



A SUMMARY OF THE NOVEMBER 2012 STATEWIDE BALLOT ISSUES

This paper summarizes the six proposals that will appear on Michigan's statewide ballot at the November 6, 2012 general election. An in depth analysis of each proposal and corresponding webinars are available at no cost on the Citizens Research Council's website, election.crcmich.org. The CRC does not endorse candidates for office or take positions on ballot issues. In analyzing these ballot issues, CRC hopes to provide more information so that voters can make better informed decisions in formulating their vote.

Initial considerations: Several of the proposed amendments to the Michigan Constitution contain enough detail to raise the question of whether the Constitution is the appropriate place for such detailed and often complex provisions, regardless of their public policy merits. A review of the proposed amendments reveals that several are quite lengthy, go into substantial technical detail, and deal with issues that would be found in statutory law, not in the constitutions, of most states. Voters should evaluate the public policy merits of each proposal as well as the appropriateness of each amendment in regards to its inclusion in the state's Constitution.

For more information, read [CRC Memorandum 1115, Inserting Legal Code into the Michigan Constitution](#)

Proposal 2012-01— A referendum on Public Act 4 of 2011- the emergency financial manager law

Public Act 4 of 2011 (PA 4) is the Local Government and School District Fiscal Accountability Act. It is the third iteration of Michigan laws that allow the state to appoint an emergency manager who has authority over the financial decisions of a financially distressed local government or school district, and it extends the authority of the appointed emergency manager to the non-financial operations of the local government or school district. This act allows state appointed managers to assume the responsibility of locally elected officials, and grants those appointed

managers more powers than locally elected officials have. Among the expanded powers granted to emergency managers under PA 4 are the authority to reject, modify, or terminate one or more of the terms of an existing contract and, under specified conditions, to reject, modify, or terminate one or more of the terms and conditions of a collective bargaining agreement. Under PA 4, collective bargaining is suspended if an emergency manager is appointed.

On August 8, when the state Board of Canvassers placed the issue repealing PA 4 of 2011 on the November 6, 2012 ballot, PA 4 was suspended in accordance with Article II Section 9 of Michigan's Constitution.

If Proposal 2012-01 passes, PA 4 of 2011, the Local Government and School District Fiscal Accountability Act, will be reinstated.

If Proposal 2012-01 is rejected, the preceding iteration of the law, PA 72 of 1990 will remain in effect; when PA 4 was suspended, PA 72 was revived.¹ PA 72 does not allow emergency financial managers to abrogate contracts or collective bargaining agreements, nor does it provide certain other powers contained in PA 4. The legislature will have the power to introduce new legislation to handle financial emergencies should PA 72 still be deemed insufficient.

Major Issues to Consider: At the time PA 4 was adopted, supporters claimed the intent of the law was to encourage locally elected officials and union leaders to make hard budget decisions in a time of economic difficulties and provide emergency managers with more tools to guide a local government out of fiscal distress. Opponents worry that parts of the law are undemocratic and unfair to residents, local government employees and retirees, bondholders, vendors, and others.

¹ PA 72 was revived pursuant to Attorney General Opinion No. 7267. This opinion has been challenged and is currently the subject of litigation.



For more information, read [CRC's Memorandum 1116, Statewide Ballot Issues: Proposal 2012-01](#)

Proposal 2012-02 — A Proposal to amend the State Constitution regarding collective bargaining

The Great Recession has greatly affected state and local government budgets, resulting in decreased public sector employment. At the same time, policymakers in Michigan and other states have enacted a number of laws that are perceived to adversely affect public sector unions. Among those is the move by Indiana to become the first Great Lakes state, and 23rd in the nation, to enact a right to work law.

If Proposal 2012-02 passes, the right of public and private sector employees to organize for the purpose of collective bargaining will be enshrined in Michigan's Constitution. The Michigan legislature would not be able to enact right-to-work legislation. The collective bargaining rights of private sector employees are established in federal law, so public employees of local governments, school districts, and the state would see the most significant changes from this amendment. Under this proposal, the legislature would lose the ability to set limits on the terms and conditions of employment that are subject to collective bargaining but it would retain the ability to prohibit strikes by public sector employees.

If Proposal 2012-02 is rejected, current laws will continue to set parameters within which collective bargaining exists for local governments, school districts, institutions of higher education, and other political subdivisions of the state. The state's civil service commission would continue to create the work rules and conditions of employment for state employees and employee organizations would continue to negotiate with the state employer on matters not covered by civil service rules. Michigan's legislature would retain the ability to enact right-to-work legislation in the future.

Major Issues to Consider: The amendment would impact private sector employees by prohibiting "right-to-work" legislation and has the potential to dramatically alter laws affecting public sector workers. Most notably, public sector employees and employers could bring any issue up for negotiation including those that the legislature has previously deemed a management matter rather than a labor matter. The fundamental question of this proposal is whether the state legislature should have some say over the ability of public sector workers to organize and the scope of issues that can be bargained, or whether the right of public sector workers to organize and bargain on all issues is fundamental and should be enshrined in the constitution.

For more information, read [CRC's Memorandum 1117, Statewide Ballot Issues: Proposal 2012-02](#)

Proposal 2012-03 — A Proposal to amend the State Constitution to establish a standard for renewable energy

Michigan's current renewable energy standard, created by Public Act 295 of 2008, calls for investor-owned utilities, alternative retail suppliers, electric cooperatives, and municipal electric utilities to generate 10 percent of their retail electricity sales from renewable energy resources by 2015.

If Proposal 2012-03 passes, Public Act 295 of 2008 would be amended to require that 25 percent of each electricity provider's annual retail electricity sales in Michigan be derived from renewable electric energy sources, namely, wind, solar, biomass, and hydropower. The implementing legislation would create a phase-in period to put each utility on a path to reach this goal by 2025.

If Proposal 2012-03 is rejected, policymakers could still revisit the issue of renewable energy in the future and make legislative changes to require that a higher percent of total energy be generated

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from renewable sources, alter the types of renewable technologies that qualify under the act, and/or amend the manner in which compliance is monitored and credits are rewarded.

Major Issues to Consider: In addition to reducing the amount of greenhouse gases and other pollutants produced in the state, this amendment would reduce the amount of coal Michigan buys from other states, and keep more of those dollars in the state; coal is Michigan's main source of electricity generation. However, the 25 percent standard may pose challenges in balancing the production and transmission of electricity, leading to redundant infrastructure to ensure reliable electricity transmission. The sources of renewable energy would be spelled out in the Constitution and may not be easily altered if the most cost effective or reliable source of energy changes before 2025.

For more information, read [CRC's Memorandum 1118, Statewide Ballot Issues: Proposal 2012-03](#)

Proposal 2012-04 — A Proposal to amend the State Constitution to establish the Michigan Quality Home Care Council and provide collective bargaining for in-home care workers

The Medicaid-funded Home Help Services Program provides in-home support to people who need assistance with personal care and household chores. The eligible individuals hire and fire home care aides who are paid by the state, with state and federal funds. The purpose of the program is to allow disabled and elderly people to stay in their own homes and out of nursing homes, which is often preferred by participants while saving money for the state.

If Proposal 2012-04 passes, the limited collective bargaining rights of approximately 42,000 home care aides would be guaranteed (currently, only state police troopers and sergeants have collective bargaining rights enshrined in the state constitution), but aides would not be considered state employees for any other purpose, and would not be authorized to strike. The Michigan Quality Home Care Council would be established in the state constitution and would serve as the "public employer" of home care

aides for purposes of collective bargaining. The Council would create a statewide registry of home care aides and provide training opportunities to aides and patients.

If Proposal 2012-04 is rejected, home care aides will continue to be employed subject to the same conditions as they were prior to the election. The legislature may choose to enact legislation to provide collective bargaining rights for home care workers.

Major Issues to Consider: The Medicaid-funded Home Help Services Program will remain in effect regardless of the outcome of the proposal: this proposal focuses on the unionization of home care workers and the establishment of the Michigan Quality Home Care Council, not on the services available to the disabled and elderly.

Proponents of the proposal argue that the registry and training opportunities provided by the proposal will improve the quality of care available to the disabled and elderly program participants, while opponents have countered that home health workers are not required to avail themselves of the training opportunities and Home Help Service participants are not required to select service providers from the registry.

For more information, read [CRC's Memorandum 1119, Statewide Ballot Issues: Proposal 2012-04](#)

Proposal 2012-05 — A Proposal to amend the state constitution to limit the enactment of new taxes by state government

In general, nearly all legislative actions require a simple majority vote (affirmative vote of more than one-half of the members elected to a legislative body). However, the Michigan Constitution currently imposes a supermajority requirement (either three-fourths or two-thirds of the members serving in the Senate and in the House of Representatives) in certain instances, such as to raise school operating ad valorem property tax rates or give a law immediate effect.

If Proposal 2012-05 passes, the Constitution would be amended to prohibit the imposition of new or additional taxes or expansion of the base of taxa-

tion by the State of Michigan unless approved by a 2/3 majority of members in each chamber of the legislature or by a statewide vote of the people. The new requirement would apply to *any* new state taxes, raising the rates of *any* existing state taxes, and expanding the base of *any* existing state taxes. The two-thirds vote requirement would not apply when the legislature desires to eliminate a tax, to reduce tax rates, to reduce the tax base, or to authorize local taxes. In these instances, a simple majority vote would be required.

If Proposal 2012-05 is rejected, any existing tax limitations or supermajority vote requirements will remain in place. In all other cases, to change the tax rate, add or remove taxes, or change the tax base, a simple majority vote of the legislature is required.

Major Issues to Consider: The rationale for the adoption of supermajority requirements is to restrict legislative powers to make it more difficult to enact tax increases or adopt new taxes. But the evidence in the literature and from other states is mixed. The growth in total state revenues in states with supermajority vote requirements have been similar to that experienced in the nation as a whole. To make up for reduced tax collections arising from supermajority vote requirements and to keep state budgets balanced states often increase other taxes, fees, and charges or decrease the amounts distributed to local governments, school districts, universities, and other entities dependent on state revenues. This can result in local property tax increases or tuition increases to balance the budgets of those entities.

For more information, read [CRC's Memorandum 1120, Statewide Ballot Issues: Proposal 2012-05](#)

Proposal 2012-06 — A Proposal to amend the State Constitution regarding construction of international bridges and tunnels

Canadian trade is very important to Michigan's economic health, contributing directly and indirectly to Michigan jobs and income. For more than a decade, representatives from Michigan, the U.S. Fed-

eral Highway Administration, Transport Canada, and Ontario Ministry of Transportation have been pursuing construction of an additional international crossing of the Detroit River.

If Proposal 2012-06 passes, a statewide vote would be required before the State of Michigan could construct or finance a new international bridge or tunnel for motor vehicles ("new" being defined as a bridge or tunnel opened after January 1, 2012). For the question to appear on the statewide ballot, proponents (parties outside of the Michigan state government) would have to gather signatures of registered voters equal to eight percent of the total vote cast for all candidates for governor at the previous general election. The majority of voters in both the entire state and each municipality in which a bridge/tunnel would be situated must approve the proposal.

If Proposal 2012-06 is rejected, the legislature retains the right to approve capital projects, make state appropriations to this purpose if necessary, and use all other constitutional and legal avenues to approve or disapprove the construction of any new international bridges or tunnels.

Major Issues to Consider: Proposal 2012-06 is intended to block, or stall construction of the proposed New International Trade Crossing south of the existing Ambassador Bridge in Detroit. It is not a referendum on the proposed bridge, but a constitutional amendment that would require a statewide vote before the state government constructs or finances a new international bridge or tunnel. While it is clear that this proposal would require a statewide vote on proposed crossings going forward, there is disagreement on the effect of this proposal on the interlocal agreement already in place with Canada. Additionally, an unintended outcome of some ambiguous language in the proposal may result in a statewide vote being required for the construction or financing of *any* bridge or tunnel in the state, international or otherwise. Michigan's courts will have to decide the ultimate impact of this proposal on the New International Trade Crossing.

For more information, read [CRC's Memorandum 1121, Statewide Ballot Issues: Proposal 2012-06](#)