



Michigan Constitutional Issues

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.

Proposal 2026-01 will ask voters:

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?

The Citizens Research Council is publishing a series of papers to provide information which voters may use to decide whether the convening of a constitutional convention is in the best interest of Michigan at this time. The Citizens Research Council takes no position on the question of calling a constitutional convention. It is hoped that examination of the matters identified in the papers in this series will promote discussion of vital constitutional issues and assist citizens in deliberations on the question of calling a constitutional convention.

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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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.