CITIZENS RESEARCH COUNCIL OF MICHIGAN

Michigan Constitutional Issues

Seventh 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 pproved, 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.

Article IV – Legislative Branch

State legislatures hold broad lawmaking authority under state constitutions and are generally the primary policymaking bodies in state governments. Their core power is to pass laws on matters not reserved to the federal government, which commonly include policies dealing with issues such as education, transportation, public safety, health, elections, and local government authority, among others. Notably, state legislatures control taxing and spending authority and exercise oversight of the executive branch. They play key roles in elections and constitutional governance; often they are responsible for drawing up legislative and congressional districts (or establish commissions to do so), setting election laws, and may propose amendments to their state constitutions. Overall, state legislatures possess broad, foundational authority to shape state policy and governance.

Article IV, Section 1 of the 1963 Michigan Constitution succinctly states that legislative power "… is vested in a senate and a house of representatives." Absent further refinement of such powers, such authority would be sufficient to allow the Michigan legislature to carry out all acts that are embraced within the concept of the general powers of government. Unlike the executive and judicial branches of state government that exercise powers specifically enumerated to them, the Michigan Constitution, in theory, does not need to define the specific grants of legislative authority. However, the framers of the document found it wise to include in Article IV some refinements and restrictions on legislative power and practices.

While Article IV places some limits on legislative power, it also entrusts the legislative branch with plenary powers to ensure continuity of government during emergencies, particularly in the event of a catastrophic attack or

38777 Six Mile Road Suite 208 | Livonia, MI 48152 | 734.542.8001
115 West Allegan Suite 480 | Lansing, MI 48933 | 517.485.9444
P.O. Box 1612 | Holland, MI| 49422| 616.294.8359| crcmich.org

disaster that prevents elected officials from performing their duties. From an institutional perspective, this article provides a framework for the state law-making process and contains provisions that define the legislature's structure, organization, and procedures. Article IV houses provisions governing the redistricting process for both state legislative and congressional districts.

Institutional Issues

State legislative bodies are designed to reflect a state's people and political traditions. These and other factors account for the structure and overall size of the legislative body in a particular state as well as the sizes of the individual chambers that comprise the body. As a result, it can be said that there is no "typical" structure or size for a state legislative body in the aggregate or for its individual chambers. States also vary considerably in their use of term limits for members of legislative bodies. Some state constitutions contain provisions related to conflict-of-interest prohibitions and financial disclosure requirements for state lawmakers. It is likely that these institutional issues would be up for debate at a constitutional convention should one be called.

Size and Structure

State constitutions provide for a legislative branch setup that largely mirrors the U.S. Constitution with its bicameral (two chamber) legislature with the Senate and House of Representatives. Nebraska is the only exception as its constitution provides for a unicameral (single chamber) legislature. Commonly, the "upper" chamber (senate) in the bicameral structure is smaller in size and its members serve longer terms relative to the "lower" chamber (assembly, house). The Michigan Senate consists of 38 members serving four-year terms. The Michigan House of Representatives is larger (110 members) and its members serve shorter terms (two years).

The Michigan legislature has operated as a full-time, continuous body for much of the past six decades, even though some of the language in the 1963 Michigan Constitution contemplates a part-time body.[a] This is evidenced through the inclusion of several relevant provisions and the specific wording used in those sections. For example, provisions dealing with immediate effect (Section 27), special legislative session (Section 28), gubernatorial "pocket veto" (Section 33), and referendum (Article II, Section 9) assume that the legislature would function in a part-time capacity. Nothing in Section 13 dealing with convening in "regular session", or elsewhere for that matter, dictates a part-time legislature or prevents the legislature from functioning in

a The Michigan legislature last met in an extra session in 1967. Since, the legislature has adjourned its regular sessions in late December, allowing it to meet year-round without going into an extra session.

a year-round session.

Nine other states have full-time legislatures that meet throughout the year (see Table 1).[1] The remaining states have either part-time bodies (14 states) or a "hybrid" legislature (26 states), meaning the legislative session is limited in duration but the legislators are engaged in other related activities when not in session. Notably, in determining whether a state's legislature is full-time, part-time, or hybrid, the National Conference of State Legislatures examines the amount of time legislators spend on the job, the amount they are compensated, and the size of a legislature's staff.

Table 1
Full-Time Legislatures: Changes in the Size of Legislatures 1960 - 2025

State	1960 Population	2025 Population	Percent Change	1960 Legislative Districts	2025 Legislative Districts	Percent Change	Last Modification
Alaska	226,167	733,391	224%	60	60	0%	na
California	15,717,204	39,538,223	152	120	120	0	na
Hawaii	632,772	1,455,271	130	76	76	0	na
Illinois	10,081,158	12,812,508	27	235	177	-25	1982
Massachusetts	5,148,578	7,029,917	37	280	200	-29	1978
New York	16,782,304	20,201,249	20	208	213	2	2012
Ohio	9,706,397	11,799,448	22	177	132	-25	1966
Pennsylvania	11,319,366	13,002,700	15	260	253	-3	1966
Wisconsin	3,951,777	5,893,718	49	133	132	-1	1972
Michigan	7,823,194	10,077,331	29	144	148	3	1964

Source: National Conferences of State Legislatures. U.S. Census Bureau.

Michigan's four constitutions have grown the size of the legislature from 66 members in 1835 (50 house members and 16 senate members) to 148 members (110 members and 38 members, respectively) today. For example, under the 1835 Constitution, the number of representatives was required to be at least 48, but not greater than 100, while the number of senators was required to be as close as possible to one-third of the number of representatives. The 1835 Constitution required the addition of senate and house districts following the organization of counties and because of reapportioning. Over time, with the adoption of new constitutions in 1850 and 1908 and subsequent amendments, the size of the legislature grew from 66 total members to 144 members prior to adoption of the current 1963 Constitution.

Although Michigan's population has grown steadily since the adoption of the 1963 Constitution, the size of each chamber is fixed in the constitution and there have been no efforts to increase the number of legislators in either chamber. Today, senators and representatives represent populations about 27 percent larger, on average, than they did six decades ago. Advances in technology, transportation, and communications have helped legislators manage

the expanded population size of their legislative districts and attend to the demands of their constituents.

To varying degrees, 33 states have modified the overall size of their legislative bodies and their constituent chambers since the mid-1960s. No identifiable pattern is apparent with respect to the rationale for increasing or decreasing the size of the legislative bodies over time. In these states, 19 legislatures were decreased in size and 14 were increased.

Overall, there has been a general decrease in the total number of state legislative seats across the United States since 1960. Across the 99 state legislative chambers (Nebraska has a single chamber), the total number of seats dropped from 7,781 in 1960 to 7,386 as of 2025.[2] Sixteen states have not made any changes to the size of their legislative bodies over the past 65 years.[3] Of those that have modified the number of seats in either chamber, 21 states have made multiple changes, and 13 states made a single change during this period. New York was the most recent to change the size of its legislature, adding another senate seat in 2012.

Of the states with full-time legislatures, five states reduced the sizes of their legislatures since 1960, while just two (including Michigan) increased the sizes of their legislative bodies (see Table 1). Some of these changes have been very minor, such as Michigan's addition of four senate seats in conjunction with the adoption of its 1963 Constitution. In contrast, the Massachusetts Constitution, the oldest state constitution in the country, reduced the number of legislators by 80 in 1978.

If Michigan voters call a 2027 constitutional convention, delegates might consider several questions dealing with the size and structure of the legislative body. Should the structure of the legislative branch change? Arguments in favor of switching to a part-time legislature rest largely on the costs involved in running a full-time body. By limiting the length of the legislative session (e.g., specific number of "session" or calendar days) legislators' salaries and benefits can be reduced commensurately. Reductions in staff levels and associated costs might also accompany a switch to a part-time legislature. Actual savings are likely to be small in relation to Michigan's total discretionary general fund budget ($14 billion in Fiscal Year 2026), but the perception of cost-reduction may have populist appeal.

Converting to a part-time legislature, however, reduces neither the number nor the scope of important public policy issues confronting the legislative branch. Such a conversion means that less time will be devoted to "non-mandatory" legislative responsibilities to address those "mandatory" responsibilities, such as enacting an annual budget, in a timely manner.

Another area of possible constitutional debate is the size of the legislature. Generally, justifications for making changes to the size of state legislative bodies have been based on the grounds of representation, costs, and/or efficiency. Legislative district population growth can affect how individuals perceive they are being represented by their legislators. Increases in legis-

lative district size generally result in more heterogeneous districts on many fronts. Elected officials are expected to represent the interests of their districts on a host of issues and a decrease in district homogeneity, perceived or otherwise, can reduce representation in the legislative arena. Further, given the increased workload associated with representing more constituents, legislators may have to reduce the amount of resources they devote to each constituent, which also affects representation. Advances in communication technology can help reduce the effects of legislative population growth on representation.

Generally, larger legislatures require larger budgets than smaller legislatures, but the relationship may have more to do with the size of the populations represented than the absolute size of the legislative body. Reducing the size of a legislative body does not guarantee a reduction in costs. The number of people requiring representation and the accompanying workload remains when legislative district sizes are expanded. Fewer elected officials may result in a need for more staff to handle the workload associated with legislative activities such as answering constituent inquiries, preparing and analyzing legislation, and preparing for committees. The increase in legislative staff and the accompanying costs could offset any savings resulting from reducing the number of legislators. It is likely that there is a greater relationship between state population and legislative costs than there is between the number of legislators and legislative costs.

Advocates for reducing the number of legislators suggest that smaller legislative bodies are likely to be more efficient and capable of getting things done in a timely fashion. Opponents argue that, for better or for worse, the legislative process is not intended to be neat and efficient. The complex and very difficult issues facing legislative bodies each legislative session can require a substantial amount of time and resources to understand, investigate, and develop consensus around.

Term Limitations

For those state's that have adopted term limitations, provisions for state officials (executive and legislative branch) are found in state constitutions to make the limits harder to change and ensure that legislatures cannot remove or weaken their own term limits without voter approval. The original language of the 1963 Constitution did not limit legislative terms. However, Michigan voters, via two citizen initiatives (first in 1992 and then in 2022), approved limits for those serving in the state Senate and the House of Representatives.

The 1992 amendment created Section 54 to limit House members to serve no more than three two-year terms and limit senators to a maximum of two four-year terms, effectively limiting an individual to no more than 14 years of service in the Michigan legislature.[b] The adoption of the 1992 amendment

b In addition to state legislative term limits, Proposal B on the 1992 statewide ballot established separate constitutional limits for elected state executive branch officials (governor, lieutenant governor, secretary of state, and attorney general), as well as limits for members of the United States House of Representatives and United States

occurred during a time when other states approved similar measures.

The state operated under the 1992 term limit structure until 2022, when voters modified Section 54. Under the 2022 amendment, instead of separate limits for service in the House of Representatives and Senate, state legislators are limited to a combined 12 years of service in either the House or Senate, or a combination of time in both chambers.[c] The 2022 constitutional amendment changed the fundamental nature of Michigan's limits from *terms served* in individual chambers to *total years* served in the legislature.

Today, 16 states, including Michigan, have legislative term limits.[4] States' limitations vary on several dimensions, including the number of terms/years that can be served in each chamber, whether they are consecutive or lifetime limits, and the duration of time between serving for consecutive limits. Michigan's model provides a lifetime ban following 12 years of service. Only five other states employ lifetime limits, which are much more restrictive than consecutive limits.

A constitutional convention could consider several options with respect to term limitations, including complete abolishment. Term limits remain popular across the country as voters in states with term limits continue to want some form of forced evacuation from their legislative bodies. It is most likely that a convention, if called, would focus its discussion on the pros and cons of modifying the limits now in place. Such discussions could address reinstating specific limits on service in individual chambers, ending the current lifetime limit, or extending the current total years limitation.

Conflict of Interest/Financial Disclosure

Michigan's rules on conflicts of interest and financial disclosure for state officials have historically been limited but were strengthened through a 2022 constitutional amendment.[d] The original Section 10 text only dealt with potential conflicts that top officials might have pertaining to "any contract with the state or any political subdivision thereof." With the new material added to Article IV in 2022, the length and scope of the conflict-of-interest section expanded greatly to require comprehensive financial disclosure, including gifts and travel provided by lobbyists.[e] The legislature was required to implement the new disclosure provisions through state law no later than 2023. The new constitutional framework and implementing legislation, while well overdue, also is thought to bring Michigan more in line with other states.

Senate. After the adoption of Proposal B in 1992, in *U.S. Term Limits, Inc v Thornton*, the U.S. Supreme Court ruled that the U.S. Constitution prohibits states from adopting congressional qualifications that are in addition to those enumerated in the Constitution.

c In addition to modifying existing state legislative term limitations, Proposal 1 on the 2022 statewide ballot created new financial disclosure/reporting requirements for specific state elective offices (Section 10).

d In addition to financial disclosure requirements for lawmakers, Proposal 1 on the 2022 statewide ballot modified term limitations for state lawmakers in Section 54.

e Proposal 1's scope specifically covers each member of the legislature, the governor, the lieutenant governor, the secretary of state, and the attorney general.

Redistricting

Section 6 deals with legislative redistricting, the process by which a state is divided into geographic districts from which voters elect state legislators (senators and representatives) as well as U.S. representatives. The original redistricting text of the 1963 Michigan Constitution dealing only with the state legislature was crafted and took effect before federal legal precedent on the matter was settled. The 1963 Constitution required state legislative districts to be crafted on a combination of factors, including population and land area. Soon after the constitution took effect, the U.S. Supreme Court established standards that states are required to follow in the redistricting process, namely the "one person, one vote" principle.[5]

In 1964, the U.S. Supreme Court ruled that both houses of a bicameral state legislature must be divided up substantially on a population basis. After a prolonged court battle, the Michigan Supreme Court ruled the original Section 6 provisions related to redistricting (e.g., use of both population and land area) to be in violation of the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution.[6] This decision meant that Michigan no longer had a valid constitutional framework for dividing the state into geographic districts for state legislative offices.[f] Significantly, every previous Michigan Constitution going back to 1835 contained valid and workable redistricting provisions.

Lacking constitutional guidelines, the Commission on Legislative Apportionment, which was created under Section 6, initiated the redistricting process in 1970 and 1980, but failed to agree on maps. Ultimately, the responsibility for redistricting fell to the judicial branch; the Michigan Supreme Court drew legislative districts following the 1970, 1980, and 1990 U.S. censuses.[g]

The "void" in constitutional responsibility and standards was partially filled in 1996 by way of Public Act (PA) 463, which directed the Michigan legislature to develop a redistricting plan following each census and prescribed the specific guidelines to use. The legislature used this law to guide its map-making efforts following the 2000 and 2010 censuses. However, the maps drawn under the authority of PA 463 based on the 2010 Census would be the last ones written directly by the legislature.

In 2018, voters approved Proposal 2 amending Section 6 to create a new 13-member Independent Citizens Redistricting Commission, granting it sole responsibility for drawing district lines for state and congressional legislative

f The 1963 Michigan Constitution does not contain any mention of redistricting for U.S. congressional districts. Federal law grants to state legislatures the authority to draw up the boundaries of congressional districts equal to the number of seats in the U.S. House of Representatives each state is entitled to based upon the most recent U.S. census. The U.S. Supreme Court has ruled that states are required to draw congressional districts solely based on population, ensuring that each district is of equal population (see: *Wesberry v Sanders*, 376 U.S. 1, 1963).

g Article IV, Section 6 entrusted the redistricting responsibility to an independent legislative body called the Commission on Legislative Apportionment; however, the Commission was declared unconstitutional in 1982 by the Michigan Supreme Court, largely on the reasoning that the body did not have valid criteria to guide its actions following the Court's finding that apportionment provisions (i.e., population and land area) of Section 6 violated the federal Equal Protection Clause.

seats beginning with the 2020 Census. The amendment removed the Michigan legislature from having a direct hand in redistricting. Recognizing the political nature of redistricting, the new Commission includes four representatives from both major political parties but gives "independents" five seats at the map-drawing table. To further reduce political influence, commissioners cannot be recent elected officials, party leaders, lobbyists, or close relatives of those individuals within the previous six years. Commissioners are selected through a process administered by the Secretary of State that includes public applications, random selection, and input from current legislative leaders.

Section 6 also sets rules the commission must follow when drawing maps. Districts must have roughly equal population and comply with federal law, including protections for minority voting rights. The commission must also keep districts geographically connected, consider communities of interest, avoid giving an unfair advantage to political parties or incumbents, respect local government boundaries where possible, and draw reasonably compact districts. The process must be transparent, with public meetings, draft maps shared publicly, and opportunities for public input. Once adopted, the maps have the force of law, and the legislature cannot change them. The amendment also introduced a methodology designed to promote compromise and deter hard line stances among commissioners who might hold out for maps favorable to one political party.

Importantly, the passage of Proposal 2 meant that Michigan's fundamental law finally had redistricting provisions that complied with the U.S. Constitution; the first time since the Michigan Supreme Court invalidated the original constitutional language of Section 6 in 1982.

This new system of redistricting did not operate without its own kinks. A federal court ruled in 2023 that several Detroit-area legislative districts drawn by the commission were unconstitutional because race played a predominant role in their design, requiring maps to be redrawn.[7] Critics argued that inexperienced citizen commissioners struggled to navigate complex voting-rights requirements. Observers have noted ambiguity in the constitutional amendment regarding when the commission's work ends, leading to continued meetings and compensation after maps were finalized. Some analysts argued this lack of clarity created governance and accountability issues. Public comments and policy analyses have highlighted concerns that some maps split communities or failed to achieve partisan fairness. Critics have also pointed to litigation costs, delays caused by court-ordered redraws, and the time-intensive process of citizen deliberation as evidence that independent commissions may be less efficient than legislative redistricting.

Constitutional convention delegates would have to decide whether to continue using this independent commission process, and if so whether the provisions pertaining to the criteria and processes for designing and selecting maps should continue. If they decide to discontinue use of the commission, they will need to craft a new process of redistricting. Other states offer a variety of models that range from vesting redistricting authority with the legislature to offering different models of independent commissions.

Other Issues

Setting Elected Officials' Compensation

Few public policy issues generate as much public attention as compensation levels of elected officials. The level of attention heightens when public officials receive, what appear to be, generous raises or when adjustments are made during periods of austere public budgets. Questions and concerns also arise when the process for determining pay levels is not transparent, lacks accountability, or does not apply uniformly to all officials.

Michigan citizens have maintained influence or control over state officers' compensation in a variety of ways since Michigan's 1835 Constitution. Over time, the constitutional text has changed regarding which state officials are covered and the method in which compensation changes can be made. Since 1968, Section 12 has provided for a seven-member State Officers Compensation Commission (SOCC) with the authority to determine compensation levels and office expenses for Michigan's top public officials in all three branches of government.

Between 1968 and 2002, SOCC pay recommendations automatically took effect unless they were rejected by the legislature. This "automatic" pay adjustment process, however, gave voters the impression that lawmakers were "gaming the system" by routinely accepting pay boosts by simply not voting on them. Notably under this process, state lawmakers received a 38 percent pay bump in 2001 after they failed to reject the SOCC recommendations (note: 1991 was the only time the legislature rejected SOCC-recommended pay increases). This was the last time state lawmakers received a pay increase.

Faced with growing public displeasure over the "automatic" pay provisions of Section 12, lawmakers proposed, and voters approved, a 2002 constitutional amendment to require an affirmative vote for SOCC-recommended pay changes to take effect.[h] The 2002 changes addressed the broken process for setting elected officials' pay by adding new accountability measures; 1) require an affirmative majority vote for pay adjustments, instead of a legislative vote to "reject" SOCC pay determinations, 2) allow the legislature to proportionately reduce SOCC-recommended pay adjustments for all covered officials, and 3) require an intervening general election before compensation changes take effect.

Interestingly, because of a delay in approving new Section 12 implementing legislation, the first occasion for the SOCC to recommend pay adjustments for covered state officials under the 2002 constitutional amendment did not come until 2009.[i] In the midst of a bad economic picture, the 2009 SOCC rec-

h Under Proposal 1 on the 2002 statewide ballot, covered officials include members of the legislature, governor, lieutenant governor, secretary of state, attorney general, and justices of the Michigan Supreme Court.

i Implementing legislation for the 2002 constitutional amendment did not pass until four years later (Public Act 629 of 2006) and that legislation did not take effect until January 1, 2008. SOCC pay recommendations under the new Section 12 provisions did not occur until 2009.

ommended a 10 percent reduction for all covered positions, except Supreme Court justices. The recommendations received legislative approval in April 2009 and took effect on salaries following the 2010 general election (officials taking office on January 1, 2011).[j] The 2009 recommendations were precedent-setting in that they were the first in the 40-year history of the SOCC process that called for year-over-year salary reductions. While SOCC-recommended salary increases were rejected by the legislature in 1991, SOCC never previously recommended a decrease in current salary levels.

Since approval of the SOCC-recommended salary reductions in 2009, only the salaries of Supreme Court Justices have been raised. The Michigan legislature voted in December 2020 to raise the salaries of the Justices by five percent each year in 2021 and 2022, but has never approved a general salary adjustment (other than the 2009 reductions) for any other officials covered by the current constitutional provision.[k] As such the pay levels for covered officials (other than Supreme Court justices) have been the same since 2011.[l]

The SOCC has not operated flawlessly or without controversy during its 58-year history. The 1968 amendatory language was deemed unacceptable and replaced in 2002 with language that appears to provide greater transparency, accountability, and uniformity with respect to setting compensation levels. These reforms, however, effectively shifted direct responsibility for setting pay levels to the legislature through a recorded vote.

Since 2003, lawmakers have feared voters' wrath if they accepted SOCC recommendations by voting "yes" to increase their own pay and that of other top elected officials. Without the political will to approve even modest pay increases for top state officials, the Michigan legislature's failure to conjure a required affirmative vote has resulted in flat paychecks for top officials for the past 15 years. This inaction means that today's lawmakers draw an inflation-adjusted salary ($71,685) that is 50 percent less than their counterparts received in 2011 ($107,690) after considering the general rise in prices over this period.[m]

Given the effective "freeze" in top officials' pay since 2011, a constitutional convention almost certainly will assess the current SOCC-recommended/legislative vote method prescribed in Section 12. Looking at other states' procedures for replication in Michigan, convention delegates will find that states use several different methods to set legislative pay, reflecting trade-offs between independence, political accountability, and flexibility. The most common approaches include legislatures setting their own pay, independent commissions, constitutional formulas, and voter approval.

j The SOCC meets in odd-numbered years to determine pay adjustments for the two years following the next general election. For example, the most recent SOCC convened in 2025 to set salaries for officials' pay following the 2026 general, effective January 1, 2027, and January 1, 2028.

k Because this vote did not occur until after the 2020 general election, salaries were not raised until January 1, 2023, following the 2022 general election.

l The 2025 SOCC recommended that current salaries for all state officers should be increased by 25% in 2027.

m We used the Detroit Consumer Price Index to adjust salaries to constant 2011 dollars.

Presentment of Bills Passed by the Legislature

Section 33 establishes the legislative requirements for a bill to become a law and provides the governor with veto power over passed legislation. The first part of this section states: "Every bill passed by the legislature shall be presented to the governor before it becomes law. . .". This provision closely mirrors the "presentment clause" in the U.S. Constitution (Article I, Section 7), which lays out how passed legislation becomes statutory law. At both the state and federal level, the presentment clause is designed to ensure the executive branch participates in the legislative process, preventing the legislature from enacting laws unilaterally. Similarly, in both the Michigan and federal constitutions, the text that follows the presentment clause deals with the executive branch's veto powers and legislative vote requirements for a veto override.

While the Section 33 requirements related to how a bill becomes a law are straightforward and well understood by most people, the text of Michigan's presentment clause is silent about the timing of when passed bills must be presented to the governor for consideration. It was acknowledged by the drafters of this provision that it would take some time to actually transmit the legislation to the governor; passed bills must be proof-read and printed prior to presentation. Because most passed bills are transmitted to the governor before the end of a legislative session and without much delay, "timing" controversies with the functioning of Michigan's presentment clause have been rare.

One contemporaneous court case is examining the legislature's constitutional presentment duties in light of the fact that the constitution provides no time frame or deadline for presentment. The current controversy deals with nine House bills passed by the 102nd Legislature (2023-2024) which were not presented to the governor before the end of the session (December 31, 2024). The Speaker of the House of the 103rd Legislature (2025-2026) has refused to present the bills to the governor for consideration, arguing that it was the duty of the prior legislature to present the bills to the governor and that responsibility didn't transfer to the new legislature. The Senate Majority Leader sued the House to force them to send the bills to the governor.

Two lower courts ruled in 2025 that the House of Representatives must present the nine bills remaining from the 2023-2024 term to Governor Gretchen Whitmer for a signing decision.[8] The Court of Appeals opined that the presentment duty is not session-dependent, but that the legislature, as an institution, bears the duty to transmit all enrolled bills to the governor. The House appealed the lower court decision, with the Michigan Supreme Court scheduled to hear the case in early May 2026. A constitutional convention might opt to provide greater clarity on this issue to head off any future ambiguities.

Appropriation Bills Not Subject to Referendum

Section 34 provides that all bills, except those appropriating money, passed by the legislature and approved by the governor may include a provision that requires voter approval before becoming law. Similarly, Section 9 of Article II shields all acts containing appropriations from citizen-led referenda. These two sections, taken together, effectively prevent the legislature from relinquishing its "power to appropriate" to other entities, in this case by passing a controversial issue on to the people to render a decision through a statewide vote. Both provisions are intended to protect the creditworthiness of the State of Michigan and safeguard its ability to pay bills and debts.

However, some observers have suggested that the legislators have used these provisions, at times, as a political tool in executing their law-making powers. Specifically, they relied upon this constitutional language to shield controversial legislation from being subject to the checks-and-balances of direct democracy through citizen-led referenda. By placing a minor spending provision into a major policy bill, the legislature can make a law "referendum-proof". A 2001 Michigan Supreme Court ruling upheld that a "de minimis" or small appropriation makes a bill exempt from a referendum.[9] A convention may want to consider whether the scope of the current provisions should be narrowed (i.e., limited to state budget bills) to prevent the legislature from placing "token" appropriations into bills to make controversial legislation immune from future voter referenda.

Administrative Rules

Section 37 authorizes the legislature to permit a joint legislative committee, acting between legislative sessions, to suspend administrative rules. It provides a legislative check on the rule-making authority of administrative agencies when the legislature is not in regular session. However, periodically the legislature has asserted the authority to empower a committee not only to suspend administrative rules, but also to approve or reject rules. In fact, since the late 1970s, the legislature has taken the position that administrative rules cannot take effect unless they are approved by a joint committee on administrative rules.

The legislative treatment of administrative rules not only is contrary to Michigan Attorneys General opinions (by which the legislature is *NOT* bound) but also is contrary to the Michigan Constitution (by which the legislature *IS* bound.) Michigan Attorneys General have ruled consistently that since administrative rules have the force and effect of law, the legislature cannot act upon them except through the constitutionally ordained legislative process (i.e., "by bill" – before a bill becomes law it must be passed by both houses of the legislature and be presented to the governor for approval or disapproval.)

Clearly Section 37 does no more than authorize the legislature to empower a joint committee to suspend administrative rules between sessions of the legislature. When Section 37 was drafted, a typical legislative session lasted

about six months, with long intervals between sessions. Therefore, a procedure whereby a legislative committee could suspend temporarily administrative rules until the legislature reconvened was eminently understandable. That the present practice is of questionable constitutionality is reflected by the fact that on two occasions (in 1984 and 1986) the legislature found itself in the odd position of asking voters to adopt a proposed constitutional amendment to authorize the very practice in which the legislature was already engaged. Both proposed constitutional amendments were rejected by voters, but the legislature has continued the practice.

Given the history of legislative abuses of Section 37 and the fact that sessions of the legislature extend year-round, a constitutional convention should consider whether the text of the document should explicitly prohibit the legislature from acting upon administrative rules except by bill.

Proposed Amendments

Over time, several proposed amendments to Article IV have failed either at the ballot box or during the proposal process. Twenty-seven proposals dealing with Article IV have made it to the statewide ballot since 1964, the most proposals of any article. But only nine of the proposed amendments gained voter approval and became part of the 1963 Constitution, a success rate of just 33 percent. This is the lowest passage rate across all articles that have been proposed for amendment.[10]

Overall, failed Article IV amendments reflect persistent tensions between legislative expertise, accountability, transparency, and institutional power in Michigan governance.

Conclusion

The main issues of Article IV that would likely receive attention at a constitutional convention deal with the structure and operation of the legislative body itself. Some people might view such institutional matters through the perspective of the current political debates in Lansing and render a decision that something must be "structurally" wrong with the legislature and therefore support modifications to Article IV. However, such an approach ignores the current realities of the environment in which all modern legislative bodies operate.

Economic, demographic, and social changes are occurring at rapid rates and the resultant public policy issues facing legislators are as significant and challenging as they have ever been. Deficiencies in the Michigan legislature, whether real or not, may not be owed to something fundamentally wrong with the constitutional framework of the entity itself, but rather an outcome of the subject matter and environment that lawmakers must deal with. While it is likely that "structural" changes would be best addressed during a constitutional convention rather than via piecemeal amendments to the Michigan Constitution, fundamental flaws in the institutional makeup and operation of the legislative branch are not currently apparent.

Endnotes

1 National Conference of State Legislatures, *Full- and Part-Time Legislatures*, July 2021.
2 National Conference of State Legislatures, *State Partisan Composition*, August 2025.
3 Ballotpedia, *Changes in Sizes of Legislatures 1960 to 2021*, web document April 2022.
4 National Conference of State Legislatures, *Term-Limited States*, August 2023.
5 *Reynolds v. Sims*, 377 U.S. 533 (1964).
6 I*n re Apportionment of State Legislature-1982*, 413 Mich 96; 321 NW 2d 565 (1982)
7 *Agee, Jr. et al v. Benson et al*, 1:2022cv00272 (2023)
8 *Senate v House of Representatives*, October 2025, Docket Number: 374786
9 *United Conservation Cubs v. Secretary of State*, May 2001, Docket Number: 233331
10 Citizens Research Council of Michigan, *Amending the Michigan Constitution: Trends and Issues*, Special Report 425-03, March 2026.