

# MICHIGAN ELECTORATE

## Dec. 2023 Review of the 102<sup>nd</sup> Legislature

### Prop 1 '22 Analysis

Last year, MI-Electorate promised a detailed analysis of [MI '22 Proposal 1](#).<sup>1</sup> This proposal, offered by the Michigan legislature, was a pair of constitutional amendments which traded extended term limits for financial disclosure by elected officials.

Michigan and Idaho were the only states which did not require financial disclosure from their legislators. Michigan term limits, implemented under 1992 Proposal B, were some of the most restrictive in the nation. Proposal 1 passed with super majority support.

Prior to the 2022 November election, MI-Electorate staff (and others<sup>2</sup>) noted

- anyone can voluntarily and publicly disclose their finances, as nearly every presidential candidate of the modern age has done
- For fifteen years, various legislators drafted disclosure bills; none cleared a floor vote
- In 2015, [Michigan was ranked worst](#) on ethics, accountability and transparency
- In 2017, under House Speaker Chatfield, Michigan passed “Citizen’s United on Steroids” laws, which allow candidate committee staff to control unlimited SuperPAC dark money
- In February '22, Michigan state police opened an investigation into three SuperPACs associated with former Michigan House Speaker Lee Chatfield

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<sup>1</sup>you can read last year’s summary [here](#)

<sup>2</sup>Detroit Free Press reporting followed a similar line

## Extended Term Limits

The legislature's Proposal 1 extended terms for the legislative branch, did not impact executive branch term limits, and did not initiate judicial term limits. Legislators can now serve a maximum of twelve years total. This doubles the state representative's limit, and extends a state senator's career to three terms.

Before 2022, state election results were controlled by partisan primaries in legislatively gerrymandered district maps. This resulted in a 2020 House majority with a +3% margin, despite losing statewide. November of 2022 was Michigan's first election using an independent commission's districts. Control of both chambers flipped hands by a narrow, representative margin.

## Financial Disclosure Requirements

Proposal 1 required some form of disclosure from the legislative and executive branches, but put no requirements on the judicial branch. The new requirements were detailed under the package of Senate bills [613](#), [614](#), [615](#), and [616](#).

MI-Electorate identifies three sources of candidate financial support:

- the candidate themselves, e.g. via employment, investments, etc
- a partner, family or friends, e.g. for housing, vehicles, food, etc
- political committees, for election related expenses

A brief summary of the new disclosure requirements on state elected officials is shown below:

<b>branch</b>	<b>candidate</b>	<b>family</b>	<b>committees</b>
Executive	sources, amounts	sources	(none)
Legislative	sources, amounts	sources	(none)
Judiciary	(none)	(none)	(none)

Disclosure limits start at \$1000 for earned income and \$200 for unearned income. Spouses must disclose their interest in state contracts and their status as a state lobbyist, but are not required to disclose detailed dollar amounts. Based on our communication with knowledgeable sources in Lansing, MI-Electorate believes Governor Whitmer blocked the effort to require disclosure by spouses.

The corruption risk of a candidate simply shifting assets to their spouse was identified in committee and publicly reported.

Secretary of State Jocelyn Benson suggested either adding spousal disclosure, or adding no requirements for spouses at all. MI-Electorate notes thirty-three states require financial disclosure from spouses.<sup>3</sup>

In committee testimony, former state Representative LaGrand implored the Senate to add disclosure requirements for spouses, and demonstrated how he could easily evade the new disclosure requirements without them. Committee records show Mr. LaGrand as **support** on the bills, which surprised us. We posted his closing statement on our website: <https://www.mi-electorate.org/MILeg102/LaGrand.mp4>

Senator and former Secretary of State Ruth Johnson [formally protested](#):

*We intentionally left loopholes the size of Texas for current and future legislators and state officials to exploit as they please.*

## **Penalties and Enforcement**

The new requirements do not distinguish incumbents from candidates, and do not vary with district or office.

Penalties for non-compliance are daily fines, capped at a \$2000 maximum. Under Senate bills 615 & 616, candidate committees may pay the fines on behalf of the candidates.

After 180 days, late fees are referred to the department of treasury for collection.

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<sup>3</sup>per [NCSL.org](https://www.ncsl.org) summary

## Conclusions and Recommendations

MI-Electorate recognizes these advantages of the new laws under MI '22 Prop 1:

- high integrity candidates will publicly disclose their finances
- Michigan will no longer be worst in the nation for ethics and integrity

We also see these shortfalls:

- corrupt candidates can easily abuse the spouse assets loophole
- the status quo of the bill package may deflect stronger disclosure laws
- the new laws do not address dark money, e.g. the Chatfield scandal

Secretary Benson recommended the non-compliance penalties include candidate disqualification. We agree, and we applaud Secretary Benson's record of enforcement regardless of elected status or political party. We also suggest the candidate committee **treasurer** in a non-compliant campaign be barred from future committees, and both also be barred from serving as delegate to the county convention.

Ms. Benson requested subpoena power for the bureau of elections, to enable investigations. We agree, and further suggest that campaigns contained in a single county might allow enforcement by a county prosecutor.

The Michigan Campaign Finance Network suggested higher fines, noting Michigan's initial proposals would be at the low end of the national range. We **disagree**. Even the \$2000 fine is meaningless to wealthy candidates, and SB 615 & 616 effectively eliminate the penalty for candidates with strong donor networks. Fines will disproportionately impact low income, inexperienced and less-connected candidates. We do however support stronger penalties for larger districts, for incumbents, and for egregious violations; and we suggest first time candidates who lose their election could be exempt from late fees.

The new majority has an opportunity to mitigate the influence of dark money in Michigan politics. We recommend disallowing candidate campaign staff from holding positions in any "independent" expenditure committee.

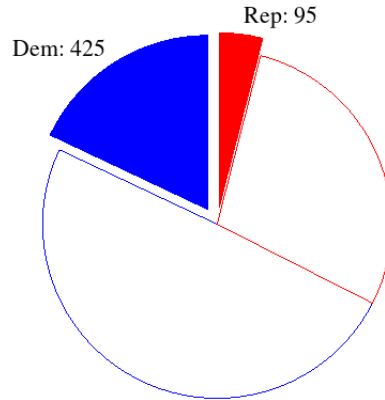
To improve judicial transparency, we recommends a non-legislative action: the Michigan Supreme Court should rescind administrative order 2006-8, which permanently shields court deliberation from the public (including recusal deliberation).

Last, MI-Electorate reiterates that any person (or entity) can request financial disclosure from any candidate, and that candidates are free to voluntarily disclose their finances. We will publish the candidate responses we receive.

# MI 2022 Legislative Summary (other than Prop 1)

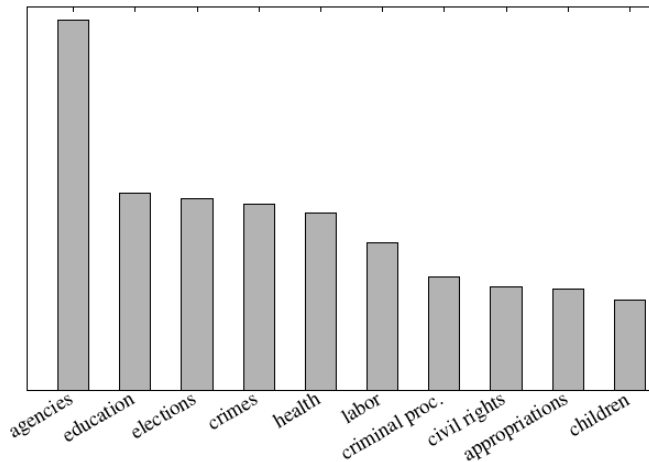
This legislative session moved fully a third more business than the previous session:

**MI 102<sup>nd</sup> Legislative Partisan Splits**



Funding for state government was, by far, the most active area.

**MI 102<sup>nd</sup> Legislative Priorities**

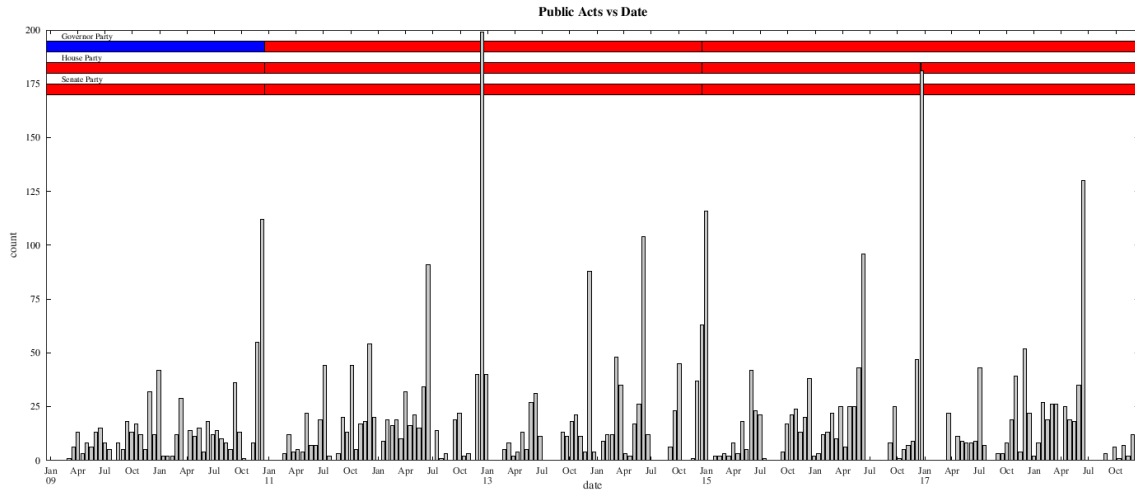


Expanded voter rights helped drive election law activity. The new majority party elevated civil rights legislation into the top 10 priorities.

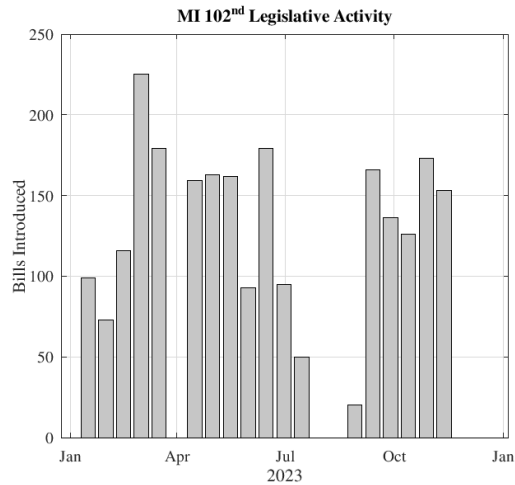
The session began with a significant budget surplus, but does not appear likely to end with one. Instead, the legislature fully funded state education and provided some working class tax relief.

## Timing

Previous session activity peaked in November, and often surged before the summer break:



The 2023 session operated differently:



Legislative activity was faster and more consistent. This can be attributed to Democrats controlling both chambers after many years in the minority. A strategic decision to end session early (so that laws take effect earlier in 2024) explains the lack of a November peak.

## Contests

MI-Electorate has identified no vetoes.

Under our scoring, the most contentious legislation dealt with funding and budget:

- [House bill 4437](#), the omnibus budget
- [Senate bill 7](#), funding back to fiscal year 2021

Several other bills required round trips between the Senate and House: ([SB 173](#), [SB 174](#), [SB 367](#)). Given narrow chamber majorities, it is no surprise that dozens of bills passed by a single vote. We note however that many of these are recorded as gaining super majority support for immediate effect, rather than a 90 day delay. Votes for immediate effect are almost always voice votes, and not recorded. We note previous majority party routinely abused this same procedural lack of transparency.

Contentious bill SB 367 covered elections, not funding. This bill was a legislative reaction to MI 2022 Prop 2's expansion of Michigan voter rights. In particular, the former Senate majority leader protested the statutory impact of the citizen initiated constitutional amendment:

*I think it is, one, incredibly foolish to incorporate such tedium into a constitution.*

*- Sen. McBroom (R) SD-38*

We remind the Senator that petition initiated **amendments** always go to a vote of the people, while statute petitions routinely fall victim to legislative action under the Article 2 Section 9 of the state constitution. That constitutional quirk allowed the 2018 legislature to gut a minimum wage ballot proposal. In 2013, then-Representative McBroom used this same quirk to bypass both the Governor and the people, and force Michigan's "Rape Tax" into law.

Generally, as deliberation proceeded, the opposition softened on contentious topics. An analysis of crossover votes will help inform next year's November general election.

Our full summary of Michigan's 102<sup>nd</sup> Legislature is available at [our website](#).