



## STATEWIDE BALLOT PROPOSAL 2018-2 — REDISTRICTING

### In a Nutshell

The redistricting process affects the core components of a representative democracy. It determines what candidates people are able to vote for and who an elected representative represents. The term “gerrymandering” characterizes the eccentric boundaries of many legislative districts, drawn to unfairly privilege one party over another. Gerrymandering enables the creation of “safe” districts that allow candidates to appeal only to their party base. In this way, gerrymandering facilitates polarization. Gerrymandering also erodes public trust in the political process. When groups feel the system is designed to limit their voice, or prevent them from electing candidates, it can lead to citizen disengagement and weaken the representational aspect of our governmental system.

***If Proposal 2018-2 passes***, the Citizens Independent Redistricting Commission would be created and responsible for redistricting starting in 2021; the legislature would be removed from the process. The commission members would be randomly selected from a pool of applicants and would be required to host a minimum of 10 public meetings before developing the plans. Requirements for district plans would be set in the constitution.

***If Proposal 2018-2 is rejected***, the legislature would continue to be responsible for redistricting. Guidelines would be set by the legislature, but could be modified by future legislatures through statutory changes. Michigan would continue to lack binding constitutional guidelines.

***Major issues to consider:*** The proposal intends to prevent gerrymandering, or redistricting designed to change the electoral fate of a candidate or political party from happening. The current system leaves those decisions in the hands of politicians who can directly benefit from the redistricting process. Proposal 2018-2 would set criteria to guide how the commission would draw maps and places many requirements on the commission to increase the transparency of the redistricting process. The drawbacks are that the commissioners are not elected officials, instead they are selected at random, and can only be held accountable by other commissioners.

## Introduction

Proposal 2 on the November 6 general election ballot is an initiated constitutional amendment to reform Michigan’s redistricting process by removing responsibilities from the Michigan legislature and governor and granting them to a newly-created Independent Citizens Redistricting Commission. Every ten years, following updated population counts from the United States Census and the reapportionment of seats in the U.S. House of Representatives, states are required by federal law to re-draw the boundaries of congressional districts. The 1963 Michigan Constitution requires that the boundaries of state house and senate districts are redrawn at the same time.

Redistricting of congressional and state legislative districts is done to ensure that each district contains roughly the same number of people to comply with the “one person, one vote” principle of the United States Constitution.

The 1963 Michigan Constitution vests the responsibility for the redistricting process in the Commission on Legislative Apportionment. However, the provision creating this commission and vesting this responsibility was struck down in *In Re Apportionment (1982)*<sup>1</sup>, when the Michigan Supreme Court found that one of the redistricting criteria outlined in the

Michigan Constitution violated the U.S. Constitution.<sup>a</sup> As a result, the last three redistricting plans (1991, 2001, and 2011) were initiated by the legislature, although the Michigan Supreme Court had to step in and finalize the plans in 1991.

When elected officials control the process that determines their own electoral fate, few checks can prevent abuse. Elected officials can draw maps in ways that make them more likely to stay in office, that ensure their political party is more likely to stay in power, or that make their political opponents more likely to lose an election. This practice, commonly known as gerrymandering, allows political parties that gain unitary control over the redistricting process in a redistricting year to entrench control, sometimes in ways that can allow a minority of voters to elect a majority of representatives. Gerrymandering of any kind poses a significant risk to the health of our

government by undermining the power of targeted voting groups. Indeed, our analysis of election outcomes over the past two decades found that there is strong evidence that at least some gerrymandering has occurred in the state.<sup>2</sup>

Proposal 2, commonly referred to as Voters Not Politicians, would primarily amend Article IV (Legislative Branch), Sections 2 through 6, of the 1963 Michigan Constitution, to implement an array of reforms focused on changing the redistricting process. The proposal would create a new independent citizen-led redistricting commission to oversee the redistricting process, outline the criteria that the new commission would use in redrawing districts, establish transparency requirements throughout the redistricting commission, and establish a process for creating new redistricting plans.

## What Would Change?

### How Redistricting Works Now

Redistricting is the process that divides voters into representational districts for the state legislature and Congress. These districts are redrawn every ten years upon receiving updated population data from the U.S. Census Bureau. Districts determine the residents each elected official represents.

Currently, the redistricting process in Michigan occurs as an act of state statute. The Michigan legislature creates and approves new congressional and state legislative plans. The boundaries of the various districts are detailed in bills passed by the legislature. The governor has the ability to approve or veto the plans, similar to any other piece of legislation.

Current state laws<sup>b</sup> define the process for redistricting. They stipulate the frequency with which the process should occur, the criteria that the legislature should use, and they confer jurisdiction on the Michigan Supreme Court over Michigan redistricting plans. The specific criteria currently used for redistricting plans are commonly referred to as the Apol standards.<sup>c</sup> The Michigan Supreme Court has ruled that these standards are not binding on future legislatures in drawing districts because, in essence, when a legislature approves redistricting plans, the statutes it passes supersede the statutory provisions contained in other laws (e.g., PA 463 of 1996 and PA

a The Michigan Supreme Court applied the reasoning in the U.S. Supreme Court decisions *Reynolds v. Sims (1964)* and *Wesberry v. Sanders (1964)*, which established the “one person, one vote” doctrine, to determine that the state’s apportionment process was unconstitutional.

b Public Act 463 of 1996 (state legislative districts), Public Act 221 of 1999 (congressional districts), and Public Act 222 of 1999 (both state legislative and congressional districts).

c The Apol standards are a set of requirements the Michigan Supreme Court laid out for Bernard Apol, the special master appointed to draw the districts in the 1981 redistricting process. The specifics of the standards are discussed more on page 7.

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221 of 1999). Effectively, the Supreme Court ruled that there are no binding rules for the redistricting process outside of federal law.

Without guidelines in the state constitution, how and when the redistricting process happens is up to the state lawmakers. New congressional districts must be law in time for the first election following the new population counts (e.g., the 2022 election following the 2020 U.S. Census) based on federal rules, but there are no deadlines for legislative districts. If the legislature and governor are unable to come to an agreement on how districts should be drawn, then it falls to the Michigan Supreme Court to decide (as it did in the 1990s). Current statute sets the deadline for November 1 the year after the U.S. Census, though the process is usually wrapped up months before then. In 2011, the plans were finalized in June; in 2001, they were finalized in September.

Most states empower the legislature to determine their district plans following procedures established in their state constitutions, though many states are looking at changes. Arizona, for example, started using a citizen-led commission in the 2001 process, and California implemented a similar process starting during the most recent redistricting year. Ohio

recently reformed its redistricting laws to require bipartisan support for congressional plans. Missouri and Utah will have redistricting reform proposals on the November ballot.<sup>3</sup>

### How Would Redistricting Work Under Proposal 2?

In short, the proposal would create the Independent Citizens Redistricting Commission, which would be responsible for redrawing Michigan’s congressional and state legislative districts. The commission would be composed of 13 members: four people that self-identify with the Democratic Party, four people that self-identify with the Republican Party, and five individuals that do not identify with either major party. Commissioners will be randomly selected by the Secretary of State.

Commissioners are not allowed to be an elected official or run for elected office in the state, or an affiliate of a political party, and commissioners are not allowed to run for office for five years after their initial appointment.

The commission would have just over one year to complete its work (see **Table 1** for a full timeline).

**Table 1**

Timeline for 2021 Redistricting Under Proposal 2

2019	December 1	Deadline for the legislature to make initial appropriation for the commission.
2020	January 1	The Secretary of State makes applications available to the general public, and starts mailing applications to randomly selected registered voters.
	June 1	Deadline to submit applications to be a commissioner.
	July 1	The Secretary of State will randomly draw 60 applicants from the pool of eligible applicants from each of the two major political parties and 80 candidates that do not align themselves with a major party.
	August 1	The Senate Majority and Minority Leaders, Speaker of the House, and House Minority Leader may each strike up to five individuals from any applicant pool or pools.
	September 1	The Secretary of State randomly draws names from applicant pools for commissioners: Four each from the two major party pools and five from the non-affiliated applicant pool.
	October 15	The Secretary of State must convene the 13-member commission.
	Over more than a year	Commission business: Public hearings, create initial plans, public feedback, and revisions.
2021	November 1	Deadline to vote for finalized plans.
	60 Days After Finalized	The selected plans become law.

Prior to initiating work on any district plans, the commission must hold 10 public hearings across the state to solicit information from the general public. Citizens can also submit plans and other considerations in writing. These submissions would be part of the public record of the commission's work. Each commissioner can develop no more than one proposal for each type of district, and once all proposals are submitted, the commission must hold at least five additional public hearings, providing all data that went into the development of the proposal.

The commission must come to an agreement on congressional and state legislative plans by November first of the year following the U.S. Census (e.g., November 1, 2021 for the next redistricting cycle).

The proposal spells out three paths for selecting redistricting plans. Ideally, favored maps would obtain a majority vote of the commissioners, with at least two affirmative votes from members of each of the three groups (i.e., the two major parties and the independents).

If no redistricting plan receives a majority vote and meets these requirements, then the voting process shifts from a majority vote to a rank-order vote. Under the rank-order voting process, each commissioner can submit one redistricting plan, and the commissioners rank all submitted plans. Plans get points based on the inverse of the ranking; so a plan ranked first among ten plans will get ten points, while the plan ranked last would get only one. The points from each commissioner are then added together

to tally each plan's final score. The plan receiving the highest number of points becomes the finalized plan if at least two members not affiliated with the party that submitted the plan voted for it. If the plan does not meet this criteria, then the plan with the next highest score is checked.

If no plan meets these criteria after rank-ordered voting, the Secretary of State is required to select a plan at random from among those submitted by commissioners.

The Michigan Supreme Court is solely responsible for hearing any legal challenges to redistricting plans. If the court finds that a plan passed by the commission violates federal or state law, it can require the commission to create a new plan. However, under no circumstance can any group other than the commission create a redistricting plan.

The proposed amendment also provides some constitutional protections for the commission and commissioners. It requires the legislature to appropriate funds equal to 25 percent of the state's General Fund appropriation to the Department of State for each fiscal year that the commission operates. Each commissioner is provided the salary equal to one-quarter of the salary provided to the governor, and the proposal would guarantee that the legislature reimburse funds beyond what is initially appropriated. The proposal would also provide employment protections for those who are appointed to the commission.

Citizens Research Council has written about redistricting several times since the Michigan Supreme Court ruled invalid provisions in the 1963 Michigan Constitution. Previous paper can be found here:

***The Legislative Apportionment Predicament***

Council Comments 942 | June 1983

<http://crcmich.org/PUBLICAT/1980s/1983/cc0942.pdf>

***Where Reapportionment Stands Today***

Text of Speech | March 1992

<http://crcmich.org/PUBLICAT/1990s/1992/fh-apportionment.pdf>

***Article IV – Legislative Branch***

Report 360-07 | May 2010

<https://www.crcmich.org/PUBLICAT/2010s/2010/rpt36007.pdf>

***Congressional and Legislative Redistricting Reform***

Report 370 | May 2011

[https://www.crcmich.org/congressional\\_legislative\\_redistricting\\_reform-2011](https://www.crcmich.org/congressional_legislative_redistricting_reform-2011)

***Quantifying the Level of Gerrymandering in Michigan***

Memo 1148 and Report 402 | June 2018

<https://crcmich.org/quantifying-the-level-of-gerrymandering-in-michigan/>

## Analysis of the Proposal

### Creating Consensus

The proposed amendment attempts to address the lack of safeguards against gerrymandering that results when political parties use the redistricting process to advantage or disadvantage a specific person, party, or class of people – gerrymandering. Both major political parties across the country have a long history of attempting to draw district plans to generate some electoral advantage. While the 1963 Michigan Constitution attempted to create a distinct, and at the time innovative, process to limit partisan control over the redistricting process, after the Supreme Court struck down the state’s apportionment guidelines, the legislature wound up in control of the process.

Proposal 2 reduces the opportunity to gerrymander districts by pushing those in the redistricting process towards consensus. Introducing independent commissioners into the process and requiring compromise in the voting scheme make it difficult for one party to maintain unitary control over the process. This forces parties to negotiate down from their extreme positions towards plans that are more balanced.

Unlike the version of a commission currently contained in the Michigan Constitution, Proposal 2 would create a body that relies on randomly selected citizens to draw Michigan’s district plans. It maintains the features of partisan balance that are present in the Constitution, by selecting four members from each major political party. Additionally, the proposal adds five members to the commission that do not identify with either majority party. These non-aligned commissioners will hold significant power to incent commissioners attached to a political party to design redistricting plans that are attractive enough to win their votes.

Experience in other states shows that independent commissions with members not affiliated with a political party have been successful in reducing partisan gerrymandering. While the structure of the proposed Michigan commission does vary in some important ways from those in Arizona and California (the

two states with independent citizen commissions), commissions in those states have been effective at creating more balanced district plans.<sup>4</sup>

Additionally, adoption of the plans developed by the commissioners require at least some consensus; for the plan to become law, at least two members from each of the three groups must approve of a districting scheme. This will require redistricting plans with elements that appeal to each group. If the process resorts to a rank-order vote, at least two members that are not affiliated with the same party as the commissioner that submitted the map must rank the plan in their top half of plans. Rank-order voting forces candidates and partisans to move away from extreme positions. While an extreme plan favoring their political party might be the preferred map of commissioners affiliated with the political parties, it will not be the preferred plan of independent commissioners or those affiliated with the other party. Second choice plans, with elements that appeal to commissioners of all types, will then receive support from a broad spectrum of commissioners.

The commission’s independent members have an outsized influence. There are five independent commissioners, compared to four members from each of the major parties. The independent commissioners are also, at least theoretically, towards the middle of the two major parties. This allows the independent commissioners to leverage their votes as a block.

### Can Politics be Completely Removed from the Process?

Michigan does not have a partisan voter registration system; as a result, individuals submitting an application to be a member of the Independent Citizens Redistricting Commission have to attest to the political party with which they identify. While there is the possibility of partisans registering for the opposite party, the combination of several factors limits the probability that this would occur. Applicants must attest to the party they identify with under the threat of perjury. The large number of applicants that are encouraged to apply by the Secretary of State reduces the selective bias of those applying. House and Senate leadership are able to remove individuals

from the pool of candidates. The Secretary of State has years of primary election data to determine in which partisan primary election an individual participated (although the data is not perfect in proving what party an individual identifies with). Given all these roadblocks, it is not realistic to expect commissioners to represent a party opposite of that with which they truly identify.

Identifying independent voters is a little more difficult. While voters can have a wide array of ideologies, even most independents will lean in one direction or another. Because of this, it can be difficult to truly identify when someone applying to be an independent commissioner is truly independent.

Because independent members hold the most power in a divided commission, slight biases could make it difficult to completely remove partisan politics from the process. These concerns are limited by a number of factors, including the ability for independent commissioners to submit a plan (which in theory would have less bias and be more palatable to both sides), the ability of legislative leaders to remove up to five particular applicants, and requirements for the plans to adhere to specific criteria that are enforced by the Michigan Supreme Court..

### Commissioner Selection Process

The 13 commissioners will be chosen through a lengthy selection process that involves the Secretary of State mailing applications to 10,000 registered voters on a random basis. The state must mail out additional applications (beyond the first 10,000) until the Secretary of State has at least 30 applicants from each major party and 40 independent applicants through this random mailing. The process also requires the Secretary of State to make applications available to the general public. The state will be required to accept completed applications until June 1 of the year before the census.

Once all applications have been received and processed to ensure ineligible candidates are removed from the pool, the Secretary of State randomly selects 60 candidates that identify with each major political party, and 80 candidates that identify as independents (half of the selected applications for each major party and the independents must come from the applica-

tions randomly mailed by the Secretary of State). The names are selected through a statistical weighting process that will match the demographics of the pool with the state as closely as possible.

The Senate Majority Leader, Senate Minority Leader, the Speaker of the House, and the House Minority Leader are each allowed to strike up to five names, thus removing them from the applicant pool, for a total of 20 individuals removed from the list of 200 potential commissioners. Party leadership could choose to remove individuals that they feel would have an out-sized influence on the commission, individuals they think are misrepresenting their party identification, or individuals they believe will be more likely to bias the redistricting plans. From the remaining pool of candidates, the Secretary of State then randomly selects 13 members; four from each major party, and five from the pool of independent commissioners.

### Accountability of Commissioners

Once selected, a commissioner can only be removed from the position for one of the following five reasons:

- The commissioner resigns;
- The commissioner dies or becomes incapable of performing his/her duties;
- The commissioner becomes ineligible to serve if he/she has been convicted of a felony;
- The commissioner ceases to meet the eligibility criteria related to running for or holding partisan elected office or an employee, a lobbyist, being related to an officeholder or lobbyist, being eligible to vote, or being an unclassified state employee other than those working in the court of record, at state institutions of higher education, or in the armed forces; or
- The commissioner is discharged for substantial neglect of duty or gross misconduct by a vote of at least 10 commissioners.

Other than a commissioner becoming ineligible, unable, or unwilling to perform their duties, only the vote of an overwhelming majority (which mathematically would have to include at least one member of the group they represent) would be able to remove

a commissioner.

As a result, there is a question of what constitutes accountability for commissioners. A vote of 10 commissioners to remove a member would mean all but two of their peers would have to consider it necessary to impeach a commissioner. [Commissioner Qualifications](#)

The commissioners are to be selected randomly from a pool of applicants that reflects the geographic and demographic makeup of Michigan. Because there is no control for skill level or related experience in the application process, the majority of commission members are unlikely to have any sort of educational background in policy, ethnography, or other fields relevant for working on the redistricting process. Additionally, because a new commission is selected for every census, members are not likely to have previous experience working in the system.

While commissioners might have less educational background than the legislature, there are several mitigating factors. With term limits set at three terms (six years) in the Michigan House and two terms in the Michigan Senate (eight years), the majority of lawmakers in a given redistricting year will have never served while creating redistricting plans. Only a select handful of state lawmakers will have been through the process once before. Additionally, while a handful of the state lawmakers may have had training in fields relevant to the redistricting process, typically a majority of them will be learning the process on the fly and relying on unelected consultants to assist them through the process. Some staff and consultants that have worked on previous redistricting processes would still be around, leaving some institutional knowledge, but those individuals are not elected officials. So while the commissioners are likely to be less qualified at determining what districts should look like, the difference is not substantially different from the experience level of participants under the current legislatively-driven process.

### Expanded Role of the Secretary of State

While Proposal 2 removes the legislature and governor from the redistricting process entirely, the Secretary of State will have a new role. Not only is the Secretary of State responsible for administering

the commissioner selection process, but the constitutional officer will also serve as a non-voting secretary of the commission.

Given that the Secretary of State would have to decide how certain processes are carried out (such as the statistical weighting used to create the pool of candidates), is also responsible for providing technical services to the commission, and would serve as the commission secretary in an advisory role, the Secretary of State would have some influence over decisions the commission makes. Further, the office would be involved in decisions regarding contracting with outside organizations to assist with redistricting plan development.

### New Redistricting Criteria

As a result of the Michigan Supreme Court's decision in *Leroux v. Secretary of State (2002)*, no state-level redistricting criteria currently constrain the legislature's approach to redistricting. Federal law, requires districts that are equal in population and adhere to the Voting Rights Act protections for minority groups. The state does have non-binding provisions for the redistricting process, which include requirements for cities, townships, and counties to remain whole where possible, for districts to be contiguous, for districts to have a maximum variation of 16.4 percent, and for districts to be as compact as possible when a boundary break does occur.

Proposal 2 outlines seven criteria for drafting redistricting plans in Michigan in the following order of priority:

- 1) Districts must be of equal population and comply with the Voting Rights Act;
- 2) Districts must be contiguous;
- 3) Districts should reflect the state's communities of interest;
- 4) Districts should not provide a party with a disproportionate advantage as determined by an accepted measure of partisan fairness;
- 5) Districts shall not favor or disfavor a particular candidate or incumbent;
- 6) Districts should reflect county, city, and township boundaries; and

### 7) Districts should be reasonably compact.

Criteria #1, #2, #6, and #7 above are mostly consistent with current statutory standards. Additionally, Proposal 2 would require attention to new guidelines, including communities of interest (item #3 above) and the two explicit anti-gerrymandering provisions (item #4 and #5); the partisan fairness standard and the individual candidate provisions.

#### Communities of Interest

The communities of interest provision is intended to keep groups of people with collective policy interests, a strong social or cultural bond, or other linkages that do not line up with geographic boundaries, within the same district, so that the group may have sway with their representative. While communities of interest provisions are newer relative to other redistricting provisions, 24 states have adopted their use as a criteria in the state redistricting process. What defines a community of interest is somewhat vague, and can vary from state to state. Proposal 2 explicitly includes considerations of cultural, historical, and economic interests in what is deemed a community of interest, and explicitly excludes ties to a candidate or political party.

The required 10 minimum community hearings would allow citizens to directly communicate what they believe are important communities to keep together through the redistricting process. This would help guide the commission to know what communities citizens believe are important to the redistricting process. The current process provides minimal guidance on how to split a city or county to meet population standards, leaving the legislature with a somewhat arbitrary decision. The communities of interest provision would require at least some rationale for how those decisions are made.

While the communities of interest criteria might be subject to interpretation, the state's other criteria can also be measured in many different ways. Consider the requirement for compact districts, a common standard across many states. States can use many different measures to evaluate the standard and no specific threshold exists to apply to determine whether a district is compact.

It is also important to note that communities of interest provisions can lead to some conflicts regarding what communities should be kept together. Occasionally two goals in a district can be a zero-sum decision. This leaves the commission as the final arbiter on how to resolve which communities are important to keep together.

#### Partisan Fairness Standard

The partisan fairness standard is open to interpretation as well. Proposal 2 explicitly states that “districts shall not provide a disproportionate advantage to any political party...determined using accepted measures of partisan fairness.” What is deemed as an acceptable measure of partisan fairness, however, is not currently clear-cut.

While the U.S. Supreme Court had an opportunity to provide some clarity on the question in *Gill v. Whitford (2018)*, the Court remanded the case for further action and did not establish an acceptable standard to evaluate partisan bias.<sup>d</sup> Ultimately, what standard is considered acceptable could have a variety of implications for the state, as people's interpretation of standards can (though somewhat rarely) lead to different conclusions on the same redistricting plan. The commission will have to determine what metric is used to ensure “partisan fairness.” In developing a measure, the commission will have to deal with the fact that the state's political geography slightly favors Republicans, as Democratic voters are more concentrated in the state's urban areas.

#### Expanded Transparency Requirements

Michigan's current redistricting process is not very transparent. Because the Michigan legislature and the governor are not subject to Freedom of Information Act requirements, the only discussions available to the public on redistricting issues are those that occur during formal legislative deliberation, such as committee meetings. Consider the most recent round of the redistricting process and the timeline involved with approving the congressional and state legislative plans. After crafting maps behind the

<sup>d</sup> For more about potential standards, see *Quantifying the Level of Gerrymandering in Michigan* here: <https://crcmich.org/quantifying-the-level-of-gerrymandering-in-michigan/>.



scenes, the legislature took a total of two weeks to move from introducing the bills containing the new plans to voting the bills out of each chamber of the legislature. This provided little opportunity for public comment or input. The status quo allows the process to occur almost entirely behind closed doors.

Proposal 2 includes several provisions that would increase the transparency of the redistricting process. The commission would be required to hold 10 hearings across the state to solicit information from the public, and would be required to take written submissions from the public, all of which would be available as public record. Once each commissioner submits a redistricting plan, all relevant data and supporting material used would be made public for evaluation; the commission must hold at least five additional hearings to solicit input on those plans. Unlike the current process, the commission must publish a plan that outlines the proposed districts, along with the list of specific census blocks, cities, townships, and counties that are in each district.

The current process also opens the door for special interest groups and party consultants to influence the process in uncertain ways. Because much of the discussion of redistricting happens behind closed doors, it is difficult to know who is influencing the process. Proposal 2 would place requirements on commissioners prohibiting them from discussing redistricting issues with the general public unless those communications happen in writing or in a previously scheduled public hearing (and thus those communications would occur on the record). At a minimum, any consultants or interest groups that met with the commission would be made public.

### Increase in Costs

The amount of direct state expenditures associated with Michigan's redistricting process would increase under Proposal 2. During the 2011 redistricting process, a state appropriation of \$878,000 was made for costs associated with creating new plans. This funding did not include costs associated with defending legal challenges that have arisen as a result of the process.

Proposal 2 would require the legislature to annually appropriate for the commission an amount equal to at least 25 percent of the General Fund appropriation for the Department of State. Based on the Fiscal Year 2019 General Fund appropriation to the Department, the legislature would be required to appropriate about \$4.6 million annually, until all legal challenges to the redistricting plans are finished, to cover its work.

While there is a specific amount the legislature would be required to appropriate, the actual spending of the commission could vary. The commission is not required to use the entirety of the money appropriated; in fact, in most years they are unlikely to use all funds. After redistricting plans have been finalized the majority of expenses would relate to legal fees. The commission would, however, be able to spend more than the appropriated amount, if costs related to the process were greater than expected. The proposal requires the state to reimburse commissioners for spending above the amount appropriated. The \$4.6 million appropriation is an estimate of the maximum estimated yearly spending.

From the appropriation, the commissioners would be provided a salary equal to one-quarter of the governor's salary. Based on the governor's current salary, this would result in an annual salary of about \$40,000 per commissioner. For all 13 commissioners, salary expenses would total \$520,000 per year. Additional expenses to be covered by the appropriation would include hosting and advertising public meetings, travel costs of the commissioners, facility costs, consultants, legal costs, and mapping software.

Arizona and California provide some insight into how much an independent commission would likely spend. In Arizona, the commission spent \$9.5 million creating and defending the 2000s plans in court<sup>5</sup> and \$12.7 million on the current set of plans.<sup>6</sup> The large increase in costs with the current set of plans is largely due to the large number of legal battles the commission dealt with in this past decade. The commission spent about \$4.3 million in the first two years of the 2011 redistricting process (the time the commission spent creating the plans).<sup>7</sup>

In California, the cost of their first try using a citizen commission was about \$13.8 million. A large portion (about \$4 million) was used for the state's extensive selection process. Additionally, developing the redistricting plan cost California about \$3 million (\$1 million for costs related to the public meetings required, \$1 million for operating expenditures, \$400,000 in legal consultation fees, and \$600,000 for map drawing consultation fees).<sup>8</sup> The remaining expenditures were for costs that occurred after the plans were adopted, particularly legal expenses.

Given the reporting about redistricting expenses in

other states with similar commissions, it seems likely that Michigan would experience a fiscal cost increase under Proposal 2 relative to current spending. Operating costs, legal fees associated with running the commission, and travel costs will all be higher than they currently are, while costs related to challenges of the plan would depend on how frequently the plans are challenged in court. Funding for the commission would be small relative to the budget. Total new spending over the entirety of a commission's ten-year term is likely to be around \$10 million. This would represent about .01 percent of the \$10 billion per year General Fund over that timeframe.

### Conclusion

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When the Michigan Supreme Court invalidated Michigan's constitutional redistricting provisions in 1982, Michigan became one of three states without any constitutional provisions governing the redistricting process. Since then, both Arizona and Delaware added redistricting provisions to their state constitutions. Proposal 2 would aim to remove provisions that violate the federal constitution, and add to existing redistricting criteria in Michigan, while creating a new body to oversee the process.

The changes set about in Proposal 2 pose a choice to voters of what is more important in redistricting; transparency and imposition against bias, or accountability and efficiency. The amendment would improve voters' access to the redistricting process, allow them to have a forum to discuss what is important, and would limit the influence that political parties would have on the redistricting process, while

creating a constitutional framework to guide how districts should be drawn.

There are costs to these improvements. A loss of accountability is the primary cost. Citizens and elected officials are unable to hold individual commissioners accountable, and their actions are only challengeable through the courts. While Arizona's recent experiences with their independent citizen-led redistricting commission show that letting external partisan actors have direct control over a commission's fate can end in controversy, removing the overwhelming majority of external checks on the commission prevents those checks from holding commissioners accountable. Additionally, the redistricting process would be slower and cost slightly more to give citizens a better chance to discuss what they need out of a representational district with those who actually create the plans.

## Endnotes

- 1 413 Mich. 96; 321 NW 2d 565 (1982).
- 2 Citizens Research Council. “Quantifying the Level of Gerrymandering in Michigan.” Report 402. June 2018. <https://crcmich.org/quantifying-the-level-of-gerrymandering-in-michigan/>
- 3 Farmer, Alexis and Annie Lo. “Citizen and Legislative Efforts to Reform Redistricting in 2018”. August 2, 2018. <https://www.brennancenter.org/analysis/current-citizen-efforts-reform-redistricting>
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