

STATEWIDE BALLOT PROPOSAL

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Proposal 18-2 will appear on the ballot as follows:

Statewide Ballot Proposal 18-2

A proposed constitutional amendment to establish a commission of citizens with exclusive authority to adopt district boundaries for the Michigan Senate, Michigan House of Representatives and U.S. Congress, every 10 years

This proposed constitutional amendment would:

- Create a commission of 13 registered voters randomly selected by the Secretary of State:
 - 4 each who self-identify as affiliated with the 2 major political parties; and
 - 5 who self-identify as unaffiliated with major political parties.
- Prohibit partisan officeholders and candidates, their employees, certain relatives and lobbyists from serving as commissioners.
- Establish new redistricting criteria including geographically compact and contiguous districts of equal population, reflecting Michigan's diverse population and communities of interest. Districts shall not provide disproportionate advantage to political parties or candidates.
- Require an appropriation of funds for commission operations and commissioner compensation.

Should this proposal be adopted? Yes [] No []

The Proposal

The proposed constitutional amendment would create a 13-member independent citizens redistricting commission. Starting in 2021, the commission would be responsible for redrawing district maps instead of the state legislature, which does it now. A “Yes” vote supports adopting the proposed constitutional amendment and creating an independent citizens redistricting commission. A “No” vote opposes the amendment.

Redistricting & Gerrymandering in Michigan

Every 10 years, states adjust their state legislative and congressional district boundaries based on population changes

identified in the recently completed U.S. Census. In Michigan, as in the majority of states, the state legislature is responsible for this process.

Commissions are responsible for drawing legislative district lines in 13 states. Seven of those states have so-called politician redistricting commissions, where specific elected officials have designated seats, or members are appointed by the legislature, party leadership or governor. The other six have independent commissions that are designed to limit direct participation by elected officials. Their members are generally voters appointed in processes that vary by state, but are designed to ensure balanced partisan composition.

In states like Michigan, where the legislature is responsible for the redistricting process, whichever political party has a

legislative majority at redistricting time leads the process. This means the majority-party legislators can – and often do – draw district boundaries to their own and their party’s advantage. Individual politicians stay in office and their party stays in power. Gerrymandered districts tend to result in a minority of voters electing a majority of representatives.

Don’t think that either major political party has a lock on gerrymandering, though. Both parties have engaged in it when they’ve been in power at the time districts are to be redrawn.

Gerrymandering can lead to less competitive districts, which exacerbates political polarization and reduces the population that is responsible for electing candidates. Gerrymandering also damages public trust in the political process because individuals and groups feel the system is rigged to limit their voice.

One of the challenges in the debate over acceptable redistricting versus unfair gerrymandering is identifying the boundary line between them. State and federal laws lay out rules for adjusting district boundaries, but despite many opportunities to do so, the U.S. Supreme Court has never established a firm standard for what constitutes gerrymandering.

Challenges to partisan gerrymandering are working their way through the courts in eight states, while seven states have had citizen petition drives to put redistricting reform on the ballot this year. Michigan is the only state with both.

Michigan’s legislative districts cross the threshold into gerrymandering under at least three current statistical measures. A report published by the Citizens Research Council called “Quantifying the Level of Gerrymandering in Michigan” (2018) discusses in some detail the tests used to measure gerrymandering and how Michigan fares on them.

This proposal would:

The primary effect of this constitutional amendment would be to create an independent citizens redistricting commission that would be responsible for the redistricting process in Michigan. The 13-member commission would include four Republicans, four Democrats and five members who are not affiliated with either major political party.

Commission Selection

Under the terms of the ballot proposal, any registered Michigan voter could apply to serve on the commission. The Michigan Secretary of State would also mail applications to at least 10,000 randomly selected registered voters encouraging them to apply.

The Secretary of State’s office will randomly select 200 finalists from among the qualified applicants: 60 Republicans, 60 Democrats and 80 who are not affiliated with either major political party. The proposed amendment requires that the selection process be statistically weighted so that the pool of 200 finalists mirrors the geographic and demographic makeup of Michigan as closely as possible.

The majority and minority leaders in the Michigan House and Senate will be able to reject up to five applicants each before the final commission members are randomly selected from among the finalists.

A new commission will be selected after the federal census is completed every 10 years, and will serve until the new district maps have been adopted and any judicial review has been completed.

Any registered voter in Michigan is eligible to serve on the commission, with a few exceptions. According to the proposal, a person would be prohibited from serving if in the previous 6 years he or she has been:

- A candidate or elected official of a partisan federal, state or local office.
- An officer or member of the leadership of a political party.
- A paid consultant or employee of an elected official, candidate or political action committee.
- An employee of the legislature.
- Registered as a lobbyist or an employee of a registered lobbyist.
- A political appointee who is not subject to civil service classification.
- Any parent, stepparent, child, stepchild or spouse of any of the above.

Changes to the Process of Redrawing District Maps

In the following table, the redistricting guidelines from the current state law on the subject (MCL 4.261) appear in the column on the left. The corresponding section of the proposed amendment to the Michigan Constitution (reproduced from the initiative petition, which is available online at https://www.michigan.gov/documents/sos/Voters_Not_Pol_p_598255_7.pdf) appears in the column on the right.

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Current Michigan Law on Redistricting	Proposed Amendment to the Michigan Constitution on Redistricting
By November 1, 2001, and every 10 years thereafter, the legislature shall enact a redistricting plan for the senate and house of representatives. Except as otherwise required by federal law for legislative districts in this state, the redistricting plan shall be enacted using only the following guidelines.	The commission shall abide by the following criteria in proposing and adopting a plan, in order of priority:
Senate and house of representatives districts shall be areas of convenient territory contiguous by land. Areas that meet only at the points of adjoining corners are not contiguous.	Districts shall be of equal population as mandated by the United States Constitution, and shall comply with the Voting Rights Act and other federal laws.
Senate and house of representatives districts shall have a population not exceeding 105% and not less than 95% of the ideal district size for the senate or the house of representatives unless and until the United States supreme court establishes a different range of allowable population divergence for state legislative districts.	Districts shall be geographically contiguous. Island areas are considered to be contiguous by land to the county of which they are a part.
Senate and house of representatives district lines shall preserve county lines with the least cost to the principle of equality of population [. .].	Districts shall reflect the state’s diverse population and communities of interest. Communities of interest may include, but shall not be limited to, populations that share cultural or historical characteristics or economic interests. Communities of interest do not include relationships with political parties, incumbents, or political candidates.
If it is necessary to break county lines to stay within the range of allowable population [. .], the fewest whole cities or whole townships necessary shall be shifted. Between 2 cities or townships, both of which will bring the districts into compliance [. .], the city or township with the lesser population shall be shifted.	Districts shall not provide a disproportionate advantage to any political party. A disproportionate advantage to a political party shall be determined using accepted measures of partisan fairness.
Within those counties to which there is apportioned more than 1 senate district or house of representatives district, district lines shall be drawn on city and township lines with the least cost to the principle of equality of population between election districts consistent with the maximum preservation of city and township lines and without exceeding the range of allowable divergence [. .].	Districts shall not favor or disfavor an incumbent elected official or candidate.
If it is necessary to break city or township lines to stay within the range of allowable divergence [. .], the number of people necessary to achieve population equality shall be shifted between the 2 districts affected by the shift, except that in lieu of absolute equality the lines may be drawn along the closest street or comparable boundary..	Districts shall reflect consideration of county, city and township boundaries.

Current Michigan Law on Redistricting	Proposed Amendment to the Michigan Constitution on Redistricting
Within a city or township to which there is apportioned more than 1 senate district or house of representatives district, district lines shall be drawn to achieve the maximum compactness possible within a population range of 98% to 102% of absolute equality between districts within that city or township.	Districts shall be reasonably compact.
Compactness shall be determined by circumscribing each district within a circle of minimum radius and measuring the area, not part of the Great Lakes and not part of another state, inside the circle but not inside the district.	

There are two main federal rules governing redistricting in every state. The first is a constitutional requirement that each district within a state must have about the same population. The second comes from the Voting Rights Act of 1965 and blocks the practice of drawing district lines that deny minority voters the right to an effective vote (Levitt, 2018).

There are two key differences between the current redistricting standards in Michigan and those in the proposed amendment. The first is the explicit prohibition in the proposed standards against drawing districts that benefit or harm a political party or candidate. The second is the requirement that districts reflect communities of interest in Michigan. (Communities of interest, as described in the proposal, may include but are not limited to: populations that share cultural or historical characteristics or economic interests but do not include relationships with political parties or candidates.) Twenty-four other states directly ask redistricting bodies to consider various types of communities in drawing district lines (Brennan Center for Justice, 2010).

Another significant change is that this proposal seeks to amend the Michigan Constitution. The current redistricting guidelines are spelled out in state law, meaning the legislature can pass a law changing the guidelines at any time. If this ballot proposal is adopted, Article XII of the Michigan Constitution dictates that any future changes to the proposed constitutional amendment could only be made by:

- A vote of the people, triggered either by a two-thirds majority vote in both the state House and the state Senate or a voter-initiated amendment.
- A Constitutional Convention.

Each of the 13 members of the commission would be permitted to propose district maps for the U.S. House of

Representatives and the state House of Representatives and state Senate. A majority of commissioners must approve a map, and that majority must include at least two Republicans, two Democrats and two nonaffiliated members.

Before drafting potential district maps, the commission would be required to hold at least 10 public hearings across the state to gather public input on how communities want to be represented in the districts. Five more public hearings would be required to gather feedback on the maps after they have been drafted.

Before adopting a plan, the commission would also be required to provide notice of each plan that will be voted on and allow at least 45 days for public comment on the proposed plans. Each plan would be required to include U.S. Census data to verify the population of each district, and include the map and legal description.

States With Independent Commissions

It's difficult to fully evaluate the effects of independent redistricting commissions, because most have only been in place for one or two redistricting cycles, and their structures and systems vary by state. California's transition has received the most media attention, so it gives us the clearest glimpse into how independent redistricting can affect elections.

The number of competitive elections (races closer than 5 percentage points) for the California state legislature increased from two races in 2010 (the last election before the independent commission drew district boundaries) to four races in 2016. For the U.S. House of Representatives, just 3.7% of races were decided by 5 percentage points or less nationally in 2016. In California, 7.5% of U.S. House races were competitive.

Michigan, by comparison, had no races decided by less than 5 percentage points in 2016.

A key takeaway here is that having an independent redistricting commission doesn't guarantee more competitive elections. However, there may be a connection between having an independent redistricting commission and elections that match up more closely with the expected seat share of a political party based on its overall share of votes.

If one finds value in the increased transparency and opportunities for public input that an independent commission offers, results from California give some reason for optimism. In 2017 the California Citizens Redistricting Commission received an award for public engagement in government by the John F. Kennedy School of Government at Harvard University for its efforts to include the public in the redistricting process.

As mentioned earlier, the proposed amendment would require 10 public meetings around the state to gather input from residents before maps are drawn, five public meetings after maps are drawn, and a 45-day public comment period before plans are voted on.

The current process in Michigan allows for public participation only through committee hearings in Lansing that are held as part of the legislative process of adopting the redistricting plan. The number and length of these hearings depends on the chair of the committee the redistricting proposals are assigned to. Typically, in legislative committees, people are invited to testify before committees and any time left is reserved for general public comment, potentially limiting the opportunity for public participation.

Lessons From Other States

A recent study published by the Brennan Center for Justice at New York University School of Law (2018) analyzed election results from states with redistricting commissions and came to the following conclusions:

- Dissatisfaction was especially great with commissions where a map could be approved over the unified objection of a minority vote based on a tiebreaker. (Michigan's proposed amendment requires a least two affirmative votes from each party.)
- Less satisfaction with, and trust in commissions existed where elected officials decided who would serve on commissions or played a substantial role.
- Citizen commissioners who were not closely involved in the political process seem to perform competently in the redistricting process.
- Citizen commissioners took seriously and tried to address the demands and interests of communities of color.

The report also provided a series of recommendations for commission structure, many of which appear to have been addressed in Michigan's proposed redistricting amendment.

It's Still Politics

Two of the biggest roadblocks facing an independent commission are ensuring that it actually is independent, and minimizing the influence of partisan politics on it.

Arizona's redistricting commission, for example, contributed to a reduction in gerrymandered districts, but it faced significant partisan conflict throughout the redistricting process following the 2010 census. The conflict ultimately led to a standoff between the two Republicans and the two Democrats on the commission that left the independent chair of the commission to act as the tiebreaker in an ugly political battle (Druke, 2017).

Members of the 2011 California redistricting commission have reported significant opposition to their work from both parties in the legislature throughout the process (French, 2018).

Despite attempts to design a fair redistricting process, any process that has the potential to directly affect political contests and outcomes is likely to be contentious. Neither of our major political parties has a stellar record of allowing political processes to play out without attempting to gain the upper hand, and it would not be realistic to expect differently if this proposed amendment passes. If it is adopted, the process for drawing legislative districts in Michigan will change, but the political bickering over the redistricting process almost certainly will not.

Additional Resources

FairVote – This nonpartisan organization that researches and promotes electoral reform, offers an online, annotated literature review of research on redistricting at http://www.fairvote.org/research_redistrictingsummaryliterature.

Citizens Research Council of Michigan – This organization has a 100-year history of providing sound, independent, nonpartisan research related to government in Michigan. The CRC has posted a thorough review on the topic of redistricting at <https://crcmich.org/proposal-2-redistricting-reform/>.

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Michigan Compiled Laws 4.261