

Council Comments

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PROPOSED AMENDMENTS TO STATE CONSTITUTION AND DETROIT CITY CHARTER

STATE CONSTITUTION AMENDMENTS

Two proposed constitutional amendments will be submitted to the voters on May 16, 1972. These amendments were placed on the ballot by action of the state legislature and provide the following:

Proposal A would allow the legislature to authorize lotteries and permit the sale of lottery tickets.

Proposal B would permit members of the legislature to be elected or appointed to another civil office during the term for which they were elected, but they would be required to resign from the legislature.

The Lottery Proposal

Proposal A would amend Article IV, Section 41 of the state constitution which now provides, "The legislature shall not authorize any lottery nor permit the sale of lottery tickets." The proposed amendment would repeal the present constitutional prohibition against lotteries and provide that, "The legislature may authorize lotteries and permit the sale of lottery tickets in the manner provided by law."

Lotteries have been prohibited in Michigan under all four state constitutions—1835, 1850, 1908, and 1963. The lottery question was a major issue in the constitutional convention of 1961-62. Various proposals to remove the prohibition from the constitution, modify it to permit "charity bingo," and broaden it to prohibit pari-mutuel betting were considered and rejected by the convention, which voted to retain the pervious constitutional prohibition against lotteries.

The lottery question has been a matter of continuing interest to the legislature and 29 proposed constitutional amendments have been introduced (one or more in each legislative session) since the new constitution took effect January 1, 1964.

This continuing interest in lotteries in Michigan has been stimulated in part by the fact that New Hampshire adopted a state lottery (sweepstakes) in 1964, followed by New York (1967), New Jersey (1970), and Connecticut, Pennsylvania and Massachusetts (1972). The New Jersey lottery has proven the most successful financially, with gross sales and inter-

est earned in fiscal 1971-72 (the first full year of operation) estimated at \$126 million. After payments to lottery winners of \$56 million and sales and operating expenses of about \$10 million, the state expects a profit of \$60 million to be available as a state revenue. Total sales and profits are expected to decrease slightly in fiscal 1972-73 as a result of the new lottery in Pennsylvania. Proponents of a Michigan lottery plan to pattern the Michigan lottery after the New Jersey one and hope that the "net profit" available as a state revenue will approximate the New Jersey figure of \$60 million. A bill has been introduced in the Michigan house of representatives sponsored by 72 members that would authorize a state lottery and establish a five-member state lottery commission in the department of treasury to operate the state lottery. It has also been proposed that Detroit be authorized to hold a daily lottery.

The Michigan courts have held that the essentials of lottery are consideration, prize, and chance. Thus, the present constitutional prohibition of lotteries also prohibits the legislature from authorizing bingo and other similar forms of gambling whose essential elements are consideration, prize, and chance. The proposed amendment would not, itself, authorize lotteries, but would remove the constitutional prohibition against lotteries and permit the legislature to authorize lotteries by law.

Appointment or Election of Legislators to Other Offices

Proposal B on the May 16 ballot would amend Article IV, Section 9 of the constitution to permit legislators to be appointed or elected to another office during their legislative term of office, provided that the legislator resign his legislative office. The present constitution contains a prohibition against legislators receiving "any civil appointment within this state . . . during the term for which he is elected." This prohibition has been included in the Michigan constitutions of 1835, 1850, 1908, and 1963. The Michigan supreme court ruled in 1968 that the term "civil appointment" covered election by the people as well as appointment and that a legislator may not resign from office "during the term for which he is elected" to create eligibility for another state office.

In 1968, the legislature submitted to the electors a proposed constitutional amendment which provided that the prohibition against "civil appointment" did not apply to election to office by vote of the electors. This proposed amendment was rejected by the voters by more than a two-to-one margin (778,000 yes, 1,783,000 no).

The proposed amendment to Article IV, Section 9 on the May 16 ballot would, in effect, repeal the present prohibition, and permit a legislator to be appointed or elected to another office. Since another section of the constitution (Art. IV, Sec. 7) already prohibits any person holding public office from serving as a member of the legislature, the requirement in the proposed amendment that a legislator resign his legislative office before assuming the duties of the appointive or elective office does not create any additional limitations.

DETROIT CHARTER AMENDMENTS

Three proposed Detroit Charter amendments on the May 16 primary ballot would authorize the Arts, Zoological Park, and Historical Commissions to establish admission charges for their respective institutions with the approval of the common council. Under existing charter provisions, the city is prohibited from imposing a general admission fee at these facilities, but may charge admission for special events.

Detroit's charter revision commission has already adopted a proposed charter provision which would permit the city to charge admission fees at these facilities, but the proposed charter will not be submitted to the voters until November, 1972. because of the city's present financial condition, the mayor recommended and the common council approved placing the amendments on the May 16 ballot for immediate consideration by the voters.

The mayor's proposed budget for 1972-1973 recommends that the city impose admission fees beginning July 1, 1972. according to revenue estimates in the mayor's proposed budget, the city hopes to receive \$809,000 in gross revenue from admission fees—\$440,000 from the zoo, \$234,000 from the art institute, and \$135,000 from the historical museums. This represents 28 percent of the \$2.9 million which the city now provides from tax revenue to operate these facilities, as shown in Table 1 on the following page.

The mayor's revenue estimates are based on a fixed fee at the zoo and a mandatory contribution of an unspecified amount at the art institute and the museums. The fixed fee currently contemplated by the zoo would be \$1 for adults, 50 cents for children over 12, and free admission for children under 12 and for school groups. The zoo plans to establish some "free" periods (either one day per week or several hours per day) when the facility will be open without charge. This will provide persons who cannot afford the admission fees an opportunity to use the zoo. Nevertheless, city officials anticipate that zoo attendance will decline approximately 20 percent under the proposed fee schedule. The mandatory contribution plan contemplated by the art institute and the museums would require every visitor to contribute, but would leave the amount to the discretion of the visitor. The Metropolitan Museum of Art in New York City has a similar mandatory contribution plan and receives an average contribution of 65 cents per visitor. Revenue estimates in the mayor's proposed budget project an average contribution of 29 cents per patron at the historical museums and 30 cents per gallery patron at the art institute. Art institute and museum officials estimate that if they were to impose fixed fees at rates similar to those proposed for the zoo, attendance might drop by as much as 50 percent. They anticipate no decrease in patronage under the mandatory contribution plan.

While the primary purpose in charging admission fees would be to obtain additional revenue to help offset the costs of providing services at the zoo, art institute, and museums, the use of admission fees would also require non-residents of the city who use these facilities to pay a part of the costs of operating them. Departmental estimates indicate that roughly two-thirds of the art institute patrons, three-quarters of the zoo patrons, and 40 percent of the patrons at the three historical museums live outside the city of Detroit.

Table 1
Patronage, City Appropriations, and Estimated
Revenue from Admission Fees at the Detroit Zoo,
Detroit Institute of Arts, and Detroit Historical Museums

	Patronage 1971 Calendar Year	<u>Appropriations – 1971-72 Budget</u>		Gross Revenue from Admission Fees 1972-73 Budget
		<u>City Appropriation¹</u>	<u>Tax Subsidy²</u>	
Detroit Zoo	1.8	\$2,489,963	\$ 765,843	\$ 440,000
Detroit Institute of Arts	1.1*	1,467,611	1,427,611	234,000
Detroit Historical Museums	0.5	674,312	667,812	135,000
Total All Facilities	3.4	\$4,631,886	\$2,861,266	\$809,000

* Includes 787,813 gallery patrons and 265,496 visitors to the art institute's auditorium. Only gallery patrons would be required to pay the proposed admission fees.

¹ Appropriations do not reflect total city costs since the costs of employee fringe benefits and various city staff services are not included. Neither do they reflect funds made available from private sources.

² The tax subsidy is the difference between total city appropriations and total departmental revenue from concessions, parking fees, etc. Departmental revenue is budgeted at \$1,724,120 for the zoo, \$40,000 for the art institute, and \$6,500 for the historical museums.