

STATE CONSTITUTION (EXCERPT)
CONSTITUTION OF MICHIGAN OF 1963
Article II
ELECTIONS

§ 1 Qualifications of electors; residence.

Sec. 1.

Every citizen of the United States who has attained the age of 21 years, who has resided in this state six months, and who meets the requirements of local residence provided by law, shall be an elector and qualified to vote in any election except as otherwise provided in this constitution. The legislature shall define residence for voting purposes.

History: Const. 1963, Art. II, § 1, Eff. Jan. 1, 1964

Compiler's Notes: US Const, Am XXVI, § 1, provides: "The right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age."

Former Constitution: See Const. 1908, Art. III, §§ 1-3.

§ 2 Mental incompetence; imprisonment.

Sec. 2.

The legislature may by law exclude persons from voting because of mental incompetence or commitment to a jail or penal institution.

History: Const. 1963, Art. II, § 2, Eff. Jan. 1, 1964

§ 3 Presidential electors; residence.

Sec. 3.

For purposes of voting in the election for president and vice-president of the United States only, the legislature may by law establish lesser residence requirements for citizens who have resided in this state for less than six months and may waive residence requirements for former citizens of this state who have removed herefrom. The legislature shall not permit voting by any person who meets the voting residence requirements of the state to which he has removed.

History: Const. 1963, Art. II, § 3, Eff. Jan. 1, 1964

§ 4 Place and manner of elections.

Sec. 4.

(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.

(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) 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 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 dropboxes 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) 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 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.

History: Const. 1963, Art. II, § 4, Eff. Jan. 1, 1964 ;-- Am. Initiated Law, approved Nov. 6, 2018, Eff. Dec. 22, 2018 ;-- Am. Initiated Law, approved Nov. 8, 2022, Eff. Dec. 24, 2022

Compiler's Notes: The constitutional amendment set out above was submitted to, and approved by, the electors as Proposal 18-3 at the November 6, 2018 general election. This amendment to the Constitution of Michigan of 1963 became effective December 22, 2018.

Former Constitution: See Const. 1908, Art. III, §§ 1, 8.

§ 5 Time of elections.

Sec. 5.

Except for special elections to fill vacancies, or as otherwise provided in this constitution, all elections for national, state, county and township offices shall be held on the first Tuesday after the first Monday in November in each even-numbered year or on such other date as members of the congress of the United States are regularly elected.

History: Const. 1963, Art. II, § 5, Eff. Jan. 1, 1964

§ 6 Voters on tax limit increases or bond issues.

Sec. 6.

Whenever any question is required to be submitted by a political subdivision to the electors for the increase of the ad valorem tax rate limitation imposed by Section 6 of Article IX for a period of more than five years, or for the issue of bonds, only electors in, and who have property assessed for any ad valorem taxes in, any part of the district or territory to be affected by the result of such election or electors who are the lawful husbands or wives of such persons shall be entitled to vote thereon. All electors in the district or territory affected may vote on all other questions.

History: Const. 1963, Art. II, § 6, Eff. Jan. 1, 1964

Former Constitution: See Const. 1908, Art. III, § 4.

§ 7 Boards of canvassers, certification of election results.

Sec. 7.

(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 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.

History: Const. 1963, Art. II, § 7, Eff. Jan. 1, 1964 ;-- Am. Initiated Law, approved Nov. 8, 2022, Eff. Dec. 24, 2022
Former Constitution: See Const. 1908, Art. III, § 9.

§ 8 Recalls.

Sec. 8.

Laws shall be enacted to provide for the recall of all elective officers except judges of courts of record upon petition of electors equal in number to 25 percent of the number of persons voting in the last preceding election for the office of governor in the electoral district of the officer sought to be recalled. The sufficiency of any statement of reasons or grounds procedurally required shall be a political rather than a judicial question.

History: Const. 1963, Art. II, § 8, Eff. Jan. 1, 1964
Former Constitution: See Const. 1908, Art. III, § 8.

§ 9 Initiative and referendum; limitations; appropriations; petitions.

Sec. 9.

The people reserve to themselves the power to propose laws and to enact and reject laws, called the initiative, and the power to approve or reject laws enacted by the legislature, called the referendum. The power of initiative extends only to laws which the legislature may enact under this constitution. The power of referendum does not extend to acts making appropriations for state institutions or to meet deficiencies in state funds and must be invoked in the manner prescribed by law within 90 days following the final adjournment of the legislative session at which the law was enacted. To invoke the initiative or referendum, petitions signed by a number of registered electors, not less than eight percent for initiative and five percent for referendum of the total vote cast for all candidates for governor at the last preceding general election at which a governor was elected shall be required.

No law as to which the power of referendum properly has been invoked shall be effective thereafter unless approved by a majority of the electors voting thereon at the next general election.

Any law proposed by initiative petition shall be either enacted or rejected by the legislature without change or amendment within 40 session days from the time such petition is received by the legislature. If any law proposed by such petition shall be enacted by the legislature it shall be subject to referendum, as hereinafter provided.

If the law so proposed is not enacted by the legislature within the 40 days, the state officer authorized by law shall submit such proposed law to the people for approval or rejection at the next general election. The legislature may reject any measure so proposed by initiative petition and propose a different measure upon the same subject by a yea and nay vote upon separate roll calls, and in such event both measures shall be submitted by such state officer to the electors for approval or rejection at the next general election.

Any law submitted to the people by either initiative or referendum petition and approved by a majority of the votes cast thereon at any election shall take effect 10 days after the date of the official declaration of the vote. No law initiated or adopted by the people shall be subject to the veto power of the governor, and no law adopted by the people at the polls under the initiative provisions of this section shall be amended or repealed, except by a vote of the electors unless otherwise provided in the initiative measure or by three-fourths of the members elected to and serving in each house of the legislature. Laws approved by the people under the referendum provision of this section may be amended by the legislature at any subsequent session thereof. If two or more measures approved by the electors at the same election conflict, that receiving the highest affirmative vote shall prevail.

The legislature shall implement the provisions of this section.

History: Const. 1963, Art. II, § 9, Eff. Jan. 1, 1964

Constitutionality: A law proposed by initiative petition which is enacted by the Legislature without change or amendment within forty days of its reception takes effect ninety days after the end of the session in which it was enacted unless two-thirds of the members of each house of the Legislature vote to give it immediate effect. *Frey v Department of Management and Budget*, 429 Mich 315; 414 NW2d 873 (1987).

Former Constitution: See Const. 1908, Art. V, § 1.

§ 10 Limitations on terms of office of members of the United States House of Representatives and United States Senate from Michigan.

Sec. 10.

No person shall be elected to office as representative in the United States House of Representatives more than three times during any twelve year period. No person shall be elected to office as senator in the United States Senate more than two times during any twenty-four year period. Any person appointed or elected to fill a vacancy in the United States House of Representatives or the United States Senate for a period greater than one half of a term of such office, shall be considered to have been elected to serve one time in that office for purposes of this section. This limitation on the number of times a person shall be elected to office shall apply to terms of office beginning on or after January 1, 1993.

The people of Michigan hereby state their support for the aforementioned term limits for members of the United States House of Representatives and United States Senate and instruct their public officials to use their best efforts to attain such a limit nationwide.

The people of Michigan declare that the provisions of this section shall be deemed severable from the remainder of this amendment and that their intention is that federal officials elected from Michigan will continue voluntarily to observe the wishes of the people as stated in this section, in the event any provision of this section is held invalid.

This section shall be self-executing. Legislation may be enacted to facilitate operation of this section, but no law shall limit or restrict the application of this section. If any part of this section is held to be invalid or unconstitutional, the remaining parts of this section shall not be affected but will remain in full force and effect.

History: Add. Initiated Law, approved Nov. 3, 1992, Eff. Dec. 19, 1992

Constitutionality: United States Supreme Court found that an amendment to the Arkansas Constitution prohibiting the name of an otherwise-eligible candidate for Congress from appearing on the ballot if that candidate had already served 3 terms in the House of Representatives and 2 terms in the Senate was in violation of the Federal Constitution. The United States Supreme Court held that: “(1) states may not impose qualifications for offices of the United States representative or United States senator in addition to those set forth by the Constitution; (2) power to set additional qualifications was not reserved to the states by the Tenth Amendment; and (3) state provision is unconstitutional when it has likely effect of handicapping a class of candidates and has sole purpose of creating additional qualifications indirectly.” *US Term Limits, Inc v Thornton*, 514 US 779; 115 S Ct 1842; 131 L Ed 2d 881 (1995).