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KAROUB REPORT

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The question nobody is campaigning on

Proposal 1 asks whether Michigan should rewrite its constitution. It appears every sixteen years, and this time no one has organized against it.

Michigan voters will find an unusual question on the November ballot, one that has attracted remarkably little attention considering the scale of what a “yes” vote would set in motion: whether the state should convene a constitutional convention in 2027 and open the 1963 Michigan Constitution to general revision.

No campaign had to gather signatures to put the question there. Article XII, Section 3 of the Michigan Constitution requires voters to be asked every 16 years whether they want a constitutional convention, which makes Proposal 1 less a product of the politics of 2026 than a recurring appointment Michigan voters made with themselves decades ago. The question has been rejected each of the last three times it appeared, although support has increased with each successive vote, from 23 percent in 1978 to 28 percent in 1994 and 33 percent in 2010.

What deserves more attention than it has received so far is what happens if voters say yes, because approving Proposal 1

would not simply begin a conversation about a handful of constitutional changes. It would trigger the election of 148 delegates, one from each state House district and one from each state Senate district, followed by a convention with authority to consider a general revision of the constitution. Whatever ultimately emerged from that process would still have to return to Michigan voters for approval, but between those two votes would be a convention with the ability to reconsider provisions touching virtually every major area of state government.

For organizations with a significant stake in Michigan public policy, that is the part of Proposal 1 worth thinking through now. Most of the time, businesses, associations and nonprofits can organize around a discrete legislative proposal or constitutional amendment: one subject, one piece of language, one campaign.

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A constitutional convention is fundamentally different because tax and revenue provisions, dedicated funds, boards and commissions, local government authority, the civil service, the judiciary, term limits and the initiative and referendum process could all become part of the same conversation.

That does not tell an organization what position to take on Proposal 1, but it does suggest that waiting until after Election Day to think about the implications would be a mistake. Organizations should be looking now at which

constitutional provisions matter to their operations, their members or the policy environment in which they work, and what it would mean to defend or reconsider those provisions in the very different setting of a constitutional convention. If voters approve the proposal, attention would turn almost immediately to the election of delegates and to a political process Michigan has not undertaken since the convention that produced the current constitution more than six decades ago.

Proposal 2 reaches well beyond the utility debate

Most of the public discussion surrounding Proposal 2 has centered on Michigan's major electric utilities and the amount of money they spend in state politics, which is understandable given both the origins of the proposal and the organizations involved in the campaign. But for businesses, associations and other organizations trying to understand how the proposal might affect them, the more important exercise is to read past the political shorthand and look closely at the language voters will actually consider.

Proposal 2 would prohibit regulated electric and gas utilities, government contractors receiving more than \$250,000 annually in government contracts, and people and organizations with "substantial connections" to those entities from making direct or indirect campaign contributions to candidates for, or holders of, offices that affect them. It would also make a separate set of changes to Michigan campaign finance law by expanding the rules governing certain political communications and expressly extending disclosure requirements to internet political communications.

That distinction is important because an organization does not necessarily have to be a utility or a covered government contractor for the communications provisions to be relevant to its work. The proposal would expand laws regulating spending on political communications to include communications that clearly identify a candidate or ballot question even when they stop short of expressly telling an audience to vote for or against that candidate or proposal.



For trade associations, nonprofits and other organizations that routinely communicate with members or the public about Michigan policy and elections, that deserves separate attention from the contribution restrictions themselves.

The \$250,000 government-contracting threshold also means the proposal could reach businesses whose connection to the debate is not immediately obvious. A company providing technology, consulting, construction, health care or other services to state or local government may have little reason to think of itself as part of a campaign finance proposal associated publicly with DTE and Consumers Energy, but its contractual relationships could nevertheless make the new law relevant. The Citizens Research Council notes that the proposal contains several distinct components addressing regulated utilities, government contractors, principals connected to those entities, political advertising and disclosure, and that those components would operate independently if the measure is adopted.

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There are also questions that the ballot language itself cannot fully answer. Terms such as “indirect” contribution and “substantial connections” will matter considerably in practice, particularly for businesses with affiliates, executives who participate individually in politics, trade associations and related political committees. The precise application of those provisions would depend on the statutory text, subsequent guidance and potentially litigation; the proposal also contains a severability clause, meaning that a successful legal challenge to one provision would not necessarily invalidate the remainder.

For organizations that may be affected, the useful exercise before November is therefore not simply deciding what they think about utility political spending. It is identifying government contracts and relevant affiliates, understanding who within the organization participates in political giving,

and separately reviewing public-facing communications that mention candidates or ballot proposals. Those are two different compliance questions, and an organization could conceivably fall outside one part of the law while having obligations under another.

If Proposal 2 is approved, organizations potentially covered by it should also expect a period in which lawyers, regulators and affected entities work through what the new provisions mean in practice. That is not unusual when voters adopt a substantial change to campaign finance law, but it does mean that businesses and associations with possible exposure should be prepared to review their policies rather than assuming the campaign's most familiar description tells them everything they need to know.

What is actually moving in Lansing this fall?

The state budget is finished, Election Day is barely a month away, and most legislators would rather be in their districts than sitting through long committee hearings in Lansing. Ordinarily, that combination would suggest a Capitol that has more or less gone quiet until November.

It has not, exactly. But neither is there a broad fall legislative agenda taking shape.

What we are seeing instead is a narrower and somewhat revealing end-of-term period, in which bills with bipartisan agreements are still capable of moving, several issues that have been unresolved for much of the session are being positioned for another attempt, and lawmakers are beginning

to distinguish between legislation that can realistically be finished before the 103rd Legislature adjourns and legislation that will have to start over next year.

Dam safety is one of the clearest examples of something that can still get done

The House last week approved legislation strengthening Michigan's dam-safety system after House and Senate negotiators reached an agreement, an indication that legislation with a defined problem, substantial work already behind it and enough bipartisan support can still find a path through a divided Legislature.

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The package would strengthen state oversight of dams and emergency planning, an issue that has remained on the legislative agenda since the 2020 failures of the Edenville and Sanford dams. The significance this fall is less that dam safety has suddenly become a dominant Capitol issue than that the package illustrates what successful late-session legislation increasingly looks like: it has been worked for some time, the differences between the chambers are manageable, and neither party needs to make the bill a major election-year fight.

Expect more movement fitting that description than sweeping new initiatives between now and Election Day.

The nine “limbo bills” are back, but with a new legislative path

One of the more unusual disputes of this legislative term also returned in September. The Democratic-led Senate passed new versions of nine bills that originally cleared both chambers at the end of the 2023-24 Legislature but were never presented to Gov. Gretchen Whitmer by the new Republican House leadership. After a prolonged court fight, Whitmer ultimately received and vetoed the original measures in July; the Senate has now passed replacement versions.

The subjects are varied rather than part of a single policy agenda. Among them are changes affecting the State Police retirement system, public-employer health benefit contributions, garnishment protections and authorization for local millages supporting Detroit-area cultural institutions.

Whether all of those bills ultimately make it through the House is a separate question, but their reappearance is worth watching because they already have something most legislation lacks this late in a term: a history of support in both chambers. For organizations with interests in any of those areas, they belong on the fall watch list rather than in the file marked “2027.”

Data centers are becoming a larger legislative issue, not a smaller one

If there is one policy subject that looks increasingly likely to follow lawmakers through the remainder of this term and into the next, it is data centers.

Michigan has spent the last several years trying to attract large-scale data center investment, including through tax incentives, but the conversation has broadened considerably as proposed projects have raised questions about electricity demand, utility costs, water use, local control and the economic value communities receive in return.

Gov. Gretchen Whitmer added to that debate this summer with an “Affordable and Responsible Growth Action Plan” calling for data center companies to bear the costs associated with their development, protect natural resources and provide good-paying jobs.

Legislation has also been introduced addressing labor requirements for certain data center projects, while other lawmakers have proposed reconsidering the tax treatment that helped attract the industry in the first place.

And the issue is still developing. New House legislation introduced October 1 would create a “Data Center Local Decision Protection Act” and make related changes to Michigan zoning law.

That does not mean one comprehensive data center package is poised to pass this fall. At this point, the opposite may be the more accurate description: lawmakers are approaching the issue from several directions at once. But for utilities, local governments, construction interests, economic developers, environmental organizations and businesses with substantial energy interests, data centers have moved from a specialized economic-development issue into a broader policy debate that is unlikely to disappear when the legislative term ends.

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Do not mistake a quiet October for a quiet December. The larger dynamic is the calendar.

The Legislature has already completed the most difficult piece of business it absolutely had to finish: the state budget. That agreement came only after an unusually productive final stretch in which lawmakers passed dozens of policy bills alongside the spending plan.

With the election approaching, there is considerably less incentive now for either chamber to take difficult votes simply for the sake of moving legislation that can wait. That changes after November 3.

Every House and Senate seat is on the ballot this year, and Gov. Whitmer is approaching the end of her second term. Once the election is over, lawmakers will know what the next Legislature and administration look like, departing members will have only weeks remaining in office, and every bill that has not been enacted will be staring at the same deadline: the end of the legislative term.

That is why the most important fall activity may not always be visible on the House or Senate floor.

Negotiations taking place now can determine which bills are ready when lawmakers return after the election. A proposal that still needs a sponsor, substantial drafting, stakeholder negotiations and committee education in November probably has a difficult path. A bill that has already moved through one chamber, resolved most of its opposition and is waiting for one final agreement is in a very different position. It should be noted that there is no guarantee there will even be a post-election “lame duck” session in 2026 and the results of the November election will dictate if the Legislature returns to session this year.

What should organizations be doing now?

For anyone with business before the Legislature, October is a good month to stop thinking about the session in terms of a conventional policy agenda and start thinking about position.

If a bill matters to your organization, find out exactly where it is procedurally and what remains unresolved. If it has not moved, determine whether there is a genuine path before the end of the year or whether time would be better spent preparing for reintroduction in 2027.

If an issue could affect you but has not yet become a priority, this is also the time to establish a position; December is a poor month to discover that a bill you have not been following suddenly has the votes to move.

And pay attention to agreements, not simply introductions. Hundreds of bills can sit on the legislative calendar. At this point in a divided Legislature and an election year, the more meaningful signal is often that House and Senate negotiators have found language both chambers can live with.

The next several weeks may therefore feel relatively quiet in Lansing. That should not be confused with inactivity. October is increasingly about deciding what is ready. November and December will tell us what lawmakers intend to finish, if anything at all.

