



USE OF IMMEDIATE EFFECT IN MICHIGAN

Introduction

While Michigan lawmakers have lived within the written word of the 1963 Constitution, they have ignored the spirit of a certain provision for almost as long as the Constitution has been in effect. The provision states that laws do not take effect until 90 days after the end of the legislative session, unless the legislature, by a super-majority vote, grants immediate effect. Under the immediate effect mechanism, a law takes effect immediately upon being signed by the governor. The original intent behind this provision, based on the higher vote requirement, was for immediate effect to be the exception, as opposed to the standard practice for the effective date of laws. However, legislative practice has made immediate effect more of the rule than the exception.

Lawmakers from both parties have opted to forgo the 90-day provision and instead have chosen to give almost all laws immediate effect. In 2014, 93 percent of the 406 laws enacted by the legislature were

given immediate effect. The high percentage of laws granted immediate effect last year is not a recent phenomenon. Over the past 50 years, 90 percent of all enacted legislation has been given immediate effect, while only 10 percent has taken effect 90 days following the expiration of the legislative session.

Citizens should be able to understand the basic operations of their government from reading their state constitution. In the case of the provisions dealing with the effective date of Michigan laws, many would be surprised to find out that lawmakers have routinely bypassed what is understood to be the standard method and have opted instead for the alternative method. Lawmakers should consider either proposing a constitutional amendment so that the effective date provisions reflect longstanding legislative practice or honor the spirit of the Constitution by treating immediate effect as an exception rather than the rule in the law making process.

About Immediate Effect

A review of the descriptions of how a bill becomes a law in Michigan or an interstate comparison of the effective date of enacted laws will show that Michigan laws take effect 90 days after the expiration of the session at which they are passed. An alternate provision in the Michigan Constitution bypasses the 90-day provision and allows a law to become effective immediately, or on any date prior to the 90-day point that the legislature wants to designate, contingent upon two-thirds support in each house. The rationale behind the alternative effective date provision is that if a legislative issue is of such importance to preempt the default provision, then

each legislative chamber should have little trouble amassing the additional support needed to allow a law to take effect immediately.

The provision describing the effective date of state laws is found in Article IV, Section 27 of the 1963 Michigan Constitution:

No act shall take effect until the expiration of 90 days from the end of the session at which it was passed, but the legislature may give immediate effect to acts by a two-thirds vote of the members elected to and serving in each house.



Interstate Comparison. Every state has its own laws and practices related to the effective date of legislation. In general, states fall into one of four categories with respect to when legislation takes effect: 1) immediately (six states); 2) after a certain number of days following enactment (seven states); 3) after a certain number of days following adjournment (15 states, including Michigan); and 4) on a specific date (22 states). In addition to these standard provisions, a number of states that require some type of delay also permit laws to take effect immediately under certain circumstances, such as for an emergency or if approved by a super-majority vote in each legislative chamber. Michigan fits into this category.

Michigan is one of eleven states with a full-time legislature, meaning there is no limit on the length of the legislative session. Since the early 1960s, Michigan lawmakers have met in session year-round.

Nearly all of the states with full-time legislatures require laws to take effect immediately, after a certain number of days following enactment, or on a specific date. Among the full-time legislatures, Michigan is an outlier because it requires laws to take effect after a certain number of days following the end of the legislative session. This means that under the standard procedure in Michigan, laws do not become effective until mid to late March of the year after their passage.

Michigan’s procedure more closely resembles that used by part-time legislatures that operate within limited legislative sessions. In states with effective dates tied to the end of the legislative session, laws generally take effect within the same year in which they were passed. In Michigan, this only happens when the regular effective date provision is bypassed and lawmakers give a law immediate effect.

Brief History

The first Michigan constitution, adopted upon statehood in 1835, contained no provisions on the matters of the effective date of legislation. From a constitutional standpoint, a law was effective as soon as it was approved by the governor and filed with the secretary of state (or after a successful legislative override vote, in the case of a veto by the governor) or on a date designated in the legislation. This is the case for laws passed by the Congress of the United States.

In 1838, the Michigan Legislature passed a law requiring that an act would become effective 30 days after approval. The purpose of this change was to provide the necessary time to communicate the law throughout the state before it became effective. This provision was amended in 1846 to extend the effective date to 60 days after approval to provide additional time to communicate the law. Since the mid-1800s, the procedures for determining when laws take effect have been contained in the Constitution and have been modified multiple times.

The 1850 Michigan Constitution

The 1850 Constitution contained an effective date provision (Article IV, Section 20), which stated:

... No public act shall take effect or be in force until the expiration of ninety days from the end of the session at which the same is passed, unless the legislature shall otherwise direct, by a two-thirds vote of the members elected to each house.

The new language significantly extended the then-existing 60-day waiting period by making laws effective 90 days following the end of the legislative session. Operating with a part-time legislature during the time meant that laws not given immediate effect became effective at some time between late August and the end of September in the year of enactment, contingent on the length of the legislative session.

Additionally, the new language authorized the legislature to direct another effective date, including immediate effect, by a two-thirds vote of the members

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elected to each house. This provided lawmakers with two options for the effective date of enacted legislation. It was believed that if a legislative issue were so pressing to demand that the law take effect immediately, the legislature would have little trouble assembling a super-majority vote.

The 1850 provision apparently permitted immediate effect of local acts without the two-thirds vote, because the language was specific as to the type of act passed by the legislature; “. . . No public act shall take effect [emphasis added].” Under the 1850 Constitution, the legislature enacted literally hundreds of local acts at each regular session that created laws or ordinances for particular local governments. (The grant of home rule powers to cities and villages in the 1908 Constitution effectively put an end to local acts, although they are still provided for in the 1963 Michigan Constitution with a super-majority vote.) Most often, local acts were given immediate effect.

The 1908 Michigan Constitution

Among the goals of the 1907-08 constitutional convention, two major objectives included slowing down the pace of legislation and placing limits on the powers of immediate effect. To this end, the architects of the 1908 Constitution included new language to allow immediate effect as an exception to the normal 90-day delay and only for certain acts. Additionally, immediate effect had to garner support from two-thirds of the members elected to each house. Specifically, the new language limited immediate effect to appropriation acts and acts necessary to preserve public peace, health, or safety. Article V, Section 21 of the 1908 Constitution stated:

No act shall take effect or be in force until the expiration of 90 days from the end of the session at which the same is passed, except that the legislature may give immediate effect to acts making appropriations and acts immediately necessary for the preservation of the public peace, health or safety by a two-thirds vote of the members elected to each house.

Through this modified provision, the convention delegates made granting immediate effect more difficult by limiting the universe of eligible laws. The delegates maintained the requirement that immedi-

ate effect had to receive a two-thirds vote. It was believed that the new language, coupled with the two-thirds vote requirement, would greatly reduce the number of acts granted immediate effect.

Floor debate among the convention delegates on the revised language was limited. One issue that gained attention was a proposed amendment specifying that an immediate effect vote should be by record roll call, meaning votes and names are entered in the journal of each chamber. Ultimately, the amendment was not adopted as it was noted that legislative practice at the time required a “rising vote” to verify that the two-thirds vote requirement was met. A “rising vote” does not require that an actual count of members voting yea or nay is conducted. Therefore, the actual vote total and names are not recorded in the official journal

The 1963 Michigan Constitution

The 1963 Constitution modified two aspects of lawmaking that significantly influenced the dynamic of when newly enacted laws take effect. First, the Constitution retained many of the provisions that contemplate a part-time legislature. However, soon after the new constitution took effect, it became common for the legislature to meet throughout the year and adjourn late in the year. Prior to the mid-1960s, the legislature operated on a part-time basis. Lawmakers met most years in regular session until late May or early June before adjourning. On occasion, the legislature would convene in special session, at the request of the governor, later in the same year. Although the 1963 Constitution does not explicitly require the legislature to meet on a full-time basis, that has become the norm.

Second, the provision for the effective date of newly enacted laws was altered in the new constitution. The framers of the 1963 Constitution made one significant change to the 1908 Constitution. While the current constitution retains the 90-day provision as to the effective date of statutes, by removing the restriction as to the types of acts that may be given immediate effect, the new language authorizes the legislature to give immediate effect to any act by a two-thirds vote.

In making the change, the constitutional convention delegates noted that the earlier language was not always attended to and that a number of bills received immediate effect, but did not appear to meet the public health and safety requirements. It was their belief that immediate effect was routinely used and only withheld when the legislature failed to secure a two-thirds vote on final passage, which often resulted from policy disagreements that were rooted in differences of party affiliation.

Debate during the convention indicates that many delegates believed that the immediate effect provision of the 1908 Constitution was abused by the legislature and that this abuse reflected a lack of

respect for the purpose and intent of the immediate effect device. In granting immediate effect under the 1908 Constitution, lawmakers were not required to substantiate that a law fit into one of the eligible categories. The lack of this requirement, along with no enforcement mechanism, caused many delegates of the 1961-62 constitutional convention to question the value of limiting immediate effect to certain acts. Thus, they opted to provide the legislature with more discretion in determining which laws should be granted immediate effect.

In approving the language changes, the 1963 Constitution effectively re-established the effective date provisions that existed under the 1850 Constitution.

The Use of the Immediate Effect Provision

As previously noted, one major goal of the 1908 Constitution was to slow the legislative process and curb the misuse of immediate effect. The drafters modified existing constitutional language to make granting immediate effect to public acts more the exception than the rule. This appears to have been the case. Over the last 24 years that the 1908 Constitution was in effect (1940-1963),¹ 39 percent of the 4,996 bills enacted were given immediate effect.

With the easing of the immediate effect provisions in the 1963 Constitution, immediate effect became a commonly used tool of the legislature. In fact, granting immediate effect to laws became more the norm than the exception almost immediately after the new constitution took effect. Since 1965, 90 percent of all enacted laws were given immediate effect (see **Chart 1**). In some years, as few as 57 percent of all laws received immediate effect, while in other years, 99 percent of all laws were granted immediate effect. From 2000 through 2014, the legislature granted immediate effect to 94 percent of the laws it passed.

¹ Extra Sessions were not included in this calculation due to the nature of the bills considered. Extra sessions were called by the governor to act on issues that were of such significance that they could not wait until the next scheduled session or that they needed to be considered without the interference or confusion of other issues.

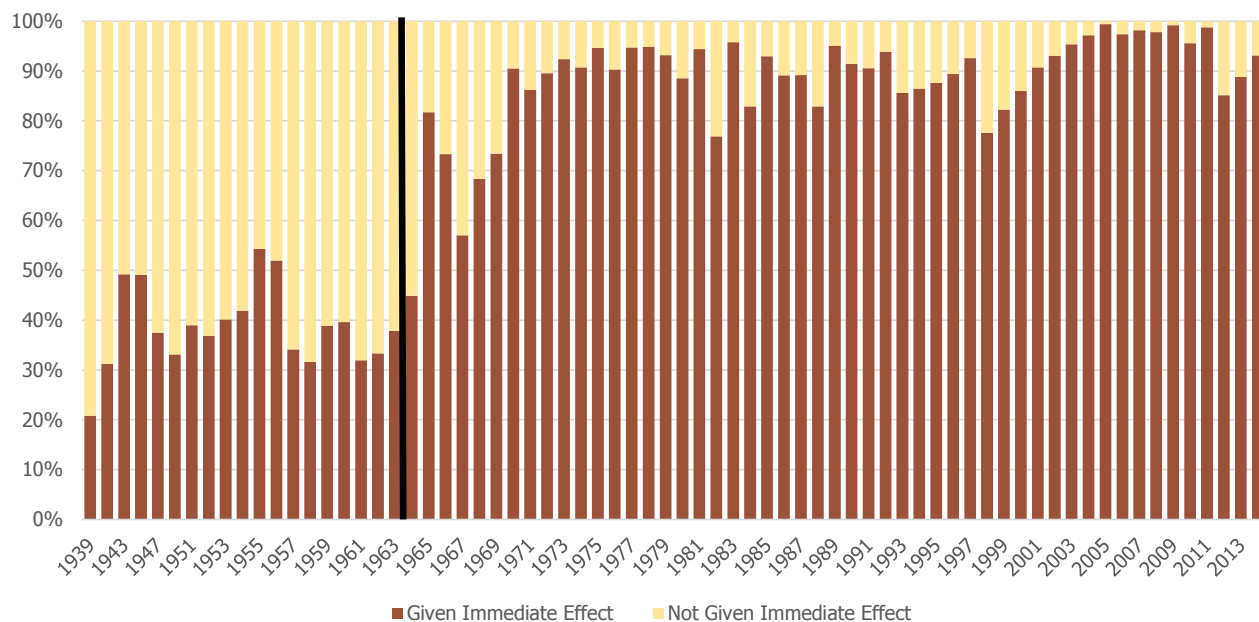
Granting Immediate Effect

It may come as a surprise to many people that a bill that is approved by the legislature with less than two-thirds affirmative vote in each chamber can be granted immediate effect. This is because, in each chamber, a vote for immediate effect is taken separately from a vote for final passage of a bill. The 1963 Constitution contains provisions unique to each vote.

To become law, a bill needs the concurrence of a majority of the members elected to and serving in each house (Article IV, Section 26). The Michigan Legislature consists of the 110-member House of Representatives and the 38-member Senate. To gain final approval, a bill must receive at least 56 affirmative votes in the House and at least 20 affirmative votes in the Senate (assuming all seats are filled in both chambers). Section 26 further requires that a final passage vote must be by record roll call.

Under current practice in each chamber, if lawmakers want to grant immediate effect to a bill a separate immediate effect vote is taken. Similar to the final passage vote, the Constitution is clear regarding the support needed for immediate effect (two-thirds of the members elected and serving in each chamber). This means that immediate effect must be supported by 74 members of the House of Representatives and 26 members of the Senate. While the Constitution is specific as to the vote threshold, it is silent as to

Chart 1
Michigan Laws Enacted with Immediate Effect: 1939 to 2014



Note: The 1963 Michigan Constitution includes new language regarding immediate effect. The impact before and after these changes are indicated by the vertical black line in the chart.
 Source: Michigan Legislature, Legislative Services Bureau

the type of vote that each chamber must take. This differs from the provision dealing with final passage where a recorded vote is required. In effect, the Constitution leaves it to each chamber to decide how it wants to handle immediate effect votes.

Each chamber of the Michigan legislature deals with the immediate effect vote differently. The published rules of the House of Representatives state that a motion for immediate effect must be made orally by a member and recognized by the presiding officer. Under this practice, the presiding officer of the chamber determines whether there is sufficient support for granting a bill immediate effect. If the presiding officer determines there is enough support (i.e., two-thirds of the House members), a bill receives immediate effect from the House of Representatives. This practice is commonly referred to as a “rising vote” and is also used to determine if there is support for other procedural motions, such as a request for a record roll call vote. A motion for recorded vote can be made with support of one-fifth of the members present in a chamber (Article IV, Section 18).

The “rising vote” mechanism used by the House is much different than a “division vote,” which is used by the Senate in granting immediate effect. The latter requires that the specific votes of members favoring and opposing an issue are counted and the numerical result is recorded. The House’s “rising vote” procedure effectively provides the presiding officer with discretion to determine whether the House will grant a bill immediate effect, without a counted vote. Further, the mechanism allows the presiding officer to determine the support for immediate effect, irrespective of the vote for the bill upon final passage.

In the Senate, the rules specifically state that immediate effect can be granted to bills only after an affirmative vote of two-thirds of the members elected and serving. For the past 40 years, the Senate has used the “division vote” mechanism to meet the constitutional requirement.

The use of a “rising vote” for granting immediate effect in the House of Representatives has been controversial and subject to court challenge. In 2012, the Michigan Court of Appeals ruled that the House’s

method of granting immediate effect complies with the state Constitution.² The Court opined that the Michigan Constitution does not specifically require a roll call vote for immediate effect. The Court ruled that unlike other sections of the Constitution that call for roll call votes (Article IV, Section 26 dealing with final passage of a bill), there is no specific type of vote required in the case of immediate effect. Further, because the Constitution (Article IV, Section 16) allows each chamber to determine its own rules and procedures, the Court argued that the House can determine the manner in which an immediate effect vote is conducted for purposes of meeting the constitutional two-thirds vote requirement.

The question of whether an immediate effect vote should be by “rising vote” or roll call vote was not a new issue in 2012. In fact, the issue was raised over 100 years earlier during the 1907-08 constitutional convention. As the 1908 Constitution was being drafted, delegates discussed whether the proposed immediate effect language should require a roll call vote, as opposed to the customary “rising vote” that had been used up until then. It was decided that the “rising vote” practice was sufficient to meet the two-thirds vote requirement and there was no need to include a new requirement for a roll call vote in

the Constitution.

The opportunity for either chamber of the legislature to use the “rising vote” mechanism to meet a constitutional requirement is not limited to granting immediate effect. There are numerous other instances where a super-majority vote is required by the Michigan Constitution to approve certain legislative actions. In some of these cases, the Constitution does not require a roll call vote, but in other cases it does. For example, to override a gubernatorial veto, each chamber must approve the measure by a two-thirds vote and each vote must be by recorded in the journal (Article IV, Section 33). In contrast, the Constitution requires “the assent of two-thirds of the members” in each chamber to appropriate public money or property for a local or private purpose (Article IV, Section 30). Because this section does not specifically require a roll call vote, a “rising vote” would suffice in this instance.

The use of the “rising vote” mechanism can effectively render certain constitutional vote requirements meaningless as considerable discretion is granted to the presiding officer of a chamber in determining whether a vote threshold is met.

Arguments For and Against

Arguments for Immediate Effect

Immediate effect is attractive for legislators for a number of reasons:

Response to Constituent Concerns. Immediate effect provides evidence of legislators’ abilities to respond to constituent concerns, a legitimate role of lawmakers, by getting laws passed and implemented. Laws that do not go into effect until the end of March of the year after their passage give legislators little to campaign with in a November election.

² At issue in *Richard Hammel v. Speaker of the House of Representatives* was whether Public Act 4 of 2012 (emergency manager law) received the necessary votes for immediate effect in the House of Representatives. Upon final passage, the legislation that would become Public Act 4 did not receive two-thirds vote in the House. According to the House Journal, the legislation

For legislators, immediate effect provides instant results and concrete evidence that they are responsive to constituents. For those lawmakers that will be forced by term limits to leave their current positions following the end of the legislative term, immediate effect provides some degree of accountability while they are still in office. If, for some reason, a law requires modification, the legislator responsible for the law can be encouraged by his constituents to make the appropriate changes before leaving office.

Advances in Communication Technology. Communication technology has advanced to the degree that information on the passage of a bill and

passed the House with a 63 to 47 vote. However, the House, by way of a “rising vote,” provided the necessary two-thirds vote for immediate effect. The Court of Appeals used the House journal as the official record to opine that Public Act 4 had received the requisite support for immediate effect.

enactment of a law can be transmitted to the furthest reaches of the state in a matter of minutes. At the time immediate effect was initially introduced to the Michigan Constitution in 1850, the legislature met part-time and communication throughout the state relied either on railroads or on horse and buggy.

Clearly, the expectation of local units of government and citizens to comply with laws granted immediate effect was irrational, due to the significant delay in these parties being made aware of new legislation.

Even when the current Constitution was approved in 1963, communication was nowhere near as advanced as it is today. Modern communications happen at light speed; telephones, E-mail, the Internet, radio, and television all combine to provide opportunities for local governments and people in all corners of the state to learn about changes to law minutes after enactment. These advances allow for new laws to have immediate effect without being a detriment to the parties involved on the basis of communications.

Shift to Full-Time Legislature. The shift from a part-time legislature to a full-time legislature has changed the dynamics of waiting until 90 days after adjournment of the legislature. Prior to the 1960s, the norm was for the legislature to adjourn in late May or early June. If there was other business that the legislature needed to attend to after adjourning the regular session, the governor had the power to call an extra session. Legislation enacted during the regular session without immediate effect became effective sometime between late August and late September in the same year a law was passed, depending on the length of the legislative session. This allowed for laws to prove their worth before the start of the next session.

Today, the legislature convenes in early January and adjourns in late December most years. It is possible that a legislature, composed of a majority of a different mind than the legislature that passed an act the previous year, could take up the issue and amend the act before it has a chance to become effective. Given the workings of a full-time legislature, immediate effect allows a law passed during a session to be implemented before the next legislature has an opportunity to modify or repeal the law.³

Most of the states with part-time legislatures have a requirement that laws do not take effect until after the legislature adjourns for the session. In contrast, nearly all states with full-time legislatures make laws effective after a certain number of days, or immediately, following the enactment of a law. Michigan, with its full-time legislature, has a constitutional provision (absent the immediate effect provision) that is more in line with the provisions in states with part-time legislatures.

Practical Consideration. Lawmakers must pursue immediate effect for any instance that would grant a law effect prior to 90 days following the close of a legislative session. Even if the legislature wants to delay the effective date by 30, 60, or 90 days after the governor signs an enrolled bill, an immediate effect vote is required. Similarly, if an act is to take effect on a specific date, such as an appropriations act on the first day of a new fiscal year (October 1), it will require immediate effect. Immediate effect is used as a practical solution to the two extremes set up by the current constitutional provision; laws either take effect immediately or 90 days following the adjournment of a legislative session.

Why the Practice or Law should be Changed

Arguments can also be made that the current use of immediate effect should be changed. These include:

An Understandable Constitution. Michigan citizens served by the state constitution should be able to read the document and understand the process of government law making. Based on such a reading today, most people would be surprised to find out that 90 percent of the bills passed by the legislature each year become law as soon as they are signed by the governor and filed with the secretary of state. As written in the Constitution, immediate effect is established as the exception to the standard procedure for laws taking effect – 90 days after the

³ Michigan's transition to a full-time legislature has made other constitutional provisions far less meaningful, or in some cases, completely moot. In addition to provisions regarding immediate effect, language dealing with special legislative session (Article IV, Section 28), gubernatorial "pocket veto" (Article IV, Section 33), and referendum (Article II, Section 9) were included in the 1963 Constitution based on the assumption that the legislature would function in a part-time capacity.

end of the legislative session. Given the fact that a primary reason for having a written constitution is to inform citizens of the fundamental law by which they are governed, the text of the Michigan Constitution should reflect the standard practice of state law making and vice versa.

Political Tool. Immediate effect has been used as a political tool by both the majority and minority party, regardless of which political party is in power. From the perspective of the minority party, the immediate effect device allows it to bargain for provisions desirable to its constituency. The common use of immediate effect, combined with the prevailing mindset that most bills should have immediate effect, has created a situation where the minority party, assuming it has sufficient representation in a chamber, can effectively use immediate effect as a sort of filibuster. The minority party is able to use the majority party's desire to obtain immediate effect as a bargaining chip in slowing down the process and inserting language that better satisfies its desires. This is not to criticize actions of the minority party, or to say that it should not use any tool available in bargaining for language that better serves its desires. The point is that immediate effect was not created to serve as a filibuster for the minority party. If that is the current purpose for which it is to serve, the Constitution should be amended to make that clear.

From the perspective of the majority party, the use of the "rising vote" mechanism to meet the constitutional super-majority vote requirement can make the vote for final passage of a bill meaningless. This mechanism is currently employed in the House of Representatives. In the House, any bill that garners just enough support on final passage (i.e., 50 percent plus one vote) can be given immediate effect. In the law making process, the majority party gains a political advantage with the "rising vote" tool and the discretion granted to the presiding officer for determining support of certain procedural motions, including immediate effect. Additionally, this device can be used by the majority party to neutralize the minority party's attempt to use immediate effect as a political tool in bargaining for what it wants.

Counter to Power of Referendum. The current practice of using immediate effect works counter to the power of referendum provided for in the Con-

stitution. The process by which citizens can petition for and vote to approve or disapprove laws enacted by the legislature is referred to as voter referendum. The power to call for voter referendum on enacted laws is provided in Article II, Section 9 of the 1963 Michigan Constitution.

Voter referendum in Michigan was first authorized in 1913 as an amendment to the 1908 Constitution. The 1913 amendment duplicated the language included in the constitution dealing with laws that receive immediate effect. Specifically, the power of voter referendum did not extend to acts granted immediate effect at the time, namely appropriation acts or those acts necessary to preserve public peace, health, or safety. Also, the amendment required that the voters had 90 days from the end of the legislative session at which a law was passed to collect the necessary petition signatures to call a referendum vote. This time frame aligned with the effective date of legislation that passed without immediate effect.

In drafting the 1963 Constitution, the framers retained the voter referendum process from the earlier constitution without substantive amendment. Unlike the 1908 Constitution, the 1963 Constitution extended the referendum power to all laws, except those making appropriations. The new constitution also retained the same timeline for invoking the referendum – 90 days from the end of the legislative session at which a law was passed.

Granting immediate effect to enacted legislation can have the effect of impairing the citizenry's right to referendum. When a law is granted immediate effect, the people do not have time to gather the required number of signatures to prevent the law from going into effect. A law granted immediate effect is subject to referendum, but only after it has been in effect for sometime. By constitutional design, the purpose of the referendum process established under the 1908 Constitution, and reconfirmed in the 1963 Constitution, is for voters to have a direct say (approve or disapprove) regarding laws passed by the legislature, before they take effect.

While giving an enacted bill immediate effect does not take away the right to referendum by initiative petition, it does greatly complicate the process. As the Constitution is written, the people have the right

to halt enactment of a law before it becomes effective by filing petitions within the 90 days after adjournment. Given the common use of immediate effect,

it is possible for a law to have been implemented for as much as a year before petitions are filed calling for a referendum.⁴

Options

To reconcile the intent behind the immediate effect clause of the Michigan Constitution and longstanding legislative practice, two viable reform options are available. Option one requires the Michigan Legislature to reduce its reliance on the immediate effect mechanism and begin honoring the spirit of the Constitution by requiring legislation to take effect 90 days after the end of a legislative session. Nevertheless, given its near permanent status in the law making process, the legislature is unlikely to do an about-face and make immediate effect the exception rather than the norm.

The second option would not require modifying longstanding legislative practice. The Michigan Legislature could propose an amendment to the state Constitution to strike the provisions stating that enacted legislation will not take effect until 90 days after the end of the session at which it was passed. Alternative language could mirror that found in other states. New language could state that legislation takes effect immediately following

enactment, which is the current practice in Michigan for over 90 percent of all laws passed. Or, the language could read that legislation only takes effect after a set number of days (30, 60, 90, etc.) following enactment. This type of language allows those affected by state laws time to prepare for implementation.

Another reform that merits consideration deals with the method through which immediate effect is granted to enacted legislation. The state constitution requires a super-majority vote to grant immediate effect; however, because a recorded vote is not required by the constitution, each chamber has adopted its own voting practice. The use of the "rising vote" mechanism, which does not require an actual vote count, calls into question whether sufficient support is garnered for legislation granted immediate effect. To address this concern, language could be added to constitution to require a roll call vote in each chamber to determine support for immediate effect.

⁴ Imagine a scenario where a bill ordered to have immediate effect is approved by both chambers and signed by the governor early in an even numbered year. The law becomes effective upon signature of the governor. Assume the legislature adjourns sine die near the end of the calendar year. Citizens would then have roughly until the end of March of the next year to file petitions for a referendum. The effect of the petitions would be to halt the effectiveness of the law, pending the statewide vote at the next general election (held in November of even number years). Under this scenario, the law would have been in effect for approximately one year before effectively being placed "on hold" until the November general election when voters have an opportunity to weigh in on the merits of the law.

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