

Proposal 2026-02

“Mop Up Michigan”

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- Promotes sound policy for state and local governments through factual research – accurate, independent and objective
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- *www.crcmich.org*

Michigan Constitutional Issues

SUMMARY OF PROPOSAL
1

COMPLETE ANALYSIS OF
PROPOSAL 1

WATCH PROPOSAL 1
WEBINAR

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?

Proposal 2026-02: Mop Up Michigan Initiative

SUMMARY OF PROPOSAL
2 ANALYSIS

FULL ANALYSIS OF
PROPOSAL 2

REGISTER FOR WEBINAR

INITIATIVE AND
STATUTORY
AMENDMENT

Proposal 2, commonly called Mop Up Michigan, is a proposed statutory initiative to amend the Michigan Campaign Finance Act (MCFA).

If Proposal 2 is Adopted, the law would be amended to:

- Require “paid for by” disclosures on certain political ads distributed on the internet.
- Expand donor and spending disclosure for certain political ads.
- Restrict certain campaign contributions by regulated utilities and their principals and state and local government contractors and their principals.

Karley Abramson, Research Associate



- Work Experience
 - '22 – present: Citizens Research Council
 - '18 – '22: LSB Research
- Policy Background
 - Health
 - Human Services
 - Education
 - Criminal Justice
- Education
 - Bachelor's, MPH, and JD from University of Michigan

Summary

- Proposal 2 is known as “Mop Up Michigan,” sponsored by Michiganders for Money Out of Politics.
- It would amend the Michigan Campaign Finance Act (MCFA) to:
 - Require “paid for by” disclosures on certain ads distributed on the internet.
 - Expand donor and spending disclosure for certain kinds of political ads.
 - Restrict certain campaign contributions by regulated utilities and their principals and state and local government contractors and their principals.

Summary

- Background
- Summary and analysis of:
 - Changes to disclosure
 - Government contractor campaign contribution ban
 - Utility campaign contribution ban
- Discussion of potential constitutional challenges

Background

Initiated Legislation

- Voters will decide to adopt or reject proposal at November election
- If enacted, future amendments would require 3/4th supermajority vote in both the House of Representatives and Senate
- Severability clause – if any part is found unconstitutional, the unaffected pieces would remain in effect

Money in Politics and Free Speech

- Longstanding tension between free speech in U.S. Constitution and the disproportionate ability for money to influence politics
- Issue has escalated in recent years, with rise of SuperPACs; unlimited spending is allowed by outside groups as long as they don't coordinate with candidates;
 - Major shift was post-*Citizens United* (2010) but has been a series of decisions in that period that have created existing paradigm

Money in Politics and Free Speech

- Public generally favors stricter controls on money in politics when you ask them on surveys
- More robust laws are not in place because SCOTUS sets high bar for restricting political speech
- Changes to this big picture dynamic would require a change to U.S. Constitution or much different makeup of SCOTUS

Larger Questions to Specific Targets

- Proposal 2 supporters argue that government officials are too responsive to the wishes of corporate actors due to their campaign contributions and campaign expenditures.
- States are highly constrained in what they can do to shape the larger question of money in politics in the United States.
- Proposal 2's provisions are limited to a few specific targets.

Disclosure Changes

Concern 1: Disclosure “Loopholes”

- “Paid for by” disclosure on internet ads
 - Existing law doesn’t explicitly require ads on the internet to say who paid for them
- Spending and donor disclosures on certain “issue ads”
 - Right now, certain “issue ads” don’t require spending disclosure even though they are basically campaign ads
 - Groups that run only “issue ads” can avoid disclosing their donors

Concern 1: Disclosure “Loopholes”

- Proposal 2 will apply “paid for by” disclosure rule to “internet communications” and change “television” and “radio” to “video” and “audio”
- ***Way language was drafted may have inadvertently remove disclosure requirement for ads run more than 30 days before primary

Concern 1: Disclosure “Loopholes”

- Proposal 2 will change the way “non-express advocacy” (issue ads) are defined:
 - Identified to identifiable candidate
 - “Magic words” no longer necessary
 - Time period change – ads run 30 days before primary/special and 100 days before general

Concern 1: Disclosure “Loopholes”

- Proposal 2 will essentially make it much harder to avoid disclosure on ads that are effectively campaign ads but are not considered campaign ads under current law
- This will:
 - Broaden the “paid for by” disclosure requirement
 - Require groups to disclose their spending on these ads (new requirement for both existing committees and outside groups)
 - Require some groups that only run these ads to disclose their donors (new requirement for outside groups)
- Does not impact ads that are “true” issue ads

Concern 1: Disclosure “Loopholes”

- More transparency about this spending and the donors
- Does not restrict spending itself, possibility it could deter some of these ads or make them more overt
- Cost to groups and state to comply with these requirements
- Unclear if this will impact voter behavior – academic research on campaign finance disclosure shows a minimal impact

Concern 1: Disclosure “Loopholes”

- Reporting requirement on outside groups may have drafting error that creates broader requirement
- Possibility “paid for by” disclosure requirement for express advocacy ads has been inadvertently shortened

Government Contractor Campaign Contribution Ban

Concern 2: Government Contractors

- Argument is that officials favor bidders that have made contributions to them or other influential government officials when making decisions about who wins the contract and how the contract is overseen after it is awarded.
- Not just who gets the contract, how the contract is overseen

Concern 2: Government Contractors

- Would ban state/local contractors who have \$250,000 annual contract or more from contributing (inclusive of contractor, principals, affiliates)
- Includes 5% or more owners, board members, executive suite and their family members (lobbyists too); also includes any groups controlled by those people
- State ban for state contractor and state officials; local ban for local contractors and local elected officials in that jurisdiction

Concern 2: Government Contractors

- Can't give directly to candidates
- Can't give to PACs that give to candidates for those offices
- Language to avoid giving to outside groups that support those candidates if controlled by candidate or their staff
- Drafted to avoid circumvention

Concern 2: Government Contractors

- 18 month implementation date
- Ban applies from RFP/initial negotiation to 18 months after contract
- Contract can be cancelled, contractor can get a 1-year ban
- Ability to give money back if noticed right away

Concern 2: Government Contractors

- Thousands of contracts this size at state level alone (plus universities, local governments, school districts)
- Large number of impacted people to disclose/vet/monitor for violations; cost to implement could be high
- Could deter contractors
- Many contracts right now are never touched by elected officials, not saying it couldn't happen, just that this casts a very wide net

Concern 2: Government Contractors

- Very hard to predict impact because there are so many government contractors across every industry
- Doesn't close off outside expenditures, large firms could still have huge impact on elections
- Will be very hard to know if this "works" because measuring performance of government contractors is so variable across contracts

Concern 2: Government Contractors

- Argument generally that this unfairly restricts speech of people just because they want to provide good or service to government; existing laws exist for bribery
- Potential constitutional challenge

Regulated Utility Campaign Contribution Ban

Concern 3 – Regulated Utilities

- One utility model is rate-regulated (service area) monopoly
- MPSC (appointed officials) process under state law to set rates, very formal, record is public, stakeholder comment
- MPSC decisions do shape utility profits

Concern 3 – Regulated Utilities

- Proponents argue that utilities have not been regulated in a way that properly values the interests of ratepayers in Michigan or considers the impact of the electricity and natural gas sector on the environment.
- Higher rates, poor reliability
- Argument is that the utilities have received favorable treatment because the utilities make political contributions and expenditures which influence the regulatory process.

Concern 3 – Regulated Utilities

- Would ban utilities from contributing (inclusive of utility, principals, affiliates)
- Includes 5% or more owners, board members, executive suite and their family members (lobbyists too); also includes any groups controlled by those people

Concern 3 – Regulated Utilities

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Concern 3 – Regulated Utilities

- Practical issues with disclosure to state and monitoring
- Hard to know exactly how much money affected because Proposal 2 casts a wide net
- It would be a non-trivial amount of contributions affected – utilities do give a lot of money – but utilities also make outside expenditures and this wouldn't stop that, could just shift the money to direct ads

Concern 3 – Regulated Utilities

- Even if political influence is affecting regulatory process, *campaign contributions* are only one part of political spending and utilities could use money on ads
- Utility performance and rates are working in opposite directions, improving one comes at the cost of the other; this is an issue everywhere right now, Michigan can improve but the core complaints are problems everywhere
- Regulatory capture is a problem in lots of parts of government, it doesn't require campaign contributions

Concern 3 – Regulated Utilities

- Argument generally that utilities should not lose first amendment rights because this is highly regulated industry
- Argument that there are other avenues to change the regulatory process to directly impact these concerns
- Possible constitutional challenge

Constitutional Analysis of Campaign Contribution Bans

Constitutional Analysis

- Contribution bans are very likely to be challenged, utility one entirely and in scope, contractor one probably just in scope
- SCOTUS views political spending as protected speech, restrictions must clear high bar
- Lots of people disagree with SCOTUS on this topic, but SCOTUS position is firm

Constitutional Analysis

- Compelling or sufficiently important interest is required – the only one SCOTUS recognizes is *quid pro quo corruption* or appearance of
 - Quid pro quo is an actual exchange of money for favors, general favoritism or influence are not enough
- If important interest exists, restrictions must be least restrictive means for expenditures and “closely drawn” for contributions
- SCOTUS does not think independent expenditures can create *quid pro quo* risk

Constitutional Analysis

- Contributions can create *quid pro quo* in some cases, so some restrictions are allowed
- Limits on contributions from person/group to an individual candidate per election cycle, but caps have to be reasonable
- Can't limit a person's aggregate donations to many candidates

Constitutional Analysis - Contractors

- DC Circuit in 2015 upheld federal version of law, said it prevented *quid pro quo* and was closely drawn
- Prop 2 is broader, so could be upheld in principle but narrowed
- We have seen the clear legal argument that contractor bans can clear the *quid pro quo* hurdle, the challenge to Prop 2 here is likely to be that it is too broad

Constitutional Analysis - Utilities

- *Quid pro quo* for utilities is not established in existing precedent would have to articulate in way that does not also apply too broadly to other industries that are affected by government action
- Legal argument could cut the other way, as utilities are “vulnerable” to regulatory process in many ways and may argue their need to influence government is high
- Even if court finds risk, scope is very broad and would be subject to narrowing

Constitutional Analysis - Utilities

- Some states have restricted utilities to make sure they aren't using ratepayer money to engage in lobbying and politics – this is totally different issue.
- That is regulating what purposes they can claim contribute to their costs in the rate case. This would say the private owners can't contribute from their own salaries.

Conclusion

Takeaways

- Will produce more transparency around some spending and donors for some ads that are currently in the dark – how much that changes behaviors of those groups or voters is unknown

Takeaways

- Restrictions on contractors and utilities would be cumbersome to implement because of how large in scope they are
- Even if this is fully implemented, it is unclear how much it will address the substantive concerns about utilities and contractors
- Money could move from contributions to expenditures and many of the concerns are being driven by forces other than political influence

Takeaways

- Contribution bans will be challenged and there is reason to think they would be narrowed, if not invalidated entirely
- Because of how SCOTUS views political spending, state laws have very limited ability to target most of the money in politics and even the narrow things Proposal 2 targets may be outside the boundaries of what SCOTUS will allow.

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