

## Proposal 2 of 2022

A constitutional amendment to change Michigan election procedures

By Michael Van Beek and David Guenther

### Introduction

On Nov. 8, 2022, Michigan voters will decide on Proposal 2, a citizen-initiated constitutional amendment referred to as “Promote the Vote.” The amendment would significantly expand Article 2, Section 4 of the Michigan Constitution concerning election procedures. Voters approved major changes to this section in 2018. Proposal 2 of 2022 would cement into the state constitution 21 rules about how people may vote and how elections are conducted.

The Michigan Constitution, as it was ratified in 1963, contained only a short paragraph about election procedures. It gave explicit authority to the Legislature to determine election policy, stating: “The legislature shall enact laws to regulate the time, place and manner of all nominations and elections.”<sup>1</sup> For this reason, election procedures in Michigan are primarily determined by state statute, namely the Michigan Election Law.

Article 2 of the constitution addresses elections and was only modified slightly in the first 55 years after its ratification in 1963. There were three proposed amendments to it considered by voters prior to 2018. Two attempted to lower the minimum voting age from 21 to 18 — in 1966 and again in 1970. Both were rejected by voters.<sup>2</sup> Michigan voters did, however, accept the third proposed change in 1992, but this did

not modify election procedures in Michigan. Rather, Proposal B of 1992 established term limits for legislators — changes to which voters will also consider in 2022 via Proposal 1.

Proposal 3 of 2018, a citizen-led initiative also called “Promote the Vote,” made substantial changes to Article 2. It added several new constitutionally required election procedures. Enshrining these rules in the constitution effectively removes them from the direct control of the Legislature. Proposal 2 would further curtail the constitutional authority granted to the Legislature to regulate elections by adding 21 rules about voting into the state’s supreme law.

This policy brief does not advocate for or against the proposal. Rather, it aims simply to describe the changes it would make and how these might impact current election procedures. It attempts to explain these new constitutional rules in an easily understood manner and to forecast some of their likely effects. This report also explains how the proposed changes in Proposal 2 would interact with a separate citizen-initiated petition called “Secure MI Vote.” That proposed legislation may be enacted into law by the state Legislature next year or may appear on the Michigan ballot in 2024.

### ABOUT THE AUTHORS

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<sup>1</sup> “Proposed Amendments to the Constitution of 1963 — Summary of Adoption or Rejection” (Michigan Manual 2021-22, Michigan Legislative Service Bureau), 98-

104, <https://perma.cc/59K5-7YEA>. The 26th Amendment to the U.S. Constitution established 18 as minimum voting age in every state in 1971.

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## Brief Summary of Proposal 3 of 2018

On Nov. 6, 2018, Michigan voters, by a two-to-one margin, approved Proposal 3 and added several specific election rules to the state constitution. Prior to this, nearly all election procedures were the prerogative of elected representatives serving in the state Legislature. The constitution does require lawmakers “to preserve the purity of elections, to preserve the secrecy of the ballot, to guard against abuses of the elective franchise, and to provide for a system of voter registration and absentee voting.”<sup>2</sup> But the policies to accomplish those objectives was left to the Legislature’s discretion. Proposal 3 of 2018 departed from this approach, as it etched into the constitution specific mandates on how elections must be conducted in Michigan.

Proposal 3 added nine new parts to Article 2 of the Michigan Constitution. It created eight new “rights” for every U.S. citizen qualified to vote in Michigan. Voters now have the right to:

- Vote in a secret ballot.
- Be sent an absentee ballot 45 days before an election if serving in the military or living abroad.
- A “straight party” vote on general election ballots.\*
- Be automatically registered to vote when obtaining or renewing a state driver’s license or personal identification card.
- Register to vote by mail until 15 days before an election.
- Register to vote in person from the 14th day before an election and through the day of the election by providing proof of residency.
- Vote via an absentee ballot for any reason during the 40 days leading up to an election.
- Have the results of a statewide election audited.

While Proposal 3 cemented these new voter rights into the state constitution, many of them already existed in state statute. For example, Michigan law already provided for election audits and required absentee ballots to be mailed 45 days before the election to overseas voters.<sup>3</sup> To the extent that these practices already existed, the effect of Proposal 3 was to remove the Legislature’s direct control of these election procedures. The same is true for many of the changes contained in Proposal 2 of 2022.

## How Proposal 2 Would Change Michigan Elections

Proposal 2 would add to or modify 10 elements of Article 2, Section 4 of the Michigan Constitution, titled “Place and manner of elections.” This is the same section recently amended by voters in 2018, and Proposal 2 would modify some of those newly approved rules. This section of the constitution once consisted of a single paragraph, but it would grow to 18 paragraphs if voters approve Proposal 2. The amendment would also add six new parts to Section 7 of Article 2, titled “Boards of canvassers.” Altogether, the proposed constitutional amendment would add 21 rules for election procedures to the state’s foundational law.

The following portion of this report categorizes and describes these proposed changes. They are grouped together by purpose, not necessarily in the order they appear in the amendment’s text. The exact language of the textual changes to the constitution is provided in the appendix.

## Harden Voting Rights

Proposal 2 would significantly expand the constitutional right to vote in a secret ballot. It would also explicitly prohibit diminishing this right in any way. The effect of these changes is to harden the right

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\* This allows voters to make a single choice for one political party and automatically vote for each candidate from that party in every election on their ballot.

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to vote, as the amendment would make it easier for voters to enforce these rights through legal action.

### *Fundamental right to vote*

Proposal 2 would make voting a “fundamental right” for every U.S. citizen qualified to vote in Michigan. Currently, as amended by Proposal 3 of 2018, the constitution provides “the right ... to vote a secret ballot in all elections.”<sup>4</sup> Proposal 2 adds “fundamental” to this language and expands it by stating that this right includes, but is not limited to, the right to vote with a secret ballot.

This change appears aimed at elevating the right to vote to a higher legal status — perhaps making it easier to prosecute violations. The Legal Information Institute at Cornell Law School says that fundamental rights require “a high degree of protection from government encroachment.”<sup>5</sup> It lists marriage, privacy, contraception, interstate travel, procreation and parental custody of children as examples of fundamental rights. In Michigan law, however, the only right explicitly named a fundamental one is the right of parents (or legal guardians) “to determine and direct the care, teaching, and education of their children.”<sup>6</sup>

### *Prohibition on unreasonable burdens*

Proposal 2 would establish a sweeping prohibition on limiting a person’s fundamental right to vote. It explicitly forbids any law, rule, standard, practice, procedure, conduct or “any means whatsoever” that “has the intent or effect of denying, abridging, interfering with, or unreasonably burdening the fundamental right to vote.” This prohibition applies to all individuals, organizations, businesses, public bodies or “any other legal entity.”

This broadly worded ban appears to cover virtually any action that could possibly interfere with a person’s ability to vote. The term “unreasonably burden” seems to establish a minimal burden of proof to demonstrate harm. Likewise, the catchall phrase,

“any means whatsoever,” could include indirect or incidental conduct.

The use of this expansive language effectively delegates to the courts the job of determining how broadly this prohibition will apply. Judges will inevitably have to define the parameters of this ban while adjudicating legal disputes over voter rights.

### *Legal standing to sue anyone*

The proposed constitutional amendment would also establish legal standing for Michigan citizens to sue others if they interfere in any way, or intend to interfere in any way, with the fundamental right to vote. Individuals could win monetary relief, which includes attorneys’ fees. Any person or group of people could be sued, as the prohibition applies to all individuals, organizations, businesses, public entities and more.

## **Increase Absentee and Early Voting**

A clear goal of Proposal 2 is to make it easier to vote absentee and to vote early. It would accomplish this by modifying several existing procedures and creating a few new ones. The following section describes these changes and discusses their likely impact.

### *Extended deadline for absentee ballots from voters living abroad*

Absentee ballots from voters living abroad must be accepted up to six days after an election if they are postmarked before or on the same day as the election. The postmark can be “any type of mark” from “any delivery service” that “indicates when a ballot was mailed.” State law currently requires these ballots to be received by 8 p.m. on election day, the same time polling places close for in-person voting.<sup>7</sup>

### *Signature-based identification for mailed absentee applications and ballots*

Voters could prove their identity when applying for or submitting their absentee ballots with just a signature. Election officials would check this signature against the one in the person’s qualified voter file. If these signatures do not match or are missing, the voter must

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“be notified immediately and afforded due process, including an equitable opportunity to correct the issue with the signature.”<sup>7</sup> What constitutes an equitable opportunity is not defined.

### *Signed affidavit identification for in-person absentee ballot applications*

Proposal 2 would require election clerks to provide an absentee ballot to a registered voter who applies for one in person even if that individual does not have proof of identification. A signed affidavit to this effect will suffice for obtaining an absentee ballot.

### *Prepaid postage*

Mailed absentee applications and ballots would need to include prepaid postage so that voters do not have to pay the cost of returning these by mail.

### *Drop boxes*

If absentee voters choose not to return their ballot with prepaid postage and want to submit it by hand, Proposal 2 would make that easier. The state must supply a drop box in each municipality and one per 15,000 registered voters in larger communities. These drop boxes must be distributed “equitably throughout the municipality” and accessible 24 hours per day for the 40 days prior to an election, including until 8 p.m. of election day.

### *Absentee voting tracking system*

The state must maintain an absentee voting tracking system. This would allow absentee applicants and voters to receive real-time information concerning the status of their application and ballot. The system must include electronic notifications, “inform voters of any deficiency” and “provide instructions for addressing any such deficiency.”

### *Automatic absentee ballots*

Under Proposal 2, voters could opt to vote absentee in all future elections. This would eliminate the need to apply to vote absentee for each election. People

choosing this option would be sent an absentee ballot automatically. Election officials would stop sending these ballots when a voter has not voted for six consecutive years or is no longer qualified to vote in the election. Voters would be able to opt out of receiving automatic absentee ballots with a signed request.

### *Practical effects on absentee voting*

It is difficult to assess the likely impact of these changes. Many of these procedures are already required by Michigan statute or appear to be common practice. For instance, state law stipulates that if a signature on an absentee application matches the one in the qualified voter file, an absentee ballot must be mailed to that voter.<sup>8</sup> It requires that the authenticity of absentee ballots be checked by signature matching.<sup>9</sup> Election clerks must also notify absentee applicants if their signatures do not match their voter record.<sup>10</sup> Voters can already obtain an absentee ballot in person without proof of identification by signing an affidavit.<sup>11</sup>

Voters currently have numerous options for submitting absentee ballots. State law permits and regulates absentee ballot drop boxes.<sup>12</sup> Election clerks can choose to receive absentee ballots in any location within their jurisdiction.<sup>13</sup> In fact, absentee voters can require election officials to come pick up their ballot from their own home or any location within the boundaries of the jurisdiction in which they are registered to vote.<sup>14</sup>

Further, the state operates an absentee ballot tracking system that voters can access.<sup>15</sup> Some voters are already on “permanent absentee lists” and are automatically mailed absentee ballots, according to the Secretary of State.<sup>16</sup>

Since many of these procedures are already in place in Michigan, the main effect of these changes concerning absentee voting will be to cement these particular procedures into the Michigan Constitution. That

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<sup>7</sup> The proposal may create a never-ending procedural loop when signatures do not match. Voters must be allowed to submit a new signature as a remedy for unmatched signatures. If this second signature also does not match, presumably, election officials will have to notify the voter again and afford them the right to

remedy the situation by submitting yet another signature, and so on. The amendment places no limit on how many signatures can be submitted to address previously unmatched ones.

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means modifying these practices in the future will be more difficult, as it will require initiating and passing another constitutional amendment.

### *Early voting sites*

Proposal 2 will create new procedures for early voting. Michigan voters can already effectively vote early by using an absentee ballot. In one trip to their local election clerk's office, voters can apply for, receive, complete and turn in an absentee ballot.<sup>17</sup> This means that they can cast their vote on any of the 40 days leading up to the election.<sup>18</sup>

Proposal 2 would establish so-called early voting sites, which would function as polling places do on election days. These early voting sites could serve a larger population — conventional polling places are limited to six precincts.<sup>19</sup> Local voting jurisdictions could agree to share these sites with each other or allow their county clerk to operate one. Early voting sites must be open for at least eight hours per day and for at least nine consecutive days, counting back from the Sunday before the election.

Local election officials, however, would be able to operate early voting sites for a longer period, if they choose. Proposal 2 says these sites “may be open for additional days and hours beyond what is required herein at the discretion of the [local] election official.” It is important to note that this language appears to provide no limitation on when or for how long local officials could choose to operate an early voting site. Nothing appears to prohibit them from opening such a site as early as when official ballots are made available, for instance.

A clear goal of Proposal 2 is to make it easier for Michiganders to vote absentee and vote early. It seems likely that these changes would increase voter turnout, but it is difficult to estimate how much of an impact this could have. The only entirely new practices that Proposal 2 would create appear to be accepting absentee ballots from overseas for an extra

nine days, providing prepaid postage for mailed absentee applications and ballots and creating more opportunities for early in-person voting. Only to the extent that people do not vote for reasons related to these issues is Proposal 2 likely to increase voter turnout in Michigan elections.

### **Cementing Current Procedures into the Michigan Constitution**

Proposal 2 would cement other current election procedures into the Michigan Constitution. These are harder to categorize and are even more difficult to assess for their potential impact on elections in Michigan. Each rule is described briefly in this section.

#### *Affidavits as a substitute for photo identification*

An affidavit is a signed document in which an individual swears under penalty of law that the statements in the document are true. Giving false information in an affidavit is perjury, punishable by a \$1,000 fine or five years of incarceration, or both.<sup>20</sup> When applying for an absentee ballot or voting in person, Michigan law holds that registered voters must identify themselves at their polling place by presenting photo identification.<sup>21</sup> If they do not have or cannot present a photo ID, voters may still vote or apply for an absentee ballot if they sign an affidavit that lists their address and states that they are not in possession of a photo ID.<sup>22</sup> Proposal 2 would establish this current procedure in the Michigan Constitution.

Proposal 2 also specifies that a voter cannot be required to use a provisional ballot if, when voting or applying for an absentee ballot in person, a voter signs such an affidavit to prove their identify. Provisional ballots are only recorded in the official election results after voters provide verification that they are qualified to vote.<sup>23</sup>

It is unclear what effect Proposal 2's ban on this use of provisional ballots will have on Michigan elections. Under current state law, ballots are marked provisional if voters are not listed on their polling place's

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registration list, i.e., when a person’s eligibility to vote is not verified.<sup>24</sup> These voters can later prove their eligibility by presenting a valid photo ID and proof of residency within six days after the election.<sup>25</sup>

Voters who appear on their precinct’s registration list but fail to produce a valid photo ID and then sign an affidavit to prove their identity are not required to vote in a provisional ballot. Since this rule in Proposal 2 only applies to registered voters who are voting in person or applying for an absentee ballot, it appears that it would have little, if any, impact on the use of provisional ballots. Only registered voters who are mistakenly left off their polling place’s registration list appear to be affected by this change. It would, however, prohibit the Legislature from establishing a law requiring the use of a provisional ballot when a registered voter signs an affidavit instead of presenting a photo ID.

#### *Election audits controlled by Secretary of State*

Under current state law, the department of the Michigan Secretary of State plays an important role in elections. The secretary is the “chief election officer” and has “supervisory control” over all local election officials, according to state law.<sup>26</sup> This state department is charged with creating administrative rules to enforce Michigan election law.<sup>27</sup> It must “advise and direct local election officials as to the proper methods of conducting elections” and investigate potential election violations.<sup>28</sup> The department may also audit election results, both in local precincts and for statewide elections.<sup>29</sup>

In fact, the department is charged by law with creating the procedures that must be used to conduct an election audit.<sup>30</sup> It must train and certify county election clerks and their staff to conduct audits in precincts within their jurisdiction.<sup>31</sup> The Secretary of State must supervise local clerks’ performance on election audits, and the results of such audits must be

reported to the state department within 20 days of the audit being completed.<sup>32</sup>

Proposal 2 explicitly grants to the Secretary of State the power to conduct election audits, just as current state law does. The state department must “supervise and direct” local election officials in conducting audits. It appears little would change to the current process of conducting election audits as prescribed by state law.

The proposal does introduce a few new rules relating to these audits, however. It bans precinct delegates and members of a governing board of any political party from “hav[ing] a role in the direction, supervision, or conduct” of an audit. It further maintains that election officials must “maintain the security and custody of all ballots and election materials” during an audit.<sup>3</sup> According to Proposal 2, audits must be done “in public” and “based on methods finalized and made public prior to the election.”<sup>4</sup> Finally, all funding of election audits must be publicly disclosed.

#### *Legislative authority to create county boards of canvassers*

Proposal 2 grants the Michigan Legislature the power to create county boards of canvassers. This is not a requirement, so lawmakers could choose to do without such boards. However, the Legislature has already established county boards of canvassers through state law, so this provision of Proposal 2 will simply enshrine this legislative power in the state constitution.<sup>33</sup> These county boards certify local election results and conduct recounts.<sup>34</sup>

#### *Certified statements for determining results*

The proposed constitutional amendment would require the board of state canvassers to certify election results based only on a “certified statement of votes from counties.” This is already required by Michigan election law.<sup>35</sup> County boards of canvassers, according

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<sup>3</sup> This is similar to an existing statutory requirement. See MCL § 168.805.

<sup>4</sup> The procedures established before the 2020 election can be found here: “Post-Election Audit Manual” (Michigan Department of State, Bureau of Elections, January 2020), <https://perma.cc/8TZ7-7BZ4>.

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to Proposal 2, could certify results based only on “statements of returns from the precincts and absent voter counting boards ... and any corrected returns.” This, too, is current practice based on state law.<sup>36</sup>

#### ***Board of state canvassers to certify statewide and federal election results***

The proposal specifies that the board of state canvassers “is the only body or entity” that may certify results from statewide and federal elections. This is already state law, so the only change here would be to require this constitutionally.<sup>37</sup>

#### ***State law controls how to determine winners in local election ties***

Proposal 2 states that if two or more people receive the same number of votes in a local election, the tie must be broken “under procedures prescribed by law.” Presumably, this refers to state law, rather than the state constitution, administrative rules or local ordinances. Determining winners of local elections in case of a tie is already prescribed by state law.<sup>38</sup> As such, this requirement will not change how Michigan elections are run.

#### ***Boards of canvassers to conduct recounts***

Another current procedure Proposal 2 would cement into the state constitution is having boards of canvassers conduct recounts. The amendment says canvassers, presumably including the state board and county boards, are authorized to conduct recounts of election results “under procedures prescribed by law.” Such procedures are already in state law, so adding this language to the state constitution will not change how recounts work in Michigan.<sup>39</sup>

## **Other New Election Procedures**

Proposal 2 would create several new election procedures in addition to those already described related to absentee and early voting. As with many of the proposal’s other provisions, it is not easy to estimate the likely effect of these changes. They are briefly described here.

#### ***Accepted photo IDs***

Proposal 2 appears to expand the type of photo identification that voters could use to verify their identity when voting or applying for an absentee ballot in person. State law currently specifies that “identification for election purposes” is limited to a driver’s license, passport, or ID card issued by the state of Michigan or any other state, the federal government, U.S. military or tribal government. Student ID cards issued by Michigan educational institutions, such as a high school, community college or university, can also be used.<sup>40</sup>

The proposed constitutional amendment states that registered voters can prove their identity by “presenting their photo identification, including photo identification issued by federal, state, local or tribal government or an educational institution.” This seems to expand the types of photo IDs that could be used in two ways.

First, it includes photo IDs issued by local governments. It’s not obvious what type of photo ID a local government might issue to registered Michigan voters, but a local government employee might be able to use a work ID, for instance.

Second, the language does not limit identity verification to the types of photo IDs listed. Proposal 2 makes clear that voters have the right to show “their photo identification,” which might “includ[e]” government-issued ID cards but is not limited to them. Any type of photo ID may be potentially acceptable, such as a Costco card, work ID badge, business loyalty card, luggage tag or more. Because this language would

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be constitutional, it would trump any state laws or rules that limit photo identification verification to only certain types of IDs.\*

### *Settling statewide and federal elections ties*

Proposal 2 would require that if there is a tie in the number of votes received by two or more candidates in a statewide or federal election, the winner of the election must be determined by the “drawing of lots.” The board of state canvassers would create the rules for using random chance to decide the winner.

Ties in these elections are extremely rare, but this differs from current state practice in two ways. First, current law holds that the state Legislature determines the winners of statewide and federal elections that are tied.<sup>41</sup> Second, the board of state canvassers is not explicitly authorized by state law to promulgate administrative rules like the ones required in Proposal 2.<sup>42</sup>

### *Local elections financed by private sources*

In the 2020 election, 465 Michigan municipalities financed their elections with funding they received from the Chicago-based Center for Tech and Civic Life, a private, nonprofit organization. Facebook CEO Mark Zuckerberg donated money to CTCL for this purpose.<sup>43</sup> The use of these funds was controversial and elicited allegations that they were deployed for partisan purposes.

There is no state law or rule prohibiting Michigan cities, townships or counties from using privately donated funds to operate elections. Some Michigan lawmakers, concerned with the use of CTCL funds in the 2020 election, introduced a bill to create such a ban. That bill would prohibit state departments and local governments from accepting private funds for “election related activity,” such as voter registration, advertising or paying election officials.<sup>44</sup> Since the 2020

election, 21 states passed laws to prohibit, limit or regulate the use of private funds in elections, according to the National Conference of State Legislatures.<sup>45</sup>

Proposal 2 would add language to the Michigan Constitution to explicitly permit local municipalities — but not state departments — to use private funding from charitable gifts for election purposes. This funding must be disclosed publicly and cannot originate from foreign sources.

The 2020 election appears to be the first time a significant amount of private funding was used by local governments to bankroll their elections. If Proposal 2 passes, they could continue or even expand this practice, assuming private funds are made available again. Legalizing the use of this money could attract more private funders, especially considering that nearly half of the states have outlawed the practice.

On the other hand, nothing appears to prevent the Legislature from limiting or further regulating the financing of elections with private, charitable gifts. Despite the significant changes to its authority to regulate elections, the Legislature would still be constitutionally empowered to “enact laws to regulate the time, place and manner” of elections, even if voters approve Proposal 2. Restricting how private funds are used by local governments for elections seems to fall squarely within that power.

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\* The right Proposal 2 would create regarding photo identification does not apply to registering to vote in person. State law currently requires that potential voters prove their identity when registering to vote in person with an ID issued by only certain institutions. If Proposal 2 passes, voters might face different requirements

for proving their identity when registering to vote in person compared to when they are voting or applying for an absentee ballot in person. MCL § 168.497c.



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## Secure MI Vote

Proposal 2 was initiated in response to a citizen-led initiative called Secure MI Vote. That initiative would make statutory changes to Michigan election law. The Secure MI Vote petition, however, submitted its signatures after June 1, 2022, the deadline for initiated legislation to be certified and appear on the 2022 ballot.\*

As a result, the fate of the Secure MI Vote proposal will not be decided until next year or even 2024. If certified in 2023, the petition would be sent to the Legislature, which would have 40 session days to take one of three actions: 1) Enact the petition into law; 2) Take no action and allow the petition to be decided by voters in the 2024 general election; or 3) Create a competing proposal that would appear alongside the Secure MI Vote petition on 2024 ballot. In that case, whichever proposal receives the most votes, so long as it is a majority of votes, becomes law.<sup>46</sup>

If Republicans maintain control of the Michigan Legislature after the 2022 election, they are expected to exercise the first option. Such legislation is not subject to the approval of the governor.

An important difference between Proposal 2 and Secure MI Vote, both citizen-initiated petitions, is that the former is a constitutional amendment while the latter is legislation. The constitution is the supreme law of the state, so any provisions of Secure MI Vote that conflict with Proposal 2 would be invalidated. In other words, the provisions of Proposal 2 would trump any conflicting ones contained in the Secure MI Vote legislation.

If Promote the Vote is adopted by voters on Nov. 8, the provisions of Secure MI Vote described below would be annulled.

### *Photo identification requirement*

Secure MI Vote would require voters to present one of nine forms of government-issued photo identification in order to receive a ballot. Voters who cannot present one of the approved forms of photo ID must receive a provisional ballot that is segregated from other ballots in a separate container. In order for those provisional ballots to be counted, such voters must, within six days, present either an approved form of photo ID or a birth certificate or Social Security card, and one of several types of documents to verify their residence.

Proposal 2 appears to allow voters to prove their identify with any form of photo ID and afford those who do not show ID the right to still receive a ballot if they sign an affidavit. It also prohibits the use of provisional ballots for voters who sign such affidavits.

### *Absentee ballot requests*

Under the proposed statutory changes contained in the Secure MI Vote petition, voters who request absentee ballots must include on their application either their driver's license number, official state identification number, or the last four digits of their Social Security number. Applicants who do not provide that information would be issued a provisional absentee ballot and have until 5 p.m. the sixth day following the election to provide it and get their ballot counted.

This would conflict with Proposal 2's requirement that voters may prove their identity when applying for an absentee ballot by mail with just a signature — if it matches the signature in their voter registration record.

### *Deadline for overseas absentee ballots*

Secure MI Vote stipulates that all absentee ballots may only be counted if deposited in a drop box or received by the local clerk no later than 8 p.m. on election day.

Proposal 2 allows one type of absentee ballot — those used by registered Michigan voters living overseas or

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\* The statutory changes in the Secure MI Vote petition can be seen here: <https://perma.cc/99BM-FFH6>.

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serving in the military — to be counted if it is postmarked on or before election day and received by the local clerk within six days after the election.

### *Private financing of local elections*

Secure MI Vote would require election entities in Michigan to conduct elections solely with funds appropriated by the state or local governments. No state or local government entity could accept private funds or in-kind contributions to pay for or support the operation of an election. Proposal 2 would explicitly permit local governments to accept private funds in the form of charitable gifts to finance elections, if such donations are publicly disclosed.

Several statutory changes in Secure MI Vote are not addressed by Proposal 2 and would not be preempted by it. These are described below.

### *Voter registration*

Secure MI Vote requires all voter registration applicants to provide the last four digits of their Social Security number.

### *Photo identification fund*

The Secure MI Vote petition would create the Voter Access Fund within the Secretary of State's office for the purpose of subsidizing the \$10 fee individuals must pay to renew their state personal identification card.<sup>47</sup> If someone claims a financial hardship in affording the fee, the state will waive it and reimburse the Secretary of State from this fund. Under Proposal 2 and current law, however, there is no need for voters to show a current state identification card, because they can prove their identity with other forms of photo IDs and with a signed affidavit.

### *Absentee ballot requests*

Secure MI Vote prohibits the Secretary of State, a local clerk, or any of their employees from sending an absentee ballot application or an absentee ballot to any voter who has not requested such in writing. Secretary of State Jocelyn Benson sent absentee ballot

applications to every registered voter in Michigan in 2020, regardless of whether they applied for one or not, a first in state history.<sup>48</sup>

### *Absentee ballot handling*

The Secure MI Vote petition restricts who is permitted to handle an absentee ballot. Only the absentee voter, an immediate family member or resident of the voter's household, a postal worker, or a local election official may legally possess an absentee ballot. The petition would make illegally possessing such a ballot a felony offense.

### *Conduct of elections*

Secure MI Vote requires that Michigan elections be conducted in line with the U.S. Constitution, the Michigan Constitution and state law. No person other than the Secretary of State or local clerks can direct the conduct or administration of elections.

However, even these provisions could face legal challenges due to Proposal 2's creation of a "fundamental right to vote." This broadly worded provision prohibits "denying, abridging, interfering with, or unreasonably burdening" this right and can include "any law, rule, regulation, qualification, prerequisite, standard, practice or procedure," or "any means whatsoever."

Here's one example: Requiring potential voters to provide the last four digits of their Social Security number while registering to vote could be deemed as "unreasonably burdening" this fundamental right to vote. In fact, any requirement of voters in Michigan's Election Law, not just those contained in the Secure MI Vote petition, might be challenged on similar grounds. Michigan courts will likely have to settle these questions in the years to come if Proposal 2 passes.

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## Conclusion

Proposal 2 will add a substantial amount of text to the Michigan Constitution. The practical effect of the amendment on how Michigan elections function, however, is not as significant as this would suggest. This is because most of mandated procedures contained in Proposal 2 already exist in state law or are common practices already in place.

This means that the most significant effect of Proposal 2 will likely be to reduce the Legislature's control over how elections are run in Michigan. Since the Michigan Constitution is the supreme law of the state, the election procedures Proposal 2 would create will be beyond the direct control of voters' elected representatives in Lansing. These procedures will have a permanence that those determined by state statute do not have.

Another significant impact of Proposal 2 is to potentially preempt and nullify many of the provisions contained in the separate, citizen-initiated petition known as Secure MI Vote. If Proposal 2 passes and Secure MI Vote is certified next year, the Michigan Legislature may enact this petition despite many of its provisions being invalidated. If the Legislature takes no action, voters in the 2024 election may find themselves in the unusual position of potentially approving statutory changes to Michigan's election law that are unenforceable because they conflict with Proposal 2.

Michigan's courts will ultimately have a large say on what impact Proposal 2 will have on voting rights and election procedures in Michigan. The proposal's broadly worded language, especially the wording used to establish and harden the "fundamental right to vote," creates ambiguity about how these new constitutional rights may be applied and implemented. It could take years for Michigan courts to address some of the most important questions about Proposal 2.

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## Appendix: Full Text of Proposal 2

Below are the textual changes Proposal 2 would make to the Michigan Constitution. Additions are capitalized and deletions stricken.

### ARTICLE 2 ELECTIONS

Sec. 4. Place and manner of elections. (1) Every citizen of the United States who is an elector qualified to vote in Michigan shall have the following rights:

(a) THE FUNDAMENTAL RIGHT TO VOTE, INCLUDING BUT NOT LIMITED TO ~~the right, once~~ registered, to vote a secret ballot in all elections. NO PERSON SHALL: (1) ENACT OR USE ANY LAW, RULE, REGULATION, QUALIFICATION, PREREQUISITE, STANDARD, PRACTICE, OR PROCEDURE; (2) ENGAGE IN ANY HARASSING, THREATENING, OR INTIMIDATING CONDUCT; OR (3) USE ANY MEANS WHATSOEVER, ANY OF WHICH HAS THE INTENT OR EFFECT OF DENYING, ABRIDGING, INTERFERING WITH, OR UNREASONABLY BURDENING THE FUNDAMENTAL RIGHT TO VOTE.

ANY MICHIGAN CITIZEN OR CITIZENS SHALL HAVE STANDING TO BRING AN ACTION FOR DECLARATORY, INJUNCTIVE, AND/OR MONETARY RELIEF TO ENFORCE THE RIGHTS CREATED BY THIS PART (A) OF SUBSECTION (4)(1) ON BEHALF OF THEMSELVES. THOSE ACTIONS SHALL BE BROUGHT IN THE CIRCUIT COURT FOR THE COUNTY IN WHICH A PLAINTIFF RESIDES. IF A PLAINTIFF PREVAILS IN WHOLE OR IN PART, THE COURT SHALL AWARD REASONABLE ATTORNEYS' FEES, COSTS, AND DISBURSEMENTS.

FOR PURPOSES OF THIS PART (A) OF SUBSECTION (4)(1), "PERSON" MEANS AN INDIVIDUAL, ASSOCIATION, CORPORATION, JOINT STOCK COMPANY, LABOR ORGANIZATION, LEGAL REPRESENTATIVE, MUTUAL COMPANY, PARTNERSHIP, UNINCORPORATED ORGANIZATION, THE STATE OR A POLITICAL SUBDIVISION OF THE STATE OR AN AGENCY OF THE STATE, OR ANY OTHER LEGAL ENTITY, AND INCLUDES AN AGENT OF A PERSON.

(b) The right, if serving in the military or living overseas, to have an absent voter ballot sent to them at least forty-five (45) days before an election upon application AND TO HAVE THEIR ABSENT VOTER BALLOT DEEMED TIMELY RECEIVED IF POSTMARKED ON OR BEFORE ELECTION DAY AND RECEIVED BY THE APPROPRIATE ELECTION OFFICIAL WITHIN SIX (6) DAYS AFTER SUCH ELECTION. FOR PURPOSES OF THIS PART {B) OF SUBSECTION (4)(1), A POSTMARK SHALL INCLUDE ANY TYPE OF MARK APPLIED BY THE UNITED STATES POSTAL SERVICE OR ANY DELIVERY SERVICE TO THE RETURN ENVELOPE, INCLUDING BUT NOT LIMITED TO A BAR CODE OR ANY TRACKING MARKS, WHICH INDICATES WHEN A BALLOT WAS MAILED.

(c) The right, once registered, to a "straight party" vote option on partisan general election ballots. In partisan elections, the ballot shall include a position at the top of the ballot by which the voter may, by a single selection, record a straight party ticket vote for all the candidates of one (1) party. The voter may vote a split or mixed ticket.

(d) The right to be automatically registered to vote as a result of conducting business with the secretary of state regarding a driver's license or personal identification card, unless the person declines such registration.

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(e) The right to register to vote for an election by mailing a completed voter registration application on or before the fifteenth (15th) day before that election to an election official authorized to receive voter registration applications.

(f) The right to register to vote for an election by (1) appearing in person and submitting a completed voter registration application on or before the fifteenth (15th) day before that election to an election official authorized to receive voter registration applications, or (2) beginning on the fourteenth (14th) day before that election and continuing through the day of that election, appearing in person, submitting a completed voter registration application and providing proof of residency to an election official responsible for maintaining custody of the registration file where the person resides, or their deputies. Persons registered in accordance with subsection (1)(f) shall be immediately eligible to receive a regular or absent voter ballot.

(G) THE RIGHT, ONCE REGISTERED, TO PROVE THEIR IDENTITY WHEN VOTING IN PERSON OR APPLYING FOR AN ABSENT VOTER BALLOT IN PERSON BY (1) PRESENTING THEIR PHOTO IDENTIFICATION, INCLUDING PHOTO IDENTIFICATION ISSUED BY A FEDERAL, STATE, LOCAL, OR TRIBAL GOVERNMENT OR AN EDUCATIONAL INSTITUTION, OR (2) IF THEY DO NOT HAVE PHOTO IDENTIFICATION OR DO NOT HAVE IT WITH THEM, EXECUTING AN AFFIDAVIT VERIFYING THEIR IDENTITY. A VOTER SHALL NOT BE REQUIRED TO VOTE A PROVISIONAL BALLOT SOLELY BECAUSE THEY EXECUTED AN AFFIDAVIT TO PROVE THEIR IDENTITY.

(H)(g) The right, once registered, to vote an absent voter ballot without giving a reason, during the forty (40) days before an election, and the right to choose whether the absent voter ballot is applied for, received and submitted in person or by mail. During that time, election officials authorized to issue absent voter ballots shall be available in at least one (1) location to issue and receive absent voter ballots during the election officials' regularly scheduled business hours and for at least eight (8) hours during the Saturday and/or Sunday immediately prior to the election. Those election officials shall have the authority to make absent voter ballots available for voting in person at additional times and places beyond what is required herein. VOTERS SHALL HAVE THE RIGHT TO PROVE THEIR IDENTITY WHEN APPLYING FOR OR VOTING AN ABSENT VOTER BALLOT OTHER THAN IN PERSON BY PROVIDING THEIR SIGNATURE TO THE ELECTION OFFICIAL AUTHORIZED TO ISSUE ABSENT VOTER BALLOTS. THOSE ELECTION OFFICIALS SHALL: (1) VERIFY THE IDENTITY OF A VOTER WHO APPLIES FOR AN ABSENT VOTER BALLOT OTHER THAN IN PERSON BY COMPARING THE VOTER'S SIGNATURE ON THE ABSENT VOTER BALLOT APPLICATION TO THE VOTER'S SIGNATURE IN THEIR REGISTRATION RECORD; AND (2) VERIFY THE IDENTITY OF A VOTER WHO VOTES AN ABSENT VOTER BALLOT OTHER THAN IN PERSON BY COMPARING THE SIGNATURE ON THE ABSENT VOTER BALLOT ENVELOPE TO THE SIGNATURE ON THE VOTER'S ABSENT VOTER BALLOT APPLICATION OR THE SIGNATURE IN THE VOTER'S REGISTRATION RECORD. IF THOSE ELECTION OFFICIALS DETERMINE FROM EITHER OF THE COMPARISONS IN (1) OR (2) OF THIS PART (H) OF SUBSECTION (4)(1) THAT THE SIGNATURES DO NOT SUFFICIENTLY AGREE, OR IF THE VOTER'S SIGNATURE ON THE ABSENT VOTER BALLOT APPLICATION OR ABSENT VOTER BALLOT ENVELOPE IS MISSING, THE VOTER HAS A RIGHT TO BE NOTIFIED IMMEDIATELY AND AFFORDED DUE PROCESS, INCLUDING AN EQUITABLE OPPORTUNITY TO CORRECT THE ISSUE WITH THE SIGNATURE.

(I) THE RIGHT TO: (1) STATE-FUNDED PREPAID POSTAGE TO RETURN AN ABSENT VOTER BALLOT APPLICATION PROVIDED TO THEM BY A MICHIGAN ELECTION OFFICIAL; (2) STATE-FUNDED PREPAID POSTAGE TO RETURN A VOTED ABSENT VOTER BALLOT; AND (3) A STATE-FUNDED SYSTEM TO TRACK SUBMITTED ABSENT VOTER BALLOT APPLICATIONS AND ABSENT VOTER BALLOTS. THE SYSTEM SHALL PERMIT VOTERS TO ELECT TO RECEIVE ELECTRONIC NOTIFICATIONS REGARDING THE STATUS OF THE VOTER'S SUBMITTED ABSENT VOTER BALLOT APPLICATION AND ABSENT VOTER BALLOT, INFORM VOTERS OF ANY

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DEFICIENCY WITH THE VOTER'S SUBMITTED ABSENT VOTER BALLOT APPLICATION OR ABSENT VOTER BALLOT, AND PROVIDE INSTRUCTIONS FOR ADDRESSING ANY SUCH DEFICIENCY.

(J) THE RIGHT TO AT LEAST ONE (1) STATE-FUNDED SECURE DROP-BOX FOR EVERY MUNICIPALITY, AND FOR MUNICIPALITIES WITH MORE THAN FIFTEEN THOUSAND (15,000) REGISTERED VOTERS AT LEAST ONE (1) DROP-BOX FOR EVERY FIFTEEN THOUSAND (15,000) REGISTERED VOTERS, FOR THE RETURN OF COMPLETED ABSENT VOTER BALLOT APPLICATIONS AND VOTED ABSENT VOTER BALLOTS. SECURE DROP-BOXES SHALL BE DISTRIBUTED EQUITABLY THROUGHOUT THE MUNICIPALITY AND SHALL BE ACCESSIBLE TWENTY-FOUR (24) HOURS PER DAY DURING THE FORTY (40) DAYS PRIOR TO ANY ELECTION AND UNTIL EIGHT (8) PM ON ELECTION DAY.

(K) THE RIGHT, ONCE REGISTERED, TO HAVE AN ABSENT VOTER BALLOT SENT TO THE VOTER BEFORE EACH ELECTION BY SUBMITTING A SINGLE SIGNED ABSENT VOTER BALLOT APPLICATION COVERING ALL FUTURE ELECTIONS. AN ELECTION OFFICIAL RESPONSIBLE FOR ISSUING ABSENT VOTER BALLOTS SHALL ISSUE AN ABSENT VOTER BALLOT FOR EACH ELECTION TO EVERY VOTER IN THE JURISDICTION WHO HAS EXERCISED THE RIGHT IN THIS PART (K) OF SUBSECTION (4) (1) AND SHALL NOT REQUIRE SUCH VOTER TO SUBMIT A SEPARATE APPLICATION FOR AN ABSENT VOTER BALLOT FOR ANY ELECTION. A VOTER'S EXERCISE OF THIS RIGHT SHALL BE RESCINDED ONLY IF: (1) THE VOTER SUBMITS A SIGNED REQUEST TO RESCIND; (2) THE VOTER IS NO LONGER QUALIFIED TO VOTE; (3) THE SECRETARY OF STATE OR THE ELECTION OFFICIAL RESPONSIBLE FOR ISSUING THE VOTER AN ABSENT VOTER BALLOT RECEIVES RELIABLE INFORMATION THAT THE VOTER HAS MOVED TO ANOTHER STATE, OR HAS MOVED WITHIN THIS STATE WITHOUT UPDATING THEIR VOTER REGISTRATION ADDRESS; OR (4) THE VOTER DOES NOT VOTE FOR SIX (6) CONSECUTIVE YEARS. THE EXERCISE OF THE RIGHT IN THIS PART (K) OF SUBSECTION (4)(1) SHALL REMAIN IN EFFECT WITHOUT THE NEED FOR A NEW ABSENT VOTER BALLOT APPLICATION WHEN THE VOTER CHANGES THEIR RESIDENCE IN THIS STATE AND UPDATES THEIR VOTER REGISTRATION ADDRESS.

(L)~~(h)~~ The right to have the results of statewide elections audited, in such a manner as prescribed by law, to ensure the accuracy and integrity of elections. THE SECRETARY OF STATE SHALL CONDUCT ELECTION AUDITS, AND SHALL SUPERVISE AND DIRECT COUNTY ELECTION OFFICIALS IN THE CONDUCT OF SUCH AUDITS. NO OFFICER OR MEMBER OF THE GOVERNING BODY OF A NATIONAL, STATE, OR LOCAL POLITICAL PARTY, AND NO POLITICAL PARTY PRECINCT DELEGATE, SHALL HAVE ANY ROLE IN THE DIRECTION, SUPERVISION, OR CONDUCT OF AN ELECTION AUDIT. PUBLIC ELECTION OFFICIALS SHALL MAINTAIN THE SECURITY AND CUSTODY OF ALL BALLOTS AND ELECTION MATERIALS DURING AN ELECTION AUDIT. ELECTION AUDITS SHALL BE CONDUCTED IN PUBLIC BASED ON METHODS FINALIZED AND MADE PUBLIC PRIOR TO THE ELECTION TO BE AUDITED. ALL FUNDING OF ELECTION AUDITS SHALL BE PUBLICLY DISCLOSED.

(M) THE RIGHT, ONCE REGISTERED, TO VOTE IN EACH STATEWIDE AND FEDERAL ELECTION IN PERSON AT AN EARLY VOTING SITE PRIOR TO ELECTION DAY. VOTERS AT EARLY VOTING SITES SHALL HAVE THE SAME RIGHTS AND BE SUBJECT TO THE SAME REQUIREMENTS AS VOTERS AT POLLING PLACES ON ELECTION DAY. AN EARLY VOTING SITE IS A POLLING PLACE AND SHALL BE SUBJECT TO THE SAME REQUIREMENTS AS AN ELECTION DAY POLLING PLACE, EXCEPT THAT AN EARLY VOTING SITE MAY SERVE VOTERS FROM MORE THAN SIX (6) PRECINCTS AND MAY SERVE VOTERS FROM MORE THAN ONE (1) MUNICIPALITY

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WITHIN A COUNTY. AN EARLY VOTING SITE SHALL ALSO BE SUBJECT TO THE SAME REQUIREMENTS AS AN ELECTION DAY PRECINCT, EXCEPT THAT ANY STATUTORY LIMIT ON THE NUMBER OF VOTERS ASSIGNED TO A PRECINCT SHALL NOT APPLY TO AN EARLY VOTING SITE. EACH EARLY VOTING SITE SHALL BE OPEN FOR AT LEAST NINE (9) CONSECUTIVE DAYS BEGINNING ON THE SECOND SATURDAY BEFORE THE ELECTION AND ENDING ON THE SUNDAY BEFORE THE ELECTION, FOR AT LEAST EIGHT (8) HOURS EACH DAY, AND MAY BE OPEN FOR ADDITIONAL DAYS AND HOURS BEYOND WHAT IS REQUIRED HEREIN AT THE DISCRETION OF THE ELECTION OFFICIAL AUTHORIZED TO ISSUE BALLOTS IN THE JURISDICTION CONDUCTING THE ELECTION. JURISDICTIONS CONDUCTING ELECTIONS WITHIN A COUNTY MAY ENTER INTO AGREEMENTS TO SHARE EARLY VOTING SITES. A JURISDICTION CONDUCTING AN ELECTION MAY ENTER INTO AN AGREEMENT WITH THE CLERK OF THE COUNTY IN WHICH IT IS LOCATED AUTHORIZING THE COUNTY CLERK TO CONDUCT EARLY VOTING FOR THE JURISDICTION. JURISDICTIONS CONDUCTING NON-STATEWIDE ELECTIONS MAY OFFER EARLY VOTING FOR SUCH ELECTIONS IN ACCORDANCE WITH THE PROVISIONS OF THIS PART (M) OF SUBSECTION (4)(1). NO EARLY VOTING RESULTS SHALL BE GENERATED OR REPORTED UNTIL AFTER EIGHT (8) PM ON ELECTION DAY.

All rights set forth in this subsection shall be self-executing. This subsection shall be liberally construed in favor of voters' rights in order to effectuate its purposes. Nothing contained in this subsection shall prevent the legislature from expanding voters' rights beyond what is provided herein. This subsection and any portion hereof shall be severable. If any portion of this subsection is held invalid or unenforceable as to any person or circumstance, that invalidity or unenforceability shall not affect the validity, enforceability, or application of any other portion of this subsection.

(2) Except as otherwise provided in this constitution or in the constitution or laws of the United States the legislature shall enact laws to regulate the time, place and manner of all nominations and elections, to preserve the purity of elections, to preserve the secrecy of the ballot, to guard against abuses of the elective franchise, and to provide for a system of voter registration and absentee voting. No law shall be enacted which permits a candidate in any partisan primary or partisan election to have a ballot designation except when required for identification of candidates for the same office who have the same or similar surnames.

(3) A COUNTY, CITY, OR TOWNSHIP CONDUCTING AN ELECTION MAY ACCEPT AND USE PUBLICLY-DISCLOSED CHARITABLE DONATIONS AND IN-KIND CONTRIBUTIONS TO CONDUCT AND ADMINISTER ELECTIONS. THE COUNTY, CITY, OR TOWNSHIP SHALL RETAIN DISCRETION OVER WHETHER TO ACCEPT OR USE ANY SUCH DONATIONS OR CONTRIBUTIONS. CHARITABLE DONATIONS AND IN-KIND CONTRIBUTIONS OF FOREIGN FUNDS OR FROM FOREIGN SOURCES ARE PROHIBITED.

Sec. 7. Boards of canvassers (1) THE OUTCOME OF EVERY ELECTION IN THIS STATE SHALL BE DETERMINED SOLELY BY THE VOTE OF ELECTORS CASTING BALLOTS IN THE ELECTION.

(2) A board of state canvassers of four members shall be established by law. No candidate for an office to be canvassed nor any inspector of elections shall be eligible to serve as a member of a board of canvassers. A majority of any board of canvassers shall not be composed of members of the same political party. THE LEGISLATURE MAY BY LAW ESTABLISH BOARDS OF COUNTY CANVASSERS.

(3) IT SHALL BE THE MINISTERIAL, CLERICAL, NONDISCRETIONARY DUTY OF A BOARD OF CANVASSERS, AND OF EACH INDIVIDUAL MEMBER THEREOF, TO CERTIFY ELECTION RESULTS BASED SOLELY ON: (1) CERTIFIED STATEMENTS OF VOTES FROM COUNTIES; OR (2) IN THE CASE OF BOARDS OF COUNTY CANVASSERS, STATEMENTS OF RETURNS FROM THE

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PRECINCTS AND ABSENT VOTER COUNTING BOARDS IN THE COUNTY AND ANY CORRECTED RETURNS. THE BOARD OF STATE CANVASSERS IS THE ONLY BODY OR ENTITY IN THIS STATE AUTHORIZED TO CERTIFY THE RESULTS OF AN ELECTION FOR STATEWIDE OR FEDERAL OFFICE AND TO DETERMINE WHICH PERSON IS ELECTED IN SUCH ELECTION.

(4) IF THE CERTIFIED RESULTS FOR ANY OFFICE CERTIFIED BY THE BOARD OF STATE CANVASSERS SHOW A TIE AMONG TWO (2) OR MORE PERSONS, THE TIE SHALL BE RESOLVED AND THE WINNER CERTIFIED BY THE DRAWING OF LOTS UNDER RULES PROMULGATED BY THE BOARD OF STATE CANVASSERS. IF THE CERTIFIED RESULTS FOR AN OFFICE CERTIFIED BY A BOARD OF COUNTY CANVASSERS SHOW A TIE AMONG TWO (2) OR MORE PERSONS, THE TIE SHALL BE RESOLVED AND THE WINNER CERTIFIED BY SUCH BOARD OF CANVASSERS UNDER PROCEDURES PRESCRIBED BY LAW.

(5) THE CERTIFICATION OF ANY ELECTION RESULTS BY THE BOARD OF STATE CANVASSERS SHALL BE FINAL SUBJECT ONLY TO (A) A POST-CERTIFICATION RECOUNT OF THE VOTES CAST IN THAT ELECTION SUPERVISED BY THE BOARD OF STATE CANVASSERS UNDER PROCEDURES PRESCRIBED BY LAW; OR (B) A POST-CERTIFICATION COURT ORDER.

(6) A BOARD OF CANVASSERS IS AUTHORIZED TO CONDUCT POST-CERTIFICATION RECOUNTS OF ELECTION RESULTS UNDER PROCEDURES PRESCRIBED BY LAW.

(7) FOR PURPOSES OF THIS SECTION “TO CERTIFY” MEANS TO MAKE A SIGNED, WRITTEN STATEMENT.



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## Endnotes

- 1 Mich Const (1963) Art. 2, § 4, <https://perma.cc/X7BM-XJ38>.
- 2 Mich Const (1963) Art. 2, § 4, <https://perma.cc/X7BM-XJ38>.
- 3 MCL § 168.31a; MCL § 168.759a(5).
- 4 Mich Const Art. 2, § 4(1).
- 5 “Fundamental Right” (Legal Information Institute at Cornell Law School), <https://perma.cc/YRL5-4MFW>.
- 6 MCL § 380.10.
- 7 MCL § 168.764a; MCL § 168.720.
- 8 MCL § 168.761(1).
- 9 MCL § 168.766(2).
- 10 MCL § 168.761(2).
- 11 MCL § 168.761(6).
- 12 MCL § 168.761d. See also: “Fact Check: Absentee Ballots Drop Boxes Are Secure and Convenient For Voters” (State of Michigan, 2022), <https://perma.cc/ZY48-3GDG>.
- 13 MCL § 168.764b(2).
- 14 MCL § 168.764a(4)(d).
- 15 MCL § 168.764c. See also: <https://mvic.sos.state.mi.us/Voter/Index>.
- 16 “Fact Check: Absentee ballot application mailings” (State of Michigan, 2022), <https://perma.cc/5UMW-QWB4>.
- 17 For instance, see: “Vote Early” (State of Michigan), <https://perma.cc/V2LK-8255> and “Vote in person” (State of Michigan, 2022), <https://perma.cc/RC7J-5K3X>.
- 18 Mich Const Art. 2, § 4(g).
- 19 MCL § 168.662(2).
- 20 “Affidavit of Voter Not in Possession of Picture Identification” (State of Michigan), <https://perma.cc/CH39-7LFS>.
- 21 MCL § 168.523(1).
- 22 “Affidavit of Voter Not in Possession of Picture Identification” (State of Michigan), <https://perma.cc/CH39-7LFS>.
- 23 MCL § 168.813.
- 24 MCL § 168.523a(8).
- 25 MCL § 168.813(1).
- 26 MCL § 168.21.
- 27 MCL § 168.31(1)(a).
- 28 MCL § 168.31(1)(b), (h).
- 29 MCL § 168.31a(1)-(2).

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## Endnotes (cont.)

30 MCL § 168.31a(2).

31 MCL § 168.31a(2).

32 MCL § 168.31a(2)-(3).

33 MCL § 168.24a.

34 MCL § 168. 822; MCL § 168. 826; MCL § 168. 201; MCL § 168.24a.

35 MCL § 168.843-844.

36 MCL § 168.809; MCL § 168.765a.; MCL § 168.822; MCL § 168.823(3).

37 MCL § 168.841(1).

38 MCL § 168.851.

39 MCL § 168.861-894.

40 MCL § 168.2(k).

41 MCL § 168.846.

42 See MCL § 168.841 and “Board of State Canvassers” (Michigan Department of State, 2022), <https://perma.cc/VJY5-FBYS>.

43 Jonathan Oosting, “Zuckerburg Bucks’ fuel Michigan GOP Push to Ban Private Funds for Elections” (Bridge Michigan, June 4, 2021), <https://perma.cc/6EM2-ZMJW>; “CTCL Receives Additional \$100M Contribution to Support Critical Work of Election Officials” (Center for Tech and Civic Life, Oct. 13, 2020), <https://perma.cc/82T2-BZKB>.

44 “Senate Bill No. 284” (State of Michigan, March 24, 2021), <https://perma.cc/A6YJ-RYGV>.

45 “Prohibiting Private Funding of Elections” (National Conference of State Legislatures, Aug. 24, 2022), <https://perma.cc/5G6R-5GBU>.

46 Mich Const Art. 2, § 9.

47 MCL § 28.292(12).

48 Riley Beggin, “Jocelyn Benson Orders Michigan To Mail Absentee Applications To All Voters” (Bridge Michigan, May 19, 2020), <https://perma.cc/SC74-EPYJ>.

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