

STATE OF MICHIGAN
IN THE SUPREME COURT

PATRICK ANDERSON, TERRI LYNN LAND,
LEON DROLET, and THOMAS MCMILLIN,

Supreme Court No. _____

Plaintiffs,

v

THE BOARD OF STATE CANVASSERS,
JOCELYN BENSON, in her official capacity as
Secretary of State, and JONATHAN BRATER, in his
official capacity as Director of the Bureau of Elections,

**THIS IS AN EMERGENCY
MATTER AND ACTION IS
REQUESTED BY SEPTEMBER 6,
2022**

Defendants.

_____/

Jeffrey A. Hank (P71152)
Attorney for Plaintiffs
HANK LAW PLLC
PO BOX 1358
East Lansing, MI 48826
(855) 426-5529
jah@consumerpractice.com

**PLAINTIFF'S COMPLAINT FOR A WRIT OF MANDAMUS AND DECLARATORY
RELIEF**

AND MOTION FOR ORDER TO SHOW CAUSE

ORAL ARGUMENT REQUESTED

**FILED CONTEMPORANEOUSLY WITH A MOTION FOR IMMEDIATE
CONSIDERATION AND TO EXPEDITE RESOLUTION DUE TO
EXIGENT CIRCUMSTANCES
TIME SENSITIVE ELECTION LAW MATTER**

There is no other known pending or resolved civil action arising out of the transaction or occurrence alleged in the complaint.

JEFFREY A HANK (P71152)

STATE OF MICHIGAN
IN THE SUPREME COURT

PATRICK ANDERSON, TERRI LYNN LAND,
LEON DROLET, and THOMAS MCMILLIN,

Supreme Court No. _____

Plaintiffs,

v

THE BOARD OF STATE CANVASSERS,
JOCELYN BENSON, in her official capacity as
Secretary of State, and JONATHAN BRATER, in his
official capacity as Director of the Bureau of Elections,

**THIS IS AN EMERGENCY
MATTER AND ACTION IS
REQUESTED BY SEPTEMBER 6,
2022**

Defendants.

Jeffrey A. Hank (P71152)
Attorney for Plaintiffs
HANK LAW PLLC
PO BOX 1358
East Lansing, MI 48826
(855) 426-5529
jah@consumerpractice.com

**PLAINTIFF'S COMPLAINT FOR A WRIT OF MANDAMUS AND DECLARATORY
RELIEF**

AND MOTION FOR ORDER TO SHOW CAUSE

ORAL ARGUMENT REQUESTED

**FILED CONTEMPORANEOUSLY WITH A MOTION FOR IMMEDIATE
CONSIDERATION AND TO EXPEDITE RESOLUTION DUE TO
EXIGENT CIRCUMSTANCES
TIME SENSITIVE ELECTION LAW MATTER**

There is no other known pending or resolved civil action arising out of the transaction or occurrence alleged in the complaint.



JEFFREY A HANK (P71152)

COMPLAINT FOR MANDAMUS AND DECLARATORY JUDGMENT

INTRODUCTION

This case presents three issues of public interest and major significance to the state's jurisprudence:

The first is whether the statement of the purpose of the constitutional amendment now designated as Proposal 1, as adopted by the Board of Canvassers on August 19, 2022, is "true and impartial" and furthermore does not create prejudice in favor of the proposal. Plaintiffs complain that the statement is not true, is not impartial, and creates a prejudice in favor of the proposal. In particular, Plaintiffs contend that the proposal would repeal longstanding provisions of the Michigan Constitution, but that a reader of the ballot description adopted by the Board of Canvassers would not be properly informed that the proposal would "alter or abrogate" the Constitution.

Plaintiffs ask that a true and impartial statement of purpose be adopted instead, and that the Court should declare this and issue a writ of mandamus ordering Defendants to adopt and certify a true and impartial statement.

The second issue is whether the legislature has the authority to dictate the statement of the purpose for a constitutional amendment. Plaintiffs complain that the legislature is deeply self-interested in their ability to stay in office longer, which would be the immediate consequence of the passage of Proposal 1. Plaintiffs seek a declaration that the Board of Canvassers, not the legislature, has that authority by statute.

The third issue is whether the constitutional amendment designated Proposal 1, which clearly contains multiple purposes and subjects, is therefore defective as a threshold determination issue. Plaintiffs complain that the proposal is defective on constitutional, statutory, and legislative

rule grounds. Plaintiffs ask that the Court enjoin submission of this proposal to the electorate in its present form, as the Legislature can use its power to propose two separate amendments if it wishes both such purposes to be presented to the electorate.

Proposal 1: A Repeal of Term Limits Plus an Exhortation for a Future Disclosure Law

HJR R unlawfully bundled two unrelated issues together. First it contains an outright repeal of voter-enacted term limits. Second, it contains a separate requirement that the Legislature enact a law by 2024 for limited financial disclosures for certain officeholder.

This bundling of unrelated issues is derisively known as logrolling¹. It violates the letter and spirit of the Legislature's own rules (Rule 13) that clearly state, "The same joint resolution shall not propose an amendment to the Constitution on more than one subject matter." It violates the statute that provides, in MCL 168.32, for a ballot summary containing a "statement of the purpose of the amendment." The law also elsewhere refers to a single "purpose" or object, which is a threshold determination issue of ballot eligibility.

Prior Courts have stated on the record several times that the issue of whether a multiple-purpose constitutional amendment was allowable would be left for another day to be decided. That day is now here, and the issue is now before the Court with this proposal and this Complaint.

This Complaint prays for relief as discussed further herein. First, for the reason that the statement of the purpose of the amendment is not "true and impartial" and is designed to create "prejudice.... for the proposed amendment...", in violation of Michigan law, Plaintiffs seek

¹ "Log rolling" is defined by Merriam-Webster as "the trading of votes by legislators to secure favorable action on projects of interest to each one", and an example is provided as "Petitioners shouldn't bundle unrelated issues together, a practice derisively known as logrolling."

mandamus to order the Defendants to prepare, approve, and certify a true and impartial statement of the purpose. Second, Plaintiffs seek declaratory relief that the current statement of the purpose is not a true and impartial statement and that the Legislature has no authority under current law to prepare, approve, and certify a statement of the purpose of an amendment or initiative that will appear before the electorate; and third, that this proposal in its current form is legally defective due to constitutional, statutory, and other grounds, and that the Court should enjoin submission of the proposal to the electorate.

PARTIES, JURISDICTION, AND VENUE

1. Lead Plaintiff Patrick Anderson is a resident of Clinton County Michigan. He is filing in his individual capacity as a person aggrieved by the determination of the Michigan Board of State Canvassers. He grew up in Oakland County, Michigan. He attended High School in Pontiac, and received bachelors and masters degrees from the University of Michigan in 1981 and 1983. He has been a registered voter in the state for over 40 years. Mr. Anderson drafted the provisions of Michigan's term limit amendment that apply to state officeholders, and was a member of the committee that proposed it to the voters in 1992. He drafted the ballot summary of the amendment, that was presented it to the Board of Canvassers and adopted without substantive amendment in 1992.

In civic and business affairs, Mr. Anderson was a deputy budget director of the State of Michigan in 1994, and chief of staff of the Department of State from January 1995 to September 1996. He founded the consulting firm Anderson Economic Group LLC in September 1996, which continues in operation today. He also co-founded the charitable organization Michigan Remembers 9-11 Fund, which maintains remembrances of the Michigan citizens lost in the September 11, 2001 tragedy.

Mr. Anderson provided comments in writing in advance of the Board of Canvassers meetings in March and August 2022, and presented in person at both meetings.

2. Plaintiff Terri Lynn Land is a resident of Kent County Michigan. She is the former Michigan Secretary of State who served two terms from 2003 to 2011. She is filing in her individual capacity as a person aggrieved by the determination of the Michigan Board of State Canvassers.

3. Plaintiff Thomas McMillin is a resident of Oakland County, Michigan. He is a former Michigan State Representative who served three terms in the House from 2009 to 2014. He is filing suit in his individual capacity as a person aggrieved by the determination of the Michigan Board of State Canvassers.

4. Plaintiff Leon Drolet is a resident of Macomb County, Michigan. He is a former Michigan State Representative who served three terms in the House of Representatives. He is filing suit in his individual capacity as a person aggrieved by the determination of the Michigan Board of State Canvassers.

5. Defendant Board of State Canvassers is a public body created by Art 2, § 7 of the 1963 Constitution. The Board of State Canvassers is charged with, among other things, considering the summary prepared by the Director of the Bureau of Elections and approving a petition summary that is “true and impartial” pursuant to MCL 168.32.

6. Defendant Jonathan Brater is Michigan’s Director of the Bureau of Elections charged with the duty of preparing the petition summary for approval by the Board of State Canvassers and is vested with the authority to administer Michigan’s election laws under the supervision of the Secretary of State. The Director is a non-member secretary of the Board of State Canvassers pursuant to MCL 168.32(1) and is vested with the authorities of the Secretary of State. Director

Brater is sued in his official capacity and only to the extent his participation is necessary for relief granted by the Court.

7. Defendant Jocelyn Benson is Michigan's Secretary of State. The Secretary of State is a publicly elected position authorized by Art 5, §§ 3, 21, of the 1963 Michigan Constitution. The Secretary of State is tasked with supervising the Director of the Bureau of Election regarding the administration of election law, including certifying, and preparing with the Board's approval, the statement of the purpose of the Michigan Legislature's dual-subject proposed constitutional amendment. Secretary of State Benson is sued in her official capacity and only to the extent her participation in this case is necessary for relief granted by the Court.

8. This Court has discretionary jurisdiction "as provided by the constitution or by law." MCR 7.303(B)(6); see also MCR 3.305(A)(1)-(2) (noting that a statute or rule may allow mandamus actions in "another court" besides circuit courts and the court of appeals).

9. MCL 600.217(3) gives this Court "jurisdiction and power to issue, hear, and determine writs of ... mandamus."

10. MCL 168.479 governs review of a challenge to a Board of State Canvassers decision and says:

(1) Notwithstanding any other law to the contrary and subject to subsection (2), any person who feels aggrieved by any determination made by the board of state canvassers may have the determination reviewed by mandamus or other appropriate remedy in the supreme court.

(2) If a person feels aggrieved by any determination made by the board of state canvassers regarding the sufficiency or insufficiency of an initiative petition, the person must file a legal challenge to the board's determination in the supreme court within 7 business days after the date of the official declaration of the sufficiency or insufficiency of the initiative petition or not later than 60 days before the election at which the proposal is to be submitted, whichever occurs first.

11. MCL 168.479(1)-(2) “provides the method of review for those persons aggrieved by any determination of the State Board of Canvassers.” *Beechnau v Austin*, 42 Mich App 328, 330; 201 NW2d 699 (1972). The Court may provide “other” appropriate remedy also.

12. For the same reason, venue is appropriate in this Court. See *Comm to Ban Fracking in Michigan v Bd of State Canvassers*, Mich ; NW2d ----- (2021) (Docket No. 354270), 2021 WL 218683, at *5 (“MCL 168.479(2) is clear that any person challenging the determination made by defendant regarding sufficiency or insufficiency of an initiative petition is required to file a timely legal challenge in the Michigan Supreme Court.”).

13. Given the emergency timelines of the election, ballot proofing and printing, the Legislative deadline of September 9th to present corrected amendments, and the public interest in final adjudication of a matter of substantial importance to the state’s jurisprudence and fundamental law, the Supreme Court is the proper venue to review and resolve this matter.

STATEMENT OF FACTS

14. Citizens proposed, through a petition drive, a term limit amendment to the Michigan Constitution in 1992. Voters approved the amendment in 1992, with approximately 59% voting in favor of the amendment.

15. In the succeeding 30 years, term limits on state officeholders have not been repealed, altered, or abrogated by the voters. Furthermore, they have repeatedly been upheld when elected officials and others have challenged them, most recently in *Kowall v Benson*, 18 F.4th 542 (6th Cir. 2021).

16. The limits on federal officeholders that were part of Michigan’s term limit amendment was held unconstitutional by the US Supreme Court in the *US Term Limits Inc v Thornton*, 514 US 779 (1995).

17. Michigan's term limit amendments, like those in the US Constitution and in many other state constitutions, limits the number of times a person can be elected to the same public office.
18. Michigan's Constitution applies limits on the number of times a person can be elected to the same office to offices in both the legislative and executive branches.
19. The limits on the number of times a person can be elected to the House of Representatives and the senate is contained in 1963 Const Art IV, § 54, which begins:

Limitations on terms of office of state legislators.

No person shall be elected to the office of state representative more than three times. No person shall be elected to the office of state senate more than two times. Any person appointed or elected to fill a vacancy in the house of representatives or the state senate for a period greater than one half of a term of such office, shall be considered to have been elected to serve one time in that office for purposes of this section. This limitation on the number of times a person shall be elected to office shall apply to terms of office beginning on or after January 1, 1993.

20. The Michigan Constitution provides for a voter-signature lead petition process to amend the constitution, and a process by which the legislature may directly propose a constitutional amendment for voter approval. There are two ways a proposal to amend Michigan's constitution can become a ballot question, according to Article 12, Sections 1 and 2:
 - a) A Ballot Question committee may gather and submit petitions for a proposed amendment containing original signatures of at least 425,059 registered voters, or
 - b) The Legislature may pass by joint resolution a proposed amendment agreed to by two-thirds of the 148 members elected to and serving in each house of the Legislature.
21. Both methods require subsequent voter approval after the proposal is placed on the ballot, and a 100-word summary known as the "statement of the purpose" of the proposed amendment or initiative is required to be placed on the ballot so that voters know what they are voting for or

against. This case, unlike most election precedent of the courts, deals with a Section 1 amendment, and not a Section 2 amendment pursuant to Article XII.

22. MCL 168.32(1) and (2) provide that the ballot summary “statement of the purpose of the amendment” is prepared by the Director of Elections on behalf of the Secretary of State, and certified with the approval of the Board of State Canvassers. The summary shall consist of a true and impartial statement of the purpose of the amendment or question in such language as shall create no prejudice for or against the proposed amendment or question:

(2) The director of elections, with the approval of the state board of canvassers, shall prepare a statement for designation on the ballot in not more than 100 words, exclusive of caption, of the purpose of any proposed amendment or question to be submitted to the electors as required under section 9 of article II, section 34 of article IV if the legislature does not provide for the content of the question to be submitted to the electors, or section 1 or 2 of article XII of the state constitution of 1963. The statement shall consist of a true and impartial statement of the purpose of the amendment or question in such language as shall create no prejudice for or against the proposed amendment or question. The powers and duties of the state board of canvassers and the secretary of state with respect to the preparation of the statement are transferred to the director of elections. The secretary of state shall certify the statement of the purpose of any proposed amendment or question to be submitted to the electors not later than 60 days before the date of the election.

23. In March 2022, a ballot committee known as Voters for Transparency and Term Limits (VTTL) proposed a voter petition seeking similar amendments to what HJR R proposes.

24. The Board of State Canvassers in a public meeting on March 23, 2022, approved the following summary for that proposal:

The proposed constitutional amendment would:

- Require members of the legislature, the governor, the lieutenant governor, the secretary of state, and the attorney general to file annual public financial disclosure and transaction reports after 2023.
- Require the legislature to enact laws with disclosure rules at least as stringent as those required for members of congress;
- Replace current term limits for state representatives and state senators to a 12-year total limit in any combination between the house and the senate, with the exception that

someone elected to the senate in 2022 can be elected the number of times allowed when that person became a candidate. **Exhibit D.**

25. At some point, VTTL did not move forward with obtaining voter signatures and failed to make the ballot.

26. On May 10, 2022, HJR R was introduced into the Legislature. The same day, within a period of less than 24 hours, the House and Senate met and adopted the proposal with support of two-thirds of the members elected to and serving in each chamber of the Legislature, bypassing the 425,059 petition signature requirement to abate term limits on themselves. **Exhibit B.**

27. On May 10, 2022, the Legislature also suspended a joint rule of the House and Senate, Rule 13, which in part, prohibits “The same joint resolution shall not propose an amendment to the Constitution on more than one subject matter.” *See* Rule 13, **Exhibit F.**

28. The proposed amendment to the State Constitution would alter or abrogate at least two sections of Article IV, sections 10 and 54.

29. The Legislature included its own statement of the purpose within HJR R, that proclaimed misstatements of fact as to the nature of the proposal. The Legislature’s statement of the purpose was not adopted by Defendants. **Exhibit A.**

30. On August 19, 2022, the Board of State Canvassers (BOSC) held a public meeting for the purpose of designating the proposal and adopting a summary and caption that described the proposal. **Exhibit C.**

31. At that August 19 meeting, the board heard testimony from Patrick Anderson, as well as from attorneys representing VTTL. Mr. Anderson also provided in writing a substitute for the draft description. **Exhibit C.**

32. The Board had only 3 members participating in the meeting on that day. Without debate or asking the director to respond to the testimony indicating both factual errors and prejudicial language in the description, it was adopted by the 3 members.

33. On August 19, 2022, the Defendants prepared and certified a statement of the purpose of HJR R, and designated it Proposal 1, which will appear on the ballot as follows (*See Exhibit E*):

Proposal 22-1

A proposal to amend the state constitution to require annual public financial disclosure reports by legislators and other state officers and change state legislator term limit to 12 total years in legislature

This proposed constitutional amendment would:

- Require members of legislature, governor, lieutenant governor, secretary of state, and attorney general file annual public financial disclosure reports after 2023, including assets, liabilities, income sources, future employment agreements, gifts, travel reimbursements, and positions held in organizations except religious, social, and political organizations.
 - Require legislature implement but not limit or restrict reporting requirements.
 - Replace current term limits for state representatives and state senators with a 12-year total limit in any combination between house and senate, except a person elected to senate in 2022 may be elected the number of times allowed when that person became a candidate.
- Should this proposal be adopted?

YES

NO

WORD COUNT: 100

34. This proposal is now slated to be placed before voters statewide on November 8, 2022 in the general election.

35. The Legislature, pursuant to 1963 Const Art XII, Sec. 1, and according to the Secretary of State's Election Calendar has until September 9, 2022 to present any constitutional amendments to the Secretary of State for inclusion on the November 8, 2022 general election. **Exhibit H.**

36. September 24, 2022 is the deadline for clerks to send overseas military service personnel absentee ballots. **Exhibit H.**

GENERAL ALLEGATIONS

37. Plaintiff hereby incorporates by reference all previous paragraphs as if fully set forth herein.

38. The current self-serving proposal to amend the State Constitution put forth by the Legislature does not comply with the requirement that it be limited to one purpose or subject. Legislative Rule 13 refers to “subject”, the statutes refers to “ the purpose”, and these terms appear to be interchangeable and referring to the same thing, and are generally known to be referencing what is considered the “single subject” rule or prohibition that exists in many states. Done properly, this would require that two separate ballot questions with different purposes be placed on the ballot for voter consideration:

- a) One proposal to replace distinct term limits for state house and state senate with a 12-year total limit in any combination between the Michigan house and senate. The only purpose or subject matter of that proposal would be the eligibility to be elected to a specific office.
- b) A separate proposal to impose requirements for financial disclosures from the governor, attorney general, and secretary of state in addition to the members of the Michigan house and senate. The only purpose or subject matter of that proposal would be financial disclosures.

39. Upon information and belief, the Legislature is in session and has until September 9th to present any constitutional amendment proposals to voters for the upcoming November 8, 2022 election. Any such action of the Legislature can be done with minimal process and time, and the Secretary of State need only give 3 days public notice for a meeting of the Board and the Director to prepare, approve, and certify proper statements of the purposes of different amendments. In other words, there is still time for the Legislature and Defendants to correct this matter if the Court acts in time.

40. Upon information and belief, ballots will be printed sometime in the week of September 19th.

41. Irrespective of the dual-purpose nature of the HJR R, the statement of the purpose as adopted by the Defendants is necessarily confined to only 100 words, which is nearly impossible to fairly and accurately summarize the material provisions of the combined Legislative proposals for voters to have a “true and impartial” summary on the ballot. The caption does not count as part of the 100 word total, but does influence voters as well.

42. Upon information and belief, most voters will never read the actual language of the Legislative proposal to alter or abrogate the current term limits or to add the unrelated financial disclosure provisions – most voters will only read the 100 word summary as placed on the ballot.

43. The statement of the purpose for the dual-purpose proposals is not “true and impartial” in its own expressed plain meaning of the words in at least four (4) regards, including:

- a) It incorrectly states that the proposal would require elected officials disclose “assets” and “liabilities” as well as “gifts” from lobbyists. In fact, it requires only a “description of assets” and “description of liabilities,” and then only in 2024, and then only if the legislature adopts a law. Plaintiffs note that the Michigan Constitution authorizes a tax on the asset most commonly held by Michigan residents, namely property. That property tax is levied on a specific amount of value for the asset. Thus, a citizen reading the description adopted by the Board would be led to believe that elected officials would be disclosing the value of their assets, given their experience in seeing assessment notices and tax notices for their assets. Nothing in HJR R requires such a disclosure.

- b) It misleads the public by not describing the alteration of the existing term limits provisions in a plain manner, such as using the term “repeal” or “repeal and replace”, “alter” or “abrogate.” Instead, it uses the word “change” in the caption. This is clearly not impartial. To the extent “truthful” means disclosing the important aspects of a proposal, it falls short of being truthful.
- c) It lists first, in both the caption and the body of the description, a largely toothless “disclosure” requirement. This requirement may not ever take effect, or at least it would not take effect until 2024 or later and then only if the legislature adopts an implementing statute or is sued to do so. Meanwhile, the much more important alteration and repeal of existing constitutional provisions are placed second in order. The Board, ignoring repeated requests from citizens (including a written substitute provided at the meeting), provided no basis for making the much less important “disclosure” provision more prominent in the ballot description than the alteration and repeal of the existing constitutional amendment.
- d) A person reading the ballot description approved by the Board, which as required by law is limited to a caption and a 100 word summary, would have to read about 90 words before learning that the proposal would alter or abrogate any element of the existing Constitution. At that point, the voter would finally learn that the proposal would “replace” the current term limit provisions of the Michigan Constitution. This creates a prejudice for the proposal, as the popular (though not very meaningful) disclosure provision is described first and at length, while the directly and immediately effective repeal of the popular term limits is relegated to the end of the description.

44. Additionally, the statement of the purpose of the Legislative proposal is also not “true and impartial” as it omits a material element of the consequence of the proposal – that currently term-limited Senators and Representatives who are prohibited from seeking those public offices would be eligible to seek those offices again if this proposal were to pass. This may apply to as many as 300 prior members that have been term limited since the 1990s. The statement of the purpose expends considerable language (21 of the possible 100 words i.e. 21% of the text) relating to the supposed non-effect on current candidates in the Senate, however, it appears that description would not actually even apply to anyone currently in office or who could potentially be elected to office in November 2022. It is well recognized that omitting a material fact is a hallmark of untruthfulness and a lack of candor in business dealings or life in general. And it certainly creates prejudice in favor of the proposal by hiding this material consequence from voters who had previously enacted the current constitutional term limits.

45. In passing HJR R, the Legislature included its own statement of the purpose that was also not impartial, and was prejudicial in favor of the ballot question, using words that the measure would, "*Reduce* current term limits for state representatives and state senators to a 12-year total limit in any combination between the house of representatives and the senate," **Exhibit A.**

46. At the August 19, 2022 Board of State Canvassers meeting, it was asserted by some persons submitting public comment that the Legislature has the sole authority to determine what the ballot summary statement of the purpose is, and the Director and the Board did not have authority, even though such authority is provided by legislative statute.

47. This assertion of legislative prerogative was purportedly based on five words in 1963 Art XII, Sec. 1, which states:

§ 1 Amendment by legislative proposal and vote of electors.

Sec. 1. Amendments to this constitution may be proposed in the senate or house of representatives. Proposed amendments agreed to by two-thirds of the members elected to and serving in each house on a vote with the names and vote of those voting entered in the respective journals shall be submitted, not less than 60 days thereafter, to the electors at the next general election or special election **as the legislature shall direct**. If a majority of electors voting on a proposed amendment approve the same, it shall become part of the constitution and shall abrogate or amend existing provisions of the constitution at the end of 45 days after the date of the election at which it was approved. (**emphasis added**)

48. When the attorney representing the Board, who was with the Department of Attorney General, was asked by a Board member whether that was the case, the answer was essentially a comment that no research had been done on the issue². However, it was then also stated in essence by the Attorney General's office that by statute the Legislature itself had given the Director and the Bureau the power to prepare and approve a statement of the purpose, and the Director and the Bureau appeared to reject the usurpation of the power so delegated to them.

49. Upon information and belief, it has been the custom, common practice, precedent and tradition of the Board, the Director, and the Secretary of State to always prepare, approve, and certify the statement of the purpose for all voter-lead and legislatively introduced statutory initiatives and constitutional amendments, and the Board of State Canvassers, the Director, and the Secretary of State have never failed to assert their authority to prepare, approve, and certify a statement of the purpose of an amendment or initiative for the ballot.

50. The assertion of the Legislature's sole authority to dictate the ballot language of its own proposed self-serving amendments and initiatives in a manner that may not be true and impartial appears to be a matter of first impression for this Court as to whether such power exists. Plaintiffs assert that it does not and that this is unlawful.

² Plaintiffs do not have a transcript of the hearing which is not available yet, but the public meeting is currently accessible online at <https://www.youtube.com/watch?v=3ar1R5Qs6sM>

51. If the Legislature has created a statute such as MCL 168.32 vesting or delegating authority to create the statement of the purpose of “any” proposal to be put before voters to the Director and the Board, then only a repeal or amendment of that statute could change that authority. There is no exception in the statute for legislative proposals under Section 1.

52. Further, if the Legislature can create multi-purpose and/or multi-subject amendments, and also create untrue or partial ballot summaries for those amendments which create prejudice in favor of them, with no check and balance on its power, the potential for abuse is rampant, and this current situation if left uncorrected will embolden future Legislators to engage in even more egregious false representations of the nature of proposals to change our most fundamental laws.

53. The Legislature, in adopting HJR R, suspended its own rules that prohibit putting forth a constitutional amendment that has more than one subject matter. *See* Joint Rule 13 which states:

Rule 13. Upon introduction, no bill shall include catch lines, a severing clause, or a general repealing clause, as distinguished from a specific or an express repealing clause. The Secretary of the Senate and the Clerk of the House of Representatives shall delete such catch lines and clauses from all bills.

The same joint resolution shall not propose an amendment to the Constitution on more than one subject matter. However, more than one section of the Constitution may be included in the same joint resolution if the subject matter of each section is germane to the proposed amendment. **Exhibit F.**

54. Besides the Rule 13 prohibition on multiple subjects, the Michigan Constitution, 1963 Art IV, Section 24 prohibits multiple objects in a law and requires the title of each law to state its object. This is often referred to as the “title-object” clause and it is illustrative of the fact multiple subjects, objects, and purposes are a concern. The text:

§ 24 Laws; object, title, amendments changing purpose.

Sec. 24. No law shall embrace more than one object, which shall be expressed in its title. No bill shall be altered or amended on its passage through either house so as to change its original purpose as determined by its total content and not alone by its title.

55. As noted by Frank J. Kelley in *Advisory Opinion Re Constitutionality 1972 PA 294*, “Perhaps the most explicit explanation of the purpose behind the one-object provision is found in *Rohan v Detroit Racing Association*, 314 Mich 326 (1946), where the Court at 355-356 quoted the following provisions from *Commerce-Guardian Trust & Savings Bank v Michigan*, 228 Mich 316 (1924):

“This provision was adopted in our first Constitution, and has remained in the several subsequent revisions without change. Its purpose and the effect to be given to it by the legislature have been many times discussed and passed upon by this court. It may be said at the outset that the provision is designed to serve two purposes. First, to prevent action by the legislature without receiving the concurrence therein of the requisite number of members by "bringing together into *469 one bill subjects diverse in their nature, and having no necessary connection, with a view to combine in their favor the advocates of all." What is commonly spoken of as log-rolling in legislation and also to prevent clauses being "inserted in bills of which the titles gave no intimation, and their passage secured through legislative bodies whose members were not generally aware of their intention and effect." *People, ex rel. Drake, v. Mahaney*, 13 Mich. 481, 494 [1865]. And, second, to "challenge the attention" of those affected by the act to its provisions. *People v Wohlford*, 226 Mich. 166, 168 [1924].”[3]

56. Numerous cases have held that the “object” of a statute is the general purpose or aim of its enactment. An act may include all matters germane to its principal object. If such a principle were to apply here, and the object is considered in this instance to be the same as the subject or purpose, then it is unclear what the principal purpose of HJR R is – as it is has multiple objectives, not all of which are germane to each other. The financial disclosure purpose applies to offices besides the legislature, and the term limits alteration or abrogation only applies to the Legislature, with no rationale why other offices are not having their term limits altered.

57. While the title-object clause applies to legislation only and not constitutional amendments (at least as to Art XII, Section 2 – it is unclear if a Court has ever ruled it does not apply to

amendments under Section 1), its rationale is applicable to the situation at hand. Michigan’s 1850 and 1908 Constitutions also included a version of the title-object clause. Justice Cooley described it in 1865 as:

“The history and purpose of this constitutional provision are too well understood to require any elucidation at our hands. The practice of bringing together into one bill subjects diverse in their nature, and having no necessary connection, with a view to combine in their favor the advocates of all, and thus secure the passage of several measures, no one of which would succeed upon its own merits, was one both corruptive of the legislator and dangerous to the state. It was scarcely more so, however, than another practice, also intended to be remedied by this provision, by which, through deleterious management, clauses were inserted into bills of which the titles gave no intimation, and their passage secured through legislative bodies whose member were not generally aware of their intention and effect.”
See People ex rel. Drake v Mahaney, 13 Mich 481, 494-495 (1865).

58. Plaintiffs assert that the combination of two separate subjects, objects, or purposes in HJR R, and the deceptive text of the 100 word ballot summary, are a prime example of “bringing together into one [amendment] subjects diverse in their nature, and having no necessary connection ...” and that this is corruptive of the electoral process. The popular current term limits have been combined with a likely popular disclosure provision in a Legislature-introduced amendment to hoodwink voters to expand term limits and approve something unrelated to term limits. Voters would likely not approve this as a question on its own, especially if it was truthfully and impartially described to the People voting.

59. Further, on the issue of dual-purpose nature of the amendment, statutes, including MCL 168.32(2) refer to amendments only having a single purpose with the use of the phrase “... **the** purpose...” (**emphasis added**).

60. Other legislation, including in part MCL 168.22e(1), also use the statement of “the purpose”:

“The board of state canvassers shall meet to consider and approve a statement of the purpose of a proposed constitutional amendment or other ballot question prepared pursuant to section 32.”

61. It does not appear that the Court has ever definitively ruled upon this issue, however, former Justice Markman did opine on it in *CPMC II opinion*, p. 14:

“Because “the” is a definite article and “purpose” is a singular noun, it seems reasonably clear that this phrase “statement of the purpose of the proposed amendment” likely contemplates a single purpose.” See *Robinson v Detroit*, 462 Mich 439, 462; 613 NW2d 307 (2000).

62. As noted above, Legislative Rule 13 states in part that “The same joint resolution shall not propose an amendment to the Constitution on more than one subject matter.”

63. Upon information and belief, at least 16 states have an expressly recognized single subject prohibition, and another 6 states have a separate vote requirement that prohibit constitutional amendments from changing more than one article or section of the constitution.

64. Plaintiffs do not allege that the dual-purpose amendment is a “general revision” subject to Art XII, Section 3, requiring a constitutional convention, although, Section 3 has been interpreted to act somewhat as its own multi-purpose, multi-object, multi-subject prohibitory constitutional principle, because it is clear that the more purposes that an “amendment” has, it ventures from being an amendment to being a general revision. Despite precedent and much past discussion on that distinction, there is not exactly a bright line rule that is easily applied to determining when particular language invokes Section 3. Being that Plaintiffs do not make a Section 3 general revision challenge, what is pertinent in this case is that the Constitution itself supports the concept that multi-purpose amendments are legally dubious in nature.

65. In this instance, as applied to this proposal, the Court should consider application of a single subject rule. The Constitution, at least two statutes, the Legislature’s own rules, the laws of other states treating the exacting same issue, and comparisons to the title-object clause all weigh heavily in favor of some rule prohibiting multi-purpose legislative amendments.

66. The Plaintiffs want to make clear that in no way are they arguing for any deprivation of voters to decide these important questions – Plaintiffs simply want the voters to have true and impartial ballot language on the dual-purpose proposal as it is, or to have a fair vote on each unrelated subject separately. Unlike a voter-lead initiative or amendment pursuant to Section 2 or Article IX, if the Court agrees that there are technical or structural problems with this proposal, the Legislature can simply re-craft it properly and place both separate subjects on this November’s ballot or a future general or special election ballot. There would be no disregard for the money, time, effort, blood, sweat and tears that petitioners and voters have engaged in over months face-to-face on the streets when a voter-lead direct democracy proposal is rejected by the Courts. Within a matter of days the Legislature could propose the same two subjects as separate amendments instead of improperly combining them.

COUNT I – MANDAMUS

67. Plaintiff hereby incorporates by reference all previous paragraphs as if fully set forth herein.

68. “Mandamus is the appropriate remedy for a party seeking to compel action by election officials.” *Citizens Protecting Michigan’s Constitution v Sec’y of State*, 280 Mich App 273, 283; 761 NW2d 210 (2008).

69. In order to be entitled to such remedy, it must be demonstrated that: (1) the plaintiff has a clear legal right to the performance of the duty sought to be compelled; (2) the defendant has a clear legal duty to perform; (3) the act is ministerial in nature; and (4) the plaintiff has no other adequate legal or equitable remedy. *Citizens Protecting Michigan’s Constitution v. Secretary of State*, 280 Mich App 273, 284 (2008); *White-Bey v Dep’t of Corrections*, 239 Mich App 221, 223-24; 608 NW2d 833 (1999).

70. MCL 168.32(2) creates a clear legal right for Plaintiffs as to the duty of the Director and the Board of Canvassers to prepare and certify a statement of the purpose of the amendment that is both “true and impartial” and also does not “create prejudice for the proposed amendment”.

71. MCL 168.479 provides for “any person” to seek mandamus in the Supreme Court if aggrieved by a determination of the Board.

72. A clear legal right is a right that is “clearly founded in, or granted by, law; a right which is inferable as a matter of law from uncontroverted facts regardless of the difficulty of the legal question to be decided.” *Univ Med Affiliates, PC v Wayne Cty Executive*, 142 Mich App 135, 143; 369 NW2d 277 (1985) (citation omitted).

73. Pursuant to MCL 168.32(2), Defendants have a clear legal duty to perform the preparation, approval, and certification of a statement of the purpose of the amendment that is both “true and impartial” and also does not “create prejudice for the proposed amendment”.

74. The Board also has the duty to approve the proposal’s statement of purpose, which the director of elections prepares and the Secretary of State certifies and which is not to exceed 100 words under MCL 168.22e; *see also Citizens for Protection of Marriage v Bd of State Canvassers*, 263 Mich App 487, 494; 688 NW2d 538 (2004).

75. The act of preparing, approving, and certifying a statement of the purpose of the amendment that is both “true and impartial” and also does not “create prejudice for the proposed amendment” is ministerial in nature.

76. “A ministerial act is one in which the law prescribes and defines the duty to be performed with such precision and certainty as to leave nothing to the exercise of discretion or judgment.” *Hillsdale Cty Senior Servs, Inc v Hillsdale Cty*, 494 Mich 46, 58 n 11, 832 NW2d 728 (2013) (quotation marks and citation omitted).

77. When Defendants did not do their ministerial duty in preparing, approving, and certifying such statement of the purpose that was both “true and impartial” and also that does not “create prejudice for the proposed amendment”, Plaintiffs were left with no other adequate legal or equitable remedy but file this Complaint.

78. Plaintiffs have no other administrative remedies to pursue, and did exhaust them before filing suit. Lead Plaintiff Patrick Anderson submitted public comment attempting to give notice to the Defendants of the failure to prepare and certify a statement of the purpose that was both “true and impartial” and also does not “create prejudice for the proposed amendment”. No other court or tribunal can resolve this matter to a final decision in the timeframe necessary given the election and ballot proofing and printing deadlines. Money damages or other relief are inadequate and this issue affects the entire State of Michigan, our entire state government, and every voter – and if enacted, will continue to affect every resident, likely for years to come. A constitutional change is not easily undone.

79. Aside from this action, “plaintiff has no other adequate legal remedy, particularly given that the election is mere weeks away and the ballot printing deadline is imminent.” *Barrow v City of Detroit Election Com’n*, 301 Mich App 404, 412; 836 NW2d 498 (2013).

80. Mandamus is appropriate and required to enforce this clear legal duty imposed on Defendants by MCL 168.32 and the public trust imposed on Defendants as public officials under the laws and Constitution of Michigan.

81. The Court should therefore order the Director to prepare a true and impartial statement of the purpose. The Court of Appeals has previously ruled in *Citizens for Protection of Marriage* that the Board could be left out of this process, if necessary, if there is a lack of faith that the Board may approve a true and impartial statement. The Secretary would still have to certify the statement

of the purpose. In the interest of not having to repeat this process, the Court could also either order the Director and lead Plaintiff to meet, confer, and agree within 72 hours as to an acceptable true and impartial statement to be approved by the Court, or order that the language proposed herein, which is very similar to what the Directors prepared but more truthful and impartial, and less likely to create prejudice for or against, be placed on the ballot:

Proposal 22-1

A proposal to amend the state constitution to replace current term limits for state representatives and state senators with a 12-year total limit on any combination of terms in legislature and require annual public financial disclosure reports by legislators and other state officers

This proposed constitutional amendment would:

- Replace current term limits for state representatives and state senators with a 12-year total limit in any combination between house and senate, except a person elected to senate in 2022 may be elected the number of times allowed when that person became a candidate.
- Require members of legislature, governor, lieutenant governor, secretary of state, and attorney general file annual public financial disclosure reports after 2023, including description of assets, description of liabilities, and sources of income, future employment agreements, and positions held in organizations except religious, social, and political organizations.
- Require the legislature to implement reporting requirements.

Should this proposal be adopted?

- YES
 NO

WORD COUNT: 99

COUNT II - DECLARATORY JUDGMENT

82. Plaintiff hereby incorporates by reference all previous paragraphs as if fully set forth herein.

83. This Court has the authority to issue a declaratory judgment pursuant to MCR 7.303 and MCL 168.479 because there is an actual, ripe controversy between the parties regarding whether a ballot question summary is true and impartial and may be presented to voters, as well as questions as to the power of the Legislature to dictate a statement of the purpose of a proposal, and to present multi-purpose or multi-subject proposals to the electorate.

84. Plaintiffs plea to the Court to issue declaratory relief on these three issues.

85. This Court should issue a declaratory judgment that Defendants failed to comply with Michigan Election Law and that Defendants must comply by preparing, approving, and certifying a true and impartial statement of the purpose of the proposed constitutional amendment as the ballot question summary language to be submitted to voters as it relates to HJR R.

86. This Court should issue a declaratory judgment that the Legislature does not have authority to dictate the statement of the purpose of a proposed constitutional amendment as such an assertion or newly proffered power grab is in conflict with Legislative statute, i.e. MCL 168.32, which the Legislature created knowingly and which clearly, unambiguously, and irrevocably, in the absence of statutory change, delegates to the Director and the Board the duty to prepare, approve and certify “any” statement of the purpose for a proposed constitutional amendment or statutory initiative.

87. This Court should issue a declaratory judgment that the proposal known as HJR R, which contains more than one unrelated constitutional amendment as its purpose, is unconstitutional or otherwise an unlawful violation of statute or Legislative rule as it is presented in its current form, and that its submission to electors should be enjoined, as it contains two separate purposes that are unrelated and not germane.

EX PARTE MOTION FOR ORDER TO SHOW CAUSE

1. MCR 3.305(C) says: “On ex parte motion and a showing of the necessity for immediate action, the court may issue an order to show cause.”
2. Concurrent with this Ex Parte Motion for an Order to Show Cause Why a Writ of Mandamus Should Not Issue Pursuant to MCR 3.305(c) (the “Motion”), Plaintiff is filing a Complaint for a Writ of Mandamus.
3. Importantly, this “motion may be made in the complaint.” *Id.*
4. Defendants have prepared, approved, and certified an untrue and not impartial statement of the purpose for HJR R, a dual-purpose Legislature-enacted constitutional amendment that will be put before voters at the November 8, 2022 election.
5. Defendants violated a clear legal duty by failing to prepare, approve, and certify a true and impartial statement of the purpose that creates prejudice in favor of HJR R.
6. There is a clear legal right under MCL 168.32, and a clear legal duty, which is ministerial in nature, to prepare, approve, and certify a true and impartial statement of the purpose of the proposal.
7. Plaintiffs have no other remedy available.
8. The Court should immediately adjudicate the merits of this case on an expedited basis because it involves the statutory and constitutional rights of voters, Plaintiffs, Defendants, and the Legislature, and because it contains unsettled matters of first impression and general constitutional importance that are capable of repetition yet evading review and that only the Court can adjudicate to a final determination.
9. The Michigan Supreme Court has repeatedly said that election-related cases must be considered on an expedited basis. See, e.g., *Scott v Director of Elections*, 490 Mich 888, 889; 804 NW2d 119 (2011).

10. Therefore, pursuant to MCR 3.305(C) and MCL 168.479, Plaintiffs respectfully request that this Court order Defendants to show cause why a writ of mandamus should not issue and to order that responding briefs be filed expeditiously, or not later than September 6, 2022.

CONCLUSION & RELIEF REQUESTED

WHEREFORE, Plaintiffs submit that they have met the requirements for the Court to issue a Writ of mandamus and for declaratory relief in this matter. As such, Plaintiffs respectfully request the following relief:

- (a) Grant Plaintiffs Motions for Immediate Consideration and to Expedite Ultimate Resolution of the Case;
- (b) Issue an order directing Defendants to appear before this Honorable Court to Show Cause Why a Writ of Mandamus Should Not Issue as requested in Plaintiff's Complaint;
- (c) Expedite consideration of this matter and rule no later September 6th so as to enable Defendants to provide a true and impartial statement of the purposes of the proposed constitutional amendments to the relevant proofing and printing authorities and agents to prepare the ballots in the event the proposal is put before voters as is, or alternatively, to give the Legislature time to bifurcate the proposals and present properly structured single purpose or single subject amendments to the Secretary of State for inclusion on the November 8, 2022 ballot;
- (d) Issue a writ of mandamus directing Defendants to take all necessary actions to prepare, approve and certify a true and impartial statement of the purpose of the proposed amendment or amendments in language that does not create prejudice for

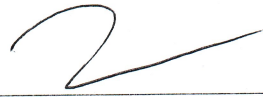
or against the proposed amendments and must be clearly, fairly, and accurately written using words that have a common everyday meaning to the general public;

- (e) Issue a declaratory judgment to the effect that the ballot question summary statement must be presented to voters in a true and impartial manner so as not to create prejudice as a matter of law; that the Legislature has no authority under current law to prepare, approve and certify the statement of the purpose that will appear before voters on the ballot; and that otherwise this proposal, as it is in current form, is invalid due to constitutional, statutory, and other grounds and the Court shall enjoin its submission to the electorate on the November 8, 2022 general election in its present form.
- (f) Grant Plaintiffs such other and further relief as is equitable and just.

Respectfully submitted,

HANK LAW PLLC
Attorney for Plaintiffs

Dated: August 30, 2022

By:  _____

Jeffrey A. Hank (P71152)
HANK LAW PLLC
PO BOX 1358
East Lansing, MI 48826
(855) 426-5529
jah@consumerpractice.com

Exhibit List

- A- 2022 HJR-R
- B- Journal of the Legislature
- C- Board of State Canvassers Notice and Public Comments at the August 19, 2022 Board Meeting
- D- Board of State Canvassers VTTL initiative summary language approved March 23, 2022
- E- Adopted Ballot language approved August 19th
- F- Rule 13
- G- Plaintiffs proposed statement of the purpose of the proposal (i.e. ballot summary)
- H- Secretary of State Election Calendar
- I- Michigan Bar Journal Article regarding “Any and All”
- J- State of Michigan pleading in *Kowall v Benson* regarding Title Object and Article XII Section 3
- K- Email to Bureau of Elections and Board of State Canvassers Attorneys regarding case

EXHIBIT A

HOUSE JOINT RESOLUTION R

May 10, 2022, Introduced by Rep. Wentworth.

A joint resolution proposing an amendment to the state constitution of 1963, by amending sections 10 and 54 of article IV, to require certain disclosures and to modify limitations on terms of office of state legislators.

Resolved by the Senate and House of Representatives of the state of Michigan, That the following amendment to the state constitution of 1963, to require certain disclosures and to modify limitations on terms of office of state legislators, is proposed, agreed to, and submitted to the people of the state:

1

ARTICLE IV

1 Sec. 10. (1) No member of the legislature nor any state
2 officer shall be interested directly or indirectly in any contract
3 with the state or any political subdivision thereof which shall
4 cause a substantial conflict of interest. ~~The legislature shall~~
5 ~~further implement this provision by appropriate legislation.~~

6 (2) By April 15, 2024, and by a date each year thereafter as
7 prescribed by state law, each member of the legislature, the
8 governor, the lieutenant governor, the secretary of state, and the
9 attorney general shall electronically file an annual financial
10 disclosure report with the department of state that complies with
11 this section. A report required to be filed under this section must
12 include information regarding all of the following:

13 (a) Description of assets and sources of unearned income.

14 (b) Sources of earned income.

15 (c) Description of liabilities.

16 (d) Positions currently held as an officer, director, trustee,
17 partner, proprietor, representative, employee, or consultant of any
18 organization, corporation, firm, partnership, or other business
19 enterprise, nonprofit organization, labor organization, or
20 educational or other institution other than the state of Michigan.
21 The positions required to be disclosed under this subdivision do
22 not include positions held in any religious, social, fraternal, or
23 political entity, or positions that are solely of an honorary
24 nature.

25 (e) Agreements or arrangements with respect to future
26 employment, a leave of absence while serving as a legislator or
27 state officer, continuation or deferral of payments by a former or
28 current employer other than the state of Michigan, or continuing
29 participation in an employee welfare or benefit plan maintained by

1 a former employer.

2 (f) Gifts received and required to be reported by a lobbyist
3 or lobbyist agent, as prescribed by state law.

4 (g) Travel payments and reimbursements received and required
5 to be reported by a lobbyist or lobbyist agent, as prescribed by
6 state law.

7 (h) Payments made by a lobbyist or lobbyist agent to a charity
8 in lieu of honoraria.

9 (3) The financial disclosure report required under subsection
10 (2) must be filed with the department of state in a form and manner
11 prescribed by state law. The department of state shall make the
12 report available to the public online.

13 (4) The legislature shall further implement this section by
14 appropriate legislation. Legislation implementing this section must
15 not limit or restrict the application of subsections (2) and (3).

16 (5) If legislation implementing this section is not enacted by
17 December 31, 2023, a resident of this state may initiate a legal
18 action against the legislature and the governor in the Michigan
19 supreme court to enforce the requirements of this section.

20 Sec. 54. (1) ~~No~~ **A** person shall ~~may not~~ be elected to the
21 office of state representative ~~more than three times. No person~~
22 ~~shall be elected to the office of~~ **or** state senate ~~more than two~~
23 ~~times. Any person appointed or elected to fill a vacancy in the~~
24 ~~house of representatives or the state senate for a period greater~~
25 ~~than one half of a term of such office, shall be considered to have~~
26 ~~been elected to serve one time in that office for purposes of this~~
27 ~~section. This limitation on the number of times a person shall be~~
28 ~~elected to office shall apply to terms of office beginning on or~~
29 ~~after January 1, 1993.~~ **senator for terms or partial terms that**

1 combined total more than 12 years. However, this limitation does
2 not prohibit a person elected to the office of state senator in
3 2022 from being elected to that office for the number of times
4 permitted at the time the person became a candidate for that
5 office.

6 (2) This section ~~shall be~~ **is** self-executing. Legislation may
7 be enacted to facilitate operation of this section, but ~~no~~ **a** law
8 ~~shall~~ **must not** limit or restrict the application of this section.
9 ~~If any part of this section is held to be invalid or~~
10 ~~unconstitutional, the remaining parts of this section shall not be~~
11 ~~affected but will remain in full force and effect.~~

12 Resolved further, That the foregoing amendment shall be
13 submitted to the people of the state at the next general election
14 in the manner provided by law.

15 Resolved further, That it is the intent of the legislature
16 that when submitted to the people of the state the amendment be
17 presented with the following question:

18 "A PROPOSAL TO AMEND THE STATE CONSTITUTION TO REQUIRE ANNUAL
19 PUBLIC FINANCIAL DISCLOSURE REPORTS BY LEGISLATORS AND OTHER STATE
20 OFFICERS AND LIMIT SERVICE AS A LEGISLATOR TO 12 YEARS

21 The proposed constitutional amendment would:

22 • Require members of the legislature, the governor, the
23 lieutenant governor, the secretary of state, and the attorney
24 general to file annual public financial disclosure reports after
25 2023, reporting assets, liabilities, income, positions held, future
26 employment agreements, gifts, travel reimbursements, and other
27 payments.

28 • Require the legislature to implement but not limit or
29 restrict the reporting requirements.

1 • Reduce current term limits for state representatives and
2 state senators to a 12-year total limit in any combination between
3 the house of representatives and the senate, with the exception
4 that a person elected to the senate in 2022 may be elected the
5 number of times allowed when that person became a candidate.

6 Should this proposal be adopted?

7 YES []

8 NO []".

EXHIBIT B



MICHIGAN LEGISLATURE

Michigan Compiled Laws Complete Through PA 188 of 2022
House: Adjourned until Wednesday, September 7, 2022 1:30:00 PM
Senate: Adjourned until Wednesday, September 7, 2022 10:00:00 AM

- [Home](#)
- [Register](#)
- [Why Register?](#)
- [Login](#)
- [New!](#)
- [Help](#)

NAVIGATE
 HOUSE JOINT RESOLUTIONS

Legislature

- Bills
- Appropriation Bills (Passed)
- Calendars
- Committees
- Committee Bill Records
- Committee Meetings
- Concurrent Resolutions
- Initiatives/Alternative Measures
- Joint Resolutions
- Journals
- Legislators
- Public Act (Signed Bills)
- Resolutions
- Rules
- Session Schedules
- Search - Basic
- Search - Advanced

Laws

- Basic MCL Search
- Advanced MCL Search
- Public Act MCL Search
- Michigan Constitution
- Chapter Index
- Executive Orders
- Executive Reorgs
- Historical Documents
- MCL Tables
- Often Req Laws
- Req Outdated Acts

More

- Archives
- Email Notifications
- Legislative Directory

House Joint Resolution R (2022) [rss?](#)

[friendly link](#)

[printer friendly](#)

Friendly Link: <http://legislature.mi.gov/doc.aspx?2022-HJR-R>

Sponsor

[Jason Wentworth](#) (district 97)

(click name to see bills sponsored by that person)

Categories

Legislature: [legislators](#); Constitutional amendments: [state](#);

Legislature: legislators; term limits for state legislators; revise, and require annual financial disclosures by state legislators. Amends secs.10 & 54, art. IV of the state constitution.

Bill Documents

[Bill Document Formatting Information](#)

(gray icons indicate that the action did not occur or that the document is not available)

Documents



House Introduced Joint Resolution

Introduced Joint Resolutions appear as they were introduced and reflect no subsequent amendments or changes.



As Passed by the House

As Passed by the House is the Joint Resolution, as introduced, that includes any adopted House amendments.



As Passed by the Senate

As Passed by the Senate is the Joint Resolution, as received from the House, that includes any adopted Senate amendments.



House Enrolled Joint Resolution

Enrolled Joint Resolution is the version passed in identical form by both houses of the Legislature.

Bill Analysis

House Fiscal Agency Analysis



Revised Summary as Introduced (6/7/2022)

This document analyzes: [HJRR](#)

Michigan Manuals
 Michigan Color Themes
 Publications
 Related Sites

Senate Fiscal Analysis



SUMMARY AS ENROLLED (Date Completed: 8-26-22)
This document analyzes: HJRR

Syndication

Bills
 Meetings
 Laws

Recently Viewed

2022 HJR R

History

(House actions in lowercase, Senate actions in UPPERCASE)

NOTE: a page number of 1 indicates that the page number is soon to come.

Date ▲	Journal	Action
5/10/2022	HJ 41 Pg. 670	introduced by Representative Jason Wentworth
5/10/2022	HJ 41 Pg. 670	read a first time
5/11/2022	Expected in HJ 67	printed joint resolution filed 05/11/2022
5/10/2022	HJ 41 Pg. 649	rule suspended
5/10/2022	HJ 41 Pg. 649	placed on second reading
5/10/2022	HJ 41 Pg. 649	read a second time
5/10/2022	HJ 41 Pg. 649	placed on third reading
5/10/2022	HJ 41 Pg. 647	placed on immediate passage
5/10/2022	HJ 41 Pg. 649	read a third time
5/10/2022	HJ 41 Pg. 649	adopted by 2/3 vote
5/10/2022	HJ 41 Pg. 647	roll call Roll Call # 205 Yeas 76 Nays 28 Excused 0 Not Voting 5
5/10/2022	HJ 41 Pg. 649	given immediate effect
5/10/2022	SJ 44 Pg. 674	RULES SUSPENDED
5/10/2022	SJ 44 Pg. 674	REFERRED TO COMMITTEE OF THE WHOLE
5/10/2022	SJ 44 Pg. 674	REPORTED BY COMMITTEE OF THE WHOLE FAVORABLY WITHOUT AMENDMENT(S)
5/10/2022	SJ 44 Pg. 674	PLACED ON ORDER OF THIRD READING
5/10/2022	SJ 44 Pg. 674	RULES SUSPENDED
5/10/2022	SJ 44 Pg. 674	PLACED ON IMMEDIATE PASSAGE
5/10/2022	SJ 44 Pg. 674	ADOPTED BY 2/3 VOTE ROLL CALL # 205 YEAS 26 NAYS 6 EXCUSED 6 NOT VOTING 0
5/11/2022	Expected in HJ 67	returned from Senate, adopted by 2/3 vote
5/10/2022	HJ 42 Pg. 673	bill ordered enrolled 05/10/2022
5/13/2022	HJ 41 Pg. 690	filed with Secretary of State 05/13/2022 11:13 AM

[Acceptable Use Policy](#)
[Legislative Directory](#)

[Privacy Policy](#)

[Copyright Infringement](#)

[Comment Form](#)

The Michigan Legislature Website is a free service of the Legislative Service Bureau in cooperation with the Michigan Legislative Council, the Michigan House of Representatives, the Michigan Senate, and the Library of Michigan. This site is intended to provide accurate and timely legislative information to the citizens of the State of Michigan and other interested parties. Additional historical documents can be found at <http://michigan.gov/libraryofmichigan>. The information obtained from this site is not intended to replace official versions of that information and is subject to revision. The Legislature presents this information, without warranties, express or implied, regarding the accuracy of the information, timeliness, or completeness. If you believe the information is inaccurate, out-of-date, or incomplete or if you have

problems accessing or reading the information, please send your concerns to the appropriate agency using the online Comment Form in the bar above this text.

RECEIVED by MSC 8/30/2022 3:23:01 PM

EXHIBIT C



STATE OF MICHIGAN
BUREAU OF ELECTIONS
LANSING

August 15, 2022

--NOTICE--

**PROPOSED BALLOT LANGUAGE
STATEWIDE BALLOT PROPOSAL,
NOVEMBER 8, 2022 ELECTION**

Under Michigan election law, the Director of Elections is charged with drafting ballot language for statewide ballot proposals, and the Board of State Canvassers reviews and approves the language. “The statement shall consist of a true and impartial statement of the purpose of the amendment or question in such language as shall create no prejudice for or against the proposed amendment or question.” MCL 168.32; see also MI Const Art 12 §2.

Each ballot question is first assigned a proposal designation consisting of three or four digits. The first two digits are the year of the election. MCL 168.474a. The next digits shall indicate the chronological order in which the question was filed to appear on the ballot. *Id.* Questions certified by the Legislature are deemed filed the date the Joint Resolution is filed with the Secretary of State.

The number designation will be assigned by the Board of State Canvassers at their August 19, 2022 [regularly scheduled meeting](#). Since HJR R was filed with the Secretary of State on May 13, 2022, the Bureau will recommend to the Board that HJR R be designated as Proposal 22-1 on the November 8, 2022 General Election ballot.

The ballot wording has two components. The first is the 100 words referenced in the State Constitution and the statute; the second is the caption which does not have a specific word limit. Both are held to the same impartiality standard. Michigan election law directs that ballot proposals must be constructed so that a “Yes” vote is in favor of the subject matter of the proposal and a “No” vote is against the subject matter of the proposal. MCL 168.485, 643a.

Prior to drafting, the Bureau of Elections solicited suggested language and explanatory material which, in the past, has proven useful for developing impartial ballot language. Public comments and suggested language were submitted by several individuals. Copies of the comments received by the deadline and the full text of House Joint Resolution R are included in this notice.

The Director of Elections has drafted the following proposed language to be considered at the August 19, 2022 Board meeting:

Proposal 22-1

A proposal to amend the state constitution to require annual public financial disclosure reports by legislators and other state officers and change state legislator term limit to 12 total years in legislature

This proposed constitutional amendment would:

- Require members of legislature, governor, lieutenant governor, secretary of state, and attorney general file annual public financial disclosure reports after 2023, including assets, liabilities, income sources, future employment agreements, gifts, travel reimbursements, and positions held in organizations except religious, social, and political organizations.
- Require legislature implement but not limit or restrict reporting requirements.
- Replace current term limits for state representatives and state senators with a 12-year total limit in any combination between house and senate, except a person elected to senate in 2022 may be elected the number of times allowed when that person became a candidate.

Should this proposal be adopted?

- YES
 NO

WORD COUNT: 100

**STATE OF MICHIGAN
101ST LEGISLATURE
REGULAR SESSION OF 2022**

Introduced by Rep. Wentworth

**ENROLLED HOUSE
JOINT RESOLUTION R**

A joint resolution proposing an amendment to the state constitution of 1963, by amending sections 10 and 54 of article IV, to require certain disclosures and to modify limitations on terms of office of state legislators.

Resolved by the Senate and House of Representatives of the state of Michigan, That the following amendment to the state constitution of 1963, to require certain disclosures and to modify limitations on terms of office of state legislators, is proposed, agreed to, and submitted to the people of the state:

ARTICLE IV

Sec. 10. (1) No member of the legislature nor any state officer shall be interested directly or indirectly in any contract with the state or any political subdivision thereof which shall cause a substantial conflict of interest.

(2) By April 15, 2024, and by a date each year thereafter as prescribed by state law, each member of the legislature, the governor, the lieutenant governor, the secretary of state, and the attorney general shall electronically file an annual financial disclosure report with the department of state that complies with this section. A report required to be filed under this section must include information regarding all of the following:

- (a) Description of assets and sources of unearned income.
- (b) Sources of earned income.
- (c) Description of liabilities.

(d) Positions currently held as an officer, director, trustee, partner, proprietor, representative, employee, or consultant of any organization, corporation, firm, partnership, or other business enterprise, nonprofit organization, labor organization, or educational or other institution other than the state of Michigan. The positions required to be disclosed under this subdivision do not include positions held in any religious, social, fraternal, or political entity, or positions that are solely of an honorary nature.

(e) Agreements or arrangements with respect to future employment, a leave of absence while serving as a legislator or state officer, continuation or deferral of payments by a former or current employer other than the state of Michigan, or continuing participation in an employee welfare or benefit plan maintained by a former employer.

(f) Gifts received and required to be reported by a lobbyist or lobbyist agent, as prescribed by state law.

(g) Travel payments and reimbursements received and required to be reported by a lobbyist or lobbyist agent, as prescribed by state law.

(h) Payments made by a lobbyist or lobbyist agent to a charity in lieu of honoraria.

(3) The financial disclosure report required under subsection (2) must be filed with the department of state in a form and manner prescribed by state law. The department of state shall make the report available to the public online.

(4) The legislature shall further implement this section by appropriate legislation. Legislation implementing this section must not limit or restrict the application of subsections (2) and (3).

(5) If legislation implementing this section is not enacted by December 31, 2023, a resident of this state may initiate a legal action against the legislature and the governor in the Michigan supreme court to enforce the requirements of this section.

Sec. 54. (1) A person may not be elected to the office of state representative or state senator for terms or partial terms that combined total more than 12 years. However, this limitation does not prohibit a person elected to the office of state senator in 2022 from being elected to that office for the number of times permitted at the time the person became a candidate for that office.

(2) This section is self-executing. Legislation may be enacted to facilitate operation of this section, but a law must not limit or restrict the application of this section.

Resolved further, That the foregoing amendment shall be submitted to the people of the state at the next general election in the manner provided by law.

Resolved further, That it is the intent of the legislature that when submitted to the people of the state the amendment be presented with the following question:

“A PROPOSAL TO AMEND THE STATE CONSTITUTION TO REQUIRE ANNUAL PUBLIC FINANCIAL DISCLOSURE REPORTS BY LEGISLATORS AND OTHER STATE OFFICERS AND LIMIT SERVICE AS A LEGISLATOR TO 12 YEARS

The proposed constitutional amendment would:

- Require members of the legislature, the governor, the lieutenant governor, the secretary of state, and the attorney general to file annual public financial disclosure reports after 2023, reporting assets, liabilities, income, positions held, future employment agreements, gifts, travel reimbursements, and other payments.
- Require the legislature to implement but not limit or restrict the reporting requirements.
- Reduce current term limits for state representatives and state senators to a 12-year total limit in any combination between the house of representatives and the senate, with the exception that a person elected to the senate in 2022 may be elected the number of times allowed when that person became a candidate.

Should this proposal be adopted?

YES

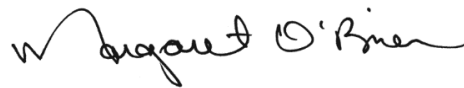
NO

I hereby certify that on the 10th day of May, 2022, the foregoing joint resolution was agreed to by the House of Representatives, by two-thirds vote of all the Representatives elected and serving.



Clerk of the House of Representatives

I hereby certify that on the 10th day of May, 2022, the foregoing joint resolution was agreed to by the Senate, by two-thirds vote of all the Senators elected and serving.



Secretary of the State

MDOS-Canvassers

From: Keith Allard <keithjallard@gmail.com>
Sent: Tuesday, August 9, 2022 2:31 PM
To: MDOS-Canvassers
Subject: Ballot language comment submission for HJR R
Attachments: AllardBOCletterHJRR.pdf

CAUTION: This is an External email. Please send suspicious emails to abuse@michigan.gov

Please find attached to this e-mail a PDF containing a letter from myself with comment regarding the ballot language and caption for HJR R, which I understand will be discussed at the Board of Canvassers meeting this August 19th.

I would appreciate confirmation of receipt of this e-mail at your convenience. Thanks so much for your work on these important matters,

Keith Allard

Dear Mr. Brater:

I write today regarding the authority given you by MCL 168.32 pertaining to the ballot summary and caption for HJR R. Our fair, democratic process is dependent on the Elections Director and the Board of Canvassers accurately articulating the ballot caption and summary.

The wording of HJR-R is substantively different from the previously approved ballot summary for the Voters for Transparency and Term Limits citizens' referendum, and thus requires a new ballot caption and summary.

The legislature has included in HJR R an exhortation of their preferred ballot summary. Michigan law does not allow proponents of referenda to dictate their own ballot description. Proponents are necessarily biased in favor of their proposal, and to preserve a fair democratic process, the Board of Canvassers is responsible for approving a summary that will be non-partial and accurate for voters to understand.

By incorporating multiple subjects into the joint resolution, and then carefully crafting the ballot description, the legislature obscures from the public the true nature of the constitutional change in the proposal. Currently Michigan's constitution limits terms for state representatives, state senators, attorney general, governor, and secretary of state separately. Three 2-year term limits for representatives, two 4-year term limits for senators, and two 4-year term limits for Attorney General, Secretary of State, and Governor. This constitutional amendment was approved in 1992 by 59% of voters.

There is disparity between the offices that is reflected in the limits approved by voters in 1992. There are only 38 Senate seats, compared to 110 House seats in the house, and only one seat as Governor, Attorney General and Secretary of State. HJR-R doubles the length of the term-limits for those 110 state representatives, ups the Senate term limit from 8 years to 12 years, and doesn't change the executive terms. Thus, if HJR R is approved by voters, the vast majority of state representatives and state senators will be able to serve more time in office than currently allowed. Any "true and impartial statement of the purpose or amendment in question" should not include the term "reduce" when asserting the policy impact of a yes vote on the ballot proposal resulting from HJR-R.

The legislative referred ballot referendum also combines multiple subjects into the joint resolution in order to obfuscate the changes to term limits by presenting the amendment primarily as focused on ostensibly popular "transparency" issues. Without careful, non-partial clarification for voters in the ballot summary and caption, future legislatures could abuse the joint resolution process to combine other disparate policy subjects with suggested ballot language in an effort to confuse voters into voting for policies they might not otherwise support.

To prevent this precedent, the proper action for the Elections Director is to draft an impartial statement that accurately describes the policy implications of a "yes" vote for Michigan voters.

There are two elements to this proposal:

1. A complete and *immediate constitutional* change, involving both a repeal and a replacement, of the 1992 term limits amendment. This change would affect the entire legislature, as well as former members of the legislature, and all future legislatures.
2. A limited and potentially unenforceable requirement that a *future* legislature adopt a law requiring limited, amorphous disclosure.

The first part, repealing entire provisions of the Michigan Constitution, is far more important and should be described first.

The second part does not even take effect until April 2024 and requires the legislature to adopt a law that requires disclosure. In the legislative process, the Michigan legislature removed provisions from the original Voters for Transparency and Term Limits proposal that tied disclosure requirements to the specific guidelines in the U.S. Federal Code that govern disclosure requirements for federally-elected legislators. The joint resolution also exempts many sources that a sincere transparency measure would not, including positions held with political entities, unions, and many non-profits. By virtue of their legislative actions pertaining to this section, the legislature has shown this provision is much less important in terms of overall policy impact. It has no immediate effect, and therefore should be described second, giving the term limits repeal primacy in both placement and word count in the 100-word ballot summary.

My suggested ballot language for the 100-word summary is as follows:

Proposal 2022-1:

The proposed constitutional amendment would:

- Repeal current limits on the number of times state representatives and state senators can be elected to the same office, which are currently three 2-year terms for state representatives and two 4-year terms for state senators.
- Replace these with a 12-year total limit in any combination between the house and the senate, except for candidates for state senate in this election.
- Require the legislature to adopt a law by the end of 2023 showing disclosure of certain positions and sources of income for future state elected officials. Positions in state government, political organizations, and labor unions are exempt.

The caption, to be a true and impartial statement of the purpose of the amendment, should state:

“A proposal by the legislature to repeal and replace current Constitutional term limits on the Michigan house and senate; and to require the legislature to adopt a law requiring limited financial disclosure on elected officials beginning in 2024.”

I appreciate your consideration of this important matter as you prepare your recommendations for the Board of Canvassers.

Sincerely,
Keith Allard

MDOS-Canvassers

From: Liedel, Steven <SLiedel@dykema.com>
Sent: Wednesday, August 10, 2022 3:49 PM
To: SOS, Elections
Cc: MDOS-Canvassers; Meingast, Heather (AG); Grill, Erik (AG); Gordon, Gary; Wilk, W. Alan; Bogart, Tiffany
Subject: Ballot Summary for House Joint Resolution R of 2002
Attachments: Letter to Director of Elections re Ballot Summary for HJR R of 2020_VTTP 4891-2642-5645 v.4.pdf

CAUTION: This is an External email. Please send suspicious emails to abuse@michigan.gov

Director Brater:

On behalf our client, Voters for Transparency and Term Limits, we are submitting the attached comments relating to the ballot statement and caption for the constitutional amendment proposed by the 101st Michigan Legislature in House Joint Resolution R of 2022.

A paper copy also is being delivered this afternoon to the Bureau of Elections.

Please let us know if you have any questions regarding this submission.

We also would like to request copies of any other comments on the ballot summary for HJR R that are provided to the Bureau.

Thank you for your and the Bureau's work on this proposal.

Steve Liedel and Gary Gordon

Steven C. Liedel (he/him)

Member

D 517-374-9184 • M 517-977-8097
SLiedel@dykema.com • dykema.com

[BIO](#) [VCARD](#) [LINKEDIN](#)

201 Townsend Street, Suite 900
Lansing, Michigan 48933



*** Notice from Dykema Gossett PLLC: This Internet message may contain information that is privileged, confidential, and exempt from disclosure. It is intended for use only by the person to whom it is addressed. If you have received this in error, please (1) do not forward or use this information in any way; and (2) contact me immediately.

Neither this information block, the typed name of the sender, nor anything else in this message is intended to constitute an electronic signature unless a specific statement to the contrary is included in this message.



Dykema Gossett PLLC
Capitol View
201 Townsend Street, Suite 900
Lansing, MI 48933
WWW.DYKEMA.COM
Tel: (517) 374-9100
Fax: (517) 374-9191

RECEIVED by MSC 8/30/2022 3:23:01 PM

August 10, 2022

Via Email and Hand Delivery

Jonathan Brater
Director of Elections
Michigan Department of State
Richard H. Austin Building
430 West Allegan Street, 1st Floor
Lansing, MI 48918
E-Mail: elections@michigan.gov

Re: Ballot Summary for House Joint Resolution R of 2022

Dear Director Brater:

On behalf of our client, Voters for Transparency and Term Limits (the “**Committee**”), we write to urge you and the Board of State Canvassers (the “**Board**”) to adopt the statement of purpose and caption for the constitutional amendment adopted by the 101st Michigan Legislature (the “**Legislative Summary**”) with its approval of House Joint Resolution R of 2022 (the “**Resolution**”) as the statement of purpose and caption for the proposed constitutional amendment that will appear on the general election ballot on November 8, 2022. Use of the Legislative Summary (attached as exhibit A), which was adopted by a bi-partisan, super-majority of the members of both the House of Representatives and the Senate, would be consistent with applicable law. Alternatively, if you, the Board, or both, opt to adopt a statement of purpose that is 100 words or fewer, a proposed alternative is attached as exhibit B.

The third paragraph of MI Const art 12, § 2 includes the following language relating to the statement of purpose for a constitutional amendment proposed by petitions containing sufficient signatures of registered voters:

The ballot to be used in **such election** shall contain a statement of the purpose of the proposed amendment, expressed in not more than 100 words, exclusive of caption. Such statement of purpose and caption shall be prepared by the person authorized by law, and shall consist of a true and impartial statement of the purpose of the amendment in such language as shall create no prejudice for or against the proposed amendment. (Emphasis added.)

The reference to “such election” in this provision is a reference to the election described in the second paragraph of Const 1963, art 12, § 2, which provides:

Any **amendment proposed by such petition** shall be submitted, not less than 120 days after it was filed, to the electors at the **next general election**. Such proposed amendment, existing provisions of the constitution which would be altered or abrogated thereby, and the question as it shall appear on the ballot shall be published in full as provided by law. Copies of such publication shall be posted in each polling place and furnished to news media as provided by law. (Emphasis added.)

Under this paragraph, the reference is to an election at which a constitutional amendment proposed by petition will be considered by electors, not to a constitutional amendment proposed by the legislature. The requirement to prepare a statement of purpose of 100 words or fewer appears only in Const 1963, art 12, § 2, which references only constitutional amendments proposed by petition under that section. The requirement does not reference or apply to constitutional amendments proposed by the legislature under Const 1963, art 12, § 1. That separate section includes no language relating to statements of purpose appearing on an election ballot.

There also is no indication that the drafters of Const 1963, art 12 intended language related to petition-initiated constitutional amendments in Const 1963, art 12, § 2 to apply to legislatively initiated amendments under Const 1963, art 12, § 1. Had that been the intent, it would not have been necessary to include language in both sections providing that a constitutional amendment becomes part of the constitution 45 days after the date of the election at which it was approved. See Const 1963, art 12, §§ 1 and 2. The inclusion of effective date language in both sections indicates that the drafters did not intend for provisions in Const 1963, art 12, § 2 to apply to legislatively initiated constitutional amendments under Const 1963, art 12, § 1.

This interpretation is further supported by the history of Michigan's constitution. Under our prior state constitution, Const 1908, art 17, § 1 provided for legislatively initiated constitutional amendments. Amendments initiated by petition were provided for by Const 1908, art 17, § 2. A third provision, Const 1908, art 17, § 3, applied to both forms of constitutional amendment and provided for submission to voters of a ballot statement of fewer than 100 words for the constitutional amendment prepared by the secretary of state. That structure was not retained when the Michigan Constitution of 1963 was adopted. The third section was eliminated, and the language relating to a statement of purpose was included only in the section relating to constitutional amendments proposed by petition. See Const 1963, art 12, § 2. Accordingly, if a constitutional amendment is proposed by a petition of electors, Const 1963, art 12, § 2 requires that a ballot contain a true and impartial statement of the purpose of the amendment in 100 words or fewer. MCL 168.32 designates the Director of Elections (the "**Director**") as the person authorized to prepare that statement.



Letter to Jonathan Brater re HJR R of 2022
August 10, 2022
Page 3

In contrast, a constitutional amendment proposed by the legislature must "be submitted . . . to the electors at the next general election or special election **as the legislature shall direct.**" Const. art. 12, § 1 (emphasis added). Requirements relating to the contents of a ballot statement and responsibility for its adoption are not otherwise addressed by Const 1963, art 12, § 1.

Recognizing that there may be instances where the legislature elects not to propose ballot language in a joint resolution proposing a constitutional amendment, MCL 168.32 provides for ballot language to be drafted by the Director. But the requirements previously enacted in MCL 168.32 do not bind the 101st Michigan Legislature or restrict its ability to adopt its own proposed statement of purpose and caption for a ballot question involving a legislatively initiated constitutional amendment. It is a fundamental principal of jurisprudence that one legislature may not bind the power of a successive legislature. *Studier v Mich Pub School Employees' Retirement Bd*, 472 Mich 642, 660; 698 NW2d 350 (2005).

For a period of time under prior state constitutions, no language relating to the preparation of ballot statements for legislatively initiated constitutional amendments was included in the text of the constitution. During that time period, in *Murphy Chair Co v Attorney General*, 148 Mich 563; 112 NW 217 (1907), the validity of a legislatively proposed constitutional amendment was challenged because it had been submitted to voters in the manner provided in the joint resolution adopting the amendment instead of pursuant to a state statute then in effect (former 1905 PA 23), which related to the presentation of proposed constitutional amendments to voters. It was undisputed that the ballot statement for the constitutional amendment presented to voters did not comply with the requirements of the statute and that the statement did not "intelligently present the question" on the ballot. *Murphy Chair Co*, 148 Mich at 564. The Michigan Supreme Court determined that it was within the power of the legislature to determine in the joint resolution the manner in which the proposed constitutional amendment was to be submitted and that the legislature was not restricted by former 1905 PA 23. *Id.* at 565. This holding was later affirmed in *Barnett v Secretary of State*, 285 Mich 494; 281 NW 12 (1938) (holding legislature may prescribe the manner of submission of a constitutional amendment to voters and when doing so not restricted by previous legislation).

Michigan's constitution was amended in 1941 to require all constitutional amendments, including those proposed by the legislature, to be submitted to voters with a ballot statement prepared by the secretary of state. See Const 1908, art 17, § 3 (as amended). While that provision was in effect, the Michigan Supreme Court determined that *Murphy Chair Co*, 148 Mich 563, and *Barnett*, 285 Mich 494, were not applicable to a joint resolution proposing a constitutional amendment and that the secretary of state was authorized to change a ballot statement included by the legislature in a joint resolution to comply with constitutional requirements. *Graham v Miller*, 348 Mich 684, 690-691; 84 NW2d 46 (1957).



Letter to Jonathan Brater re HJR R of 2022
August 10, 2022
Page 4

The separate constitutional provision relating to ballot statements for all constitutional amendments adopted in 1941 was removed when the Michigan Constitution of 1963 was adopted. The language was instead included only in the provision relating to petition-initiated constitutional amendments. See Const 1963, art 12, § 2. As a result, the holding in *Graham* does not apply to the Resolution, but the holdings in *Murphy Chair Co*, 148 Mich 563, and *Barnett*, 285 Mich 494, do.

The 101st Michigan Legislature has spoken in the Resolution regarding the statement of purpose and caption to be presented to voters regarding the proposed constitutional amendment included in the Resolution. Const 1963, art 12, § 1 provides clear discretion for the legislature to do so. A statutory provision relating to a ballot statement cannot supersede a constitutional provision, nor can a previous legislature bind the current one. For these reasons, the Legislative Summary (see exhibit A), should be submitted to voters consistent with the Resolution and Const 1963, art 12, § 1. We urge you and the Board to do so.

Alternatively, if you and the Board determine that you must adopt a ballot statement of 100 words or fewer for the constitutional amendment included in the Resolution, we recommend the adoption statement that is as close as possible to the Legislative Summary consistent with the alternative proposed at exhibit B. A comparison of that alternative to the Legislative Summary is attached as exhibit C.

Thank you for your consideration. Please do not hesitate to contact me with any questions.

Sincerely,

Dykema Gossett PLLC

A handwritten signature in blue ink, appearing to read "Gary P. Gordon".

Gary P. Gordon

A handwritten signature in blue ink, appearing to read "Steven C. Liedel".

Steven C. Liedel

Attachments

cc: Board of State Canvassers
Heather Meingast, Department of Attorney General
Erik Grill, Department of Attorney General

122618.000001 4891-2642-5645.4

RECEIVED by MSC 8/30/2022 3:23:01 PM

EXHIBIT A
BALLOT SUMMARY AND CAPTION ADOPTED BY
MICHIGAN LEGISLATURE IN HOUSE JOINT RESOLUTION R

Proposal 22-1

A PROPOSAL TO AMEND THE STATE CONSTITUTION TO REQUIRE ANNUAL PUBLIC FINANCIAL DISCLOSURE REPORTS BY LEGISLATORS AND OTHER STATE OFFICERS AND LIMIT SERVICE AS A LEGISLATOR TO 12 YEARS

This proposed constitutional amendment would:

- Require members of the legislature, the governor, the lieutenant governor, the secretary of state, and the attorney general to file annual public financial disclosure reports after 2023, reporting assets, liabilities, income, positions held, future employment agreements, gifts, travel reimbursements, and other payments.
- Require the legislature to implement but not limit or restrict the reporting requirements.
- Reduce current term limits for state representatives and state senators to a 12-year total limit in any combination between the house of representatives and the senate, with the exception that a person elected to the senate in 2022 may be elected the number of times allowed when that person became a candidate.

Should this proposal be adopted?

YES ____

NO ____

Word count: 112

EXHIBIT B
ALTERNATIVE PROPOSED BALLOT SUMMARY AND CAPTION FOR THE
CONSTITUTIONAL AMENDMENT PROPOSED BY MICHIGAN LEGISLATURE IN
HOUSE JOINT RESOLUTION R

Proposal 22-1

**A PROPOSAL TO AMEND THE STATE CONSTITUTION TO REQUIRE ANNUAL PUBLIC
FINANCIAL DISCLOSURE REPORTS BY LEGISLATORS AND OTHER STATE OFFICERS
AND LIMIT SERVICE AS A LEGISLATOR TO 12 YEARS**

This proposed constitutional amendment would:

- Require members of legislature, governor, lieutenant governor, secretary of state, and attorney general to file annual public financial disclosure reports after 2023, reporting assets, liabilities, income, positions held, future employment agreements, gifts, and travel reimbursements.
- Require legislature to implement but not limit or restrict the reporting requirements.
- Reduce term limits for state representatives and state senators to a 12-year total limit in any combination between house of representatives and senate, except that a person elected to the senate in 2022 may be elected the number of times allowed when that person became a candidate.

Should this proposal be adopted?

YES ____

NO ____

Word count: 99

EXHIBIT C
COMPARISON OF
BALLOT SUMMARY ADOPTED BY MICHIGAN LEGISLATURE (EXHIBIT A)
AND ALTERNATIVE PROPOSED BALLOT SUMMARY (EXHIBIT B)

Proposal 22-1

**A PROPOSAL TO AMEND THE STATE CONSTITUTION TO REQUIRE ANNUAL PUBLIC
FINANCIAL DISCLOSURE REPORTS BY LEGISLATORS AND OTHER STATE OFFICERS
AND LIMIT SERVICE AS A LEGISLATOR TO 12 YEARS**

This proposed constitutional amendment would:

- Require members of ~~the~~ legislature, ~~the~~ governor, ~~the~~ lieutenant governor, ~~the~~ secretary of state, and ~~the~~ attorney general to file annual public financial disclosure reports after 2023, reporting assets, liabilities, income, positions held, future employment agreements, gifts, and travel reimbursements, ~~and other payments~~.
- Require ~~the~~ legislature to implement but not limit or restrict the reporting requirements.
- Reduce ~~current~~ term limits for state representatives and state senators to a 12-year total limit in any combination between ~~the~~ house of representatives and ~~the~~ senate, ~~with the exception~~ except that a person elected to the senate in 2022 may be elected the number of times allowed when that person became a candidate.

Should this proposal be adopted?

YES ____

NO ____

Word count: 11299

MDOS-Canvassers

From: Lisa Wootton Booth <lwbooth@aeg1.com>
Sent: Thursday, August 11, 2022 9:48 AM
To: MDOS-Canvassers
Subject: Constitutional amendment proposal HJR R
Attachments: AEG HJR R Term Limits Letter to MDOS-August2022.pdf

CAUTION: This is an External email. Please send suspicious emails to abuse@michigan.gov

Good morning,

Please see the attached letter from Mr. Patrick Anderson regarding the designation, caption, and ballot description for HJR R. A hard copy version of this letter will also be mailed to you today via USPS.

We ask that you confirm receipt of this email and its attachment at your earliest convenience.

Cordially,
Lisa Booth



Lisa Wootton Booth
Marketing and Executive Assistant
1555 Watertower Place, Suite 100
East Lansing, Michigan 48823
517.333.6984
www.AndersonEconomicGroup.com
East Lansing | Chicago

Anderson Economic Group, LLC is a boutique research and consulting firm founded by Patrick L. Anderson in 1996. AEG specializes in economic analysis, public policy, commercial damages, market analysis, and tax and regulatory policy across the U.S. and abroad.

Connect with us:   **PROFESSIONALISM • INTEGRITY • EXPERTISE**



August 10, 2022

Mr. Jonathan Brater
Director of Elections
Michigan Department of State
PO Box 20126
Lansing, MI 48901

Dear Director Brater:

Re: HJR R; Caption and Ballot Description

I am writing today on the designation, caption, and ballot description for HJR R, a constitutional amendment proposal adopted by both chambers of the legislature on May 10, 2022.

Designation for HJR R

I previously wrote to you on June 30 regarding the ballot designation for this proposal, at a time when the Board of Canvassers did not have full membership. I summarize that communication here for convenience.

HJR R was proposed and then adopted by resolution of both chambers of the legislature on May 10. HJR R is not the same as the now-abandoned “VTT” petition. The state law that governs ballot numbering is codified at MCL 168.474a. Subsection (2) of that law says the chronological order in which a proposal was “filed” should determine the numbering. It appears that HJR R was filed with the secretary of state on May 13. Therefore, my reading of the law is that HJR R should be labeled “proposal 22-1.”

Caption and Ballot Description for HJR R

As you know, 2018 PA 608, at section 482(b), requires that a ballot description “must consist of a true and impartial statement in language that does not create prejudice for or against the proposal.” The law and constitution delegate the power to prepare this statement to the elections director and the Board of Canvassers.

Following are the key bases for creating that statement:

1. *HJR R would repeal existing limits on the number of times a member of the house of representatives and the senate could be elected to the same office.*
HJR R would repeal the limit on the number of times a person can be elected to the office of state senate, which is currently in Art. IV section 54. It would repeal the limit on the

Mr. Jonathan Brater, August 10, 2022, page 2

number of times a person can be elected to the office of state representative, which is currently in Art. IV section 54. It would repeal the provision that included in the limit any term that was more than half-served, again in Art. IV section 54. It also would repeal the “grandfather” clause that applied the limits only to terms of office that began on or after January 1, 1993, again in Art. IV section 54.

This repeal, as discussed at the Board of Canvassers in March, would affect every single member of the current legislature, and would allow former legislators to return to office.

This particular provision was summarized in a statement approved by a unanimous Board of Canvassers in March of this year. That description is an acceptable basis for the relevant portion of the description of HJR R.

2. *HJR R would create a very limited disclosure requirement, which would not take effect until 2024.*

HJR R would create a very limited disclosure requirement. That requirement, which would not take effect until 2024, extends only to “sources” of income and “descriptions” of liabilities.

The actual disclosure is very limited. See “Exhibit A: Excerpt of HJR R Text Regarding “Disclosure”” on page 4, and note the point immediately below.

3. *HJR R would not require disclosure of the amount of income received by an elected official from a lobbying entity.*

The most direct and obvious purpose of “disclosure” requirements is to ensure that the public knows when elected officials have positions or are receiving income from entities that lobby them. Indeed, when adopting HJR R the legislature wanted the public to believe that their proposal would do that, suggesting that it be described as requiring the “reporting” of “assets, liabilities, income, positions held... and other payments.”

However, HJR R actually *does not* require disclosure of the amount of income received by an elected official from outside entities, including those entities lobbying the legislature. Furthermore, it exempts a litany of positions—including both state elected positions and political positions—from disclosure.

Thus, it would be incorrect to say that HJR R requires disclosure of “income.” It actually only requires disclosure of “sources of income” and a “description of liabilities.” Even the “sources” and “descriptions” are vaguely stated, allowing for the possibility that an elected official could report something like “honorarium income” or “consulting income” without listing the name or the amount.

See again “Exhibit A: Excerpt of HJR R Text Regarding “Disclosure”” on page 4.

4. *The non-disclosure provisions are purposeful and significant.*

If this was the first draft of a resolution, or the purpose statement to a law, one might assume that the non-disclosure provisions noted above were unintentional. However, this is a constitutional amendment so every word matters—as does the absence of every word.

Mr. Jonathan Brater, August 10, 2022, page 3

It is clear that the non-disclosure of *amounts* of income is intentional and purposeful. This is underlined by the fact that HJR R would require disclosure of amounts within a narrow class of payments, namely those already disclosed under existing state law, or those likely to have been previously announced in a press release. Thus, “payments made to a charity in lieu of honorariums” and “travel reimbursements...required to be reported...as prescribed by state law” must be disclosed.

While disclosure of “payments” to elected officials by lobbying entities is not required under HJR R, “Sources of income” are required to be disclosed. There is a difference between the two, and voters must not be misled into thinking they are the same.

The repeal and replacement of existing constitutional term limits is more important than a future reporting requirement, and therefore should be placed first in the description.

The term limit changes would effect the entire legislature, including all members of the House and Senate. It would change the institution, including by allowing incumbent representatives stay in office twice as long.

Meanwhile, the reporting requirement wouldn't take effect until 2024, and extends only to “sources” of income and “descriptions” of liabilities. Such a modest requirement is clearly less important than repealing multiple existing provisions of the Constitution. It should be therefore be accorded less importance in the ballot description.

Suggested Caption and Ballot Description

Consistent with the actual text of the proposal as outlined above, I recommend a caption and ballot description in “Exhibit B: Caption and Ballot Description for HJR R” on page 5. I ask that you take into account the actual text of the proposal as described by this letter in crafting your proposed ballot description and caption.

Sincerely,



Patrick L. Anderson

CC: Michigan Board of Canvassers

Attachments: Exhibit A. Annotated Excerpt of HJR R
Exhibit B. Proposed caption and description

Mr. Jonathan Brater, August 10, 2022, page 4

Exhibit A: Excerpt of HJR R Text Regarding "Disclosure"

The text of the resolution would add Art. IV section 10 paragraph (2), which would require:

A "report" after April 2024, that "must include information regarding..."

- Description of assets and sources of unearned income.
- Sources of earned income.
- Description of liabilities.
- Positions ... of any organization ... other than the State of Michigan. The positions required to be disclosed ... do not include positions held in any religious, social, fraternal, or political entity...

The text also requires the following, with little practical effect:

- Agreements or arrangements with respect to future employment, a leave of absence while serving as a legislator or state officer, continuation or deferral of payments by a former or current employer other than the State of Michigan, or continuing participation in an employee welfare or benefit plan maintained by a former employer.
- Gifts received and required to be reported by a lobbyist or lobbyist agent, as prescribed by state law.
- Travel payments and reimbursements received and required to be reported by a lobbyist or lobbyist agent, as prescribed by state law.
- Payments made by a lobbyist or lobbyist agent to a charity in lieu of honoraria.

Exhibit B: Caption and Ballot Description for HJR R

A constitutional amendment proposed by the legislature to
repeal and replace constitutional term limits
on the Michigan house of representatives and senate;
and require the legislature to adopt a law requiring limited
financial disclosures of elected officials beginning in 2024

The proposed constitutional amendment would:

- Repeal current limits on the number of times state representatives and state senators can be elected to the same office, which are three 2-year terms for state representatives and two 4-year terms for state senators.
- Replace these with a 12-year total limit in any combination between the house and the senate, except for candidates for state senate in this election.
- Require the legislature to adopt a law by requiring certain state elected officials to disclose positions held, sources of income, and descriptions of liabilities.
- Exempt from this disclosure requirement positions in state government and political organizations.

[100 words]

MDOS-Canvassers

From: James Gallant <mqt suicidepreventioncoalition@gmail.com>
Sent: Wednesday, August 10, 2022 4:58 PM
To: MDOS-Canvassers
Subject: Joint Resolution R - 100 word description

CAUTION: This is an External email. Please send suspicious emails to abuse@michigan.gov

MI Directors of Elections, Johnathan Brater and MI Board of State Canvassers,

Please consider the following changes to the 100 word description for the "Statewide Constitutional Ballot Proposal" concerning "Enrolled House Joint Resolution R";

1. **Under Sec. 10 (2):** Please eliminate the unnecessary repetition of the word "the" and use "By April 15, 2024, and by a date each year thereafter as prescribed by state law, each member of the legislature, the governor, the lieutenant governor, the secretary of state, and the attorney general shall file...".

Also, please remove the word "an" in "file an annual financial disclosure report" [to read] "file annual financial disclosures report..."

Also, please change the phrase "A report required to be filed under this section must include" [to read] "A report filed under this section must include".

2. **Under Section 10 (4):** Please change the phrase "Legislation implementing this section must not limit or restrict the application of subsections (2) and (3)." [to read] "Legislation implementing this section must not limit, restrict, **or expand** the application of subsection (2) and (3)".

Thank you, James Gallant, Marquette County Suicide Prevention Coalition



Virus-free. www.avg.com

To: Jonathan Brater, Director of Elections
July 28, 2022

Michigan Department of State
Secretary, Board of State Canvassers
430 West Allegan Street
Lansing, Michigan 48918
MDOS-Canvassers@Michigan.gov

Re: Anti-Term Limits Proposal HJR-R:

1. Unauthorized "Summary of Purpose" in HJR-R usurps your statutory authority to draft summary.
2. Summary intentionally uses misleading words and presents issues in improper order.
3. Impropriety of multiple subjects in the same joint resolution.

Dear Mr. Brater,

On May 10, 2022 the legislature voted to place a proposed amendment to the constitution on the November 8 ballot to abrogate current term limits -on themselves.

This joint resolution was introduced without any public notice or any public debate the morning after the afternoon that the Chamber of Commerce

made a public letter request that the legislature used the exception to the citizen petition drive rules and place the anti-term limits proposal on the ballot directly by 2/3 vote.

The resolution was not even written down until the day after the vote, per attached House official record.

MCL 168.32 provides that a 100-word summary of purpose of the proposal be prepared so that voters know what they are voting for or against.

The law does not empower the legislature to set ballot summary language for its own referral.

MCL 168.32 provides that Ballot Summary **“statement of the purpose of the amendment”** is prepared by the **Director of Elections, with the approval of the Board of State Canvassers**, and thus cannot be set by the legislature as part of its own joint resolution. *“The director of elections, with the approval of the state board of canvassers, shall prepare a statement for designation on the ballot in not more than 100 words, exclusive of caption, of the purpose of any proposed amendment or question to be submitted to the electors as required under... section 1 or 2 of Article XII of the state constitution of 1963.* The statement shall consist of a true and impartial

statement of the purpose of the amendment or question in such language as shall create no prejudice for or against the proposed amendment or question.”

HJR-R improperly included ballot summary language saying the proposal would “**reduce** *current term limits for state representatives and state senators to a 12-year total limit in any combination between the house of representatives and the senate....*” That summary was effectively the same as had been proposed by the anti-term limits group “Voters for Transparency and Term Limits,” which had earlier proposed a petition summary saying the proposal would “**reduce** *to a combined 12 years allowed service in Michigan house of representatives or senate, or both*” The word “**reduce**” is an inaccurate characterization of the proposal to repeal and replace current separate term limits for house and senate with a combined limit that allows incumbents to double their eligibility for the house to 12 years.

Prior the Board of State Canvassers (BOC) Meeting on March 23, 2022 you, as the Director of Elections, changed that misleading term to “

with the approval of the BOC, rejected the misleading ballot question statement proposed by the petition proponents with a statement that the proposal would “**replace** current term limits for state representatives and state senators to a 12-year total limit in any combination between the house and the senate....”

Not only has the petition sponsor successfully convinced the state legislature to bypass the petition requirement for this proposal but it has also convinced them to usurp the statutory power previously used by you and the board of state canvassers to set its own deceptive ballot summary.

Further, HJR-R states the summary in reverse order of significance.

And there are three subject areas:

1. Repealing existing constitutional term limits
2. Replacing them by doubling the House terms from 3 to 6 and increasing the Senate terms from 2 to 3.
3. The toothless transparency provision.

The order of presentation of these issues in the 100-word summary is very important and affects

whether the voters will truly appreciate the magnitude of the changes they are voting on. Transparency is, on its face, a popular idea, but it does not belong at the front of the ballot summary just because the anti-Term Limits proponents want it there.

By placing the “transparency measure” first, a summary will always be prejudicial for the proposal because term limits is relegated to secondary status where it is in danger of being lost on the voter whose only information on the topic is what they read in the ballot box.

Term limits is the only one of the two separate issues proposed in HJR-R that amends the current Constitution.

The transparency provisions can be enacted in a statute by the legislature and signed by the governor.

The naked move by the legislators to extend their own term limits by 100% in the House and 50% in the Senate is clearly shown by the over 2/3 vote in each House for the faux transparency section.

They could have passed that separately and sent it to the Governor.

She would certainly sign it and that would be the law.

No need for a ballot measure.

By contrast, a ballot question is the only way to abrogate separate term limits in the house and senate since term limits is already enshrined in our constitution by the voters in 1992 and can only be changed by a vote of the people.

The “transparency” measure does not even require voter approval to take effect and will not even take effect with voter approval; the legislature would still need to enact the actual laws. The legislature could already enact all the same reporting requirements proposed in HJR-R by simple legislative act, with a bare majority, and without ever subjecting voters to the corrupting influence of logrolling, a time-honored technique whereby the legislature uses one popular issue as a bait and switch to get others to go along with the unpopular issue.

Which, in this case, would never pass by itself. That is why the transparency lipstick is being applied to the pig of a term limits gutting amendment.

The “financial disclosure” measure only requires that the legislature enact a law that they are already empowered to do and does not require a constitutional amendment at all. It is only included as a loss-leader, intentionally inserted to make the

whole proposal unduly attractive to voters, and therefore it should not be placed before term limits in the ballot summary where it would mislead voters.

The legislative ballot referral HJR-R unlawfully bundled these two unrelated issues together, term limits and financial disclosures, against their own rules (rule 13) that clearly state, "The same joint resolution shall not propose an amendment to the Constitution on more than one subject matter," and the reference in MCL 168.32 that provides for a Ballot Summary "statement of the [singular] purpose of the amendment."

There is no question that these are two separate issues are being bundled together to deceive voters.

Just as trying to get you to approve "strengthen" term limits to a proposal that doubles the terms that can be served in the House and increases by half the terms that can be served in the Senate. This is because 80% of Michigan voters like our current system of separate Term limits for house and senate.

HJR R proposes what must be considered two separate proposals on November 8, 2022.

The real target of the proposal, abrogating Term Limits *on legislators only*, was intentionally joined with a watered-down version of a transparency measure that applies to impose requirements for financial disclosures from the governor, lieutenant governor, atty general, and secretary of state in addition to the members of the Michigan house and senate *on the subject matter of financial disclosures*.

There is no reason the people should not be given the opportunity to vote on each measure separately.

The members of the legislature have created a constitutional crisis by attempting to change the constitution to weaken term limits *on themselves only* after the voter-imposed term limits on governor, lieutenant governor, atty general, and secretary of state in addition to the members of the Michigan house and senate in 1992.

The proposal should be stricken as covering multiple subjects,.

The legislature should be forced to comply with the requirement that it be limited to one purpose or subject.

This would require that two separate ballot questions be placed on the ballot for voter consideration:

1. One proposal to repeal and replace current term limits for state house and state senate with a 12-year total limit in any combination between the Michigan house and senate *only*.
2. A separate proposal to impose requirements for financial disclosures from the governor, atty general, and secretary of state in addition to the members of the Michigan house and senate *on the subject matter of financial disclosures*.

Sincerely,


Kurt O'Keefe

MDOS-Canvassers

From: Kurt O'Keefe <koklaw@gmail.com>
Sent: Thursday, July 28, 2022 11:32 AM
To: MDOS-Canvassers; Scott Tillman; Greg Schmid; Patrick Anderson; Keith Allard; ABI
Subject: re-sending proposition one
Attachments: letter to elections 2 KOK.docx

CAUTION: This is an External email. Please send suspicious emails to abuse@michigan.gov

font size corrected

attached

My working hours may not be your working hours. Please do not feel obligated to reply outside of your normal work schedule.

FOR DEBT RELIEF, CALL:
Kurt O'Keefe

mail: **1254 Woodbridge**
St. Clair Shores MI 48080

phone: 313-962-4630

email: koklaw@gmail.com

website: www.stopcreditor.com
www.dischargestudentloan.com

To: Jonathan Brater, Director of Elections
July 28, 2022
Michigan Department of State
Secretary, Board of State Canvassers
430 West Allegan Street
Lansing, Michigan 48918
MDOS-Canvassers@Michigan.gov

Re: Anti-Term Limits Proposal HJR-R:

1. Unauthorized "Summary of Purpose" in HJR-R usurps your statutory authority to draft summary.
2. Summary intentionally uses misleading words and presents issues in improper order.
3. Impropriety of multiple subjects in the same joint resolution.

Dear Mr. Brater,

On May 10, 2022 the legislature voted to place a proposed amendment to the constitution on the November 8 ballot to abrogate current term limits - on themselves.

This joint resolution was introduced without any public notice or any public debate the morning after the afternoon that the Chamber of Commerce made a public letter request that the legislature used the exception to the citizen petition drive rules and place the anti-term limits proposal on the ballot directly by 2/3 vote.

The resolution was not even written down until the day after the vote, per attached House official record.

MCL 168.32 provides that a 100-word summary of purpose of the proposal be prepared so that voters know what they are voting for or against.

The law does not empower the legislature to set ballot summary language for its own referral.

MCL 168.32 provides that Ballot Summary "**statement of the purpose of the amendment**" is prepared by the **Director of Elections, with the approval of the Board of State Canvassers**, and thus cannot be set by the legislature as part of its own joint resolution. "*The director of elections, with the approval of the state board of canvassers, shall prepare a statement* for designation on the ballot in not more than 100 words, exclusive of caption, of the purpose of any proposed amendment or question to be submitted to the electors as required under... **section 1** or 2 of **Article XII** of the state constitution of 1963. The statement shall consist of a true

and impartial statement of the purpose of the amendment or question in such language as shall create no prejudice for or against the proposed amendment or question.”

HJR-R improperly included ballot summary language saying the proposal would “**reduce** current term limits for state representatives and state senators to a 12-year total limit in any combination between the house of representatives and the senate....” That summary was effectively the same as had been proposed by the anti-term limits group “Voters for Transparency and Term Limits,” which had earlier proposed a petition summary saying the proposal would “**reduce** to a combined 12 years allowed service in Michigan house of representatives or senate, or both” The word “**reduce**” is an inaccurate characterization of the proposal to repeal and replace current separate term limits for house and senate with a combined limit that allows incumbents to double their eligibility for the house to 12 years.

Prior the Board of State Canvassers (BOC)

Meeting on March 23, 2022 you, as the Director of Elections, changed that misleading term to “change.”

At the hearing, the BOC, rejected the misleading ballot question statement proposed by the petition proponents with a statement that the proposal would “**replace** current term limits for state representatives and state senators to a 12-year total limit in any combination between the house and the senate....”

Not only has the petition sponsor successfully convinced the state legislature to bypass the petition requirement for this proposal but it has also convinced them to usurp the statutory power previously used by you and the board of state canvassers to set its own deceptive ballot summary.

Further, HJR-R states the summary in reverse order of significance.

And there are three subject areas:

1. Repealing existing constitutional term limits
2. Replacing them by doubling the House terms from 3 to 6 and increasing the Senate terms from 2 to 3.
3. The toothless transparency provision.

The order of presentation of these issues in the 100-word summary is very important and affects whether the voters will truly appreciate the magnitude of the changes they are voting on. Transparency is, on its face, a popular idea, but it does not belong at the front of the ballot summary just because the anti-Term Limits proponents want it there.

By placing the “transparency measure” first, a summary will always be prejudicial for the proposal because term limits is relegated to secondary

status where it is in danger of being lost on the voter whose only information on the topic is what they read in the ballot box.

Term limits is the only one of the two separate issues proposed in HJR-R that amends the current Constitution.

The transparency provisions can be enacted in a statute by the legislature and signed by the governor.

The naked move by the legislators to extend their own term limits by 100% in the House and 50% in the Senate is clearly shown by the over 2/3 vote in each House for the faux transparency section.

They could have passed that separately and sent it to the Governor.

She would certainly sign it and that would be the law.

No need for a ballot measure.

By contrast, a ballot question is the only way to abrogate separate term limits in the house and senate since term limits is already enshrined in our constitution by the voters in 1992 and can only be changed by a vote of the people.

The "transparency" measure does not even require voter approval to take effect and will not even take effect with voter approval; the legislature would still need to enact the actual laws. The legislature could already enact all the same reporting requirements proposed in HJR-R by simple legislative act, with a bare majority, and without ever subjecting voters to the corrupting influence of logrolling, a time-honored technique whereby the legislature uses one popular issue as a bait and switch to get others to go along with the unpopular issue.

Which, in this case, would never pass by itself.

That is why the transparency lipstick is being applied to the pig of a term limits gutting amendment.

The "financial disclosure" measure only requires that the legislature enact a law that they are already empowered to do and does not require a constitutional amendment at all. It is only included as a loss-leader, intentionally inserted to make the whole proposal unduly attractive to voters, and therefore it should not be placed before term limits in the ballot summary where it would mislead voters.

The legislative ballot referral HJR-R unlawfully bundled these two unrelated issues together, term limits and financial disclosures, against their own rules (rule 13) that clearly state, "The same joint resolution shall not propose an amendment to the Constitution on more than one subject matter," and the reference in MCL 168.32 that provides for a Ballot Summary "statement of the [singular] purpose of the amendment."

There is no question that these are two separate issues are being bundled together to deceive voters.

Just as trying to get you to approve "strengthen" term limits to a proposal that doubles the terms that can be served in the House and increases by half the terms that can be served in the Senate. This is because 80% of Michigan voters like our current system of separate Term limits for house and senate.

HJR R proposes what must be considered two separate proposals on November 8, 2022.

The real target of the proposal, abrogating Term Limits *on legislators only*, was intentionally joined with a watered-down version of a transparency measure that applies to impose requirements for financial disclosures from the governor, lieutenant governor, atty general, and secretary of state in addition to the members of the Michigan house and senate *on the subject matter of financial disclosures*.

There is no reason the people should not be given the opportunity to vote on each measure separately.

The members of the legislature have created a constitutional crisis by attempting to change the constitution to weaken term limits *on themselves only* after the voter-imposed term limits on governor, lieutenant governor, atty general, and secretary of state in addition to the members of the Michigan house and senate in 1992.

The proposal should be stricken as covering multiple subjects,.The legislature should be forced to comply with the requirement that it be limited to one purpose or subject.

This would require that two separate ballot questions be placed on the ballot for voter consideration:

1. One proposal to repeal and replace current term limits for state house and state senate with a 12-year total limit in any combination between the Michigan house and senate *only*.

2. A separate proposal to impose requirements for financial disclosures from the governor, atty general, and secretary of state in addition to the members of the Michigan house and senate *on the subject matter of financial disclosures*.

Sincerely,

Kurt O'Keefe

MDOS-Canvassers

From: Rina Sala-Baker <rinabaker@sbcglobal.net>
Sent: Tuesday, August 9, 2022 3:26 PM
To: MDOS-Canvassers
Subject: Term Limits Ballot Questions
Attachments: Baker Letter 8-9-22.docx; TLDF MI Toplines.pdf

CAUTION: This is an External email. Please send suspicious emails to abuse@michigan.gov

Dear Mr. Brater and Board of Canvassers,

Fair elections require accurate, truthful ballot wording. The voters of Michigan depend on you for this, MCL 168.32 *“The statement shall consist of a true and impartial statement of the purpose of the amendment or question in such language as shall create no prejudice for or against the proposed amendment or question.”*

The legislature has included in their resolution the language they desire HJR-R to be on the ballot. Michigan law does not allow the source of the ballot measure to dictate their own ballot wording, and this situation is illustrative of the pitfalls of setting such a precedent.

By incorporating multiple subjects into the joint resolution and then carefully tailoring the ballot description, the legislature has successfully obscured to the public the true nature of the constitutional change they will be instituting if they approve this proposal as written. A poll conducted by the Detroit News and WDIV using the language constructed by the legislature shows 81% support for the policies instituted by HJR R. However, as you can see in polling commissioned from RMG (Attached) over a similar time period, Michigan voters continue to support Michigan's 1992 term limits at levels of 79%.

The wide gap in public opinion polling on this measure is only explained by the deliberately misleading language contained in the legislature's self-written ballot description. Indeed, the pollster who conducted the Detroit News poll remarked on the misdirection, stating “the reality is voters do like term limits but more importantly what they like here because it leads this off is personal financial disclosure.”

By incorporating multiple unrelated topics into a single joint resolution, and then dictating the ballot description, the legislature is deliberately inducing Michigan voters to repeal portions of the constitution against their popular will under the pretense of instituting transparency laws. This sets a dangerous precedent for future legislatures.

My belief is the proper action for the Elections Director to undertake is to bifurcate the policy proposals of HJR R into two ballot propositions, reflecting the unrelated nature of the divergent purposes contained in the resolution. I also strongly believe that because this resolution partially concerns the repeal and replacement of a constitutional amendment previously instituted through voter referendum (Article 4, Section 54 of the Michigan Constitution), the constitutional change

should have primacy and be designated as Proposal 1. My suggested ballot language for each is as follows:

Proposal 2022-1:

The proposed constitutional amendment would:

- Repeal current limits on the number of times state representatives and state senators can be elected to the same office, which are currently three 2-year terms for state representatives and two 4-year terms for state senators.
- Replace these with a 12-year total limit in any combination between the house and the senate, except for candidates for state senate in this election.

Proposal 2022-2:

The proposed constitutional amendment would:

- Require the Michigan legislature to adopt a law by the end of 2023 showing disclosure of certain positions and sources of income for future state elected officials. The legislature is responsible for setting the stringency of disclosure requirements for itself.
- Positions in state government, political organizations, and labor unions are exempt from any prescribed disclosure requirements.
- If the Michigan legislature does not enact such a law by 2024, a Michigan resident may initiate legal action against the legislature and governor to enforce this law's requirements.

I appreciate your consideration of this important matter.

Sincerely,

Rina Baker

Please respond to let me know you get this letter, thank you,

Rina.



RMG RESEARCH, Inc.

Term Limits Defense Fund Survey
of 1,000 Likely Midterm Election Voters
In Michigan
Conducted May 24-29, 2022

1 If the election for Congress were held today, would you vote for the Republican from your district or the Democrat from your district?*

38%	Republican
40%	Democrat
9%	Other
13%	Not sure

2 Do you favor or oppose term limits for members of Congress?*

57%	Strongly favor
24%	Somewhat favor
9%	Somewhat oppose
4%	Strongly oppose
6%	Not sure

3 [Asked of those who favor Term Limits] Would you prefer limits of three terms (six years) or six terms (twelve years)?*

65%	Three terms (six years)
26%	Six terms (twelve years)
9%	Not sure

4 Which of these is the most important issue:*

50%	The economy
18%	Government corruption
13%	Healthcare
6%	Immigration
6%	National defense
7%	Other

Conducted by RMG Research, Inc. May 19-20, 2022
Margin of Sampling Error: +/- 3.1 percentage points





RMG RESEARCH, Inc.

Term Limits Defense Fund Survey
of 1,000 Likely Midterm Election Voters
In Michigan
Conducted May 24-29, 2022

5 In 1992 Michigan voters adopted a term limit amendment to the Michigan Constitution. It limits the number of times a person can be elected to the state House of Representatives, the state Senate, attorney general, secretary of state, and governor. Do you favor or oppose the current term limits in the Michigan Constitution?*

48%	Strongly favor
31%	Somewhat favor
8%	Somewhat oppose
4%	Strongly oppose
10%	Not sure

Methodology

The survey of 1,000 Likely Voters was conducted for USTL on May 24-29, 2022. Field work for the survey was conducted by RMG Research, Inc. Certain quotas were applied, and the sample was lightly weighted by gender, age, and race. Likely voters were determined by a screening process within the survey.

The margin of sampling error for the full sample is +/- 3.1 percentage points.

Conducted by RMG Research, Inc. May 19-20, 2022
Margin of Sampling Error: +/- 3.1 percentage points



EXHIBIT D

HJR R Text of Ballot Summary 5-10-22

Resolved further, That it is the intent of the legislature that when submitted to the people of the state the amendment be presented with the following question:

"A PROPOSAL TO AMEND THE STATE CONSTITUTION TO REQUIRE ANNUAL PUBLIC FINANCIAL DISCLOSURE REPORTS BY LEGISLATORS AND OTHER STATE OFFICERS AND LIMIT SERVICE AS A LEGISLATOR TO 12 YEARS

The proposed constitutional amendment would:

- Require members of the legislature, the governor, the lieutenant governor, the secretary of state, and the attorney general to file annual public financial disclosure reports after 2023, reporting assets, liabilities, income, positions held, future employment agreements, gifts, travel reimbursements, and other payments.
- Require the legislature to implement but not limit or restrict the reporting requirements.
- **Reduce** current term limits for state representatives and state senators to a 12-year total limit in any combination between the house of representatives and the senate, with the exception that a person elected to the senate in 2022 may be elected the number of times allowed when that person became a candidate.

Should this proposal be adopted?

YES

NO .

Proponent summary: VOTERS FOR TRANSPARENCY AND TERM LIMITS

A Proposal to Require Financial Disclosure by Michigan Elected Officials and Reduce Term Limits

PROPOSED SUMMARY

The proposal would amend sections 10 and 54 of article IV of the Michigan Constitution. The proposed summary of the purpose of the proposed constitutional amendment for purposes of MCL 168.482b is as follows:

Constitutional amendment to: require members of legislature, governor, lieutenant governor, secretary of state, and attorney general to file public financial disclosure and transaction reports after 2023; authorize enforcement action in Michigan supreme court if financial reporting requirements as stringent as the requirements for members of congress under federal law are not enacted; and reduce to a combined 12 years allowed service in Michigan house of representatives or senate, or both, except that a person elected to the senate in 2022 may be elected to the senate the number of times permitted when the person became a candidate for that office.

Compared BOSC Approved petition summary 3-23-22:

The proposed constitutional amendment would:

- Require members of the legislature, the governor, the lieutenant governor, the secretary of state, and the attorney general to file annual public financial disclosure and transaction reports after 2023.
- Require the legislature to enact laws with disclosure rules at least as stringent as those required for members of congress;
- **Replace** current term limits for state representatives and state senators to a 12-year total limit in any combination between the house and the senate, with the exception that someone elected to the senate in 2022 can be elected the number of times allowed when that person became a candidate.

Term Limits Defense Funds Proposed Summary

The proposed constitutional amendment would:

- **Abrogate** current voter approved term limits for state representatives and state senators, currently limited to three 2 year-terms in the house and two 3 year-terms in the senate **and replace** them with a 12-year total limit in any combination between the house and the senate.
- State representatives term limits would be increased up to terms six 2-year terms in the house, and senate term limits would increase up to up to three 4-year terms, or in any combination between the house and senate, up to 12 years total.
- Current and term limited state legislators can run for additional terms up to the 12-year limit in either house, or both, less terms already served.
- Someone elected to the senate in 2022 can be elected the number of times allowed when that person became a candidate.
- Require members of the legislature, the governor, the lieutenant governor, the secretary of state, and the attorney general to file annual public financial disclosure and transaction reports after 2023.
- Require the legislature to enact laws with disclosure rules at least as stringent as those required for members of congress.

EXHIBIT E



STATE OF MICHIGAN
BUREAU OF ELECTIONS
LANSING

**Board of State Canvassers
March 23, 2022**

**Delta Township Hall
7710 West Saginaw Highway, Lansing, MI 48917
10:00 am.**

Agenda

1. Consideration of the meeting minutes for approval (February 11, 2022).
2. Recording of the results of the March 1, 2022 special primary election for the office of State Representative, 15th District, partial term ending 1/1/2023.
3. Recording of the results of the March 1, 2022 special primary election for the office of State Representative, 36th District, partial term ending 1/1/2023.
4. Recording of the results of the March 1, 2022 special primary election for the office of State Representative, 43rd District, partial term ending 1/1/2023.
5. Recording of the results of the March 1, 2022 special primary election for the office of State Representative, 74th District, partial term ending 1/1/2023.
6. Consideration of the revised form of the initiative petition submitted by Michigan Initiative for Community Healing.
7. Consideration of the form of the initiative petition submitted by Reproductive Freedom for All.
8. Consideration of the form of the initiative petition submitted by Raise the Wage.
9. Consideration of the 100-word summary of purpose of the initiative petition submitted by Voters for Transparency and Term Limits. The summary of purpose as drafted by the Director of Elections is as follows:

Constitutional amendment to: require members of legislature, governor, lieutenant governor, secretary of state, and attorney general to file annual public financial disclosure and transaction reports after 2023; require legislature to enact laws with disclosure rules at least as stringent as those required for members of Congress under federal law; change term limits from 6 years in the House and 8 years in the Senate to 12 total years in the legislature in any combination, with exception that someone elected to Senate in 2022 can be elected the number of times allowed when the person became a candidate.

Word count: 92

10. Consideration of the form of the initiative petition submitted by Voters for Transparency and Term limits.
11. Certification of the proposed upgrade to the ES&S voting system.
12. Other business that may be presented to the Board for consideration.

A person who wishes to address the Board may do so by signing up to speak at the individual meeting. Persons addressing the Board are allotted three minutes. In addition, members of the public may submit written comments via email to MDOS-Canvassers@Michigan.gov.

Individuals with disabilities needing accommodations for effective participation in meetings may request assistance via email to MDOS-Canvassers@Michigan.gov or by calling (517) 335-3234. Requests must be made at least one full business day prior to the meeting.

EXHIBIT F

Skip to main content



Joint Rules of the House of Representatives and Senate

Table of Content

- Adoption of Conference Report | **Rule 9**
- Alternative Measures | **Rule 29**
- Amendments | **Rule 2**
- Bills and Joint Resolutions | **Rule 13**
- Committee Expenses | **Rule 25**
- Compensation | **Rule 24**
- Conference Committees | **Rule 3(a) and (b)**
- Conference Committee Clerk | **Rule 4**
- Conference Report: Rejection | **Rule 5**
- Conference Reports: Points of Order | **Rule 10**
- Correction of Errors | **Rule 12**
- Daily Adjournment | **Rule 27**
- Disagreement of Conferees | **Rule 6**
- Either House May Recede | **Rule 11**
- Elections in Joint Convention | **Rule 22**
- Final Adjournment of Regular Sessions | **Rule 26**
- Immediate Effect | **Rule 17**
- Joint Resolution | **Rule 18**
- Legislative Handbook | **Rule 23**
- No Members Present | **Rule 15**
- Passage, Adoption, and Enrollment Printing | **Rule 16**
- Pending Business | **Rule 28**
- Power of Conferees | **Rule 8**
- Second Conference: Failure | **Rule 7**
- Section Numbers of Compiled Laws - Amendments | **Rule 20**
- Tie-bars | **Rule 21**
- Transmission of Messages | **Rule 1**
- Veto Override: Filing with Secretary of State | **Rule 19**
- Yeas and Nays | **Rule 14**

Transmission of Messages.

Rule 1. All messages necessary for conducting legislative business between the two houses shall be communicated in writing and electronically by the Secretary of the Senate and the Clerk of the House of Representatives.

Amendments.

Rule 2. It shall be in the power of either house to amend an amendment made by the other to any bill, resolution, or alternative measure as defined in Rule 29.

Conference Committees.

Rule 3. (a) The house not concurring in the amendments of the other house shall appoint conferees and notify the amending house of its action. The amending house shall request return of the bill, resolution, or alternative measure, or appoint conferees. The conference committee shall consist of three members from each house, to be appointed as each house may determine. The first named member of the house in which the bill, resolution, or alternative measure originated shall be chairperson of the conference committee. Upon appointment of conferees by both houses, the bill, resolution, or alternative measure shall be referred to the conference committee. When one house amends or substitutes a bill, resolution, or alternative measure

that has been returned for concurrence from the other house, but then non-concurs in that bill, resolution, or alternative measure as amended or substituted, those amendments or that substitute shall not be referred to the conference committee. The conference committee shall serve until the conference report has been adopted by both houses or rejected by a house.

(b) The conference committee shall consist of committees of the two houses with those two committees voting separately while in conference. The adoption of a conference report shall require concurring majorities of the members of each house. The conference committees of the two houses shall vote separately while in conference. The majority of each committee shall constitute a quorum of each committee and shall determine the position to be taken toward the propositions of the conference committee. If the conferees agree, a report shall be made which shall be signed by at least a majority of the conferees of each house who were present and voted in the conference committee meeting to adopt the report. The bill, resolution, or alternative measure, including the original signed conference report and three copies, shall be filed in the house of origin where the question shall be on the adoption of the conference report. If the conference report is adopted in the house of origin, the bill, resolution, or alternative measure, including the original signed conference report, and two copies of the conference report shall be transmitted to the other house where the question shall be on the adoption of the conference report. If the conference report is adopted in the other house, the bill, resolution, or alternative measure and the original signed copy of the conference report shall be returned to the house of origin and referred for enrollment printing and presentation to the Governor, filing with the Secretary of State, or filing for record with the Secretary of the Senate or Clerk of the House of Representatives.

Conference Committee Clerk.

Rule 4. The conference committee clerk shall be from the house of origin, who shall notify the Secretary of the Senate and the Clerk of the House of Representatives of all scheduled meetings for public posting and shall deliver written notice to each member of the conference committee and the majority and minority leaders of each house indicating the time and place of all scheduled meetings. Conference committees on appropriation bills may use fiscal agency personnel from the same house as the Chairperson for clerks.

Conference Report: Rejection.

Rule 5. If the conference report is rejected by the house of origin, it shall appoint second conferees and notify the other house of its action. The procedure shall then be the same as for an original conference.

If the conference report is rejected by the other house, it shall appoint second conferees, notify the house of origin of its action, and transmit the bill, resolution, or alternative measure to the house of origin. Upon receipt of the bill, resolution, or alternative measure, the house of origin shall appoint second conferees and refer the bill, resolution, or alternative measure to the second conference committee. The procedure shall then be the same as for an original conference.

Disagreement of Conferees.

Rule 6. If the conferees are unable to agree, a report of that fact shall be made to both houses. The report that the conferees were unable to agree shall be signed by at least a majority of the conferees of each house who were present and voted in the conference committee meeting to adopt the report. The bill, resolution, or alternative measure, including the original signed conference report that the conferees were unable to agree, and three copies shall be filed in the house of origin. Both houses shall appoint second conferees, and the house of origin shall refer the bill, resolution, or alternative measure to the second conference committee. The procedure shall then be the same as for an original conference.

Second Conference: Failure.

Rule 7. When a second conference committee fails to reach agreement, or when a second conference report is rejected by either house, no further conference is in order.

Power of Conferees.

Rule 8. The conference committee shall not consider any matters other than the matters of difference between the two houses.

For all bills making appropriations, adoption of a substitute by either house shall not open identical provisions contained in the other house-passed version of the bill as a matter of difference; nor shall the adoption of a substitute by either house open provisions not contained in either house version of the bill as a matter of difference.

When the conferees arrive at an agreement on the matters of difference that affects other parts of the bill, resolution, or alternative measure, the conferees may recommend amendments to conform with the agreement. In addition, the conferees may also recommend technical amendments to the other parts of the bill, resolution, or alternative measure, such as, necessary date revisions, adjusting totals, cross-references, misspelling and punctuation corrections, conflict amendments for bills enacted into law, additional anticipated federal or other flow through funding, and corrections to any errors in the bill, resolution, or alternative measure or the title.

Adoption of Conference Report.

Rule 9. Conference reports shall not be subject to amendments or division. The vote on conference reports shall be taken by "yeas" and "nays" and shall require the same number of votes constitutionally required for passage of the bill or adoption of the resolution or alternative measure. Conference reports shall not be considered until they are made available to the public on the Internet; this requirement may, however, be suspended by a house

by a majority vote in that house, provided that a copy of the conference report has been made available to each Member.

Conference Reports: Points of Order.

Rule 10. Points of order regarding conference reports shall be decided by the presiding officer, subject to an appeal, which appeal shall be determined by a majority vote. When a conference report is ruled out of order, the conference report is returned to the originating conference committee with instructions to eliminate from the report such matters as have been declared not within the powers of the conferees to consider.

Either House May Recede.

Rule 11. At any time while in possession of the bill, resolution, or alternative measure, either house may recede from its position in whole or in part, and the bill, resolution, or alternative measure upon request may be returned to the other house for that purpose. If this further action is agreed to by both houses, the bill, resolution, or alternative measure shall be referred for enrollment printing and presentation to the Governor, filing with the Secretary of State, or filing for record with the Secretary of the Senate or Clerk of the House of Representatives.

Correction of Errors.

Rule 12. If errors are found in a bill, resolution, or alternative measure which has been passed or adopted by both houses, the house in which the bill, resolution, or alternative measure originated may make amendments to correct the errors and shall notify the other house of its action. If the corrective amendments are agreed to by the other house, the corrected bill, resolution, or alternative measure shall be referred for enrollment printing and presentation to the Governor, filing with the Secretary of State, or filing for record with the Secretary of the Senate or Clerk of the House of Representatives.

In addition, the Secretary of the Senate and Clerk of the House of Representatives, as the case may be, shall correct obvious technical errors in the enrolled bill, resolution, or alternative measure, including adjusting totals, misspellings, the omission or redundancy of grammatical articles, cross-references, punctuation, updating bill, resolution, or alternative measure titles, capitalization, citation formats, and plural or singular word forms.

Bills and Joint Resolutions.

Rule 13. Upon introduction, no bill shall include catch lines, a severing clause, or a general repealing clause, as distinguished from a specific or an express repealing clause. The Secretary of the Senate and the Clerk of the House of Representatives shall delete such catch lines and clauses from all bills.

The same joint resolution shall not propose an amendment to the Constitution on more than one subject matter. However, more than one section of the Constitution may be included in the same joint resolution if the subject matter of each section is germane to the proposed amendment.

Yeas and Nays.

Rule 14. The yeas and nays shall be taken and printed in the Journal of the house taking action upon the passage or adoption of any bill, joint resolution, alternative measure, conference report, and amendments made by the other house to a bill, joint resolution, or alternative measure.

No Members Present.

Rule 15. In the event the presiding officer and all members are absent on a day scheduled for meeting, the Secretary of the Senate or the Clerk of the House of Representatives, as the case may be, shall call that house to order at the designated time and announce the absence of a quorum. That house shall be declared adjourned until the succeeding legislative day and hour previously designated.

In any event where either or both houses of the Legislature adjourns to a date certain for more than two days, a committee composed of the Majority Leader of the Senate and the Speaker of the House of Representatives may, by a unanimous vote of that committee, convene either or both houses of the Legislature at any time in case of emergency.

If a gubernatorial appointment that is subject to the advice and consent process is made at a time such that 60 days would lapse during an extended recess of the Senate, the Senate Majority Leader may schedule a session of the Senate for the sole purpose of carrying out the Senate's constitutional duties to advise and consent on gubernatorial appointments. No other action shall be taken by the Senate during session convened under this provision. The Senate Majority Leader shall notify the Secretary of the Senate at least 10 calendar days prior to the date of the scheduled session, and the Secretary of the Senate shall take all reasonable steps to notify the members of the Senate of the scheduled session.

Passage, Adoption, and Enrollment Printing.

Rule 16. Every bill passed or joint resolution or alternative measure adopted by both houses and returned to the house of origin shall forthwith be enrolled and signed by the Secretary of the Senate and the Clerk of the House of Representatives. Enrolled bills shall be presented to the Governor, and enrolled joint resolutions that propose an amendment to the Constitution and alternative measures that propose a different measure upon the same subject as a rejected law proposed by initiative petition shall be filed with the Secretary of State with a certificate attached to the effect that the joint resolution or alternative measure has been adopted by the Senate and House of Representatives, respectively, in accordance with the provisions

of the Constitution. If the house having last passed the bill or adopted the joint resolution or alternative measure requests its return and such request is granted or a motion is made in the house of origin to amend errors in the bill, joint resolution, or alternative measure, or to give the bill immediate effect, the enrollment printing shall not occur.

Every bill, joint resolution, alternative measure, or concurrent resolution passed or adopted by either house shall be transmitted to the other house unless a motion for reconsideration is pending.

Immediate Effect.

Rule 17. Whenever both houses, by the constitutional vote, order that a bill take immediate effect, a statement shall be added at the enrollment of the bill in words to this effect: "This act is ordered to take immediate effect."

Joint Resolutions.

Rule 18. Joint resolutions shall be used for the following purposes:

1. Amendments to the Constitution of Michigan.
2. Ratification of amendments to the Constitution of the United States submitted by the Congress.
3. Matters upon which power is solely vested in the Legislatures of the several states by the Constitution of the United States.

Joint resolutions proposing amendments to the Constitution of Michigan shall require a 2/3 vote of the members elected and serving in each house for adoption. Other joint resolutions shall require a majority of the members elected and serving in each house for adoption. All joint resolutions shall require a record roll call vote.

Veto Override: Filing with Secretary of State.

Rule 19. When a bill is passed by both houses over the objections of the Governor or a bill is not filed by the Governor with the Secretary of State within the constitutionally mandated 14-day period, and the Legislature continues in session, an official enrolled bill with a letter from the house of origin signed by the Secretary of the Senate or the Clerk of the House of Representatives, as appropriate, shall be filed with the Secretary of State for a public act number to be assigned. The letter shall certify that the Governor's veto has been overridden by both houses of the Legislature or that the bill has not been returned within the specified time, as the case may be, in accordance with the provisions of the Constitution.

Section Numbers of Compiled Laws - Amendments.

Rule 20. The title of every bill or alternative measure to amend or repeal existing laws shall be clear and explicit so as to definitely fix what is proposed to be done. Such title shall refer to the act number and the year in which it was passed. If the bill was passed or alternative measure was adopted at an extra session of the Legislature, the title shall designate which extra session.

Such title shall contain the last title of the act it is proposed to amend. However, the short title (e.g., This act shall be known and may be cited as "The revised judiciary act of 1961,") shall be used in acts where it has been defined by legislative enactment. The title shall also contain the chapter, part numbers and compiler's section numbers, if any, and the year of the compilation containing the same.

Following the passage of a bill or adoption of an alternative measure with a short title, the house other than the house of origin shall replace the short title with the last full title of the act it is proposed to amend or repeal. Other corrective amendments to the title shall be made as may be necessary. The full title and amended title shall be agreed to by both houses.

When an amendment to a bill or alternative measure, or a bill or alternative measure to amend an existing law is printed, words proposed to be added to such law shall be printed in upper case bold type, and the words to be omitted shall be printed in stricken-through type. This style requirement also applies to joint resolutions that amend the Constitution of Michigan.

All bills, joint resolutions, and alternative measures introduced, amendments to joint resolutions and alternative measures, substitute bills, joint resolutions, and alternative measures, and conference committee reports shall be approved as to form and section numbers by the Legislative Service Bureau.

Tie-bars.

Rule 21. A bill, resolution, or alternative measure that is tie-barred to a request number shall not be considered for passage or adoption unless that tie-barred request item has been introduced. No bill, resolution, or alternative measure shall be passed or adopted by either house until the tie-barred item has been designated in the appropriate blank space provided.

Elections in Joint Convention.

Rule 22. Whenever there is an election of any officer in joint convention, the result shall be certified by the President of the Senate and the Speaker of the House of Representatives. The results shall be announced by the presiding officers to their respective houses, printed in the Journal of each house, and communicated to the Governor by the Secretary of the Senate and the Clerk of the House of Representatives.

Legislative Handbook.

Rule 23. The initial appointment of the standing committee members of the two houses shall be printed in their respective Journals as soon as possible after the announcement. The Secretary of the Senate and the Clerk of the House of Representatives shall prepare and have printed a legislative handbook containing these appointments and other information they deem appropriate.

Compensation.

Rule 24. Compensation for members, officers, and employees of the Legislature shall be delivered to the Secretary of the Senate or Clerk of the House of Representatives, as the case may be, and transmitted directly to the payee.

If the office of a member of the Legislature becomes vacant, the compensation for the elected successor shall begin on the date of his or her oath of office.

Committee Expenses.

Rule 25. No committee created by concurrent resolution shall incur expenses in excess of \$2,500.00 unless authorized in the resolution creating that committee.

Final Adjournment of Regular Sessions.

Rule 26. In the regular session in each year, this rule for adjournment shall govern.

The Majority Floor Leader of the Senate and/or the Majority Floor Leader of the House of Representatives shall introduce a concurrent resolution providing for an adjournment schedule for the Legislature for that regular session.

Daily Adjournment.

Rule 27. Neither house shall remain in session on any legislative day beyond 12:00 midnight. If either house is in session at 12:00 midnight, the presiding officer shall declare that house adjourned until a fixed hour for meeting on the next legislative day. That house shall stand adjourned until the next fixed meeting time.

Pending Business.

Rule 28. Any business, bill, or joint resolution which has not been defeated by either house shall be considered pending under the provisions of Article 4, Section 13 of the Constitution.

It shall not be in order for either house, by suspension of rules or any other means, to reconsider in a subsequent year the vote by which any business, bill, joint resolution, or veto override was defeated in a previous year unless there is a pending motion to reconsider offered in the odd-numbered year.

Alternative Measures.

Rule 29. If the Legislature rejects a law proposed by initiative petition, the Legislature may propose a different ("alternative") measure upon the same subject as provided in Article 2, Section 9, of the Michigan Constitution of 1963. An alternative measure shall be labeled "Alternative Measure No. ___ to a law proposed by Initiative Petition". An alternative measure shall not be considered for a second reading in either house unless a law proposed by initiative petition has been rejected by a house. An alternative measure shall require a majority vote of the members elected and serving in each house for adoption, and the vote shall be by record roll call.

Michigan State Senate | PO Box 30036 | Lansing, MI 48909-7536
517-373-2400 | Web Site Support

EXHIBIT G

Proposal 22-1

A proposal to amend the state constitution to replace current term limits for state representatives and state senators with a 12-year total limit on any combination of terms in legislature and require annual public financial disclosure reports by legislators and other state officers

This proposed constitutional amendment would:

- Replace current term limits for state representatives and state senators with a 12-year total limit in any combination between house and senate, except a person elected to senate in 2022 may be elected the number of times allowed when that person became a candidate.
- Require members of legislature, governor, lieutenant governor, secretary of state, and attorney general file annual public financial disclosure reports after 2023, including description of assets, description of liabilities, and sources of income, future employment agreements, and positions held in organizations except religious, social, and political organizations.
- Require the legislature to implement reporting requirements.

Should this proposal be adopted?

- YES
- NO

WORD COUNT: 99

EXHIBIT H

2022

MICHIGAN ELECTION DATES

Includes list of filing
requirements for federal and
state elective offices



Jocelyn Benson
Secretary of State

Michigan.gov/Elections

INFORMATION

ELECTIONS: For information on matters relating to elections, contact your county, city or township clerk. Information can also be obtained from the Michigan Department of State, Bureau of Elections, P.O. Box 20126, Lansing, MI 48901-0726. Phone: (517) 335-3234. Fax: (517) 335-3235. Email: Elections@Michigan.gov. Web site: Michigan.gov/Elections.

FINANCIAL DISCLOSURE: State candidates, local candidates and political groups have financial disclosure obligations under Michigan's Campaign Finance Act. For information, contact your county clerk or the Michigan Department of State, Bureau of Elections.

Candidates running for federal office should contact the Federal Election Commission, 1050 First Street N.W., Washington, D.C. 20463. Toll free line: (800) 424-9530. Web site: fec.gov.

TABLE OF CONTENTS

Summary Calendar for Candidate and Proposal Deadlines	Page 3
Detailed Calendar for Election Administrators	Page 6
Recount Filing Dates	Page 13
Offices to be Elected in 2022	Page 14
2022 Filing Requirements	Page 15

SUMMARY CALENDAR FOR CANDIDATE AND PROPOSAL DEADLINES

August 2, 2022 Primary and November 8, 2022 General Election

Important Dates and Filing Deadlines

Refer to Michigan compiled law for cited provisions ([Legislature.Mi.Gov.](http://Legislature.Mi.Gov)) Dates are subject to change through legislative action. If any errors are found, it is the law, itself, which must be followed.

Election Dates

August 2, 2022 State Primary
November 8, 2022 State General Election

Registration Deadlines

July 18, 2022 Last day to register in any manner other than in-person with the local clerk for the August primary. (168.497)
July 19 through 8:00 p.m. August 2, 2022 In-person registration with local clerk with proof of residency. (168.497)
October 24, 2022 Last day to register in any manner other than in-person with the local clerk for the November general election. (168.497)
October 25 through 8:00 p.m. November 8, 2022 In-person registration with local clerk with proof of residency. (168.497)

Filing Deadlines: Candidates

By 5:00 p.m., March 21, 2022 Incumbent Appeals Court, Circuit Court, District Court and Probate Court judges file Affidavit of Candidacy and Affidavit of Identity for the August primary. Withdrawal deadline elapses at 5:00 p.m. on March 24. (168.409b, 409c, 413a, 414, 433a, 434, 467c and 467d)
By 4:00 p.m., April 19, 2022 Candidates seeking Appeals Court, Circuit Court, District Court or Probate Court judgeships file nonpartisan nominating petitions, Affidavit of Identity and Affidavit of Constitutional Qualification for the August primary. Withdrawal deadline elapses at 5:00 p.m. on April 22. (168.409b, 409c, 413, 414, 433, 434, 467b and 467d)
By 4:00 p.m., April 19, 2022 Candidates seeking a Wayne County Community College Trustee position file an Affidavit of Identity and a nonpartisan nominating petition. Withdrawal deadline elapses at 4:00 p.m. on April 22. (389.83, 168.303)

- By 4:00 p.m.,
April 19, 2022** Candidates for partisan and nonpartisan offices (other than judicial candidates) file nominating petitions (or fees if applicable) and Affidavit of Identity for the August primary. Withdrawal deadline elapses at 4:00 p.m. on April 22. (168.133 and 163 for federal and state-level offices; assorted other statutes for local offices)
- By 4:00 p.m.,
May 3, 2022** Candidates for county convention delegate (precinct delegate) file an Affidavit of Identity for the August primary. Filing submitted to the clerk of the county in which candidate resides. Withdrawal deadline elapses at 4:00 p.m. on May 6. (168.624, 624a)
- By 5:00 p.m.,
July 5, 2022** Incumbent Supreme Court Justices file Affidavit of Identity and Affidavit of Candidacy forms for the November general election. (168.392a and 558)
- By 4:00 p.m.,
July 21, 2022** District Library Board candidates for districts that do not include a school district file an Affidavit of Identity and a nonpartisan nominating petition. (A \$100.00 nonrefundable fee may be filed in lieu of a petition.) (Special note: If district library includes a school district, District Library Board candidates file by 4:00 p.m. on August 16, 2022) (397.181)
- By 4:00 p.m.,
July 21, 2022** Candidates without political party affiliation seeking partisan offices file qualifying petitions and Affidavit of Identity for the November general election. Withdrawal deadline elapses at 4:00 p.m. on July 25. (168.590c)
- By 4:00 p.m.,
July 22, 2022** Write-in candidates other than write-in candidates who seek precinct delegate positions file Declaration of Intent forms for the August primary. (168.737a)
- By 4:00 p.m.,
July 26, 2022** Candidates for Local School Board and Community College Trustee file an Affidavit of Identity and a nonpartisan nominating petition. (A \$100.00 nonrefundable fee may be filed in lieu of a petition.) Withdrawal deadline elapses at 4:00 p.m. on July 29. (168.303; 389.152)
- By 4:00 p.m.,
July 26, 2022** Candidates for village offices file an Affidavit of Identity and a nonpartisan nominating petition. Withdrawal deadline elapses at 4:00 p.m. on July 29. (168.381)
- By 4:00 p.m.,
July 29, 2022** Write-in candidates who seek precinct delegate positions file Declaration of Intent forms with the county clerk for the August primary. (As an alternative, candidates for precinct delegate may file the Declaration of Intent form with appropriate precinct board on election day before the close of the polls.) (168.737a)
- August 2, 2022** **STATE PRIMARY ELECTION**

- By 4:00 p.m.,
August 16, 2022** District Library Board candidates for districts that include a school district file an Affidavit of Identity and a nominating petition. (A \$100.00 nonrefundable fee may be filed in lieu of a petition.) (Special note: If district library does not include a school district, District Library Board candidates file by 4:00 p.m. on July 21, 2022). (397.181)
- By 4:00 p.m.,
Oct. 28, 2022** Write-in candidates file Declaration of Intent forms for the November general election. (168.737a)
- November 8, 2022** **STATE GENERAL ELECTION**

Filing Deadlines: New Parties and State Ballot Proposals

- By 5:00 p.m.,
June 1, 2022** Petitions to place a legislative initiative proposal on the November general election ballot filed with the Secretary of State (340,047 valid signatures required). (168.471)
- By 5:00 p.m.,
July 11, 2022** Petitions to place a proposed constitutional amendment on the November general election ballot filed with the Secretary of State (425,059 valid signatures required). (168.471)
- By 4:00 p.m.,
July 21, 2022** New political parties file petitions to qualify for November general election ballot (42,506 valid signatures required). (168.685)

Filing Deadlines: County and Local Proposals

- By 5:00 p.m.,
April 26, 2022** Petitions to place county and local questions on the August primary ballot filed with county and local clerks. (168.646a)
- By 4:00 p.m.,
May 10, 2022** Ballot wording of county and local proposals to be presented at the August primary certified to county and local clerks; local clerks receiving ballot wording forward to county clerk within two days. (168.646a)
- By 5:00 p.m.,
August 2, 2022** Petitions to place county and local questions on the November general election ballot filed with county and local clerks. (168.646a)
- By 4:00 p.m.,
August 16, 2022** Ballot wording of county and local proposals to be presented at the November general election certified to county and local clerks; local clerks receiving ballot wording forward to county clerk within two days. (168.646a)

DETAILED CALENDAR FOR ELECTION ADMINISTRATORS
**-- 2022 ELECTION DATES --
 AUGUST 2 PRIMARY
 NOVEMBER 8 GENERAL ELECTION**

All listed dates are in 2022 unless otherwise specified. Refer to Michigan compiled law for cited provisions (Legislature.Mi.Gov.) Dates are subject to change through legislative action. If any errors are found, it is the law, itself, which must be followed.

- By March 1** Democratic and Republican state party chairpersons notify county and district committee chairs of county convention delegate (precinct delegate) allocation requirements. (168.623a)
- By 5:00 p.m.,
March 21** Incumbent Appeals Court, Circuit Court, District Court and Probate Court judges file Affidavit of Candidacy and Affidavit of Identity for the August primary. Withdrawal deadline elapses at 5:00 p.m. on March 24. (168.409b, 413a, 414, 433a, 434, 467c, 467d)
- By April 1** County political party chairpersons certify number of delegates per precinct to county election commissions. (168.623a)
- By April 4** City and township election commissions finalize precinct boundaries for 2022 election cycle. (168.661)
- By 4:00 p.m.,
April 19** Candidates seeking Appeals Court, Circuit Court, and District Court or Probate Court judgeships file nonpartisan nominating petitions, Affidavit of Identity and Affidavit of Constitutional Qualification for the August primary. Withdrawal deadline elapses at 5:00 p.m. on April 22. (168.409b, 409c, 413, 414, 433, 434, 467b, 467d)
- By 4:00 p.m.,
April 19** Candidates for partisan and nonpartisan offices (other than judicial candidates) file nominating petitions (or fees if applicable) and Affidavit of Identity for the August primary. Withdrawal deadline elapses at 4:00 p.m. on April 22. (168.93, 133, 163 for federal and state-level offices; assorted other statutes for local offices)
- By 4:00 p.m.,
April 19** Candidates seeking a Wayne County Community College Trustee position file an Affidavit of Identity and a nonpartisan nominating petition. Withdrawal deadline elapses at 4:00 p.m. on April 22. (389.83, 2018 PA 628; 168.303)
- By April 25** City and township clerks forward names and addresses of partisan and nonpartisan candidates to county clerk. (168.321, 349)
- By 5:00 p.m.,
April 26** Challenges against nominating petitions filed by partisan and nonpartisan candidates submitted to filing official. (168.552)

- By 5:00 p.m.,
April 26** Petitions to place county and local questions on the August primary ballot filed with county and local clerks. (168.646a)
- April 29** Last date a recall petition can be filed for recall question to appear on August primary ballot. (168.963)
- By 4:00 p.m.,
May 3** Candidates for county convention delegate (precinct delegate) file an Affidavit of Identity for the August primary. Filing submitted to the clerk of the county in which candidate resides. Withdrawal deadline elapses at 4:00 p.m. on May 6. (168.624, 624a)
- By May 4** Last date precinct boundary alterations made for 2022 election cycle can go into effect. (168.661)
- By 4:00 p.m.,
May 10** Ballot wording of county and local proposals to be presented at the August primary certified to county and local clerks; local clerks receiving ballot wording forward to county clerk within two days. (168.646a)
- By May 31** Board of State Canvassers complete canvass of nominating petitions filed by candidates for the August primary; Secretary of State certifies candidates eligible to appear on August primary ballot to county election commissions by June 3. (168.552)
- By 5:00 p.m.,
June 1** Petitions to place a legislative initiative proposal on the November general election ballot filed with the Secretary of State (340,047 valid signatures required). (168.471)
- June 3** Final date cities and townships can establish, move or abolish a polling place for the August primary. (168.662)
- By June 3** Democratic and Republican Parties call fall state conventions. (168.591)
- By June 3** Ballot wording for constitutional amendments and legislative referendums, which the legislature wishes to place on the August primary ballot, presented to Secretary of State. (Art. 12, Sec. 1)
- By June 18** Clerks shall electronically transmit or mail (as requested) an absent voter ballot to each absent UOCAVA (uniformed services or overseas) voter who applied for an absent voter ballot 45 days or more before the election. (168.759a). All requests received since November 2, 2021, from a military or overseas voter must be honored for all 2022 elections. (168.759a)
- By June 18** County clerks deliver absent voter ballots for the August primary to local clerks. (168.714)
- By June 18** County committees of Democratic and Republican Parties call county conventions. (168.592)
- By June 23** Absent voter ballots must be available for issuance to voters. (Mich. Const. Art 2, Sec 4)
- June 23 through
July 12** Precinct inspectors for August primary appointed by city and township election commissions. (168.674)

- By July 5** Notice of voter registration for August primary published. One notice required. (168.498)
- By 5:00 p.m., July 5** Incumbent Supreme Court Justices file Affidavit of Identity and Affidavit of Candidacy forms for the November general election. (168.392a, 558)
- By July 5** Clerk shall post and enter into Qualified Voter File (QVF) the hours the clerk's office will be open on the Saturday or Sunday or both immediately before the election to issue and receive absent voter ballots. (168.761b)
- By July 5** Clerk shall post and enter into the QVF any additional locations and hours the clerk will be available to issue and receive absent voter ballots, if applicable. (168.761b)
- By 5:00 p.m., July 11** Petitions to place a proposed constitutional amendment on the November general election ballot filed with the Secretary of State. (168.471)
- July 18** Last day to register in any manner other than in-person with the local clerk for the August primary. (168.497)
- July 19 through 8:00 p.m., August 2** In-person registration with local clerk with proof of residency. (168.497)
- By 4:00 p.m., July 21** District Library Board candidates for districts that do not include a school district file an Affidavit of Identity and a nonpartisan nominating petition. (A \$100.00 nonrefundable fee may be filed in lieu of a petition.) (Special note: If district library includes a school district, District Library Board candidates file by 4:00 p.m. on August 16, 2022) (397.181)
- By 4:00 p.m., July 21** Candidates without political party affiliation seeking partisan offices file qualifying petitions and Affidavit of Identity for the November general election. Withdrawal deadline elapses at 4:00 p.m. on July 25. (168.590c)
- By 4:00 p.m., July 21** New political parties file petitions to qualify for November general election ballot. (168.685)
- By 4:00 p.m., July 22** Write-in candidates other than write-in candidates who seek precinct delegate positions file Declaration of Intent forms for the August primary. (168.737a)
- By July 23** County clerks deliver remainder of ballots and election supplies for August primary to local clerks. (168.714)
- By 4:00 p.m., July 26** Candidates for Local School Board and Community College Trustee file an Affidavit of Identity and a nonpartisan nominating petition. (A \$100.00 nonrefundable fee may be filed in lieu of a petition.) Withdrawal deadline elapses at 4:00 p.m. on July 29. (168.303; 389.152)
- By 4:00 p.m., July 26** Candidates for village offices file an Affidavit of Identity and a nonpartisan nominating petition. Withdrawal deadline elapses at 4:00 p.m. on July 29. (168.381)
- By July 26** Notice of August primary published. One notice required. (168.653a)

- By July 27** City and township clerks forward names and addresses of candidates without political party affiliation to county clerk. (168.321, 349)
- By 5:00 p.m.,
July 28** Challenges against qualifying petitions filed by candidates without political party affiliation submitted to filing official. (168.552)
- By July 28** Public accuracy test must be conducted. (R 168.778) Notice of test must be published at least 48 hours before test. (168.798)
- By 4:00 p.m.,
July 29** Write-in candidates who seek precinct delegate positions file Declaration of Intent forms with the county clerk for the August primary. (As an alternative, candidates for precinct delegate may file form with appropriate precinct board on election day before the close of the polls.) (168.737a)
- By 5:00 p.m.,
July 29** Electors may obtain an absent voter ballot via First Class mail. (168.759)
- By 5:00 p.m.,
July 29** Electors may submit written request to spoil their absent voter ballot and receive new ballot via First Class mail. (168.765b)
- By 10:00 a.m.,
August 1** Electors who have returned their absent voter ballot may submit written request in person to spoil their absent voter ballot and receive new ballot in the clerk's office. (168.765b)
- Up to 4:00 p.m.,
August 1** Electors may obtain an absent voter ballot in person in the clerk's office. (168.761)
- Up to 4:00 p.m.,
August 1** Electors who have lost their absent voter ballot or not yet received their ballot in the mail may submit a written request in person to spoil their absent voter ballot and receive a new ballot in the clerk's office. (168.765b)
- Up to 4:00 p.m.,
August 2** Emergency absentee voting for August primary. (168.759b)
- By 5:00 p.m.,
August 2** Petitions to place county and local questions on the November general election ballot filed with county and local clerks. (If governing law sets an earlier petition filing deadline, earlier deadline must be observed.) (168.646a)
- Up to 8:00 p.m.,
August 2** Election Day registrants may obtain and vote an absent voter ballot in person in the local clerk's office with proof of residency or vote in person in the proper precinct. (168.761)
- By August 2** Minor parties hold county caucuses; notify county clerk of nominated candidates within one business day after caucus. (168.686a)
- By August 2** Minor parties hold state conventions; notify Secretary of State of nominated candidates within one business day after convention. (168.686a)
- August 2** **STATE PRIMARY ELECTION**
- By 9:00 a.m.,
August 4** Boards of county canvassers meet to canvass August primary. (168.821)
- August 5** Last date a recall petition can be filed for recall question to appear on November general election ballot. (168.963)

- By August 9** County clerks notify precinct delegates elected at August primary; certify delegate names and addresses to chairpersons of county committees. (168.608)
- August 10 through August 27** Democratic and Republican Parties hold fall county conventions. (168.592)
- By 4:00 p.m., August 16** District Library Board candidates (for library districts that include a school district) file an Affidavit of Identity and a nominating petition. (A \$100.00 nonrefundable fee may be filed in lieu of a petition.) Withdrawal deadline elapses at 4:00 p.m. on August 19. (Special note: If district library does not include a school district, District Library Board candidates file by 4:00 p.m. on July 26.) (397.181)
- By 4:00 p.m., August 16** Ballot wording of county and local proposals to be presented at the November general election certified to county and local clerks; local clerks receiving ballot wording forward to county clerk within two days. (168.646a)
- By August 16** Boards of county canvassers complete canvass of August primary; county clerks forward results to Secretary of State within 24 hours. (168.581, 822, 828)
- By August 22** Board of State Canvassers meet to canvass August primary. (168.581)
- By Sept. 9** Democratic and Republican Parties hold fall state conventions. (168.591)
- By Sept. 9** Cities and townships can establish, move or abolish a polling place for the November general election. (168.662)
- By Sept. 9** Ballot wording for constitutional amendments and legislative referendums, which the legislature wishes to place on the November general election ballot, presented to Secretary of State. (Art. 12, Sec. 1)
- By Sept. 24** Clerks shall electronically transmit or mail (as requested) an absent voter ballot to each absent UOCAVA (uniformed services or overseas) voter who applied for an absent voter ballot 45 days or more before the election. (168.759a). All requests received since November 2, 2021, from a military or overseas voter must be honored for all 2022 elections. (168.759a)
- By Sept. 24** County clerks deliver absent voter ballots for November general election to local clerks. (168.714)
- By Sept. 29** Absent voter ballots must be available for issuance to voters. (1963 Mich. Const. Art 2, Sec 4)
- Sept. 29 through Oct. 18** Precinct inspectors for November general election appointed by city and township election commissions. (168.674)
- By Oct. 11** Notice of voter registration for November general election published. One notice required. (168.498)

- By Oct. 11** Clerk shall post and enter into QVF the hours the clerk's office will be open on the Saturday or Sunday or both immediately before the election to issue and receive absent voter ballots. (168.761b)
- By Oct. 11** Clerk shall post and enter into the QVF any additional locations and hours the clerk will be available to issue and receive absent voter ballots, if applicable. (168.761b)
- Oct. 24** Last day to register in any manner other than in-person with the local clerk for the November general election. (168.497)
- Oct. 25 through 8:00 p.m., Nov. 8** In-person registration with local clerk with proof of residency. (168.497)
- By 4:00 p.m., Oct. 28** Write-in candidates file Declaration of Intent forms for the November general election. (168.737a)
- By Oct. 29** County clerks deliver remainder of ballots and election supplies for November general election to local clerks. (168.714)
- By Nov. 1** Notice of November general election published. One notice required. (168.653a)
- By Nov. 3** Public accuracy test must be conducted. (R 168.778) Notice of test must be published at least 48 hours before test. (168.798)
- By 5:00 p.m., Nov. 4** Electors may obtain an absent voter ballot via First Class mail. (168.759)
- By 5:00 p.m., Nov. 4** Voters may submit written request to spoil their absent voter ballot and receive new ballot by mail. (168.765b)
- Up to 4:00 p.m., Nov. 7** Electors may obtain an absent voter ballot in person in the clerk's office. (168.761)
- By 10:00 a.m., Nov. 7** Electors who have returned their absent voter ballot may submit a written request in person to spoil their absent voter ballot and receive new ballot in the clerk's office. (168.765b)
- Up to 4:00 p.m., Nov. 7** Electors who have lost their absent voter ballot or not yet received their ballot in the mail may submit a written request in person to spoil their absent voter ballot and receive a new ballot in the clerk's office. (168.765b)
- Up to 4:00 p.m., Nov. 8** Emergency absentee voting for November general election. (168.759b)
- Up to 8:00 p.m., Nov. 8** Election Day registrants may obtain and vote an absent voter ballot in person in the local clerk's office with proof of residency or vote in person in the proper precinct. (168.761)
- Nov. 8** **STATE GENERAL ELECTION**
- By 9:00 a.m., Nov. 10** Boards of county canvassers meet to canvass November general election. (168.821)

- By Nov. 22** Boards of county canvassers complete canvass of November general election; county clerks forward results to Secretary of State within 24 hours. (168.822, 828)
- By Nov. 28** Board of State Canvassers meet to canvass November general election. (168.842)

RECOUNT FILING DATES

All US House, State Senate and State House Seats

- Districts that lie wholly contained within one (1) county
 - * Recount petitions must be filed with the Secretary of State within 48 hours after the adjournment of the meeting of the Board of State Canvassers at which the certificate for determination for that office was recorded. (168.879)
 - * Counter petitions must be filed with the Secretary of State at or before 4:00 p.m. on the seventh day after the filing of the recount petition. (168.882)
- Districts located in more than one (1) county
 - * Recount petitions must be filed with the Secretary of State within 48 hours after the Board of State Canvassers completes the canvass. (168.879)
 - * Counter petitions must be filed with the Secretary of State at or before 4:00 p.m. on the seventh day after the filing of the recount petition. (168.882)

Any Other Office Canvassed by the Board of State Canvassers

- * Recount petitions must be filed with the Secretary of State within 48 hours after the Board of State Canvassers completes the canvass. (168.879)
- * Counter petitions must be filed with the Secretary of State at or before 4:00 p.m. on the seventh day after the filing of the recount petition. (168.882)

Any Other Office Canvassed by County Boards of Canvassers

- * Recount petitions must be filed with the County Clerk within six days after the board of County canvassers completes the canvass. A copy of the recount petition shall also be filed with the Secretary of State within 2 days of the filing of the recount petition. (168.866)
- * Counter petitions must be filed with the County Clerk within 48 hours after the filing of the recount petition. (168.868)

OFFICES TO BE ELECTED IN 2022

Governor/Lt. Governor

Secretary of State

Attorney General

US Representative in Congress (all districts)

State Senate (all districts)

State Representative (all districts)

State Board of Education (2 seats)

University of Michigan Regents (2 seats) Michigan State

University Trustees (2 seats) Wayne State University Governors

(2 seats) Justice of the Supreme Court

Judge of the Court of Appeals

Judge of the Circuit Court

Judge of the District Court

Judge of Probate

Specified County and Township Offices

Specified City and Village Offices

Specified School District Positions

2022 FILING REQUIREMENTS
Federal and State Elective Partisan Offices
Supreme Court Justice

Petition Filing Information: Democratic and Republican Candidates

- Democratic and Republican candidates can file nominating petitions for the following federal and state elective offices: Governor, US Representative in Congress, State Senate and State Representative (see below for additional elective offices whose Democratic and Republican nominees are determined by caucus or convention.)
- Democratic and Republican candidates must file a *partisan nominating petition* no later than 4:00 p.m., April 19, 2022. Democratic and Republican candidates who seek the office of State Senator or State Representative may file a \$100.00 filing fee in lieu of a petition.
- Democratic and Republican candidates who submit a valid filing for office will be placed on the August primary ballot.

Petition Filing Information: Candidates Without Political Party Affiliation

- Candidates without political party affiliation can file for the following federal and state elective offices: Governor, Secretary of State, Attorney General, US Representative in Congress, State Senate, State Representative, State Board of Education, University of Michigan Regent, Michigan State University Trustee, Wayne State University Governor and Supreme Court Justice.
- Candidates without political party affiliation who seek a partisan office or the office of Supreme Court Justice must file a *qualifying petition* no later than 4:00 p.m., July 21, 2022.
- All signatures submitted on a qualifying petition must have been collected within the preceding 180-day period; signatures which are dated more than 180 days prior to the date the petition is filed are invalid.
- Candidates without political party affiliation who submit a valid filing will be placed on the November general election ballot.

Affidavit of Identity Required of All Candidates

All candidates must submit an Affidavit of Identity in duplicate when filing for office. Affidavit of Identity forms can be obtained from any filing official or from the Department of State's Bureau of Elections in Lansing ([Michigan.gov/Elections](https://www.michigan.gov/Elections).) A candidate who fails to comply with this requirement is ineligible to appear on the ballot.

Except for candidates seeking federal elective office or the office of precinct delegate, Michigan election law requires any candidate filing an Affidavit of Identity to state on the form that on the date the affidavit was executed, all statements, reports, late filing fees and fines required of the candidate or any Candidate Committee organized to support the candidate's election under

Michigan’s Campaign Finance Act have been filed or paid. Candidates who to comply with this requirement or execute an Affidavit of Identity containing a false statement will be disqualified.

Post-Election Campaign Finance Compliance Statement

Except as noted below, Michigan election law requires any candidate elected to office on the state, county or local level to file an affidavit *prior to assuming office* which states that on the date the affidavit was executed all statements, reports, late filing fees and fines required of the candidate or any Candidate Committee organized to support the candidate’s election under Michigan’s Campaign Finance Act have been filed or paid. The affidavit is *not* required of an elected candidate who did not receive or expend more than \$1,000.00 during the election cycle. In addition, the form does not have to be filed by an individual elected to a federal office or a precinct delegate position.

A form developed for distribution to candidates who must comply with the filing requirement (“Post-Election Campaign Finance Compliance Statement”) is available through any filing official. An elected candidate who is required to file the statement but who fails to submit the form is guilty of a misdemeanor.

Signature Requirements; Filing Location

The following lists the petition signature requirements for the offices to be filled in 2022.

NOTE: Minor party candidates are nominated by caucus or convention and appear on the November General election ballot.

GOVERNOR

All candidates who seek the office of Governor file with the Department of State’s Bureau of Elections in Lansing.

DEMOCRATIC		REPUBLICAN		NO POLITICAL PARTY AFFILIATION	
MIN	MAX	MIN	MAX	MIN	MAX
15,000	30,000	15,000	30,000	12,000	24,000

A qualifying petition circulated for the office of Governor must be signed by at least 100 registered voters in each of at least ½ of the congressional districts in the state.

A candidate without political party affiliation who files for the office of Governor is also required to submit the name of his or her running mate. For complete information, contact the Michigan Department of State’s Bureau of Elections.

U.S. REPRESENTATIVE IN CONGRESS

Multi-County Districts: A candidate who seeks the office of U.S. Representative in Congress in a multi-county district files with the Department of State’s Bureau of Elections in Lansing.

Single-County Districts: A candidate who seeks the office of U.S. Representative in Congress in a single-county district files with the County Clerk’s office.

DEMOCRATIC		REPUBLICAN		NO POLITICAL PARTY AFFILIATION	
MIN	MAX	MIN	MAX	MIN	MAX
1,000	2,000	1,000	2,000	3,000	6,000

**STATE BOARD OF EDUCATION
UNIVERSITY OF MICHIGAN REGENT
MICHIGAN STATE UNIVERSITY TRUSTEE
WAYNE STATE UNIVERSITY GOVERNOR
SUPREME COURT JUSTICE**

All candidates who seek the above offices file with the Department of State’s Bureau of Elections in Lansing (Note: Incumbent Supreme Court Justice files by affidavit).

DEMOCRATIC	REPUBLICAN	NO POLITICAL PARTY AFFILIATION	
		MIN	MAX
Nominated at State Convention	Nominated at State Convention	12,000	24,000

A petition for one of the above offices must be signed by at least 100 registered electors in each of at least ½ of the congressional districts in the state.

STATE SENATE

Multi-County Districts: A candidate who seeks the office of State Senate in a multi- county district files with the Department of State’s Bureau of Elections in Lansing.

Single-County Districts: A candidate who seeks the office of State Senate in a single-county district files with the county clerk.

DEMOCRATIC		REPUBLICAN		NO POLITICAL PARTY AFFILIATION	
MIN	MAX	MIN	MAX	MIN	MAX
500	1,000	500	1,000	1,500	3,000

Democratic and Republican candidates who seek the office of State Senate may file a \$100.00 filing fee in lieu of a petition.

STATE REPRESENTATIVE

Multi-County Districts: A candidate who seeks the office of State Representative in a multi-county district files with the Department of State’s Bureau of Elections in Lansing.

Single-County Districts: A candidate who seeks the office of State Representative in a single-county district files with the county clerk.

DEMOCRATIC		REPUBLICAN		NO POLITICAL PARTY AFFILIATION	
MIN	MAX	MIN	MAX	MIN	MAX
200	400	200	400	600	1,200

Democratic and Republican candidates who seek the office of State Representative may file a \$100.00 filing fee in lieu of a petition.

EXHIBIT I

Plain Language

"Any and All": To Use Or Not To Use?

By David S. Elder

I was given a rough time recently by two friends about what they described as "the pompous verbiage that lawyers use for language." One of them said, "I suppose you lawyers refer to Dana's classic as *Two Years Prior to the Mast*." The other added, "And you probably call that popular poem of Kipling's 'In the Event That.'" Was there any answer I could make?

—Williard, 49 ABA J 934 (1963)

Perhaps this simple anecdote says it all. But does it really?

Lawyers, for as many years as there have been lawyers, have debated the use of plain language in their speech and written work. Is the use of "legalese" and redundant phrases a self-protecting language that lawyers use to insulate themselves from the rest of society? Do lawyers use phrases such as "hereby" and "party of the first part" simply because these terms have become reflexive Pavlovian legal language?

And most important, when may fine distinctions in meaning influence the outcome of a case? Certainly one of the greatest fears that a lawyer faces is the possibility of an adverse judgment because of misusing a word or phrase.

"Plain Language" is a regular feature of the *Michigan Bar Journal*, edited by Joseph Kimble for the State Bar Plain English Committee. Assistant editor is George H. Hathaway. Through this column the Committee hopes to promote the use of plain English in the law. Want to contribute a plain English article? Contact Prof. Kimble at Thomas Cooley Law School, P.O. Box 13038, Lansing, MI 48901.

So what about "any and all"? Is it really necessary, or can it be discarded as archaic and redundant? Death by purposeful neglect or continued existence by legal need, that is the question.

Webster's *Ninth New Collegiate Dictionary* (Merriam-Webster, 1984), p 93, gives the following as one definition of the word "any": "2: one, some, or all indiscriminately of whatever quantity: a: one or more—used to indicate an undetermined number or amount."

And the reverse is also true. One definition of "all" is "any whatever." *Id.*, p 71. In other words, "any" is broad enough to include "all," and "all" can mean any one.

Even more convincing is *Black's Law Dictionary* (6th ed), p 94, which defines "any" as follows:

"Some, one out of many; an indefinite number. One indiscriminately of whatever kind of quantity. . . . '[A]ny' has a diversity of meaning and may be employed to indicate 'all' or 'every' as well as 'some' or 'one' and its meaning in a given statute depends upon the context and the subject matter of the statute. It is often synonymous with 'either,' 'every,' or 'all.'" (Citations omitted; emphasis added.)

Authorities on legal writing have urged writers to avoid using "any and all." Bryan Garner's *Elements of Legal Style* (Oxford University Press, 1991), pp 187-188, convincingly recommends:

"7.10. Instead of Using Doublets or Triplets, Use a Single Word.

Among the lawyer's least endearing habits is to string out near-synonyms. The causes are several. First, the language of the law has its origins in the unhurried prose of centuries past. Second, the strong oral tradition in England led inevitably to a surfeit of words

to allow time for the listener to take in the speaker's point. Third, where one of the words might be unfamiliar, the synonym served as a gloss. Finally, lawyers distrusted their ability to find the right word, and therefore used a verbal scattergun instead of a rifle shot. As a result, we still use phrases such as these:

agree and covenant

all and singular

any and all

...."

Reed Dickerson, in his *Fundamentals of Legal Drafting* (2d ed, Little, Brown, 1986), p 208, agrees that the drafter should avoid "any and all" and similar pairs one of which includes the other. The drafter "should use the broader or narrower term as the substance requires." *Id.*

Still other commentators have called for the abandonment of "any and all." In Squires and Mucklestone, *A Simple "Simple" Will*, 57 Wash L R 461 (1982), the authors set forth a guide for wills that is simple in form yet sophisticated in substance. "The authors attempted to avoid both unneeded precision and vagueness and instead attempted to make statements general whenever possible." *Id.*, p 463. This article includes a list of recurring phrases that can be consistently shortened or simplified. And the list includes a phrase that we have come to know quite well.

Unrevised Phrases and Words

in respect to, of
any and all
all or any part
in the event that
aforesaid

Revised To

to
all
any
if
[omit or specify]

Unrevised Phrases and Words

to make any such distributions provided that property of every kind and character said, such, same expiration

Revised To

to distribute if any property [omit] end

Despite all of this advice, "any and all" finds its way into lawyers' speech, memorandums, briefs, and opinions, and most often into insurance and indemnification contracts.

The Michigan Supreme Court seemed to approve our dictionary definitions of "any" in *Harrington v Interstate Business Men's Accident Ass'n*, 210 Mich 327, 330; 178 NW 19 (1920), when it quoted *Hopkins v Sanders*, 172 Mich 227; 137 NW 709 (1912). The Court defined "any" like this:

"In broad language, it covers 'any final decree' in 'any suit at law or in chan-

cery' in 'any circuit court.' 'Any' means 'every,' 'each one of all.'"

In a later case, the Michigan Supreme Court again held that the use of "any" in an agency contract meant "all." In *Gibson v Agricultural Life Ins Co*, 282 Mich 282, 284; 276 NW 450 (1937), the clause in controversy read:

"14. The Company shall have, and is hereby given a first lien upon any commissions or renewals as security for any claim due or to become due to the Company from said Agent." (Emphasis added.)

The *Gibson* court was not persuaded by the plaintiff's insistence that the word "any" meant less than "all":

"Giving the wording of paragraph 14 of the agency contract its plain and unequivocal meaning, upon arriving at the conclusion that the sensible connotation of the word 'any' implies 'all' and

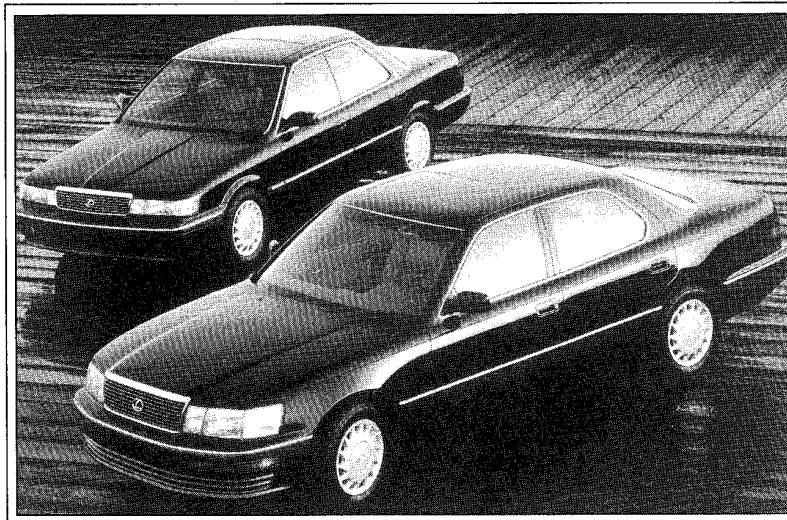
not 'some,' the legal conclusion follows that the defendant is entitled to retain the earned renewal commissions arising from its agency contract with Gibson and cannot be held legally liable for same in this action." *Gibson* at 287 (quoting the trial court opinion).

The Michigan Court of Appeals has similarly interpreted the word "any" as used in a Michigan statute. In *McGrath v Clark*, 89 Mich App 194; 280 NW2d 480 (1979), the plaintiff accepted defendant's offer of judgment. The offer said nothing about prejudgment interest. The statute the Court examined was MCL 600.6013; MSA 27A.6013:

"Interest shall be allowed on any money judgment recovered in a civil action...."

The Court held that "the word 'any' is to be considered all-inclusive," so the defendants were entitled to interest. *McGrath* at 197.

Call us for a test drive & judge for yourself.



**HARVEY LEXUS
OF GRAND RAPIDS**

Call your Lexus consultant today.
1-800-552-2339
to arrange for a personal evaluation drive.

Recently, the Court has again held that “[a]ny means ‘every,’ ‘each one of all,’ and is unlimited in its scope.” *Parker v Nationwide Mutual Ins Co*, 188 Mich App 354, 356; 470 NW2d 416 (1991) (quoting *Harrington v Inter-State Men’s Accident Ass’n*, *supra*).

On the other hand, at least one panel has held that “any” as used in an indemnification contract was wanting for vagueness. In *Geurink v Herlihy Mid-Continent Co*, 5 Mich App 154, 156-157; 146 NW2d 111 (1967), an indemnification contract contained the following language:

“The subcontractor hereby waives and releases the general contractor from all liability for injuries to persons and damages to and loss of property which the subcontractor may suffer or sustain in performance of this subcontract, or in connection herewith; and the subcontractor hereby agrees and covenants to indemnify and hold harmless the general contractor from all liability, claims, demands, causes of action and judgments arising by reason of any personal injuries or loss and damage to property suffered by or sustained by any of the subcontractor’s employees” (Emphasis added.)

The issue the Court faced was the liability of the general contractor for its own negligence. “The appellant [general contractor] places great emphasis on the broad language ‘any’ damage or injury suffered ‘on’ the site of the work.” *Geurink* at 158.

The *Geurink* court held that the broad all-inclusive language used in the contract did not insulate the general contractor because it did not specifically mention the general contractor’s liability for its own negligence. It was not clear that the parties agreed to this type of indemnification.

David Elder is a recent graduate of Thomas Cooley Law School. He received his undergraduate degree from Ohio University.

It is doubtful, however, that using “any and all” instead of “any” would have affected the outcome of this case. It certainly would not have made this particular clause any more specific.

Moreover, the Court of Appeals seemed to change its mind in *Paquin v Proksch Construction Co*, 113 Mich App 43; 317 NW2d 279 (1982). In *Paquin*, the contract again rolled out the doublets:

“The Contractor shall . . . indemnify and hold harmless the Owner . . . from and against any and all claim or claims arising out of the Work performed by the Contractor or any subcontractor; also, the Contractor shall pay, liquidate and discharge any and all claims or demands for bodily injury . . . alleged or claimed to have been caused by, grown out of or incidental to the performance of the Work performed by the Contractor or any subcontractor” *Paquin* at 280. (Emphasis added.)

An injury occurred to the contractor’s employee when an owner’s employee negligently moved an overhead crane, crushing the man’s fingers.

The *Paquin* court noted: “The indemnity provisions in the case at bar make abundant use of the words ‘any’ and ‘all’ and of the phrase ‘any and all’ in describing the claims to which the provision applies.” *Paquin* at 50. In holding for the indemnified owner, the Court chose not to follow *Geurink*, *supra*, stating that there could be no broader classification than the word “all,” and that in its ordinary meaning, the word “all” leaves no room for exceptions. *Paquin*, p 50 [quoting *Pritts v J I Case Co*, 108 Mich App 22, 30; 310 NW2d 261 (1981)].

There’s no reason to think that “any and all” made the difference. The lesson of these two cases is not that “any and all” has an advantage over “any,” but that on rare occasions either word may be too vague to convey the parties’ intentions.

One final example. In *Karl v Bryant Air Conditioning Co*, 416 Mich 558; 331 NW2d 456 (1982), the Michigan Su-

preme Court was asked by the United States Court of Appeals for the Sixth Circuit to certify three questions of law. Among the issues was whether the legislature intended that MCL 600.2949; MSA 27A.2949 (comparative negligence statute) apply to products liability actions sounding in implied warranty.

“Section 2949. (1) In all products liability actions . . . , the fact that the plaintiff may have been guilty of contributory negligence shall not bar a recovery by the plaintiff or the plaintiff’s legal representatives, but damages sustained by the plaintiff shall be diminished in proportion to the amount of negligence attributed to the plaintiff.” (Emphasis in opinion.)

“Section 2945. As used in sections 2946 to 2949 and section 5805, ‘products liability action’ means an action based on any legal or equitable theory of liability brought for or on account of death or injury to person or property caused by or resulting from the manufacture, construction design, formula, development of standards, preparation, processing, assembly, inspection, testing, listing, certifying, warning, instructing, marketing, advertising, packaging, or labeling of a product or a component of a product.” (Emphasis in opinion.)

In both these statutes the legislature chose not to use “any and all,” but one or the other, to describe product liability actions.

The Court stated:

“In §2949, the operative language is ‘all products liability actions.’ This language is defined in §2945 as follows: “products liability action” means an action based on any legal or equitable theory of liability.’ It is difficult to imagine any language more all-inclusive.” *Karl* at 568.

And the Court held:

“We believe that the Legislature’s use of the words ‘all’ and ‘any’ require, without further interpretative inquiry, the construction that comparative negligence applies to all and any products liability actions, including those sounding in implied warranty.” *Karl* at 569. (Emphasis in original.)

Thus, the Court, in its certified answer to the Sixth Circuit, concluded that “all” meant “any.” One word was enough.

Suppose that both statutes in *Karl* had used “all,” or both had used “any.” Any difference? It’s hard to imagine why there would be.

Other state courts have defined “any” as synonymous with “every” and “all.” For instance, in *Donohue v Zoning Board of Appeals*, 235 A2d 643 (Conn, 1967), the court said the word “any” has a diversity of meanings and may be employed to indicate “all” or “every” as well as “some” or “one.” The list of cases using this definition of “any” is exhaustive and may be found in 3A

Words and Phrases (1991 Cum Supp), pp 23-27.

If all these authorities tell us that “any and all” is normally redundant, then why not substitute “any” or “all” as the context requires? See Figure 1. This is one little symbolic step that lawyers can take in reducing the doublets and triplets that continue to plague legal writing.

Perhaps the argument was best put in a quote the author found while looking for something else.

“Simplicity of character is no hindrance to subtlety of intellect.” John Viscount Morley, *Life of Gladstone* (1903). ■

Figure 1—From Dickerson, *The Fundamentals of Legal Drafting* (2d ed, Little, Brown, 1986), p 217.

§9.5. “ANY,” “EACH,” “EVERY,” ETC.

The draftsman should use adjectives such as “each,” “every,” “any,” “all,” “no,” and “some” (technically known as “pronominal indefinite adjectives”) only when necessary. If the subject of the sentence is plural, it is almost never necessary to use such an adjective (e.g., “Qualified state officers shall” rather than “All qualified state officers shall”).

If the subject of the sentence is singular, the draftsman should use the pronominal indefinite only when the article “a” or “the” is inadequate, as when the use of “a” would allow the unintended interpretation that the obligation is to be discharged (or the privilege exhausted) by applying it to a single member of the class instead of to all of them. “Any” and “no” should be reserved for instances where the context would otherwise raise a significant doubt as to whether the draftsman intended to cover everyone in the described class.

If it is necessary to use a pronominal indefinite, he should follow these conventions:

(1) If a right, privilege, or power is conferred, use “any” (e.g., “Any qualified state officer may”).

(2) If an obligation to act is imposed, use “each” (e.g., “Each qualified state officer shall”).

(3) If a right, privilege, or power is abridged, or an obligation to abstain from acting is imposed, use “no” (e.g., “No qualified state officer may”).

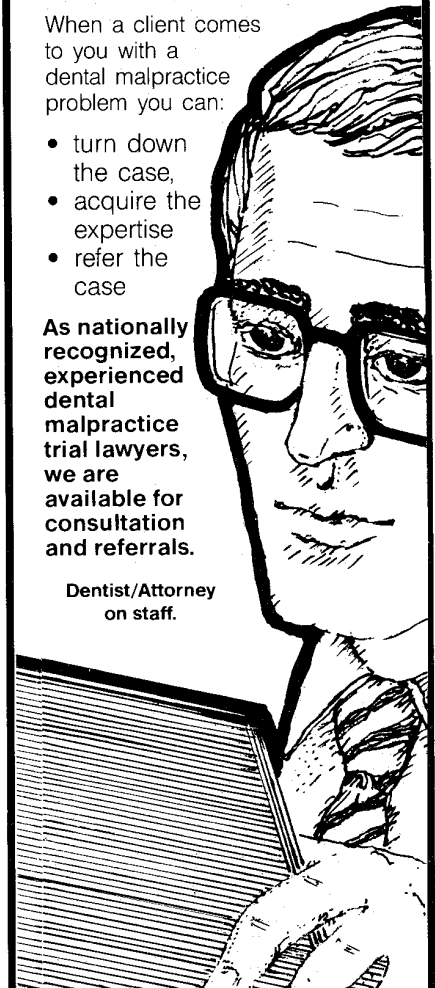
DENTAL MALPRACTICE CASES CALL FOR SPECIAL EXPERTISE

When a client comes to you with a dental malpractice problem you can:

- turn down the case,
- acquire the expertise
- refer the case

As nationally recognized, experienced dental malpractice trial lawyers, we are available for consultation and referrals.

Dentist/Attorney on staff.



**GITTLEMAN
PASKEL &
TASHMAN
BLUMBERG, PC**
TRIAL LAWYERS

24472 Northwestern Highway
Southfield, Michigan 48075
(313) 353-7750

EXHIBIT J

but whether it is possible to uphold; that every reasonable presumption, both of law and fact, is to be indulged in favor of the legality of the amendment, which will not be overthrown, unless illegality appears beyond a reasonable doubt. [*Id.* (citation omitted).]

To the extent this Court deigns to review Plaintiffs' argument, *see, e.g., Bates*, 131 F.3d at 846 ("Assuming, without deciding, that a federal court may determine whether a state has given adequate notice to its voters in connection with a statewide initiative ballot measure dealing with term limits on state officeholders, we hold that California's notice with regard to Proposition 140 was sufficient"), it must review this post-enactment challenge through the same lens applied by the Michigan Supreme Court in *Massey*.

B. The Title-Object Clause in Article IV, § 24 does not apply to petitions to amend the Michigan Constitution under Article XII, § 2.

Article IV, § 24 provides in full:

No *law* shall embrace more than one object, which shall be expressed in its *title*. No *bill* shall be altered or amended *on its passage through either house* so as to change its original purpose as determined by its total content and not alone by its *title*. [Mich. Const. 1963, Art. IV, § 24 (emphasis added).]

The first sentence is referred to as the Title-Object Clause. As the district court observed, § 24 appears in Article IV of the Michigan

Constitution, which pertains to the Legislature. And it is plain from the text of § 24 that its prohibitions apply to legislation. The references to “title,”⁶ “bill,”⁷ and “passage through either house,”⁸ make that abundantly clear. Thus, the words “law” and “title” used in the first sentence refer to legislation. This is further supported by review of various other sections in Article IV referring to “bills” and “laws.” See, e.g., Mich. Const. 1963, Art. IV, §§ 23, 25-26, 28, 32-36.

Notably, the words “bill” and “title” appear nowhere in Article XII, § 2. Relevant here, § 2 provides that “[a]mendments may be proposed to this constitution by petition of the registered electors of this state. Every petition shall include the full text of the proposed amendment, and be signed by registered electors of the state equal in number to at least 10 percent of the total vote cast for all candidates for governor at the last preceding general election at which a governor was elected.”

⁶ “The title to an act is required by the constitution. It is as much a part of the act as the body thereof.” *Leininger v. Alger*, 26 N.W.2d 348, 351 (Mich. 1947) (quoting *Fillmore v. Van Horn*, 88 N.W. 69, 70 (Mich. 1901).)

⁷ Article IV, § 22 of the Michigan Constitution provides that “[a]ll legislation shall be by bill and may originate in either house.”

⁸ Article IV, § 1 of the Michigan Constitution provides that “[t]he legislative power of the State of Michigan is vested in a senate and a house of representatives.”

Mich. Const. 1963, Art. XII, § 2. The Michigan Election Law then prescribes the format of a petition to amend the Constitution. See Mich. Comp. Laws § 168.482. Nowhere is a “title” required for an initiative petition to amend the Constitution.

Plaintiffs argue that Michigan cases have held that people-initiated laws are on equal footing with laws enacted by the Legislature (Doc. 15, Pls’ Brf, p 51) (citing *Leininger v. Alger*, 26 N.W.2d 348, 350 (Mich. 1947); *In re Advisory Opinion re Constitutionality of 1982 PA 47*, 340 N.W.2d 817, 825 (Mich. 1983) (“The courts have reasoned that the legislative power retained by the people, through the initiative and referendum, does not give any more force or effect to voter-approved legislation than to legislative acts not so approved.”)).

The Secretary agrees with this general statement of law. But Plaintiffs then argue that this “equal footing requires that voter-initiated amendments to the Michigan Constitution satisfy the requirements” of the Title-Object Clause. (Doc. 15, Pls’ Br, pp 51-52.) There is simply no support for this assertion, legally or logically. The cases Plaintiffs cite discuss initiated legislation under Article II, § 9 of the Michigan Constitution or other voter-approved legislation—not

amendments to the Constitution under Article XII. And Plaintiffs' reliance on *Leininger* is further misplaced since that case interpreted the former version of Article II, § 9, which expressly required a petition to initiate legislation to include a "title." *Leininger*, 26 N.W.2d at 350 (quoting Mich. Const. 1908, Article 5, § 1.) The "title" requirement no longer appears in Article II, § 9, and it has never appeared as a requirement in Article XII, § 2 or its predecessor, Mich. Const. 1908, XVII, § 2.⁹

Further, Plaintiffs make absolutely no effort to provide a textual interpretation of § 24 to support their argument that it applies to amendments to the Michigan Constitution. This may be because no credible argument can be made. The Constitution or an amendment to the Constitution is not legislation subject to Article IV, § 24, or any other provision in Article IV.

At bottom, Plaintiffs' argument is simply that they think § 24 should apply to constitutional amendments because the "goals" of the

⁹ Courts have subsequently concluded that a petition to initiate legislation still must contain a title consistent with Article IV, § 54. See *Automobile Club of Mich. Comm. for Lower Rates Now v. Secretary of State*, 491 N.W.2d 269, 274 (Mich. Ct. App. 1992).

Title-Object Clause could apply “equally” to amendments. (Doc. 15, Plfs’ Brf, p 52.) The Michigan Court of Appeals has neatly explained the purpose of the clause:

The goal of the Title–Object Clause is notice, not restriction, of legislation, and it is only violated where the subjects are so diverse in nature that they have no necessary connection. The purpose of the clause is to prevent the Legislature from passing laws not fully understood, and to ensure that both the legislators and the public have proper notice of legislative content and to prevent deceit and subterfuge. [*Lawnichak v. Dep't. of Treasury*, 543 N.W.2d 359, 361 (1995) (citations omitted).]

But Article XII includes its own, specific provisions that serve these purposes. As far as notice to the Legislature and the public of the content of an amendment, Article XII, § 2 provides that the “proposed amendment, existing provisions of the constitution which would be altered or abrogated thereby, and the question as it shall appear on the ballot shall be published in full as provided by law. Copies of such publication shall be posted in each polling place and furnished to news media as provided by law.” Mich. Const. 1963, Art. XII, § 2; Mich. Comp. Laws § 168.480. In addition, § 2 has specific requirements regarding ballot language for constitutional amendments, including that it “shall consist of a true and impartial statement of the purpose of

the amendment in such language as shall create no prejudice for or against the proposed amendment.” *Id.*

Article XII also contains its own version of a multiple-object prohibition. Section 3 prescribes the methods for effecting a general revision of the Constitution. Mich. Const. 1963, Art. XII, § 3. As Plaintiffs recognize, § 3 is the vehicle that ballot proposal opponents have used to argue that a proposed constitutional amendment includes too many disparate revisions, i.e., multiple objects. *See Citizens Protecting Michigan’s Constitution (CPMC II) v. Secretary of State*, 921 N.W.2d 247 (Mich. 2018); *Citizens Protecting Michigan’s Constitution (CPMC I) v. Secretary of State*, 761 N.W.2d 210 (Mich. Ct. App. 2008), *aff’d* 755 N.W.2d 157 (Mich. 2008).

Plaintiffs’ argument that the Title-Object Clause applies to § 54 as a constitutional amendment under Article XII is contrary to the plain language of the Constitution, is unsupported by any existing case law, and is meritless. Plaintiffs have not shown “illegality [] beyond a reasonable doubt” that would support rendering this 29-year-old amendment by the People invalid. *Massey*, 579 N.W.2d at 865.

EXHIBIT K