch Issues

In 1961, a common belief existed that the executive branch was ineffectual and needed changes. Executive officers were elected every two years. The direct election of eight officers limited the administrative control of the governor. The executive branch was divided and subdivided into 120 administrative agencies. The 1940 amendment that gave the civil service system constitutional status left the governor and the legislature with little direct control over compensation decisions of the state’s workforce. Recent political controversies related to appropriation work projects, the governor’s duty to call for a new election to replace departing lawmakers, and the governor’s power to transfer legislatively-approved appropriations are constitutional issues that could generate discussion at a new convention.

Judicial Branch Issues

The method of selecting judges to the state Supreme Court and lower court levels was a primary issue awaiting the 1961 Constitutional Convention. Additionally, the fractured judicial system, with justices of the peace and municipal courts for example, created uncertainty in the minds of many forced to enter the court system.

The 1963 Constitution unified the state judiciary into “one court of justice” but did not change the method of selecting Supreme Court justices. The method of selecting Supreme Court justices would likely again be an issue if a constitutional convention is convened in 2027. Also, some may desire to

establish a single court funding source to be consistent with the state's role in administering the lower courts under the "one court of justice" concept.

Educational Issues

In addition to deciding whether to appoint or elect the state board of education and the state superintendent of public instruction, attention was directed at the state's higher education governance system. Fragmented control of the several state universities and the special powers and privileges accorded to the University of Michigan, Michigan State University, and Wayne State University were the primary educational issues.

Selection of the state board of education and state superintendent of public instruction and the autonomous university system remain contentious issues. The current fragmentation in public education governance from pre-K to higher education across the executive and legislative branches would likely be a topic of consideration for a constitutional convention. In addition, some may argue that language should be included to define a minimum level of funding for education in addition to the current provisions requiring the legislature to "maintain and support a system of free public elementary and secondary schools..."

Local Government Issues

In 1961, the issue of whether the existing governmental units provided an adequate structure for meeting areawide or metropolitan problems that extended over existing political boundaries was discussed. Delegates disagreed about whether increased urbanization, transportation improvements, and advancements in communication required redefining the roles of existing local governmental units. Because of uncertainty about whether reform could eliminate duplication, waste, and inefficiency, while retaining democratic and responsible government, the 1963 Constitution did not introduce any major reforms to Michigan's structure of local government.

Many of these same issues remain relevant today. Transportation systems, energy and water infrastructure, parks, and other similar public services do not often match political boundaries. The proliferation of special districts during the past decade and efforts to coordinate more public services on a regional basis confirm this development.

The state government's authority to preempt local decisions has become an issue that convention delegates may wish to address. This issue has touched local environmental protection, zoning, energy generation, extraction of natural resources, and economic development. The growing tension between the state's tradition of local governance and state-imposed policies that override local preferences and zoning authority for the perceived statewide benefits is straining the understanding of state and local government powers.

Finance and Taxation Issues

Because Michigan had just come through a severe recession and had struggled to maintain balanced state budgets, several finance and taxation issues were at the forefront for voters deciding to call a constitutional convention. Electors were considering whether a graduated income tax should be authorized; how to free the legislature from restrictions on taxing and spending powers created by high levels of revenue dedications or earmarking; whether the state's limitations on borrowing should be altered; if there was a need to remove or raise property tax limitations to increase local taxing power; and whether to continue existing provisions requiring a uniform rule of taxation.

Although state and local taxation has evolved substantially since the early 1960s, state residents remain confronted with the constitutional issues of graduated income taxes, excessive tax earmarking, state and local tax limitations, and the uniform rule of taxation. Since the 2010 question on a convention, the impact of unintended interactions between tax limitations has been more pronounced and could be of broad interest, especially to local governments with declining property values. Also, due to continued overreliance on property taxes to fund local government services, providing clear authority for local governments to levy new types of local taxes, such as a local sales tax, could be accomplished at a 2027 constitutional convention.

A convention would likely include discussions related to the use of the state's School Aid Fund, which over the last 20 years has been increasingly tapped to finance public universities and community colleges rather than being used exclusively for the traditional purposes of aid to public K-12 schools and teacher retirement contributions.

The 1963 Constitution

The constitution drafted by the 1961 constitutional convention was approved by the voters on April 1, 1963, in a very close vote (810,860 in favor, 803,436 opposed) and took effect January 1, 1964. Since adoption, 82 constitutional amendments have been proposed; 39 of which have gained approval from the voters. Michigan voters decided against calling a convention to review and revise the 1963 Constitution on three occasions, in 1978 (640,286 in favor, 2,112,549 opposed), 1994 (777,779 in favor, 2,008,070 opposed), and 2010 (983,019 in favor, 1,960,573 opposed). If voters don't approve of calling a convention in November 2026, the question will automatically appear on the statewide ballot in 2042.

A Fact Tank Cannot Run on Fumes

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Part of our mission is to help educate Michigan citizens about important policy issues, especially those for which citizens will be asked to voice their opinion.

Publication of the series of constitutional convention papers will conclude with a webinar reviewing the con con process and the major issues identified. If you would like us to share this information with your business, civic group, association, or another gathering, please contact Maureen McNulty-Saxton (msaxton@crcmich.org or 517-485-9444) to make arrangements.

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AMENDING THE MICHIGAN CONSTITUTION: TRENDS AND ISSUES

The 1963 Michigan Constitution has been amended 39 times since it went into effect in January 1964, nearly doubling its length and adding to its complexity. Much of the additional length has consisted of changes that could have been made statutorily or that simply elevated statutory provisions to constitutional status.

The modern era of constitutional amendment in Michigan began with the adoption of the initiative in 1913. The 1908 Constitution was amended 69 times in 126 attempts and, by the end of the 1950s, pressure developed to replace the old document with a new one.

The articles of the 1963 Constitution most proposed for amendment have been Article IV (Legislative Branch) and Article IX (Finance and Taxation). Others subject to frequent amendment have been Articles I (Declaration of Rights), V (Executive Branch), and VIII (Education). In all, there have been 45 amendments to articles out of 98 proposed changes. (Note: some of the successful proposals amended more than one article.)

Early amendments centered on the powers and structure of government, particularly issues of judicial selection and tenure and the State Officers Compensation Commission.

The period from the mid-1970s to the mid-1990s was dominated by issues arising from the so-called "Tax Revolt." In that period, 15 proposed amend-

ments focused on shifting, reducing, or limiting the growth of taxes. Of these, 13 were defeated, with only the Headlee Amendment (1978) and Proposal A (1994) being adopted, but they framed the debate on government’s claim on economic resources for two decades.

Recent years have seen amendments related to electoral processes, such as the creation of an independent citizens redistricting commission; access to no-reason absentee, straight-party, and early voting; and changes to state legislative term limits. Further, voters have approved several amendments flowing from social agendas, such as prohibition of same-sex marriage; prohibition of certain affirmative action programs; and protections for reproductive freedom.

A review of the amendment history of the 1963 Michigan Constitution leads to several conclusions:

- Many of the amendments made changes that could have been accomplished by statute and have added significant length and complexity to the document;
- Addition of provisions of a statutory nature can result in “snowballing” of amendments because it becomes necessary to amend the Constitution in order to change detailed language;
- A common theme of amendments, especially since 1992, has been that of weakening the legislature.

Except for 1990, 2014, and 2024, Michigan voters have been called upon to consider at least one proposed amendment to the 1963 Michigan Constitution in every even-numbered year since 1966. Additionally, voters have been asked to weigh in on proposed amendments appearing on statewide special election ballots in 1981, 1989, 1993, and 2015. The number of proposals appearing on any one ballot has ranged from one, in several elections, to 10, in 1978.

With the passage of the most recent amendment (Proposal 3 of 2022), the Constitution’s length has nearly doubled from roughly 19,000 words in the original document to nearly 37,000 words today.¹ While there may be no way of determining the optimal length of a state constitution, constitutional scholars generally agree that it should be brief and sparing in detail as befits a basic document intended to endure and to be accessible to its citizens. Even upon its adoption, the current Michigan Constitution was slightly longer than most state constitutions and, while some of the amendments have made changes that could have been made only by amending the Constitution, most of the changes that have contributed to its growth could have been accomplished statutorily, either by the legislature or by statutory initiative.

Michigan is one of 18 states that have both legislative and initiatory methods of

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placing proposed constitutional amendments before the voters for their approval. The adoption of the voter initiative early in the life of the 1908 Constitution marks the beginning of the modern era of constitutional amendment in Michigan.

A Century of Constitutional Amendment in Michigan

The Initiative Comes to Michigan

The initiative, in which citizens may circulate petitions that force proposed constitutional amendments (or statutes) onto the ballot, and the referendum, in which legislatures place such issues before the voters, form the basis of constitutional amendment in Michigan. Their arrival, over a century ago, created the amendment process now familiar to Michigan voters.

National Roots

Associated with the Progressive Movement, the roots of the voter initiative in the United States are found in the late nineteenth century. This period was marked by public dissatisfaction with close relationships between legislative bodies and various interests, including railroads and utilities, and frustration in achieving legislative support for proposed reforms. This led to the formation of civic organizations aimed at promoting a means of circumventing those elected bodies to achieve legislative goals. The means chosen was the voter initiative, which, together with the referendum and recall, was expected to give citizens the tools to hold their elected representatives to account.

In 1898, South Dakota became the first state to amend its constitution to provide for the initiative and the referendum. Four years later, Oregon did the same thing and, over the following decade, 13 more states, including Michigan, followed suit. States adopting the initiative and referendum were in the Midwest and Far West, with the exception of Mississippi, whose provisions, adopted in 1912, were declared unconstitutional by state courts in 1917. Following the end of the Progressive Era, the wind went out of the sails of the direct democracy movement and the only states to adopt the initiative and referendum since then have been Florida in the late-1960s.^a

Early Michigan Experience

Movement in Michigan toward adoption of the initiative began in the mid-1890s with the formation of the Direct Legislation Club, which, with the support of Detroit mayor and future Michigan governor, Hazen S. Pingree, pushed for the voter initiative to facilitate adoption of a reform agenda. Their efforts did not meet with success until adoption of the 1908 Constitution, which contained a provision for the initiative that was, however, so restrictive that ever using it was doubtful.

^a Mississippi established an initiative process in 1914, but it was found unconstitutional in 1922. In 1992 the state reestablished initiatives, making it the most recent state to implement this process. However, the state's law was found void once again in 2021 because it requires proponents of an initiative to gather signatures from five congressional districts to qualify for the ballot. After the 2000 census, the state only has four congressional districts, making it impossible for a measure to qualify.

In 1913, the Constitution was amended to permit the initiative (both constitutional and statutory) and the referendum in essentially the same form as they appear in the 1963 Constitution. Since, these direct democracy tools have been available to Michigan voters when their elected representatives fail to act on important issues.

One of the movements prominent in the Progressive Era was the temperance movement. In 1916, anticipating the adoption of the 18th Amendment to the U.S. Constitution, the first successful initiated amendment to the Michigan Constitution was a measure:

Providing for prohibition in the state forever of the manufacture, sale, keeping for sale, giving away, bartering or furnishing of any vinous, malt, brewed, fermented, spirituous or intoxicating liquors, except for medicinal, mechanical, chemical, scientific or sacramental purposes.

The amendment passed by a margin of 55 percent to 45 percent.

“Forever” lasted only 16 years, because in 1932, anticipating the 21st Amendment to the U.S. Constitution, the second successful initiated constitutional amendment in Michigan established a liquor control commission to “exercise complete control of the alcoholic beverage traffic within the state, including the retail sales thereof.” An electorate, apparently thirsty and weary of organized crime, adopted this amendment by a margin of 68 percent to 32 percent. So, the net effect of the first two successful voter initiatives was to adopt prohibition and then to repeal it.

The third successful initiative, however, had a lasting impact. Also adopted in 1932, this amendment, emblematic of the Great Depression, added Section 21 to Article X of the 1908 Constitution (the finance article) establishing the 15-mill limit on the property tax rate, which, in modified form, remains in the current Constitution. It was significant in and of itself, but it also signaled the beginning of the use of the constitutional initiative to attempt to shape state and local fiscal policy. Beginning in 1932, and over the next three decades, of the 24 proposed initiated amendments, 10 related to state taxation (four were adopted).

Amending the 1908 Constitution: Summary

Beginning in 1910 and ending in 1961, 126 amendments to the 1908 Michigan Constitution were submitted to the voters. Of these, 69 were approved and 57 were rejected. The success rates of the proposals submitted by the legislature and initiated proposals were dramatically different. Legislatively proposed amendments were approved 69 percent of the time (59 approved; 26 defeated), while initiated proposals were approved 24 percent of the time (10 approved; 31 defeated).

The subjects of the proposals ranged widely but also reflected the periods during which they were offered. Progressive Era reforms included woman suffrage, authorization of the statutory initiative and referendum and the recall (all legislatively proposed) and creation of a state civil service (proposed by initiative).

Non-partisan election of the judiciary was proposed by initiative and rejected by the voters, but when it was proposed by the legislature several years later, it was adopted. Other amendments were responsive to the need for massive infrastructure investments brought about by urbanization and the proliferation of the automobile, such as bonding authority for drainage districts and highway construction (legislatively proposed) and the dedication of gas and weight tax revenues (initiatory).

The initiative was used in two significant amendments to limit the latitude of the legislature in budgetary determinations. In 1938, it was used to dedicate gas and weight taxes to highway purposes, and again, in 1946, a successful initiative dedicated a sizeable portion of the state sales tax to schools and local governments. By the late-1950s, about 70 percent of state revenues were earmarked, hampering the ability of the state to deal with a budget crisis at that time. Reducing the proportion of constitutionally dedicated taxes became one of the leading arguments in favor of revising the Michigan Constitution.

Among initiated proposals rejected by the voters were compulsory school attendance, authorization of a state income tax, and county home rule.

In the decade beginning in 1951, 18 proposed amendments were adopted, while only three were rejected, a success rate of 86 percent. Along with 51 previous amendments, these new provisions gave the Constitution the appearance of a patchwork quilt of trivia and excessive detail, which created far too many executive branch agencies, excessive earmarking of taxes, and a system of legislative representation skewed toward rural interests. These issues, among others, led several civic and governmental groups to support the calling of a constitutional convention.

Amending the 1963 Constitution

The 39 amendments to the 1963 Constitution have resulted from 82 attempts, which began in November 1966 with an unsuccessful proposal to lower the minimum voting age from 21 to 18. The first successful attempt came in August 1968 with the passage of three legislatively proposed amendments that established the Judicial Tenure Commission, required the legislature to establish a State Officers Compensation Commission, and prescribed a method of filling judicial vacancies.

The first use of the initiative to amend the 1963 Constitution came in 1970 with the passage of Proposal C, which prohibited direct or indirect state aid to non-public schools and pupils. This came in reaction to legislation passed in 1970 that provided that the state would pay a portion of the salaries of lay teachers teaching secular subjects in non-public schools.

Articles Frequently Subject to Amendment

Of the 12 articles in the 1963 Michigan Constitution, three (I, IV, and IX) have been the subject of 70 percent of the proposed amendments, with Articles IX (Fi-

nance and Taxation) and IV (Legislative Branch) leading by a wide margin. **Table 1** shows the number of times each article has been proposed for amendment, the means of proposal, and the success rate. (Note: The Constitution has been proposed for amendment 82 times, but several of the proposed amendments related to more than one article, which explains the 98 times articles have been proposed for amendment and the 45 times articles have been amended. A recent example, Proposal 2 of 2018, changed content in three different articles (IV, V, and VI) in establishing a new method for legislative redistricting.

Table 1
1963 Michigan Constitution: Amendment Approval Rate by Article (1964-2022)

Article	Joint Resolutions			Initiative Petitions			Total		
	Attempts	Adopted	Percent Adopted	Attempts	Adopted	Percent Adopted	Attempts	Adopted	Percent Adopted
I	5	5	100.0%	5	4	80.0%	10	9	90.0%
II	2	0	0.0%	3	3	100.0%	5	3	60.0%
III	0	0	0.0%	1	0	0.0%	1	0	0.0%
IV	21	5	23.8%	6	4	66.7%	27	9	33.3%
V	2	1	50.0%	5	2	40.0%	7	3	42.9%
VI	3	3	100.0%	1	1	100.0%	4	4	100.0%
VII	0	0	0.0%	0	0	0.0%	0	0	0.0%
VIII	1	1	100.0%	4	1	25.0%	5	2	40.0%
IX	18	9	50.0%	13	2	15.4%	31	11	35.5%
X	1	1	100.0%	0	0	0.0%	1	1	100.0%
XI	1	1	100.0%	4	1	25.0%	5	2	40.0%
XII	0	0	0.0%	1	1	100.0%	1	1	100.0%
Total	54	26	48.1%	44	19	44.2%	98	45	46.4%

Note: 98 attempts to amend specific articles in 82 proposals

Article I (Declaration of Rights)

Ten amendments have been proposed to Article I, nine of which were successful. Of the approved amendments, five were proposed by the legislature and dealt with criminal procedure:

- Proposal A (1972) Trial by jury of fewer than 12 jurors in misdemeanor cases
- Proposal K (1978) Permit courts to deny bail under certain circumstances in violent crimes
- Proposal B (1986) Rights for victims of crimes
- Proposal B (1994) Limit criminal appeals
- Proposal 20-2 (2020) Require search warrant to access individual's electronic data and communications^b

^b Public Act 219 of 1999 changed the numbering of statewide ballot proposals from letters to numbers: the first two digits are the last two digits of the year of election and the next digits indicates the order in which the question was filed to appear on the ballot.

Four were placed on the ballot by initiative petition and reflect the ideological struggles of the last several decades:

- Proposal 04-2 (2004) Recognize only an agreement between one man and one woman as “a marriage or similar union for any purpose”
- Proposal 06-2 (2006) Ban certain governmental affirmative action programs
- Proposal 08-2 (2008) Legalize human embryonic stem cell research
- Proposal 22-3 (2022) Provide constitutional right to reproductive freedom

Article IV (Legislative Branch)

There have been 27 proposals to amend Article IV, with only nine approved by the voters. Of the 21 legislative proposals, five were adopted, two of which dealt with the State Officers Compensation Commission (SOCC) responsible for determining salaries and expense allowances for state elected officials:

- Proposal 2 (1968) Require the legislature to create the SOCC
- Proposal A (1972) Permit the legislature to authorize a state lottery
- Proposal A (1982) Reform legislative immunity from civil arrest and process during legislative sessions
- Proposal 2-1 (2002) Require the legislature to act affirmatively on SOCC proposals
- Proposal 22-1 (2022) Change legislative term limits and require financial disclosure reporting by legislative and executive branch officials

The 16 legislative proposals to amend Article IV that were rejected by the voters include seven whose purposes were not aimed directly at legislative powers or structure. Four were tax limitation proposals (1980, 1981, 1989, and 1993); one would have increased sales and use taxes (1989); one was a proposal to lower the minimum drinking age to 19 (1980); and one would have established a railroad redevelopment authority (1978). Of the nine that were aimed at legislative powers and structure, two dealt with legislators being appointed or elected to other offices (1968 and 1972); two dealt with legislative approval of administrative rules (1984 and 1986); and others dealt with the SOCC (1986); powers of the lieutenant governor (1980); civil immunity for legislators (1980); establishment of the State Library of Michigan in the legislature (1986); and lowering the minimum age of legislators from 21 to 18 (1976).

Initiated proposals to amend Article IV have succeeded in four of six attempts:

- Proposal D (1978) Increase the minimum drinking age from 18 to 21
- Proposal B (1992) Implement legislative term limits
- Proposal 04-1 (2004) Require voter approval of the extension of gambling and certain new state lottery games
- Proposal 18-2 (2018) Create an independent citizen redistricting commission

The two defeated initiated proposals would have required two-thirds legislative approval of statutes intervening in municipal concerns of local governments (2000) and the legislature to adopt a renewal energy standard for electric utilities (2012).

Article V (Executive Branch)

Three of the seven proposed amendments to Article V were adopted, including one legislative proposal:

- Proposal M (1978) Replace the State Highway Commission with the State Transportation Commission

Two initiated proposals:

- Proposal B (1992) Term limits for the governor, lieutenant governor, attorney general, and secretary of state
- Proposal 18-2 (2018) Create an independent citizen redistricting commission

The four defeated attempts to amend Article V include a legislative proposal restricting the powers of the lieutenant governor (1980) and three initiative petitions. The rejected petitions would have given constitutional status to the Department of State Police (1982); provided for the election of the Public Service Commission (1982); and created a home care council (2012).

Article VIII (Education)

Of the five proposals placed on the ballot to amend Article VIII, two gained voter approval. The successful proposals included an initiated proposal:

- Proposal C (1970) Prohibit direct or indirect aid to non-public schools

And a legislative proposal:

- Proposal A (1998) Change the word “handicapped” to the word “disabled” in Section 8

Article IX (Finance and Taxation)

As might be expected, the finance and taxation article has attracted the most attention from those interested in amending the 1963 Constitution. Despite the attention, however, the success rate has not been high. Of 31 proposals, only 11 (35 percent) passed. Even this is somewhat misleadingly high in that six of the eleven successful amendments were designed to enshrine various natural resources trust funds and the Veterans’ Trust Fund in the Constitution, beyond the reach of the legislature, meaning that the others, most of which involved state and local taxing and spending limitations, had a success rate of only 17 percent.

The success rate in amending Article IX has not been high and there has not been a major taxing and spending limitation proposal on the ballot since 2015’s Proposal 1 to increase state sales and motor fuel taxes for transportation purposes. Nevertheless, the number and potential significance of the proposals to amend Article IX warrant a somewhat more detailed review than for the other articles.

The proposals to amend Article IX can be grouped into five categories: 1) tax and spending limitations (e.g., tax shift, tax reduction, tax growth limitation); 2) increase tax progressivity; 3) tax increase; 4) revenue dedication; and 5) finance. Some of the proposals encompassed multiple categories (notably one and four) but will be covered here in accordance with their primary purpose.

Tax and Spending Limitations

The use of the ballot to attempt to limit state and local taxes, which began with the 15-mill property tax limit in 1932, reached full flower in the two decades from the mid-1970s to the mid-1990s. Fifteen proposals reached the ballot during this period, but only two passed, one initiated proposal and one legislative proposal:

- Proposal E (1978) the eponymous Headlee Amendment^c, was an initiated proposal which limited state revenue to a fixed percentage of state personal income, created new property tax limitations, required a minimal level of state spending to local governments, and provided for payments to local governments for state mandates.
- Proposal A (1994) was a legislative proposal that provided for a dramatic shift of funding of school operations from the property tax to the state sales tax, a modified acquisition valuation system for determining taxable property values, and differential taxation of business and residential property. (Proposal A could not be considered by the voters solely on its merits because the legislature had passed a statute with similar provisions involving increasing the income tax instead of the sales tax, which was to go into effect in the event Proposal A was rejected.)

The property tax was a target, if not the principal target, of every proposed tax limitation proposal. The dilemma faced by those wishing to reduce the property tax, however, was the overarching role played by that tax in financing local government, the services of which, especially public safety and education, are among those most valued by the public. The least disliked tax, the sales tax, is levied by the state and may not be levied by local government under the current Constitution. Consequently, the majority of tax limitation proposals proposed a shift away from reliance on the locally levied property tax towards the state-levied sales tax. This approach did not find favor with the voters until Proposal A was adopted—although the voters were not offered the choice of Proposal A or the status quo.

Unsuccessful tax shift proposals have included five legislative proposals:

- Proposal C (1980) Reduce property tax; increase state sales tax from 4 percent to 5.5 percent
- Proposal A (1981) Reduce local homestead and local individual income taxes; increase sales tax and reduce state income tax credits
- Proposal B (1989) Reduce property taxes; increase state sales tax from 4 percent to 6 percent

^c Richard Headlee was an insurance executive and later gubernatorial candidate.

- Proposal A (1992) Modified acquisition value system for determining taxable value for property tax
- Proposal A (1993) Modified acquisition value system for determining taxable value for property tax; reduce property tax for school operations; create foundation plan for school support; increase sales tax from 4 percent to 6 percent (foreshadowed successful Proposal A of 1994)

There were four unsuccessful initiated tax shift proposals:

- Proposal C (1972) Limit property tax for school, county and township purposes; establish state tax program for school support (Would have resulted in overall tax increase)
- Proposal H (1978) Eliminate property tax for school operations; require legislature to establish a program of state taxation to support K-12 education
- Proposal A (1980) Reduce property tax; shift the burden to state taxes (Overall, net tax increase)
- Proposal C (1992) Exempt property tax from portion of school operations; institute modified acquisition value system of determining taxable value (Would have resulted in significant reduction in property taxes)

Three proposals, all initiated and all defeated, would have resulted in significant tax reduction and, while tax increases would have been technically possible, the road to adoption would have been seriously impeded:

- Proposal J (1978) Reduce property tax assessment ratio from 50 percent to 25 percent of true cash value and place other limits on state finances (first "Tisch" proposal^d)
- Proposal D (1980) Roll back assessments; reduce the assessment ratio; institute a modified acquisition value system of determining taxable value; limit the power of the legislature to impose taxes (second "Tisch" proposal)
- Proposal C (1984) Roll back newly adopted taxes, subject to restoration by voter approval; stringent supermajority or voter approval requirements for new taxes ("Voter's Choice")

Tax growth limitations have sought not to shift the burden from one tax to another or to reduce government taxing and spending, but to place limits on tax revenue growth. The successful Headlee Amendment was such a provision. A somewhat similar initiated proposal failed two years before the adoption of the Headlee Amendment:

- Proposal C (1976) Limit state taxes to 8.3 percent of state personal income

Relatedly, there was one failed initiative aimed at limiting the state's taxing

d Robert Tisch was a drain commissioner from Shiawassee County.

power that would have required a 2/3 majority vote in each legislative chamber, or a statewide vote, to approve new or additional taxes or to expand the base or increase the rate of an existing tax:

- Proposal 5 (2012) Require a supermajority vote in the legislature to approve new or expanded taxes

Increase Tax Progressivity

Some proposals have attempted to alter the base or rate of state taxes to move toward greater progressivity in the tax system. The only proposal to pass was an initiated proposal:

- Proposal C (1974) Eliminate sales tax on food and prescription drugs

Three issues on the ballot, all unsuccessful, have proposed to remove the prohibition against the graduated income tax. One was a legislative proposal:

- Proposal I (1968)

The two proposals initiated were

- Proposal D (1972)
- Proposal D (1976)

Tax Increase

Two unsuccessful legislative proposals were aimed primarily at raising taxes and dedicating funding to specific purposes:

- Proposal A (1989) Increase sales tax rate from 4 percent to 4.5 percent; dedicate the new revenues to local schools
- Proposal 1 (2015) Increase sales tax rate from 6 percent to 7 percent and increase gas tax rate and vehicle registration fees for transportation purposes

Revenue Dedication

Attempts to limit the budgetary latitude of the legislature by constitutionally restricting various revenue sources to certain programs have met with marked success. The successful proposals have all been the result of joint legislative resolutions:

- Proposal M (1978) Allocate at least 90 percent of gasoline tax revenues to road purposes, with the remainder available for other purposes

Beginning in 1984 a series of six amendments was initiated placing a great deal of statutory language in Article IX resulting in the elevation to constitutional status of several relatively minor funds related to natural resources, state parks and recreation, and veterans, thereby removing them from legislative discretion. The proposals and the funds they protected are:

- Proposal B (1984) Natural Resources Trust Fund
- Proposal P (1994) State Parks Endowment Fund

- Proposal C (1996) Veterans' Trust Fund
- Proposal 02-2 (2002) Recreation Land Acquisition Fund
- Proposal 06-1 (2006) Conservation and Recreation Legacy Fund; Non-Game Fish and Wildlife Trust Fund; Game and Fish Protection Trust Fund
- Proposal 20-1 (2020) State and local parks trust funds

Two attempts to dedicate state revenues have failed. The first was a legislative proposal:

- Proposal A (1974) Prohibit the use of motor fuel revenues for highway road patrols; limit non-highway uses to 1/18 of total revenues

The second was initiated:

- Proposal 02-4 (2002) Reallocate most tobacco settlement revenues to organizations, both public and private, dealing with health care

Finance

One non-revenue-related amendment, a legislative proposal, was adopted:

- Proposal C (1978) Authorize the deposit of state funds in savings and loan associations and credit unions, in addition to banks

Other Articles

Article II (Elections) has been amended three times, including major expansions and modernization of the voting franchise in 2018 and 2022. In both years, voters approved initiated amendments (Promote the Vote) establishing new voting rights and enshrining election procedures in the state constitution. The only other successful attempt to amend the elections article came from a 1992 citizen-led proposal to limit the terms of Michigan's representatives in the U.S. Congress. This portion of the larger state-level term limits amendment (Proposal B) has since been ruled unconstitutional by the U.S. Supreme Court in a 1995 Arkansas case.

Both rejected amendments to the elections article dealt with lowering the minimum voting age from 21 to 18 (1966, 1968).^e

Article VI (Judicial Branch) has been amended four times, including three times via legislative proposals:

- Proposal 1 (1968) Establish Judicial Tenure Commission
- Proposal 3 (1968) Define manner of filling judicial vacancies
- Proposal B (1996) Establish qualifications for judicial offices

And one time by citizen-led petition:

- Proposal 18-2 (2018) Create independent citizens redistricting commission

^e These rejections became moot with the adoption of the 26th Amendment to the U. S. Constitution in 1971, which reduced the minimum voting age nationally to 18.

Article X (Property) has been amended once as the result of a legislative proposal:

- Proposal 06-4 (2006) Restrict the use of eminent domain

Article XI (Public Officers and Employment) has been the target of four initiated proposals, one of which was successful:

- Proposal G (1978) Grant Michigan state troopers and sergeants the right to collective bargaining and binding arbitration

Another legislative proposal was also successful:

- Proposal 10-2 (2010) Ban certain felons from public offices

Finally, Article XII (Amendment and Revision) has been amended once by means of initiative petition:

- Proposal B (1992) Provide for severability of any unconstitutional provisions of the term limits amendment

No attempts have been made to amend Article III (General Government) or, perhaps surprisingly, Article VII (Local Government).

Conclusions

A number of conclusions may be drawn from a review of the experience to date in amending the 1963 Michigan Constitution.

Three articles of the 1963 Constitution have been the subject of most proposed amendments. Legislative and citizen interest in amending the constitution has been largely focused on issues related to the declaration of rights (Article I), legislative branch (Article IV), and tax and finance (Article IX). Proposed amendments to these articles account for nearly three of every four attempts to modify the current constitution. These are the only articles that generated at least 10 amendments each out of the total 98 proposals. By far, public interest has centered around state and local taxation issues (31 proposals) and changes involving the legislative branch (27 proposals), with the declaration of rights spurring 10 amendment attempts.

Many of the amendments have been essentially statutory provisions placed into the Constitution. Some provisions, such as term limits, limitations on bail and trial by jury, and filling judicial vacancies, whether or not good public policy, probably fit with the nature of a basic document. Other amendments, such as the minimum drinking age, the Headlee Amendment and, in particular, the voluminous amendments to Article IX relative to natural resource and veterans' trust funds are certainly statutory in nature, in the sense that the policies embodied in the provisions could have been adopted statutorily, either by the legislature or by means of the statutory initiative. The statutory initiative offers substantial protection against amendment or repeal but has been used sparingly. More frequent use could have relieved the Constitution of a large amount of detail and complexity.

Between the purely constitutional and purely statutory amendments are amendments with essentially statutory language that have been placed in the Constitution because the amended provisions themselves were statutory in nature. An example is Proposal A of 1994, the aims of which could not have been accomplished statutorily under the existing language of Article IX, Section 6, which itself was already detailed and statutory in nature in that it limited the sales tax rate and dedicated revenue to specific purposes.

The most obvious example of purely statutory language in the Constitution is found in Sections 35 and 35a and 37-42 of Article IX, placed in the Constitution in a series of six amendments, totaling some three thousand words (or about nine percent of the Constitution), from 1984 to 2020. These amendments lifted language directly from existing statutes and placed it in the Constitution with the object of preventing the legislature from using balances in various funds for purposes other than those for which they were created. Similarly, two voting rights amendments ap

Addition of essentially statutory material to the Constitution can create a "snow-ball effect." Using the example of the trust fund amendments to Article IX, the provisions are so detailed that they will likely require amendment, thereby adding more statutory material and further exacerbating the problem. Indeed, Section 35, adopted in 1984, was amended in 1994 and 2002. Section 35a, adopted in 1994, was amended in 2002, and Section 37, adopted in 1996, was also amended in 2002. More statutory material will likely engender greater need for amendment, and so on.

A common theme of amendment, especially since 1992, has been that of weakening the legislature. One method adopted for weakening the legislature in the Constitution is that of simply removing from legislative purview certain subjects viewed as worthy of protection from alteration by statute. The trust fund amendments to Article IX constitute the wordiest example of this approach, but other examples include: Requiring voter approval of any expansion of gambling; specifying what can be recognized as "marriage or similar union" for any purpose; restrictions on the use of eminent domain; and specifying the minimum drinking age.

A variation on this approach is the extensive and complex set of limitations on taxing and spending, ranging from the revenue limit and state mandate funding requirement in the 1978 Headlee Amendment to the taxable value limit and extraordinary majority legislative voting requirement for exceeding statutorily determined millage limits in Proposal A of 1994. Other restrictions adopted in this area have included eliminating the sales tax on food and prescription drugs and the requirement that at least 90 percent of gasoline tax revenues be allocated to general road purposes. And, it may be noted that the limits on property taxation in the original 1963 Constitution found their way into the 1908 Constitution by means of amendment.

It should be noted that many of these restrictions came about as the result of legislative joint resolution.

These amendments, as restrictive as they may be with respect to their specific subjects, do not strike at the heart of the legislative process. The one amendment that has done so is Proposal B of 1992, which instituted among the nation's most restrictive set of term limits for elected state officials, particularly legislators. Whether Proposal B was intended by its framers to weaken the legislature may be debatable, but clearly a case can be made, and has been, that such has been its effect. Recognition of the weakening effects of term limits on the legislative branch may have been the main impetus to revise the 1992 constitutional provision in 2022. Voters approved Proposal 1 of 2022 to extend the length of time legislators may serve from six years in the House and eight years in the Senate to a total of 12 years of combined service in the legislature across both chambers.

Amendment experience with the 1963 Constitution can be divided into three periods. At the risk of oversimplification, the first period began in 1966 and extended to the mid-1970s. This period was dominated by amendments having to do with the power and structure of government—Judicial Tenure Commission; filling judicial vacancies; trial by jury; and SOCC, for example.

The second period, from the mid-1970s to the mid-1990s, was dominated by proposed tax and spending limitations, which, although most were defeated by wide margins, framed the debate over the appropriate claim of government on the economic resources of the state for two decades.

The third period, from the mid-1990s to the present, has seen the rise of proposals designed to advance various social agendas: Restrictions on the expansion of gambling; limiting marriage to unions between one man and one woman; banning certain affirmative action programs, and guaranteeing reproductive freedom rights.

It is likely that future amendments to the Michigan Constitution will continue to reflect the concerns and fashions of the times in which they are adopted.

Endnotes

- 1 Council of State Governments, *Book of the States 1964-65 and 2022*.

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