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STATE BALLOT ISSUES – A GENERAL REVISION OF THE LAWS

A little-publicized constitutional amendment is to be submitted to the people at the November general election. A joint resolution passed by the legislature in 1961 proposes the following amendment to Section 40 of Article V of the state constitution –

The legislature shall provide by law for the general revision of the statutes at such time and in such manner as it shall determine.

The constitution (Article V, Section 40) now states, “No general revision of the laws shall hereafter be made.” The last general revision of the laws took place in 1846. The experience was apparently not satisfactory, for the constitution of 1850, four years later, prohibited general revisions. The 1908 constitution continued the prohibition. The proposed new constitution to be voted on in April, 1963, also continues the prohibition.

General Revision, Codification and Compilation of the Laws

In order to evaluate the proposal to authorize general revision of the laws, a distinction should be made between general revision and codification and compilation of the laws. A general revision of the laws includes within a single legislative act all of the statute law of the state. The general revision supplants all earlier statutes and becomes the law itself.

A codification of the laws is a special or limited revision of the laws including within it the laws relating to only one subject. Like a general revision, the codification becomes the law itself, supplanting previous statutes on the specific subject. Codification of the laws is not prohibited by the constitution and, therefore, is permitted. However, a codification must relate to a single subject to avoid conflict with the constitutional provisions prohibiting general revision and the limitation that “No law shall embrace more than one subject.” Thus, Michigan has an elections code, a code of school law, a drain law, a motor vehicle law, and a judicature code.

A compilation of laws, which is expressly authorized by the constitution, is an arrangement and an indexing of the then existing statutes. A compilation is not enacted into law and does not become the law itself. Any statute inadvertently omitted from a compilation would still be valid law. The Compiled Laws of 1948 is the most recent compilation of Michigan laws.

Advantages of General Revision

The distinguishing feature of a general revision is that it is all inclusive. This provides its major advantage—by encompassing the entire statute law of the state within a single bill at a given point in time, it is possible to provide a logical, consistent, and well organized body of law. Conflicts and overlapping among different statutes will become apparent and the whole can be evaluated in terms of current conditions. Obsolete and unconstitutional sections of the laws can be eliminated and ambiguities can be clarified. A general revision can involve both substantive revision (meaning and effect of the laws) and revision of form (arrangement and phraseology of the laws).

Disadvantages of General Revision

The all inclusive character of a general revision, which provides a major advantage, also provides a major disadvantage. In embracing all of the statute law of the state in one general revision bill and repealing the thousands of existing statutes, there is a danger that many of the changes made might be unseen or hidden and some may be clearly contrary to the legislative intent. The task of drafting and then considering a revision would be highly complicated and the possibility of error, omission and inadvertent change would be great. A general revision would run to thousands of pages (the judicature code bill alone was over 660 pages) and a careful review of it by the legislature would be a prodigious task. Further, once the legislature enacted a general revision, it would have to be submitted to the governor like any other bill and he would have to approve or disapprove the bill in its entirety.

Practice in Other States

Michigan appears to be the only state to prohibit a general revision of the laws by express constitutional provision. Seven other states specifically authorize general revisions in their constitution, most of them requiring revision every ten years, and in the remaining states general revision is permitted in the absence of a constitutional prohibition against it. A majority of the states appear to have made general revisions of their laws. It appears that some states which have made general revisions have done so by the enactment of a series of codifications covering each of the subjects rather than one general revision.