

# The Effects of a Term Limited Legislature in Michigan

Prepared by:

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February 2012

Dear Reader,

Term Limits is something that the association sector lives with in our own organizations. Most association bylaws outline term limits for their Board of Directors. They benefit the organization by providing diversity of leadership. In these situations there is usually turn over or re-election each year. For example, on a 15-member board, five individuals are up for reelection or newly elected for a three-year term. Assuming that half are not term limited, an organization has two or three new Board members each year. This results in about a 15 percent annual turn over. These new individuals bring in new ideas while also contributing to the Board's progress on the strategic direction for the organization.

The state legislature in Michigan has been experiencing turnover of over 50 percent. In 1992, voters overwhelmingly passed an amendment to the state Constitution that enacted term limits for elected office. Term Limits changed the operational rules of the legislature by setting a fixed maximum length of service instead of letting voters and political parties choose the length of legislators' service. Since terms are two or four years and they can only serve two or three terms, the legislature will experience at least a 33 percent turnover with each election. This has impacted the knowledge management component for our decision-makers. If your office experienced turnover of this magnitude you would find it challenging to accomplish all that needs to be done. Our state is experiencing this too.

This paper, "The Effects of a Term Limited Legislature in Michigan", outlines the various findings on how term limitations have impacted the running of our state government. It offers alternatives for solutions. Everyone that lives in and loves our great state wants to be proud of what our government is doing. Frequently we have experienced situations where we do not have a healthy, conducive public policy environment where we can strategically discuss options that will create the rules, regulations and laws that we live under.

Why did the Michigan Society of Association Executives undertake this project? We are the association of associations. Yes, many of our members are executives of special interest groups. Our members represent collective groups of professionals or business sectors that all want the health of our state to be in the forefront of our strategic conversations. Whether we are in agreement

on an issue, or in opposition, we collectively want an environment where good, healthy conversation and discourse is allowed, encouraged and respected. Together people make the best decisions. It is acknowledged that the legislative environment has changed so much, that issues that needed attention were not being dealt with in a timely fashion.

Although there is not one magical “fix”, we did want to bring to the surface the history and alternatives so that various parties will have strategic discussions about options and what they can do to make a difference. This paper is a starting point to offer a research-based summary of the situation.

We are convinced that citizens have a right to know how this initiative has impacted their government and their state. We are hopeful that the media, association members, the legislature and others will utilize this collection of knowledge to make improvements in the situation.

Please contact me at 517.332.MSAE or [cheryl@msae.org](mailto:cheryl@msae.org) to share your thoughts and opinions after you read the paper. I look forward to working with you on this important issue that impacts Michigan’s future.

Thanks for reading,

A handwritten signature in black ink, appearing to read "Cheryl Ronk". The signature is fluid and cursive, with the first name "Cheryl" written in a larger, more prominent script than the last name "Ronk".

Cheryl O. Ronk, CAE | MSAE President

# ACKNOWLEDGEMENTS

The Michigan Society of Association Executives' (MSAE) membership completed a survey over the summer of 2009 to provide new benchmark data to the industry. The economy had changed and the old data was not relevant. We asked a few open-ended questions about what should be done to change the Michigan economy and if they could communicate to leaders in our state what would they correspond. I was surprised. The responses were not about improving the working conditions for the profession or business sector our members individually work for; it was about the general welfare of Michigan and the need for political effectiveness.

This motivated the Board and staff to start thinking about whether MSAE had a role in improving the public policy environment in Michigan. After months of discussion we decided we could play a role. We gathered about 50 of MSAE's members together to discuss the idea and determine if this sampling concurred with our thought process. We also asked them if we do anything, what should that be. This discussion resulted in three suggestions regarding what MSAE could accomplish:

1. Take a position on term limits.
2. Create a code of conduct and training to assure compliance with all the lobby laws.
3. Create forums to discuss political issues where associations can make a difference.

A task force was created to work on the term limits issue. They were charged with the following:

**Outcome: *To identify the problem, then spearhead discussion and education on term limits.***

**Measurables:**

1. Develop a White Paper on problems and options regarding the impact of term limits to the public policy arena in Michigan.
2. Learn about and utilize research already generated.

The task force met under the leadership of Kris Nicholoff, Executive Director of the Michigan Osteopathic Association, and the task force collected the research that was utilized for this project. I want to thank the task force for reviewing and improving this document to make sure that we learn from and share it with others.

**Term Limits Task Force Members**

Kris Nicholoff, Executive Director, Michigan Osteopathic Association  
Bruce H. Aldrich, CAE, President, Aldrich & Associates  
Diane Kay Bollman, Executive Director, Michigan College of Emergency Physicians  
Gretchen Couraud, CAE, CFRE, Executive Director, Michigan Library Association  
Robert Dumont, President & CEO, Tooling, Manufacturing & Technologies Association  
Henry Fuhs, Chairman, Pharmacy PAC, Michigan Pharmacists Association  
Emily Gerkin Palsrok, Managing Director, Lambert, Edwards And Associates  
Chuck Hadden, CAE, President & CEO, Michigan Manufacturers Association  
Barbara Lezotte, APR, President, Lezotte Miller Public Relations, Inc.  
Richard K. Studley, President & CEO, Michigan Chamber of Commerce

We have reviewed a host of articles including the comprehensive research from a longitudinal study conducted by Marjorie Sarbaugh-Thompson, Lyke Thompson, Charles D. Elder, John Strate and Richard

Elling from Wayne State University. My gratitude goes to Iris Salters, former President of the Michigan Education Association for locating this resource and serving on the task force prior to her retirement.

MSEA was searching for an intern to help with the project when Lou M. Monticello stepped forward. After his initial work, we were honored to locate Lauren Tomaszczyk, a Michigan State University law student. She took on the project with enthusiasm and professionalism. It has been a joy working with her. My intern, Rebecca McHale, worked to help with all the data collection, minutes and organization of the task force. Of course my teammates helped immensely. MSEA appreciates the many individuals that reviewed various drafts and provided counsel for us to consider. Any factual errors this may contain are solely the responsibility of the authors.

Lastly, I thank the members of MSEA for having confidence in their organization to undertake this research and sharing the need for a comprehensive document on the impact of term limits. We are honored to be their resource.

Cheryl O. Ronk, CAE, CMP, FASAE | MSEA President

# EXECUTIVE SUMMARY

*prepared by Michigan Society of Association Executives  
February 2012*

After nearly 20 years of term limits on state elected officials, the **system is different but not dysfunctional**. Some identify the change as a shift from policy to politics.

The **general population continues to support term limits** while people working in and around state government advocate for reform of some sort.

Currently only 15 states impose term limits on their state legislators. Since adopting limits, six states have either repealed term limits or their courts have found them to be unconstitutional.

When compared to other states' term limits, **Michigan imposes some of the most restrictive**, such as lifetime bans and shorter terms. Michigan is one of only six states that impose lifetime term limits.

Research suggests that states with more restrictive term limits, like Michigan, have been more affected than states with more flexible limits. Term limits contribute to declining efficiency and effectiveness, a lack of interest in long-term policy, lack of legislative oversight and inexperienced committee chairs.

Over its nearly 20-year history, term limits **have forced a large number of legislators out of office**.

Term limits have largely impacted how campaigns are run. Evidence suggests, however, there has been **little change in the types of candidates** being elected to office.

**Campaigns have become more expensive**. Money, connections and name recognition remain some of the key drivers in winning a campaign. It appears that a higher percentage of campaign funds are generated from grassroots, individual contributions.

Despite term limits' promise of making service in the Michigan Legislature more accessible to a wider variety of people, evidence suggests elections are more difficult and expensive to win, especially against incumbents.

Many legislators have adopted the practice of **serving a full term in one chamber and then moving to the other**.

Although elections were costly before term limits, successful campaigns in the post-term limit era are arguably more competitive and expensive. Current legislators can create a campaign fund to transfer

excess money to their next campaign, giving incumbent candidates a serious financial advantage.

Some contend that more relatives of former legislators now run for office, on the assumption that name recognition greatly improves a candidate's chances of winning.

Since the adoption of Michigan's term limits, there has been a marginal increase of minority representation in the Legislature and a minor increase in female representation, but women are still underrepresented in comparison to men.

Term limits has had **little impact on the age, education and background** of elected legislators.

Under term limits, those in leadership positions have less legislative experience and their leadership positions do not exceed two years.

Some contend term limits has increased the governor's influence over committee chairs, while others suggest the governor's influence might be related to other factors, such as changes in partisan control of the Michigan House.

It is not clear whether term limits has decreased lobbyists' influence, however, the role of lobbyists has changed and they spend more time and resources meeting and educating new legislators. A greater number of lobbyists may now have more equal access to more legislators.

Legislators may depend more than ever on lobbyists as a source of information.

Term limits has not diminished the role interest groups play in the legislative process. There may be less reliance of lobbyists' funds and more on research and knowledge.

Term limits may have **shifted power away from legislators and toward legislative staff**, who tend to have longer institutional memories and greater experience than legislators.

As Michigan's term limits are constitutional rather than statutory, any change will require a constitutional amendment, a difficult process.

Obtaining public support for change would be costly and would likely be met with serious opposition. Term limit supporters are typically funded by national organizations.

Currently, no state has successfully passed a constitutional amendment to eliminate existing term limits. Other options to reduce the negative effects of term limits include adapting or amending the existing limits.

Limits could be reformed by **replacing the lifetime ban** with a consecutive ban. Such a change would allow effective legislators to remain in office, while the compulsory two-year wait period ensures they remain connected to their communities and constituents.

Another option could be to **extend the number of years of service**, similar to less restrictive states such as Louisiana, Nevada and Oklahoma, which allow representatives and senators to serve up to 12 years in each chamber.

Additionally, the limits could be reformed by simply **capping the time served in both chambers** of the Legislature to 12 years, 14 years or 16 years.

Many states have attempted to reform term limits; however, they have faced fierce opposition by U.S. Term Limits. In 2005, the Michigan Chamber of Commerce proposed to lengthen term limits and was met with well-organized opposition.

Adopting a **part-time legislature** does not require a constitutional amendment. In December 2010 Michigan Rep. David Agema (R), introduced a resolution to adopt a part-time legislature. House Resolution H would limit the Michigan Legislature to 150 days per year, beginning in 2013. The resolution also proposes an extension of term limits to 16 years.

**The association industry and its partners should begin to provide training and support in a bipartisan fashion and work to build the credibility and effectiveness of the legislative branch of our state democratic process.**



# INTRODUCTION

Following the adoption of term limits in Michigan in 1992, supporters were hopeful the change would improve the Legislature by preventing “career politicians,” decreasing lobbyists’ influence, and giving nontraditional candidates a shot at office.<sup>1</sup> Opponents were concerned that “institutional memory” would be lost and would have a detrimental impact on policy. Research studies conducted soon after the change went into effect indicate that in the early years term limits did not result in the changes expected. After nearly 20 years of limitations on the terms of state elected officials, the system is different and has its challenges but it is not dysfunctional. The performance of Michigan’s Legislature over the past two decades, however, has not improved. Those who work within the system have classified the change as a shift from policy to politics.

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In Michigan state representatives are now limited to six years in office (three 2-year terms), state senators to eight years in office (two 4-year terms), the governor, lieutenant governor, secretary of state, and attorney general to eight years in office (two 4-year terms), and US congressional representatives elected from Michigan to no more than three two-year terms during any 12-year period; U.S. senators elected from Michigan to no more than two six-year terms during any 24-year period. The limitations went into effect on January 1, 1993. The limits imposed on U.S. representatives and senators from Michigan were rendered unconstitutional by the U.S. Supreme Court in 1995, before taking effect.<sup>2</sup> Nationwide, 15 states implement state legislative term limits. Michigan’s term limits remain among the most restrictive, equaled in severity only to Arkansas and California.<sup>3</sup>

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1 *Id.*

2 U.S. Term Limits, *Inc. v. Thornton*, 514 U.S. 779 (1995)

3 DALENE ALLEBAUGH, ROBERT A BERNSTEIN NATHAN S BIGELOW, ET AL., *THE TEST OF TIME: COPING WITH LEGISLATIVE TERM LIMITS* (Lexington Books 2003).

Due to the subjectivity of the term limits issue, it is difficult to make a data driven assessment of the effectiveness of term limits. It is likely that other factors such as institutional and structural government realities have played a significant role in the changing Michigan political landscape. Despite the uncertainty of term limits' effects, the general population continues to support them while people working in and around state government advocate for reform of some sort.

Looking forward, this paper explores the realities of the Michigan Legislature since the adoption of term limits to determine whether additional measures should be taken to achieve more effectiveness. We've reviewed how term limits have impacted the types of candidates being elected, relationships within the Legislature, and the Legislature's external relationships. The first section of the paper provides a history of term limits and a comparison of Michigan's limits to the rest of the nation. Next, the paper explores their impact on the internal functions of state government and elected officials, such as changes in campaigns, type of candidates, leadership positions, committee functions and the Legislature's policy-making ability. In the next section, we've assessed the impact of limits on the Legislature's interactions with external groups, such as lobbyists, legislative staffers, government agencies and the governor. The last section outlines possible reforms that may improve overall legislative performance.

## I. History of Term Limits

Term limits were first introduced in reaction to Franklin Delano Roosevelt's fourth presidential election. Congress proposed an amendment to the US Constitution, which limited a president to serve a maximum of two terms in office. Congress ratified the bill and adopted the 22<sup>nd</sup> Amendment in 1951.<sup>4</sup>

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*Voters suggested career politicians had become out of touch with ordinary citizens.*

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Many factors led to the attractiveness of term limits in Michigan. Some citizens had lost respect for lawmakers, contending their attractive salaries and benefits resulted in the creation of a permanent, professional class of politicians,

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<sup>4</sup> *Term Limits*, MICHIGAN IN BRIEF, April 1998, 3, <http://www.michiganbrief.org/education06/text/issue/issue-59.htm>.

rather than citizen legislators dedicated to short periods of public service. Voters believed some legislators became cozy with fellow politicians and special interest groups in Lansing. Voters suggested career politicians had become out of touch with ordinary citizens.<sup>5</sup>

As a result of the public's poor perception of Congress and the state Legislature, term limits, promised as a solution to corruption or inactivity, was an easy sell in Lansing in the early '90s. Term limits were slated to do many things, such as to refresh politics, give new people a chance to serve and allow new ideas a chance to take hold.<sup>6</sup> Proponents of term limits argued that when politicians know they must return to civil society and live under the laws passed, they will think more carefully about the long-term effects of the programs they support.<sup>7</sup> They also felt term limits would force legislators to be closer to their communities and would be more familiar with the current challenges facing their districts. Finally, they suggested it would prevent a "political class of arrogant and ambitious politicians intent on self-aggrandizement."<sup>8</sup>

Opponents of term limits argued they violate democracy's basic premise, holding that voters are vested with the ultimate power to select their government representatives. They contend it should be left to the voters to decide which candidates will represent them; they assert term limits are not needed, because politicians are already accountable for their actions because they need to be reelected by their constituents; "Every elected official has a term limit; it is when they come up for re-election..."<sup>9</sup> Additionally, critics point out the learning curve to understand public policy issues and the legislative environment requires experience, which term limits impact. Conversely, term limit supporters believe a legislator with true leadership skills will be effective, even if he or she lacks experience in state government. Thus, supporters of limits believe the key to achieving a more effective legislature is to attract the best and brightest to run for office.

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5 *Id.*

6 Patrick Basham, *Assessing the Term Limits Experiment: California and Beyond*, POLICY ANALYSIS No. 413, Aug. 31. 2001, 4 (*citing* Mark P. Petracca).

7 *Id.*, at 5 (*quoting* Lawrence W. Reed).

8 *Id.*, at 6.

9 Louie Meizlish, *Some Rethink Term Limits After Experience in Lansing Declines*, MICHIGAN DAILY, March 26, 2001.

Perhaps the greatest concern voiced was that term limits would transfer more power to special interest groups and governmental agency bureaucrats due to the constant loss of institutional memory, as key legislative leadership roles would be forced to undergo frequent changes.<sup>10</sup> It was also argued that Michigan had not had a problem with career politicians serving in the Michigan Legislature. On average, members of the House served eight years, while members in the Senate served 10 years.<sup>11</sup> Surprisingly, despite such fears, an organized campaign to oppose the initiative was never created.<sup>12</sup> U.S. Term Limits created an organized campaign that funded various communications in support of the effort.

## A. Adoption of Proposal B

A group of individuals in the early 1980s began to draft term limit legislation. Additionally, two organizations, Taxpayers Association for Michigan and Taxpayers United for Term Limits, began petition drives in 1990 and 1991 and wrote their own term limit drafts petitions.<sup>13</sup> The two drafts found their way to Patrick Anderson. Anderson drafted a term limit amendment based on the 22<sup>nd</sup> Amendment to the US Constitution. The Anderson Draft became the core foundation of the term limit law passed by Michigan voters in 1992. After the draft was written, a national organization, U.S. Term Limits, spearheaded and funded the term limits ballot initiative in Michigan. U.S. Term Limits has also been instrumental in implementing term limits in a number of other states.<sup>14</sup> Critics of the bill attributed the defeat to the absence of an organized opposition against the initiative.

In November 1992, Michigan voters approved Proposal B by a margin of 59 to 41 percent.<sup>15</sup> Proposal B was adopted by the initiative process. The initiative process is a citizen-led law-making process, where citizens adopt amendments to the Michigan Constitution by placing the proposed constitutional amendment directly on the ballot, completely bypassing the state Legislature.<sup>16</sup> A term

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10 Susan J. Demas, *Exclusive Report: Turning Away From Term Limits*, CENTER FOR MICHIGAN, March 4, 2009.

11 Mark P. Petracca, *Why Political Scientists Oppose Term Limits*, CATO INSTITUTE, Jan. 18, 1992, 68.

12 Demas, *supra* note 10.

13 Glenn Steil, Patrick Anderson, Allan Schmid, & Steve Mitchell, *A Brief History of Michigan's Term Limit Amendment*, ANDERSON ECONOMIC GROUP (1998).

14 Demas, *supra* note 10.

15 *Term Limits*, MICHIGAN IN BRIEF, *supra* note 4.

16 *Id.*

limit proposal that limited service to 12 years in the state house and 12 years in the state senate was drafted by the members of the Michigan Legislature but was not successful.

Proposal B term limited politicians in the state executive and legislative branch, and also federal congress members. The affected positions and their respected term limits were as follows:

- ◆ Governor, lieutenant governor, secretary of state, attorney general and state senators are all limited to two, four-year terms in total.
- ◆ State representatives are limited to three, two-year terms in total.
- ◆ United States representative elected from Michigan to no more than three, two-year terms during any 12-year period and United States senators from Michigan to no more than two, six-year terms during any 24-year period. (This section, the addition to Section 10 of Article 2 of the state Constitution was later deemed unconstitutional by the US Supreme Court in 1995.)
- ◆ Terms served need not be consecutive, and if less than half a term is served in an office, it does not count toward the limitation.<sup>17</sup>

Essentially, the amendment limited the governor, lieutenant governor, secretary of state, attorney general and state senators to a maximum of eight years in office, and limited state representatives to a maximum of six years in office.

The original ballot initiative adopted by the Michigan electorate prescribed term limits for both federal and state legislative members. The federal term limits were disallowed as a result of a federal court case. The provision in state constitutions

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limiting federal office holders, which appeared in Michigan's and a handful of other states' term limit amendments, was challenged in court as unconstitutional. In 1995, in the case *U.S. Term Limits vs. Thornton*, the U.S. Supreme Court ruled that states could not restrict federal offices through state constitutions.<sup>18</sup> The ruling questioned Proposal B's validity, since the original proposal had not been implemented. However, no legal action was initiated to determine if this decision would impact the state term limits.

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<sup>17</sup> *Id.*

<sup>18</sup> U.S. Term Limits, *Inc. v. Thornton*, 514 U.S. 779 (1995)

The limits promised to create a more citizen-controlled government, ushering in new ideas and fresh blood. A statewide survey conducted shortly after the 1992 general election in Michigan reported the following reasons voters supported the limits: “Bring new ideas and people to state government, cause politicians to do what is right rather than what is popular, control interest group influence and keep politicians more in touch with the citizenry.”<sup>19</sup>

The house was the first affected by term limits in 1998, when 64 of the 110 seats were term limited. The senate was not affected until 2002, when 27 of the 38 senators were term limited.<sup>20</sup>

## B. The Rest of the Nation and Term Limits

Michigan was not the only state to adopt term limits in the 1990s. Since 1990, 21 states have adopted term limits. Mississippi voters rejected term limits in 1999, becoming the first statewide electorate to oppose the reform measure.<sup>21</sup> Currently only 15 states impose term limits on their state legislators. Since adopting limits, six states have either repealed term limits or their courts have found them to be unconstitutional.

In the late 1990s, the Massachusetts and Washington Supreme Courts found term limiting state legislators unconstitutional.<sup>22</sup> Subsequently, the Supreme Court in Oregon followed suit in 2002, as did Wyoming in 2004. The Idaho and Utah Legislatures repealed term limits in 2002 and 2003,

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respectively.<sup>23</sup>

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*When compared to other states’ term limits, Michigan imposes some of the most restrictive limitations, such as lifetime bans and shorter-term confines.*

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While 15 states still impose term limits, limits vary widely from state to state. When compared to other states’ term limits, Michigan

19 *Term Limits*, MICHIGAN IN BRIEF, *supra* note 3.

20 *Members Termed Out: 1996-2008*, NATIONAL CONFERENCE OF STATES LEGISLATURE, 2010, <http://www.ncsl.org>.

21 Basham, *supra* note 6, at 5.

22 *Legislative Term Limits: An Overview*, NATIONAL CONFERENCE OF STATES LEGISLATURE, 2010.

23 *Id.*

imposes some of the most restrictive limitations, such as lifetime bans and shorter-terms. Michigan legislators can move through both chambers with a maximum time of service capped at 14 years (eight years in the Senate and six years in the House). An elected state official can only serve longer by moving to a different office, such as governor, attorney general or secretary of state.

Michigan is one of only six states that impose lifetime term limits.<sup>24</sup> There are two types of term limits, consecutive and lifetime limits.<sup>25</sup> Consecutive term limits are less restrictive than lifetime limits and restrict legislators serving a set number of terms consecutively. Once a legislator reaches the limit, he or she must wait a period of time, usually two years, to reset the clock. After waiting that period of time, the legislator may again serve up to the limit. The restriction allows successful politicians to continue to serve their community, while the waiting period ensures legislators remain connected to their communities.

Alternatively, some states, including Michigan, impose lifetime bans. Under such limits, legislators who reach the term limit cannot run for the same office again. Only a handful of states enforce the highly restrictive lifetime bans, including Arkansas, California, Michigan, Missouri, Oklahoma and Nevada.<sup>26</sup> Critics claim lifetime bans essentially neutralize effective legislators.<sup>27</sup>

State term limits also vary as to the length of limits. Nationally, term limits range from six to 12 years in the House and Senate.<sup>28</sup> The shortest term limits have been adopted in Arkansas, California, and Michigan, which limit representatives to six years and senators to eight years.<sup>29</sup> When comparing Michigan limits to the rest of the nation, it is clear Michigan has some of the more limiting restrictions, such as the imposed lifetime limits and shorter number of years.

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24 *Legislative Term Limits and Full-Time and Part-Time Legislatures*, CITIZENS RESEARCH COUNCIL OF MICHIGAN, March 2007, 1.

25 *Survey Results: NCSL's Online Term Limits Poll*, NATIONAL CONFERENCE OF STATE LEGISLATURES, July 18, 2003, 3.

26 *Survey Results*, *supra* note 25, at 3.

27 *Survey Results*, *supra* note 25, at 3; Jennifer Drage Bowser, *The Effects of Legislative Term Limits*, COUNCIL OF STATE GOVERNMENTS, 2005, 111.

28 Basham, *supra* note 6, at 5.

29 *Id.*

## II. How Have Term Limits Affected the Legislature and State Politics?

Although state legislative term limits have been in effect for almost two decades, it is difficult to gauge their overall effects because each state has different legislative structures and differing term limits. Research, however, suggests states with more restrictive term limits, like Michigan, have been more affected than states with more flexible limits, such as Arizona, which has adopted an eight-year consecutive ban in both the House and Senate.<sup>30</sup> Reports suggest term limits contribute to declining efficiency and effectiveness, a lack of interest in long-term policy, lack of legislative oversight and inexperienced committee chairs.<sup>31</sup>

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*...term limits have had a substantial effect on the knowledge management within the legislative branch.*

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Specifically, in Michigan, term limits have had a substantial effect on the knowledge management within the legislative branch. In Michigan, term limits became effective in 1998, forcing 64 of the 110 representatives to be term limited, making it the largest mandatory removal of legislators from office of any state implementing term limits.<sup>32</sup> Additionally, in 2002, 29 of the 38 senators were term-limited, or more than 70 percent of Michigan Senators.<sup>33</sup> As a result of the mandatory exodus, term limits have forced a large number of legislators out of office.<sup>34</sup>

### A. Election Process

Attracting a “new breed” to the Legislature and ending the era of career politicians were some of the main promises of term limits.<sup>35</sup> Term limits have indeed largely impacted how campaigns are run and the types of candidates elected. Because representatives are limited to six years and senators to eight,

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30 *Id.*

31 Bruce E. Cain & Thad Kousser, *Adapting to Term Limits: Recent Experiences and New Directions*, 44, 2004.

32 TEST OF TIME, *supra* note 2, at 34.

33 *Id.* at 3.

34 *Special Report, How Guv Candidates say They'll Reform Michigan*, CENTER FOR MICHIGAN, July 21, 2010.

35 *Term Limits Unlikely to Change*, OAKLAND PRESS, Dec. 19, 2004, available at <https://www.theoaklandpress.com/articles/2004/12/19/political/2004/20041219-archie.txt>.

there has been a large influx of new politicians in the Michigan Legislature. However, evidence suggests there has been little change in the types of candidates being elected to office.<sup>36</sup> While more people are running in more primaries than ever before, the types of candidates being elected has not changed from the pre-term limit era. Once individuals determine they enjoy representing an electorate and being in public office they are more likely to run for office again. A five-year research project undertaken by a group of professors and graduate students from Wayne State University and released in 2004 (Sarbaugh-Thompson), shows competition for elected offices depended on whether or not there was an open seat.<sup>37</sup> Today there are more open seats.

## B. Campaigns

Running for office still has a variety of elements that make it challenging. Campaigns have become more expensive. Money, connections and name recognition remain some of the key drivers in winning a campaign. Also, it appears that a higher percentage of the funds are generated from grassroots individual contributions.

Despite term limits' promise of making service in the Michigan Legislature more accessible to a wider variety of people, evidence suggests term limits have made elections more difficult and expensive to win, especially against incumbents. Although term limits create more open seats, such seats are not easily won. As a result, many potential candidates will wait to run until incumbents are term limited in order to increase the likelihood of winning. Even then, it is still difficult to be elected. First, eligible incumbents frequently run for reelection, often serving up to the maximum of the term limits. In 1998 and 2000 all incumbents who sought reelection won.<sup>38</sup> In 2002, of the 85 incumbents

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*...many individuals have adopted the practice of serving a full term in one chamber and then moving to the other.*

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36 *Term Limits: Success or Failure? A Michigan at Risk Special*, WKAR, Dec. 22, 2004, available at <http://wkar.org/michiganatrisk/program.php?num=1602>.

37 MARJORIE SARBAUGH-THOMPSON, LYKE THOMPSON, CHARLES D. ELDER, JOHN STRATE, & RICHARD C. ELLING, *THE POLITICAL AND INSTITUTIONAL EFFECTS OF TERM LIMITS* (Palgrave Macmillan 2004).

38 SARBAUGH-THOMPSON, *supra* note 37, at 22.

eligible, 58 chose to run, producing 52 open seat primary races and 53 open seat general races.<sup>39</sup>

Additionally, participation from local politicians for state office increased. More statewide candidates have served in a local or county office.

Second, many individuals have adopted the practice of serving a full term in one chamber and then moving to the other. Such candidates appear to be more likely to win an election. Legislators are also looking at when to make the move to the next position. According to the Sarbaugh-Thompson's study, "Although [term limits] might lead one to assume that term limits will produce periodic massive turnovers in the State House, it is more likely that this is an ephemeral effect of redistricting and a bumper crop of open seats in the State Senate. (In 2002, 30 Michigan State Senators were termed out of office, and new district boundaries were drawn to reflect the 2000 census.)"<sup>40</sup>

Third, although elections were costly before term limits, successful campaigns in the post-term limit era are arguably much more competitive and expensive. Furthermore, elected legislators can create a campaign fund to transfer excess money raised to their next campaign, putting incumbent candidates at a serious financial advantage.

The Sarbaugh-Thompson data reports that in 1990, there was approximately an \$11,000 to \$12,000 difference between the average amounts raised by candidates running for the house.<sup>41</sup> However, in 2000, the difference rose to \$41,000 between the average amounts raised by candidates in competitive, closed seat races and the amount raised by other candidates.<sup>42</sup> Additionally, contributions from organized groups shrank by 13 percent for house races and by 12 percent for the senate, while contributions from partisan sources increased by 5 percent.<sup>43</sup> The largest change in contributions was seen in individual contributions. Individual contributions increased by 10 percent in the house and 7 percent in the senate; although slight, the difference does demonstrate more involvement from the electorate. Finally, as individual contributions increased, so did the personal or "family" money

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39 *Id.*

40 *Id.*

41 *Id.* at 46

42 *Id.*

43 SARBAUGH-THOMPSON, *supra* note 37, at 42.

contributed.<sup>44</sup> The data suggests that term limits have made running for office more expensive, and fundraising has become increasingly reliant on individual contributions and personal ties.

Additionally, some suggest name recognition greatly improves a candidate's chances of winning elections. It is argued that due to the advantages of name recognition, there has been an increase of former legislators' relatives running for office.

## C. Diversity of Backgrounds

Term limits may have romanticized the notion that legislators would come from a variety of careers as well as ethnic, gender and age groups. A disappointing reality of term limits nation-wide is the relatively small increase in the Legislature's diversity.<sup>45</sup> However, it could be argued that term limits cannot increase diversity but could be affected from structural changes, such as reapportionment and recruitment and training.

States that have adopted term limits have not since experienced significant increases in the diversification of their legislatures. Bruce Cain, a political scientist at the University of California Berkeley, was involved in a national study of term limits, and reflects that after the adoption of term limits "[those states] didn't see an increase in women legislators in the term-limited states, nor did we see a substantial difference in legislators' age or occupational backgrounds . . ."<sup>46</sup> However, there are a few exceptions. States that witnessed a rapid rise in their Latino population have also experienced an increase in Latino legislators.<sup>47</sup>

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44 *Id.* at 48

45 Bowser, *supra* note 27, at 111.

46 *Term Limits Erode Effectiveness of Legislative Branch, New Study Find*, NATIONAL CONFERENCE OF STATE LEGISLATURES, Aug. 15, 2006.

TEST OF TIME, *supra* note 2, at 35.

Tony Dearing, *Extending Term Limits is a Good First Step Toward Fixing the Mess in Lansing*, ANNARBOR.COM, Aug. 15, 2010, <https://www.annarbor.com/news/opinion/extending-term-limits-is-a-good-first-step-towards-fixing-the-mess-in-lansing.htm>

47 *Adapting to Term Limits*, *supra* note 31, at 14.

Nevertheless, since the adoption of Michigan's term limits, there has been a marginal increase of minority representation in the Legislature. African-Americans constitute the majority of the minorities represented, and still generally represent the majority-minority districts.<sup>48</sup> Many suggest that redistricting would be a more effective way to increase minorities in the Legislature than term limits.<sup>49</sup> Similarly, in Michigan there has been a minor increase of female representation in the Legislature. As a result, women are still underrepresented in comparison to the ratio of men and women in the general population.<sup>50</sup> In 1998, the first year legislators were termed out, 16 women were term-limited, while only 17 women were elected.<sup>51</sup> Currently, in 2012 there are four females among the 38 Senators and 27 female state representatives out of the 110 seats.

Finally, there has been little impact on the age, education and background of elected legislators. According to one study, there was little difference in ideology held by newly elected legislators in term-limited and non-term limited states.<sup>52</sup> Additionally, the mean age had hardly changed among state legislators and there was little change in the education and occupation of those elected representatives.<sup>53</sup> While there are more open seats to fill, perhaps the talent pool of legislative candidates has not expanded or diversified. Various articles on the subject reflect the opinion that due to the high rate of turnover, highly effective people "come and go quickly," replaced in some cases by newcomers who are less prepared for legislative duty.<sup>54</sup>

## D. Legislature's Performance

One of the main criticisms of term limits is its effect on the legislature's policy-making abilities, with some critics suggesting term limits have reduced legislative effectiveness.<sup>55</sup> The comment references

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48 SARBAUGH-THOMPSON, *supra* note 37, at 34

49 *Id.*

50 *Id.*

51 *Id.* at 72.

52 *Adapting to Term Limits, supra* note 47, at 33.

53 SARBAUGH-THOMPSON, *supra* note 37, at 72-73.

54 Tony Dearing, *Extending Term Limits is a Good First Step Toward Fixing the Mess in Lansing*, ANNARBOR.COM, Aug. 15, 2010, <https://www.annarbor.com/news/opinion/extending-term-limits-is-a-good-first-step-towards-fixing-the-mess-in-lansing.htm>

55 Daniel C. Lewis, *Risky Business: Term Limits, Budgets, and Fiscal Uncertainty*, 2, June 2010 (citing KARL T. KURTZ, BRUCE E. CAIN, & RICHARD G. NIEMI, INSTITUTIONAL CHANGE IN AMERICAN POLITICS: THE CASE OF TERM LIMITS (University of Michigan Press 2007)).

the knowledge lost when term limits force high turnovers in state legislatures.<sup>56</sup> High turnover creates a less experienced legislature and a loss of expertise.<sup>57</sup> When experienced legislators are forced out by term limits, valuable experience is lost, as well as institutional memory and familiarity with legislative procedures.<sup>58</sup> “Some argue that the drain of knowledge and experience reduces the Legislature’s ability to produce effective policy.”<sup>59</sup>

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*When experienced legislators are forced out by term limits, valuable experience is lost, as well as institutional memory and familiarity with legislative procedures.*

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However, those familiar with the state Legislature suggest that its effectiveness is not determined by experience, but the talent of individual legislators. For many years the state budget was held as the prime example of the Legislature’s inability to get its work accomplished in a timely manner. The 2011-2012 96<sup>th</sup> Session of the Michigan Legislature, however, passed the state budget in June, well before the deadline.

It has been stated that voters made a tradeoff: choosing legislators who were more familiar with [citizens’] lives over legislators who were more familiar with the legislature.<sup>60</sup> Paul Jacob, national director of U.S. Term Limits, disputes the argument that legislators need experience to be effective. “The argument, if you really boil it down, is that people are not really smart enough to understand how the legislature works unless they have been in the legislature for six or eight or ten years. Yet you never hear anyone running for reelection saying, ‘I don’t get it yet, but send me back . . .’”<sup>61</sup>

There is no dispute that there is a learning curve with any task, responsibility or duty, however, it appears that partisan politics combined with term limits is providing some unique challenges. It is difficult to determine whether term limits have had an impact on specific performance issues, yet most agree the process and performance of the Legislature could be improved.

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56 *Id.* at 2.

57 *Id.*

58 *Id.*

59 *Id.*

60 Meizlish, *supra* note 9.

61 *Id.*

## E. Leadership

Many suggest that the largest variable that impacts term limits is leadership ability. With the implementation of term limits, “Leaders rise to the top more quickly than before, but stay for a briefer period and wield less influence than in the past.”<sup>62</sup>

Prior to term limits, leadership positions were given to long-serving members, whose tenure in leadership positions lasted for many years. However, under term limits, those in leadership positions have less legislative experience and their

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*With the implementation of term limits, “leaders rise to the top more quickly than before, but stay for a briefer period and wield less influence than in the past.”*

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leadership positions do not ‘exceed two years.’<sup>63</sup> Prior to the imposition of term limits, top leadership positions, such as the speaker of the house and senate majority leader, were given to experienced legislators.<sup>64</sup> However, because term limits prohibits the existence of “experienced legislators, those positions have been given to people with little experience. Between 1963 and 1998, the mean level of experience of incoming speakers was 11.4 years and incoming senate majority leaders was 7.7 years.”<sup>65</sup> However, under term limits, future speakers will likely assume the speakership with a maximum of only four years of legislative experience.

Indeed, in 1999, House Speaker Chuck Perricone assumed his leadership position after serving only four years, while house majority leader Mike Hanley assumed his position with only two years of state legislative experience.<sup>66</sup> However, with the decrease in important committee chairmanships or seniority, a legislator’s ability to demonstrate all the qualities of leadership has become increasingly vital.

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62 Browser, *supra* note 27, at 113.

63 *Id.*

64 TEST OF TIME, *supra* note 2, at 35.

65 SARBAUGH-THOMPSON, *supra* note 37, at 132-33.

66 *Id.*

## F. Committees

Legislative committee processes have changed in the post-term limit era, according to those who work in the system. The very nature of the legislative structure facilitates partisan politics, and partisan politics may have a larger impact on the way committees work. Historically, legislative committees play an important role in policymaking, especially in Michigan where the flow of bills through the floor is controlled by the committee chairs and caucus leaders.<sup>67</sup> In addition to committees' formal power, committee members influence policy through their expertise, experience and network of contacts. Due to committee members' expertise, other legislators regularly look to more senior players for information about complex issues. . However, since the adoption of term limits, influence of such committees has changed.

Before term limits, nearly every house chairman had experience or knowledge on the issues or history working through committees' analysis. In 1995-1996, the average number of years served in the house was 7.5, with the most experienced chair serving his 10<sup>th</sup> session.<sup>68</sup> In 1998, the first year term limits took effect, 27 of the 34 chairmen of standing committees were termed out.<sup>69</sup> In 1997-1998, the average number of years served in the house was 8.9, with the most experienced chair serving 13 sessions. Conversely, in 1999-2000, post term limits, the average years of prior service was 1.7 years. Prior to term limits, it was rare for freshmen to serve as chair<sup>70</sup> In 1995-1996, no freshmen served as chair, in 1997-1998 only one freshman served, however, in 1999-2000, 12 freshmen served as chair. By 2001-2002 no freshmen chaired a committee, and chair experience rose to 2.6 years.<sup>71</sup> The statistics suggest either that committee chairs exert less control over their committees and control is more widely distributed among committee members or higher levels in the house leadership hierarchy dictate that control of committee work.<sup>72</sup>

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67 *Id.*  
68 *Id.* at 135.  
69 *Id.*  
70 *Id.* at 138.  
71 *Id.* at 136.  
72 *Id.* at 137.

## i. Governors and Committee Chairs

Opinions differ as to term limits' effect on the governor's influence on committee chairs. Critics of term limits claim that term limits have increased the governor's influence on committee chairs, however, those familiar with the state government say that term limits are not at fault for the disparity. Rather, the influence of the governor is dependent on the leadership abilities of all involved and whether the political parties of the Legislature and the governor are the same or different.

Evidence presented by Sarbaugh-Thompson suggests that term limits has increased the governor's influence over committee chairs.<sup>73</sup> In Sarbaugh-Thompson's legislative survey of Michigan legislators released in 2004, no respondent mentioned the governor's control over committee chairs prior to term limits. After term limits, however, 22 percent of the respondents stated that the governor exerted control over the chair.<sup>74</sup> The comments suggest that the influence of both parties' leaders and governors has increased during term limits. Proponents of term limits, however, downplay term limits' impact, suggesting the increased influence of the governor might be related to other factors, such as changes in partisan control of the Michigan House.<sup>75</sup>

## ii. Committee Conflict

Much of the policy discussion and revision occurs at the committee level. The functionality of committees improves the overall functionality of the Legislature. Preservation of legislative norms, such as the ability to manage conflict, is a concern in the term limit era.<sup>76</sup> It is feared that with fewer veteran legislators to socialize newcomers and enforce and reinforce norms that govern working relationships, norms are less likely to persist.<sup>77</sup>

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73 SARBAUGH-THOMPSON, *supra* note 37, at 130.

74 *Id.* at 140 (citing interview notes, 1999-2000).

75 *Id.*

76 *Id.* at 142.

77 SARBAUGH-THOMPSON, *supra* note 37, at 143.

Observers tend to hold one of two distinct opinions about committee conflicts. Some state, “The process might have changed, but it is not better or worse. Pre-term limits committee chairs had more influence and committee members had to accommodate them.” Others state, the committee process has “changed significantly with less camaraderie and less bi-partisan work.” Respect, constructive criticism and civility are variables that are essential in a productive policy making group but not related to term limits, per say. The conflicts could be more visible or frequent due to term limits because the individuals do not know each other as well or understand their personality and communication styles.

According to the survey conducted by Sarbaugh-Thompson, the level of mutual respect and courtesy among members and accorded to members by the committee chair decreased substantially.<sup>78</sup> Before term limits, a quarter of those surveyed claimed that “positive personal relationships, such as courtesy, respect, and civility, helped resolve conflict on the committees.”<sup>79</sup> Conversely, after term limits, positive relationships were reported to decrease by half, to an eighth of respondents.<sup>80</sup> Although not commonly reported, personality clashes or personal conflict doubled, mentioned by 3.3 percent of the respondents prior to term limits and by 6.9 percent after term limits.<sup>81</sup>

Sarbaugh-Thompson concluded that prior to term limits, committee chairs were more willing to engage in bipartisan negotiations.<sup>82</sup> Twenty percent of the respondents serving before term limits said there was little or no partisan conflict in their committee. The response decreased after term limits, dropping to 11 percent of respondents.<sup>83</sup> The drop gives credence to the argument that bipartisan issues are as much a factor as term limits.

## G. Friendship and Collaboration

Friendship and collaboration had been influential elements to resolving conflicts, but after term limits, collaboration between parties declined. Former Republican House Speaker Paul Hillegonds

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78 *Id.* at 143.

79 *Id.* at 144.

80 *Id.*

81 *Id.*

82 *Id.*

83 *Id.* at 142.

commented about pre-term limit compromise, “When I look back at some of the most difficult policy issues that we tackled, we were successful not simply because one party outvoted the other but because people of both parties knew each other and trusted each other enough to do win-win compromises.”<sup>84</sup> Former legislators claim that collaboration was the best when the house was split 55/55. However, they say once a political party gains a majority, there is less collaboration. Thus, it appears that collaboration in the Legislature is most affected by whether one political party has a majority, and it is also impacted by the kinship legislators have with their peers.

## H. Priorities for the Future

In a variety of the comments made about term limits, it was noted that many legislators concentrate on planning their next move once their term ends. One reporter observed, “Some among the newly-elected are hunting for their next job; less time is spent getting to know colleagues.”<sup>85</sup> Although difficult to measure, it is likely that politicians who move from one chamber to the other spend time thinking about future campaigns.

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*Although difficult to measure, it is likely that politicians who move from one chamber to the other spend time thinking about future campaigns.*

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## III. External Relationships

Term limits have not only impacted how policy is made within the Legislature, but also how the Legislature interacts with external parties, such as the governor, lobbyists, and bureaucrats. After term limits, according to interviews by Sarbaugh-Thompson, legislators reported they felt the house lost power in its relationships with each of those groups. Some predict the loss of power is likely to persist. Many believe that a weakened house would be a “bad thing.”<sup>86</sup> Sarbaugh-Thompson’s evidence suggests that term limits indeed weakened the house chamber and may impact how state government runs.

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84 Louie Meizish, *Some Rethink Term Limits After Experience in Lansing Declines*, MICHIGAN DAILY, Nov. 14, 2011, <https://www.michigandaily.com/content/some-rethink-term-limits-after-experience-lansing-declines>.

85 TEST OF TIME, *supra* note 2, at 37.

86 Sarbaugh-Thompson, *supra* note 37, at 183.

One respondent to a 2003 national survey stated:

“Even though I am a member of the executive branch and will have more ‘power’ due to term limits, I don’t want it. Term limits will skew the balance of power in state government by giving more power to the information providers – the executive branch, legislative staff, and lobbyist. In terms of government experience and institutional memory, legislators will now be disadvantaged, forever. In terms of knowing how to get things done, legislators will now be disadvantaged, forever. In a world that becomes more complex every year, the majority of people who foisted this term limit scheme onto our democracy have now mandated that their representatives will always be rookies or just a few years beyond being rookies. They have proclaimed that they don’t want the benefits that come from wisdom through experience.”<sup>87</sup>

## A. Lobbyists

Another goal of term limits was to decrease the influence of lobbyists. It is not clear whether term limits have decreased lobbyists’ influence. However, it is clear that the role of lobbyists has changed since the adoption of term limits. As previously noted, contributions from organized groups shrank by 13 percent for House races and by 12 percent for the Senate.<sup>88</sup> Due to the influx of new legislators every term, lobbyists must spend more time and resources meeting and educating new legislators.<sup>89</sup> Veteran lobbyists who had developed good relationships with committee chairs and leaders over the years have found themselves working to meet a new cohort of candidates and freshman after elections. With all lobbyists developing relationships there may be more equal access to more legislators.

“Legislators today are probably more dependent than ever on lobbyists as a source of information.”<sup>90</sup> According to Sarbaugh-Thompson, before term limits, 74 percent of the respondents would consult groups or lobbyists; after term limits the figure rose to 82 percent. Lobbyists provide expertise in specific subject areas or industry data that legislators value to help make educated decisions on policy issues.

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87 *Survey Results, supra* note 25.

88 Sarbaugh-Thompson, *supra* note 37, at 22, 32.

89 Christopher Z. Mooney, *The Impact of State Legislative Term Limits on Lobbyist and Interest Groups*, INSTITUTE OF GOVERNMENT & PUBLIC AFFAIRS, 16, May 2005.

90 TEST OF TIME, *supra* note 2, at 40.

The findings indicate term limits have not diminished the role interest groups play in the legislative process. The research reports that the percentage of campaign funds from lobbyists has been reduced.

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*Thus, it appears there is less reliance of lobbyists' funds and more on research and knowledge.*

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Shorter terms, resulting in more legislators serving has resulted in more individuals needing to be educated on issues and how they impact various segments of the industries or professions in Michigan. Thus, it appears there is less reliance of lobbyists' funds and more on research and knowledge.

## **B. Legislative staff: The role of legislative staff has increased**

An unintended consequence of term limits is the increased power and influence of the legislative staff.<sup>91</sup> Term limits may have shifted power away from legislators and toward legislative staff. Staffers tend to have longer institutional memories and greater experience than legislators.<sup>92</sup> Additionally, legislators rely more than ever on nonpartisan staff for roles they had traditionally filled, such as providing procedural advice, policy history and revenue and budgetary analysis. In short, legislative staff now represents the key repository of institutional memory in the Legislature.<sup>93</sup> In all of the case-studied states, staff reported an increased workload under term limits.

According to former Michigan Senator Mike Goshka, "Term limits have indeed opened up numerous staff positions in the Legislature and there has been considerable movement of staffers from the offices of departing legislators to newly elected legislators."<sup>94</sup>

## **C. Bureaucrats and the Governor**

In a comparative 50-state study of anticipatory effects of term limits, Carey, Niemi, and Powell found evidence that majority party leaders lose power while governors gain power under term limits.<sup>95</sup>

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91 TEST OF TIME, *supra* note 2, at 40.

92 *Id.*

93 Bowser, *supra* note 27, at 114.

94 TEST OF TIME, *supra* note 2, at 40 (*citing* Mark Le Moine, Telephone Interview with the Author, 1999).

95 SARBAUGH-THOMPSON, *supra* note 37, at 5.

In Michigan, the executive branch, boosted by a strong civil service, in one opinion “runs circles around the term-limited Legislature every day of the week.”<sup>96</sup> Legislators have been reported to agree that there has been a shift of power to the governor.<sup>97</sup> The current empowerment of the governor’s office and the political party caucus and their leadership within the chamber, leads some to voice a general concern about the state’s ability to continue balancing economic and regional interests effectively.<sup>98</sup>

## IV. What Can We Do?

### A. Constitutional Change

As Michigan’s term limits are constitutional rather than statutory, any change to the limits will require a constitutional amendment, invoking a difficult constitutional amendment process. There are two ways a constitutional amendment can be adopted.

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*...any change to the limits will require a constitutional amendment, invoking a difficult constitutional amendment process.*

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One is to introduce the amendment in the state Legislature. First, a ballot proposal would need to be approved by a two-thirds vote in both chambers of the Michigan Legislature and then submitted to voters for ratification.<sup>99</sup> The largest challenge to the amendment would be to secure the general population’s vote, which has traditionally supported term limits. According to a 2010 survey, 78 percent of respondents favored legislative term limits.<sup>100</sup>

The second method would be to initiate a petition drive, bypassing the Michigan Legislature and allowing the decision to be made by Michigan voters. Citizens would draft an amendment and would need to collect registered voters’ signatures equal in number to at least 10 percent of the total vote cast for all candidates for governor at the last preceding general election. The petitions are filed with the

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96 Demas, *supra* note 10 (citing Joe Schwarz).

97 *Effects of Term Limits in Michigan: Bureaucrats with More Power*, SPECTRUM: THE JOURNAL OF THE STATE GOVERNMENT, Jan. 1, 2005.

98 *Id.*

99 *Term Limits Unlikely to Change*, *supra* note 35.

100 *Term Limits Unlikely to Change*, *supra* note 35.

person authorized by law to receive them at least 120 days before the election. .<sup>101</sup> Next, the amendment must receive a majority vote to pass. If the two requirements are met, the constitutional amendment will be adopted. The method was used to adopt the current term limits. However, the greatest challenge would be to secure enough public support to change term limits. Raising money is another challenge, since passing a constitutional amendment requires significant funds. Additionally, it is likely a proposed constitutional amendment will face serious opposition. As seen in other states, term limit supporters are typically funded by national organizations.<sup>102</sup>

Currently, no state has successfully passed a constitutional amendment to eliminate existing term limits. Those states that have eliminated term limits did not adopt term limits by a constitutional amendment, and therefore the limits could be eliminated by the legislature or their supreme courts striking the laws down as unconstitutional. Such states eliminated term limits through a process that avoided bringing the issue of term limits before the state's voters. However, because Michigan's limits were adopted by a constitutional amendment, any elimination or reform must be passed by a constitutional amendment. Due to the high cost of a campaign to eliminate term limits and voter support of term limits, any attempt to eliminate them seems ambitious.

In addition, a number of states have introduced legislation to extend term limits, but none have been successful to date. There are, however, other available options to reduce the negative effects of term limits, such as adapting or amending the existing limits.

## **B. Adapt Term Limits**

Rather than eliminate term limits, an alternative may be to create systems that improve the term limited legislature structure. More than half of the respondents from term-limited states report that their legislatures are taking proactive steps to adapt and mitigate the negative effects of term limits. Some steps include focusing on improved training for both members and staff and expanding new

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101 Article XII, Michigan Constitution, Art. XII, Sec. 2.

102 TEST OF TIME, *supra* note 2, at 43.

member orientation programs to include training on the legislative process, history of the legislature, policy briefings, consensus building and conflict management. Also, many states have improved legislative staff training programs with team-building and communication skill development. Ongoing training is provided to returning members that include leadership skill building. Special training has been installed for committee chairs. If the training is done in a bi-partisan manner it has the potential to build relationships, camaraderie and respect while establishing a culture of civility and productivity.

Some states also report that they have improved their recruitment efforts in order to find the best candidates, established mentoring programs and improved their training of potential candidates.

## C. Reforming Term limits

Reforming term limits is another option. Proponents predict reforming existing term limits would curtail many of the negative effects, specifically helping to safeguard against the drain of experienced legislators and improve legislative effectiveness.<sup>103</sup> Replacing the lifetime ban with a consecutive ban could reform limits. Such a change would allow effective legislators to remain in office, while the compulsory two-year wait period ensures legislators remain connected to their communities and constituents.

A viable option would be to extend the number of years of service. Michigan could adopt limits similar to less restrictive states such as Louisiana, Nevada and Oklahoma, which allow representatives and senators to serve up to 12 years in each chamber.<sup>104</sup> Additionally, the limits could be reformed by simply capping the time served in both chambers of the Legislature to 12 years, 14 years or 16 years. Under such limits, once elected, a member could serve a maximum of their respective time in either the house or the senate. A number of states have introduced legislation to extend the limits, but without any success. Michigan Rep. Sharon Tyler (R) introduced House Joint Resolution C in 2011, which would revise the Michigan Constitution allowing a legislator to serve in the state house or senate for a combined

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103 Dearing, *supra* note 46 (citing Phil Power).

104 *Survey Results*, *supra* note 27.

total of 14 years.<sup>105</sup> The change would not extend the length of service that Michigan currently allows for legislators who serve, but would allow them to serve it in one chamber.

Individuals working with Michigan legislators generally agree that limiting the House terms to six years is “insufficient to develop adequate knowledge of appropriation and policy issues.”<sup>106</sup> Over the years, many politicians from both sides of the aisle have expressed support for the idea of extending term limits. Suggestions have included amending the regulations to allow a person to serve up to 12 years in each chamber,<sup>107</sup> or to allow a person to serve a total of up to 12 years in any combination between the two chambers.<sup>108</sup>

Term limits have been an item of discussion at all levels of leadership. Former Governor John Engler commented, “[W]e’ll wait and see, but my first impressions are that term limits haven’t been as liberating for the members as was suggested by proponents. It was perhaps oversold in terms of what it would bring I clearly think the house being limited to six years is wrong, particularly when it’s out of sequence with the senate.”<sup>109</sup> According to late State Senator Glenn Steil, “I’m not against term limits. I’m for term limits. But .... it’s just not long enough. You’re just getting your feet on the ground and you’re saying bye-bye.”<sup>110</sup> Current Governor Rick Snyder said he would consider change, but it was not high on his agenda.<sup>111</sup>

Various groups have also researched the issue. The Michigan Chamber of Commerce, Michigan Education Association, Blue Cross Blue Shield of Michigan and several other organizations assembled a focus group in 2005. They reported 57 percent of those surveyed would favor a 12-year limit or cap to be served in either chamber. However, those in the focus group did not favor the cap until it was explained that the current system allows legislators to serve for up to 14 years.<sup>112</sup>

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105 *Measure Would Extend Term Limits*, LANSING STATE JOURNAL, Jan 16, 2011.

106 *Term Limits and Legislative Reform*, MICHIGAN CHAMBER OF COMMERCE, April 20, 2005, <http://www.michamber.com/term-limits-and-legislative-reform-0>.

107 Charlie Cain, *Reform Agendas at a Glance*, CENTER FOR MICHIGAN, July 21, 2010.

108 *Id.*

109 TEST OF TIME, *supra* note 2, at 44.

110 *Id.*

111 *Id.*

112 Ivy Hughes, *Chamber Heavyweight Wrestles Term Limits*, CAPITAL GAINS, 2, Dec. 2007.

Despite the support of politicians, reformers of term limits could face a tough opponent, U.S. Term Limits. Nationally, proposals to increase term limits have been fought by U.S. Term Limits, a group founded in 1992 to promote limited government. Many states have attempted to reform term limits; however, they have faced fierce opposition by U.S. Term Limits. Arkansas' proposed constitutional amendment would have extended legislative service from six years in the state house and eight years in the state senate to 12 years in the house and senate. Additionally, Montana's proposed constitutional amendment would have extended service in the state house and senate from eight years in a 16-year period to 12 years in a 24-year period. The Arkansas proposal was placed on the ballot by petition. The Montana proposal was placed on the ballot by the Legislature.<sup>113</sup> Both reforms were voted down. In Michigan, the Chamber of Commerce put forth a proposal in 2005 to lengthen term limits and was met with well-organized opposition.<sup>114</sup> It is clear that any proposal to alter term limits will require much time and money to adequately educate the general public.

## D. Part-time Legislature

It has been suggested that one of the most practical options would be to convert the current legislature into a part-time legislature. Would a part-time legislature be more connected to citizens/voters back in their districts?

Adopting a part-time legislature does not require a constitutional amendment. Some claim it could be accomplished fairly quickly. First, the speaker of the house and senate leader would adjourn after the budget passed, because there is no requirement that the Legislature must do more than pass the budget. The governor could reconvene the Legislature any time for specific issues. Adopting the reform may bring about many of the desired changes that term limits has not. .

Part-time legislatures have been adopted in a few other states with relative success. For example, the Texas Legislature meets for a mere 140 days every other year, with legislative sessions beginning

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113 *Term Limits and Legislative Reform, supra* note 105.

114 *Legislative Term Limits and Full-Time, supra* note 24, at 1.

in January of odd numbered years. However, meeting every other year is a daunting undertaking for all participants in the process, legislators most of all. The Texas Legislature must produce a two-year state budget for a large modern state, as well as handle bills on a wide range of subjects. During the 2007 Texas session, more than 6,190 bills were introduced, of which 1,481 became law. Furthermore, legislators in Texas receive an annual compensation of only \$7,200. Texas Governor Rick Perry endorses the part-time legislature, "They've got more government in Texas than they want at \$600 per month."<sup>115</sup> "When you have a full-time legislature, they just feel pretty inclined to be doing something. So they are going to dream up new laws, new regulations and new statutes, and generally all of those cost money," Perry added.<sup>116</sup> When asked whether Texans would consider having a full-time legislature, Perry replied, "[f]orget about it."<sup>117</sup>

Some in Michigan share Rick Perry's support of part-time legislatures. In December 2010 Michigan Representative David Agema (R), along with 11 members of the state house, introduced a resolution to adopt a part-time legislature. House Resolution H, introduced January 26, 2011, would limit the Michigan Legislature to 150 days per year, beginning in 2013. The resolution also proposes an extension of term limits to 16 years.<sup>118</sup>

## CONCLUSION

Term-limits were implemented as a way to improve the Legislature. However, there is little data that suggests term-limits have improved the process; rather the data suggests that the Legislature is now just different. Yet, the image of legislators seems to remain tarnished. A major change that needs to occur in Michigan politics is building voters' trust in elected officials. Process and performance within the legislative arena still needs to be improved. The Legislature's credibility needs to improve so that the public believes it can accomplish the job it is elected to do.

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115 Brad Bumsted, *Texas Gov. Rick Perry Says Part-Time Legislature Suffices*, TRIBUNE NEWS, April 27, 2007.

116 *Id.*

117 *Id.*

118 HOUSE JOINT RESOLUTION H, Jan. 26, 2011, available at <http://www.legislature.mi.gov/documents/2011-2012/jointresolutionintroduced/House/pdf/2011-HJR-H.pdf>.

Because we have adopted some of the strictest limits in the nation, Michigan's political landscape has been impacted. Unfortunately, after nearly 20 years of limits, many are frustrated. ***On one hand,*** limits have brought new people into the Legislature and eliminated lifetime politicians. On the other hand, as anticipated term limits have caused turnover, and an influx of inexperienced legislators who face a steep learning curve.<sup>119</sup>

Many who work with the Legislature share a concern, that "the brain drain in the legislative branch is obvious and frightening."<sup>120</sup> The turnover is blamed for any inefficiencies or lack of effectiveness along with lack of legislative oversight.<sup>121</sup> The landscape shows the same individuals, for the most part, switch from one chamber to the other, to maximize their political experience. Changing to a maximum length of tenure could reduce the number of legislators who switch chambers in order to remain in state office. Changing the current term limits, whether by altering the length or eliminating them all together, could require an expensive constitutional amendment campaign, one that would involve changing public opinion through education.<sup>122</sup> In the meantime, the association industry and its partners should begin to provide training and support in a bi-partisan fashion and work to build the credibility and effectiveness of the legislative branch of our state democratic process.

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119 Demas, *supra* note 10.

120 Rick Cole, *A Bombshell Awaits Michigan's Governor*, DOME MAGAZINE, Oct. 2010, 2.

121 *Adapting to Term Limits*, *supra* note 31.

122 Dearing, *supra* note 46.