

# Citizens Research Council of Michigan

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## Michigan Constitutional Issues

CITIZENS RESEARCH COUNCIL OF MICHIGAN IS A 501(C) 3 TAX EXEMPT ORGANIZATION

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### THE NOVEMBER 1994 BALLOT QUESTION AND A BRIEF MICHIGAN CONSTITUTIONAL HISTORY

#### THE ISSUE IN BRIEF

At the November 8, 1994 general election, the voters of Michigan will decide whether to call a constitutional convention to revise the Michigan Constitution of 1963. The question appears on the ballot automatically every 16 years as required by the Constitution. If the question is approved, within six months a special primary and an election will be held for delegates. The Constitution provides that a convention would convene in Lansing on October 2, 1995. If the question is rejected, it will automatically appear on the ballot again in the year 2010.

The people of Michigan have adopted four constitutions have rejected two others and have failed to approve the calling a constitutional convention on 10 occasions.

The Michigan Constitution of 1963 compared to other state constitutions is relatively newer, has fewer than the average number of words and has been amended less frequently. Michigan has had a total of four state constitutions, only nine states have had five or more. Since Michigan adopted its current constitution in 1963, nine other states have adopted new state constitutions. There have been 51 proposed amendments to the present Michigan Constitution submitted to the voters: 18 were approved, 33 rejected.

#### The Ballot Question

The Constitution of 1963 requires that every 16 years the question of calling a constitutional convention be placed before the voters of Michigan. The proposal will appear on the ballot in November in language similar to the following which was used on the November 1978 ballot:

Shall a convention of elected delegates be called for the purpose of a general revision of the Michigan Constitution, any such revision to be submitted to the voters for ratification?

If a majority of the electors voting on the question approve the calling of a convention, then within six months a special primary and an election will be held for delegates. One delegate is to be elected on a partisan ballot in each of the 110 state House and 38 Senate districts. If the question is rejected, it will automatically appear on the ballot again in the year 2010.

If the question is approved, the Constitution provides that a convention would convene in Lansing on October 2, 1995. A convention would choose its own officers, adopt rules, employ staff, print and distribute documents, and disseminate information about the proposed constitution. Each delegate would receive compensation provided by law. Constitutional conventions in

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Michigan are unlimited in their scope: a convention could propose a completely new constitution or offer specific amendments to the current Constitution. The present Constitution provides that any proposed constitution or amendments be submitted to the voters at a time set by the convention not less than 90 days following adjournment.

### **Michigan Constitutional History**

The people of Michigan have adopted four constitutions (1835, 1850, 1908 and 1963), have rejected two (1867 and 1873) and failed to approve the calling of a convention on 10 occasions (most recently in 1978).

#### **Early Constitutions**

**The Constitution of 1835** In 1835, the territorial council provided for an election of delegates to a constitutional convention. Ninety-one delegates assembled in Detroit in May and concluded their deliberations in June. The proposed constitution was submitted to the voters of the territory in October 1835, 15 months before Michigan was admitted into the Union. It was overwhelmingly approved (6,299 in favor, 1,359 opposed).

The 1835 Constitution has been praised by many political scientists who claim it to be the best among the four Michigan constitutions. It provided for election of only the Legislature, Governor, and Lieutenant Governor, with other state offices filled by appointment. It was the first state constitution to provide for the appointment of a state superintendent of public instruction. The brevity and simplicity of the document has been acclaimed.

**The Constitution of 1850** In 1849, the Legislature submitted to the voters the question of calling a constitutional convention to revise the 1835 Constitution. The voters approved the question and 100 delegates were elected in 1850. The delegates convened in June and adjourned in August. The proposed constitution was twice the length of the Constitution of 1835 and its detailed provisions reflected the prevalent tendency of that period to incorporate into basic law provisions more properly left to statutes. In November 1850, the voters overwhelmingly approved the proposed constitution (36,169 in favor, 9,433 opposed). The 1850 Constitution included the provision that every 16 years, and at other times as provided by law, the question of calling a constitutional convention automatically be submitted to the voters. However, calling a convention required approval of a majority of those voting at the election and not just a majority of those voting on the question.

#### **Revision Attempts, 1867-1904**

There was general dissatisfaction with the 1850 document and in 1866, pursuant to the 16-year requirement of the 1850 Constitution, voters approved by a three to one margin the calling of a constitutional convention. The 100 delegates were elected in April 1867; convened in Lansing in May; and adjourned in August 1867. The proposed constitution was rejected by the voters in 1868 (71,733 in favor, 110,582 opposed).

In 1873, the Legislature authorized the Governor to appoint a 18-member commission to study the 1850 Constitution and propose amendments and revisions. The commission submitted its formal report for a revised constitution to the Governor and the Legislature placed it on the bal-

lot. In November 1874, the voters rejected the proposed constitution by a three to one margin (39,285 in favor, 124,034 opposed).

Following the 1874 attempt to revise the 1850 document, the question of calling a constitutional convention was rejected by the voters five times. Legislative action placed the question on the ballot in 1890, 1892, and 1904, and the 16-year constitutional provision submitted the question to the voters in 1882 and 1898. In each instance, the majority of those voting in the election failed to approve the proposal, although in 1892, 1898 and 1904 the majority of those voting on the question gave their approval.

### **The Constitution of 1908**

In April 1906, the voters approved the question of a general constitutional revision that had been placed on the ballot by legislative action. Ninety-six delegates were elected. The convention convened in Lansing in October 1907 and adjourned in March 1908. The proposed constitution reflected characteristics of the progressive reform movement including home rule for cities. The proposed constitution was approved by the voters in November 1908 (244,705 in favor, 130,783 opposed).

**Attempts to Revise the Constitution of 1908** Between 1926 and 1961, there were five referenda on the question of revising the 1908 Constitution. The first effort, pursuant to the 16-year requirement, was rejected by the voters in November 1926 (119,491 in favor, 285,252 opposed). The next vote on calling a convention was in November 1942, again pursuant to the 16-year constitutional requirement. The 1942 proposal for general revision was rejected by the voters. It received approval by a majority of those voting on the question (468,506 yes, 408,188 no), but not a majority of those voting at the election.

In November 1948, the Legislature submitted the question of general constitutional revision to the voters. Although the majority of the votes on the question favored the proposal as they had in 1942, it failed due to the constitutional provision requiring a majority of votes cast in the election. In 1958, the 16-year requirement again placed a ballot proposal for a general constitutional revision before the voters. This effort also failed. Again, it lacked the necessary majority of votes cast in the election, although the proposal received the majority of votes on the issue (821,282 in favor, 608,365 opposed). In 1958, 2,341,829 votes were cast in the election, but only 1,429,647 (or 61 percent) voted on the question of calling a convention.

In effect, failure to vote on the ballot question was counted as a vote against the calling of a convention under this provision.

It is significant that the vote favoring constitutional conventions increased with each successive revision attempt between 1926 and 1958, with substantial favorable majorities of those voting on the issue achieved in 1948 and 1958. The next step in the effort to call a constitutional convention was to change the requirement for calling a convention from a majority of electors voting in the election to a simple majority of those voting on the question.

**Gateway Amendment and the April 1961 Referendum** In 1960, leading civic organizations in Michigan developed an initiative proposal to amend the 1908 Constitution to simplify the calling of a constitutional convention. It provided for approval of a convention call by a simple majority

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of those voting on the issue, and altered the basis of representation by authorizing one convention delegate from each state House and Senate district. The proposal called for submission of the question of general constitutional revision at the 1961

Spring election, specified time limits for electing delegates and specified when and where the convention should convene. The gateway amendment was approved by the voters in November 1960 (1,312,215 in favor, 959,527 opposed).

Pursuant to the new amendment, the question of a general constitutional revision was submitted to the voters in April 1961. The proposal was approved by a margin of only 23,421 votes (596,433 in favor, 573,012 opposed). It is noteworthy that if the former constitutional requirement of a majority of those participating in the election had applied, the proposal would have failed.

### **Michigan Constitutional Convention of 1961-62**

Delegates to the 1961 Constitutional Convention were nominated in July 1961 and the 144 delegates were elected in September on a partisan ballot from single-member districts, one each from the 110 House and 34 Senate districts. The convention convened in October 1961 and after seven months of work, recessed. On August 1, 1962, the final document of 19,203 words was approved by the convention for submission to the voters on April 1, 1963. The new Constitution was approved in a very close vote (810,860 in favor, 803,436 opposed) and took effect January 1, 1964.

### **1978 Ballot Proposal**

The Constitution of 1963 continued the requirement of periodic submission to the voters of the question of calling a convention.- It provided that the constitutional convention question be placed on the 1978 statewide ballot and every 16 years thereafter. The question was defeated overwhelmingly on November 7, 1978 (649,286 in favor, 2,112,549 opposed).

### **Michigan Constitution of 1963**

The 1963 Constitution was shorter than the 1908 Constitution and was more logically organized. It incorporated a number of changes that were generally considered to be desirable including the four-year term for Governor and Senators and an elective state board of education. Overall, the 1963 Constitution reflected the need for a modern constitution for a major industrial state.

(text continued on page 6)

**General Information on State Constitutions**  
(as of January 1, 1994)

| <b>State</b>    | <b>Number of<br/>Constitutions</b> | <b>Date of Present<br/>Constitution</b> | <b>Estimated Length<br/>(words)</b> | <b>Number of Amendments<br/>-Submitted-</b> | <b>-Adopted-</b> |
|-----------------|------------------------------------|---|-------------------------------------|---|------------------|
| Alabama         | 6                                  | 1901                                    | 174,000                             | 783   | 556              |
| Alaska          | 1                                  | 1959                                    | 16,675                              | 32  | 23               |
| Arizona         | 1                                  | 1912                                    | 28,876                              | 215   | 119              |
| Arkansas        | 5                                  | 1874                                    | 40,720                              | 171   | 81               |
| California      | 2                                  | 1879                                    | 33,350                              | 814   | 485              |
| Colorado        | 1                                  | 1876                                    | 45,679                              | 254   | 124              |
| Connecticut     | 4                                  | 1965                                    | 9,564                               | 29  | 28               |
| Delaware        | 4                                  | 1897                                    | 19,000                              | (a)   | 123              |
| Florida         | 6                                  | 1969                                    | 25,100                              | 92  | 65               |
| Georgia         | 10                                 | 1983                                    | 25,000                              | 52  | 39               |
| Hawaii          | 1                                  | 1959                                    | 17,453                              | 102   | 86               |
| Idaho           | 1                                  | 1890                                    | 21,500                              | 189   | 109              |
| Illinois        | 4                                  | 1971                                    | 13,200                              | 14  | 8                |
| Indiana         | 2                                  | 1851                                    | 9,377                               | 70  | 38               |
| Iowa            | 2                                  | 1857                                    | 12,500                              | 52  | 49               |
| Kansas          | 1                                  | 1861                                    | 11,865                              | 118   | 90               |
| Kentucky        | 4                                  | 1891                                    | 23,500                              | 65  | 32               |
| Louisiana       | 11                                 | 1975                                    | 51,448                              | 92  | 54               |
| Maine           | 1                                  | 1820                                    | 13,500                              | 192   | 162              |
| Maryland        | 4                                  | 1867                                    | 41,349                              | 238   | 205              |
| Massachusetts   | 1                                  | 1780                                    | 36,690                              | 144   | 117              |
| <b>Michigan</b> | <b>4</b>                           | <b>1964</b>                             | <b>20,000</b>                       | 51(b)                                       | <b>18(b)</b>     |
| Minnesota       | 1                                  | 1858                                    | 9,500                               | 207   | 113              |
| Mississippi     | 4                                  | 1890                                    | 24,000                              | 148   | 116              |
| Missouri        | 4                                  | 1945                                    | 42,000                              | 132   | 81               |
| Montana         | 2                                  | 1973                                    | 11,866                              | 32  | 18               |
| Nebraska        | 2                                  | 1875                                    | 20,048                              | 293   | 197              |
| Nevada          | 1                                  | 1864                                    | 20,770                              | 184   | 113              |
| New Hampshire   | 2                                  | 1784                                    | 9,200                               | 280   | 143              |
| New Jersey      | 3                                  | 1948                                    | 17,086                              | 57  | 44               |
| New Mexico      | 1                                  | 1912                                    | 27,200                              | 240   | 123              |
| New York        | 4                                  | 1895                                    | 80,000                              | 280   | 213              |
| North Carolina  | 3                                  | 1971                                    | 11,000                              | 35  | 27               |
| North Dakota    | 1                                  | 1889                                    | 20,564                              | 235   | 129              |
| Ohio            | 2                                  | 1851                                    | 36,900                              | 253   | 151              |
| Oklahoma        | 1                                  | 1907                                    | 68,800                              | 293   | 146              |
| Oregon          | 1                                  | 1859                                    | 26,090                              | 383   | 193              |
| Pennsylvania    | 5                                  | 1968                                    | 21,675                              | 26  | 20               |
| Rhode Island    | 2                                  | 1843                                    | 19,026                              | 102   | 56               |
| South Carolina  | 7                                  | 1896                                    | 22,500                              | 648   | 463              |
| South Dakota    | 1                                  | 1889                                    | 23,300                              | 191   | 99               |
| Tennessee       | 3                                  | 1870                                    | 15,300                              | 55  | 32               |
| Texas           | 5                                  | 1876                                    | 76,000                              | 518   | 353              |
| Utah            | 1                                  | 1896                                    | 11,000                              | 131   | 82               |
| Vermont         | 3                                  | 1793                                    | 6,600                               | 208   | 50               |
| Virginia        | 6                                  | 1971                                    | 18,500                              | 28  | 23               |
| Washington      | 1                                  | 1889                                    | 29,400                              | 158   | 88               |
| West Virginia   | 2                                  | 1872                                    | 25,600                              | 110   | 64               |
| Wisconsin       | 1                                  | 1848                                    | 13,500                              | 174   | 129              |
| Wyoming         | 1                                  | 1890                                    | 31,800                              | 102   | 61               |

(a) Proposed amendments are not submitted to the voters in Delaware.

(b) As of June, 1994.

Source: The Book of the States, 1994-1995, The Council of State Governments.

The Michigan Constitution of 1963 compared to other state constitutions is relatively newer, has fewer than the average number of words and has been amended less frequently. Michigan has had a total of four state constitutions; only nine states have had five or more. Since Michigan adopted its present Constitution in 1963, nine other states -- Connecticut, Florida, Georgia, Illinois, Louisiana, Montana, North Carolina, Pennsylvania, and Virginia -- have adopted new state constitutions. Three states have constitutions dating back to the eighteenth century: Massachusetts, New Hampshire, and Vermont.

At 20,000 words, the Michigan Constitution is shorter than the constitutions of 28 states and is less than the average length of 28,591 words. The Vermont 1784 document is the shortest with 6,600 words. The Alabama Constitution of 1901 with 174,000 words is the longest document and has had the greatest number of amendments: 783 proposed amendments, 558 adopted.

Since adopting the current Michigan Constitution in 1963, there were constitutional amendments on the ballot in every general election except 1990. There were 51 proposed amendments to the Constitution of 1963 submitted to the voters: 18 by initiative petition and 33 by the legislature. Of the 51 proposed amendments, 18 were approved and 33 rejected. Only one state constitution, Illinois, has fewer amendments than Michigan, eight compared to 18.