The Latest on Marihuana in Michigan
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Michigan Marihuana Law Overview

- **Michigan Medical Marihuana Act**
  - (Initiated Law 1 of 2008), MCL 333.26421 *et seq.*

- **Michigan MedicalMarihuana Facilities Licensing Act**
  - (Public Law 281 of 2016), MCL 333.27101 *et seq.*

- **Michigan Regulation and Taxation of Marihuana Act**
  - (Initiated Law 1 of 2018), MCL 333.27951 *et seq.*
Michigan Medical Marihuana Act

Overview:
• Approved by voters in 2008.
• Permits the use and cultivation of medical marihuana by caregivers for patients.

Standards:
• A “qualifying patient” with a state registry identification card can possess up to 2.5 ounces of marijuana plus up to 12 plants if the patient does not have a caregiver.
• A “registered caregiver” can possess up to 12 plants for each patient and may have 6 patients total.
Michigan Medical Marihuana Facilities Licensing Act

**Purpose:** To fill perceived “gaps” in the MMMA and to allow for the commercial sale of medical marihuana.

**Regulation:** Imposes a licensure mandate for certain medical marihuana facilities:

- Growers
- Dispensaries
- Transporters
- Safety Compliance Facilities
- Processors
Michigan Medical Marihuana
Facilities Licensing Act (Cont.)

Opt-in Approach:
• The facilities must be licensed by the State of Michigan, and the facilities can only operate in municipalities that have adopted an ordinance authorizing that type of facility.
Overview:

• Approved by voters in 2018.
• Permits the use and cultivation of recreational marihuana by individuals 21 years or older.
• Creates a licensing and regulatory framework for marihuana establishments (i.e., commercial facilities).
Michigan Regulation and Taxation of Marihuana Act (Cont.)

A person 21 years of age or older may:
• Possess, purchase, transport, or process 2.5 ounces or less of marijuana;
• Possess, store, or process in his or her residence not more than 10 ounces of marijuana and any marijuana produced by marijuana plants cultivated on the property (limit: 12 plants at one time on the property); and
• Give away up to 2.5 ounces of marijuana to anyone 21 years or older (but cannot promote/advertise such a giveaway).
A “marihuana establishment” means:

- marihuana grower,
- marihuana safety compliance facility,
- marihuana processor,
- marihuana microbusiness,
- marihuana retailer,
- marihuana secure transporter, or
- any other type of marihuana-related business licensed by the Michigan Department of Licensing and Regulatory Affairs.
Michigan Regulation and Taxation of Marihuana Act (Cont.)

Opt-Out Approach:

- Michigan municipalities may completely prohibit marihuana establishments within their boundaries, limit the number of permitted establishments, and regulate any permitted establishments.
A municipality may regulate marihuana establishments through a regulatory ordinance alone or through a regulatory ordinance and a zoning ordinance amendment.

• Regulatory Ordinance → Regulate Activity on Land.
• Zoning Ordinance → Regulate Use of Land.

Forest Hill Energy-Fowler Farms v Twp of Bengal, unpublished opinion of the Court of Appeals, No 319134, at *11.
A regulatory ordinance can regulate the number of establishments permitted, the type of establishments permitted, and process for allocating limited numbers of licenses.

Allocation of licenses:

- **Medical Marihuana Facilities**: statute does not define process. Can be first-come first-served, lottery, or scoring system.
- **Adult-Use Marihuana Establishments**: municipality MUST use a competitive process (i.e. a scoring system) if the ordinance provides a numerical limitation on licenses.
A zoning ordinance amendment can regulate *where* those establishments are permitted and *how* they are operated.

Examples:

- Limit marihuana establishments to certain zoning districts;
- Dictate minimum lot sizes;
- Prohibit marihuana establishments within certain distances from other uses (like schools, churches, libraries, or residences);
- Provide building and security requirements for marihuana establishments.
What to Consider?

• What types of establishments will be allowed?
• How many of each type of establishment will be allowed?
• Where will the establishments be allowed?
• Will there be minimum acreage or lot size requirements?
• How far should the establishments be from certain other uses?
  • Under state law – cannot be within exclusively residential district or within 1,000 feet of a pre-existing k-12 school UNLESS a municipality adopts an ordinance which reduces this requirement. MCL 333.27959(3)(c).
• If allowing growers, will the municipality allow "stacked" grower licenses?
• Will a special land use permit be required?
Litigation Involving Selective Scoring Systems

Disappointed applicants often allege that:
• The municipality unfairly applied its own selection rules; or
• The rules are defective/unconstitutional because they favor some applicants over others.

Ways to avoid this type of litigation exposure include implementing other types of regulatory schemes:
• Medical marijuana → lotteries or first-come first-serve or zoning only regulations
• Recreation → zoning only regulations (avoiding cap/competitive process)
Ballot Initiatives

Types of Ballot Proposals

• MRTMA Petitions
• Charter Amendments
• Ordinances
1. **Initiated Ordinances under Charter Provisions**: Many city and village charters authorize and establish procedures for initiated ordinances.

2. **MRTMA (Adult-Use)**: Authorizes initiated ordinances in cities, villages and townships.

3. **Charter Amendment**: Home rule cities and villages have charters that can be amended through initiative petitions.

Key Point: Each of these 3 options is governed by a different legal framework, all of which have different substantive and procedural requirements.
Use of Initiatives to Date

- Most initiatives are filed by proponents of marijuana businesses seeking to “opt-in” to either medical or adult-use marijuana
- Some initiatives seeking to overturn opt-in ordinances
- In both the 2020 and 2021 November election cycles, nearly identical petitions were filed in small communities across the state:
  - The 2020 petitions largely involved initiated ordinances under the MRTMA
  - The 2021 petitions largely involved charter amendments under the Home Rule City Act
  - Both waves of petitions involved proposals that established selective scoring systems
Ordinances Initiated Under Charter Procedures
Overview

• Michigan law does not establish a universal right to initiate ordinances by petition.
• Rather, the right has historically been limited to municipalities that provide for it in their charters.
• The Home Rule City Act states that a city may provide in its charter for: “the initiative and referendum on all matters within the scope of the powers of that city.” MCL 117.4i(g).
• The Home Rule Village Act is not as express on this point, but some village charters also provide a right of initiative.
• As a general matter, there is no right to initiate an ordinance in a township or general law village.
• Charters do not typically restrict the subject matter of an initiated ordinance. So long as the proposal is legislative (rather than administrative in nature) it can be adopted by initiative.

Typical Charter – Established Process

While there is significant variation from community to community, local charters often provide the following with respect to initiated ordinances:

• A minimum signature requirement for initiative petitions.
• A deadline for filing the petition in order to make the ballot for a particular election.
• A designation of the local clerk as the official charged with reviewing the sufficiency of the petition.
• A procedure for establishing a ballot question.
• A procedure under which the proposal is presented to the legislative body (possibly with the option to adopt the proposal without an election).
• A procedure for amending or repealing the ordinance after it’s adopted by voters.
  • Some charters state that ordinances adopted by initiative can’t be amended for a number of years, or that amendment requires a supermajority vote.
Typical Length of Charter Provision Regarding Initiated Ordinances

ordnances but not as a requirement for the effectiveness thereof. The publication of an ordi-
nance is in full as a part of the published proceedings of the meet-

ings of the Council shall constitute publication as required herein.

b) All notices and other ordinances subject mat-
ter, which are not or may be properly, shall be ad-

h) At the time the ordnance is submitted for pub-

Section 4.3.1. Penalties

The penalties provided for in this section shall be

Section 4.3.2. Initiatives and Referendums

An ordinance may be initiated by petition, or a refer-

Section 4.3.3. Initiatives and Referendums Pro-

An initiative or a referendum petition shall be

Section 4.3.4. Council Procedure on Initi-

Upon receiving an initiative or referendum petition,

Section 4.3.5. Referral of Ordinances

The Council shall refer to the Mayor or any other

Section 4.3.6. Ordinance Suspended, Set Aside, or

The presentation to the Council by the Clerk of

Section 4.3.7. Ordinance Repealed

Any ordinance which was adopted by vote of

Section 4.3.8. Council Procedure on Initiative and Referendum Petitions

When receiving an initiative or referendum petition,

Section 4.3.9. Ordinance Referred to for Report or

The Council may refer the report to the Mayor

Section 4.3.10. Ordinance Referred to for Referendum or Initiative Petition

The Council shall have authority for the pur-

any officer, or making any other investigation of

any character relative to any affairs in the munici-

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The Election Law may also provide pertinent regulations for initiated ordinance petitions.

As a general matter, petitions for local ballot proposals (including proposed initiated ordinances) must:

- Be printed on a specified size paper (and perhaps be folded in a specific manner).
- Use a specified font-size.
- Include specific representations from the petition circulators.
- State whether the petition was paid for with regulated funds under the Michigan Campaign Finance Act.
| Bi-fold (17 x 14 sheet) | Tri-fold or Z-fold (25.5 x 14 sheet) | Multi-fold or Accordion-fold (34 x 14 sheet) |
Procedure Upon Receipt

• Upon receiving a petition for an initiated ordinance, clerks should promptly review the petition signatures and forward the petition to legal counsel for review.

• The Michigan Secretary of State has resources available to assist in determining the validity of signatures.

• Legal counsel can assist in determining the validity of the form of the petition.

• If the petition has enough signatures and is in a proper form, the clerk should follow the proper procedures (as directed by the charter and Election Law) for submitting ballot language to the county clerk.
What if the Petition is Deficient?

• The general view is that a local clerk can (and should) reject a petition that does not have enough valid signatures or is deficient as to form.
  • This power might come from the word “canvass,” as used in a local charter.
  • Or it might be implied by the structure of the charter and words like “valid” and ”sufficient.”
• Upon making such a determination, clerks typically notify the petition sponsor in writing and explain their reasoning.
• This may prompt the petition sponsor to file a mandamus lawsuit against the clerk, asking the court to compel the clerk to certify a ballot question to the county.
• Importantly, clerks can only reject petitions due to threshold procedural deficiencies. Substantive challenges to the legality of the ordinance must wait until after the election. **
  • Unfortunately, even blatantly unconstitutional proposals must be submitted to voters if the petition is in the proper form.
What if the Charter Process Conflicts With the Election Law?

• As a general matter, state statutes (like the Election Law) supersede conflicting local laws (like city or village charters).
• This is one reason why it’s important to consult with legal counsel when processing an initiative petition.
• There has been recent litigation over whether petition-processing deadlines in a city charter conflict with ballot-language certification deadlines in the Election Law.
• In an unpublished decision in Jonseck,* the Court of Appeals held that the Election Law required a city clerk to process a petition in as little as 14 days, as opposed to the 45+ days allowed by the city charter.
  • This decision is arguably inconsistent with the way the Court has treated very similar issues in other contexts. Nevertheless, municipalities should take the decision into account when deciding how to proceed.

MRTMA Petitions
Overview

• As previously noted, the MRTMA was adopted through a statewide ballot initiative in 2019.
• It contains a rather unique provision that authorizes local ballot initiatives, which reads in its entirety as follows:

> Individuals may petition to initiate an ordinance to provide for the number of marihuana establishments allowed within a municipality or to completely prohibit marihuana establishments within a municipality, and such ordinance shall be submitted to the electors of the municipality at the next regular election when a petition is signed by qualified electors in the municipality in a number greater than 5% of the votes cast for governor by qualified electors in the municipality at the last gubernatorial election. A petition under this subsection is subject to section 488 of the Michigan election law, 1954 PA 116, MCL 168.488.
There are 4 notable features of the MRTMA provision:

1. It applies to all “municipalities,” not just cities and villages that provide for initiated ordinances in their charters.

2. Its signature threshold (5% of votes cast for governor) is lower than that found in most charters.

3. It is extremely short as compared to the provisions pertaining to initiative petitions in most city and village charters. There is very little detail as to how a municipality is supposed to process the petition.

4. It is limited to 2 specific types of proposals, namely those that:
   - “Provide for the number of marihuana establishments within a municipality”; or
   - “Completely prohibit marihuana establishments within a municipality”
Procedural Questions

Whereas charters typically provide a comprehensive process for processing petitions, the MRTMA language leaves many questions unanswered:

• Who is responsible for determining the sufficiency of the petition?
• Who drafts and approves the ballot language?
• Is the petition formally submitted to the legislative body?
• If the legislative body wants to adopt the ordinance without holding an election, can it do that?
• If the ordinance is ultimately adopted by the electors or the legislative body, are there restrictions on the ability to repeal or amend it?
• How does a municipality even know that a petition is being submitted under the MRTMA rather than a city charter?
How Does a Municipality Answer These Questions?

• Without much guidance from the statute, municipalities that receive MRTMA petitions must devise a reasonable framework for processing petitions.

• There appear to be at least two plausible approaches, which could be described as follows:
  • *Pass-through approach* – Underlying charter procedures still apply unless they directly conflict with the MRTMA.
  • *Minimal gap-filling approach* – MRTMA petitions are treated as completely distinct from petitions under a city or village charter. To the extent the MRTMA does not describe how a necessary step is to occur, the municipality has discretion to chose a reasonable means of filling the gap.
Pass-Through Approach

• In municipalities where the charter establishes a procedure for initiating ordinances, it may be plausible to argue that the charter passes through and continues to apply to the extent it doesn’t conflict with the MRTMA.

• MRTMA would likely conflict in several ways:
  • The signature threshold will be lower
  • Ballot proposals can only be considered at the “next regular election”
  • Ballot proposals are limited to the subject matter specified by the MRTMA

• An advantage of this approach is that the procedure is clear.

• A disadvantage is that it might limit the legislative body’s ability to amend the proposed ordinance after adoption.

• Another consideration is that this approach is not available when there is no underlying charter scheme.
Gap-Filling Approach

• Alternatively, it may be reasonable to argue that charter initiative provisions don’t apply to MRTMA petitions at all.

• Under this approach, a municipality would follow only the directions in the MRTMA and the Election Law.

• To the extent those two statutes leave any “gaps,” the municipality would have implied discretion to determine a reasonable approach. For example:
  • A municipality could reasonably determine that the clerk should be the official who reviews the petition, since that is typically the clerk’s role under other statutes.
  • A municipality could reasonably determine that either the clerk or the legislative body should prepare the ballot language, since both have a duty to ensure fair elections.

• An advantage of this approach is that the legislative body could arguably repeal or amend the initiated ordinance after adoption (the MRTMA doesn’t say otherwise)

• A disadvantage of this approach is that it is arguably *ad hoc*. 
Permissible Scope of MRTMA Initiated Ordinances

• Since the MRTMA was enacted, there has been a significant amount of litigation about what types of ordinances can be adopted through ballot initiatives.

• Marijuana advocates have argued that the MRTMA allows initiated ordinances that establish complete regulatory schemes for adult-use marijuana.

• Numerous municipalities have taken the position that the statute is much narrow, allowing only ordinances that simply set the maximum number of establishments.
  • In other words, "provide for the number" simply means “set the number.”
  • Under this interpretation, the initiative would be for a short and simple ordinance that “opts in” to a certain number of establishments, but allows the municipality to adopt subsequent ordinances to provide a regulatory scheme.
Can a Clerk Reject a Petition Because it Exceeds the Scope of the MRTMA?

• Numerous local clerks have taken the position that they have an obligation to reject petitions that are beyond the scope of the MRTMA's initiative provision.

• Under this position, the scope of the proposed ordinance is a threshold procedural issue that determines whether the proposal can be placed on the ballot.

• Marijuana advocates have argued, to the contrary, that rejecting a petition on this ground is an improper pre-election challenge to the substance of the ordinance.

• Unfortunately, although these issues have been litigated a number of times, they have not been definitively resolved by the courts.

• For an excellent summary of the various circuit court and appellate rulings on these issues, see Emily Palacios, New Challenges Face MRTMA Opt-Out Communities in Michigan, Briefly (June 2021), available online.
Charter Amendments
Home Rule City Act

HRCA sets forth a process for initiatory petitions to amend city charters.

Petition Requirements:

- Addressed to and filed with the city clerk
- What body, organization, or person is primarily interested in and responsible for the circulation of the petition
- Each sheet of the petition shall be verified by the affidavit of the person who obtained the signatures to the petition
- Signed by at least 5% of the qualified and registered electors of the municipality
- Each signer of the petition shall also write, immediately after his or her signature, the date of signing and his or her street address
- Also subject to sections of the Michigan Election Law.
Ballot Question Requirements:

- Not more than 100 words, exclusive of caption (the legislative body may add an explanatory caption).
- Shall consist of a true and impartial statement of the purpose of the amendment or question in language that does not create prejudice for or against the amendment or question.
- Shall be posted in a conspicuous place in each polling place.
- Must be confined to 1 subject.
- If the subject of a charter amendment includes more than 1 related proposition, each proposition shall be separately stated.

Text must be submitted to the Attorney General for review (more on that later)…
Petition Process

Initiatory Petition Process:

• City clerk shall canvass the petition to ascertain if it is signed by the requisite number of registered electors.

• Within 45 days from the date of the filing of the petition, the city clerk shall certify the sufficiency or insufficiency of the petition.
  
  • If the petition contains the requisite number of signatures of registered electors, the clerk shall submit the proposed amendment to the electors of the city at the next regular municipal or general state election held in the city which shall occur not less than 90 days following the filing of the petition.

• If the petition does not contain the requisite number of signatures of registered electors, it is defective.
Initiatory Petition Process:

- If the petition contains the signatures of 20% or more of the persons residing in and registered to vote in the city as of the date when they signed it, AND the petition requests submission of the proposal at a special election, the city clerk, within 90 days after the date of the filing of the petition, shall call a special election to be held on the next regular election date that is not less than 120 days after the petition was filed.
- If 5%-19% may be held at a special election.
- Before submission to the electors, the amendment must be transmitted to the Governor.
  - Governor may approve or object to the amendment.
  - Submitted to the electors notwithstanding any Governor objections.
Home Rule Village Act

- Also has a charter amendment process by initiatory petition.
- Requires signatures of at least 20% of the qualified electors of the total vote cast for president at the last preceding election.
- Put on the ballot “at the next municipal election or at a special election.”
- Also requires the Governor’s review.
  - Notably no requirement to put on the ballot if the Governor objects (unless 2/3 of the members, upon reconsideration, agree to pass it and send to the voters).
Key Provisions in the Proposed Charter Amendments

• Medical marijuana only
• Set specified number of facilities
• Provide detailed subjective selection criteria/scoring system for the municipality to apply
• Create a new department in the municipality responsible for scoring applicants
Marihuana Related Litigation
Village of Clarkston

- Court of Appeals went through the requirements for mandamus:
  - (1) the plaintiff has a clear, legal right to performance of the specific duty sought,
  - (2) the defendant has a clear legal duty to perform,
  - (3) the act is ministerial, and
  - (4) no other adequate legal or equitable remedy exists that might achieve the same result.

- Court held that the act of approving petition signatures was not a “ministerial act” which could be compelled by mandamus.
City of Portland

- Various issues with the petition
- Circuit Court held that the HRCA timeframe trumps Michigan Election Law timeframe
- The Court noted strict compliance with election requirements:
  - Petition folding/printing
  - Contents
  - Impartial statement of question
Keego Harbor

- Timing of Submission issue.
- 1st case that has had a decision out of the Court of Appeals.
- Court of Appeals affirmed the lower court’s decision in favor of the City.
- Again, HRCA timeframe trumps Michigan Election Law timeframe.
Case Summary:
The Village of Edwardsburg granted two licenses for marihuana provisioning centers in the Village. After the licenses were awarded, concerns were raised regarding the scoring metrics and process for awarding the licenses. The Village rescinded the licenses and re-scored the applications in a series of meetings – with the same businesses being granted the licenses.

A lawsuit was subsequently filed by business denied licenses claiming the Village’s scoring metrics conflicts with the MRTMA by considering an applicant’s integrity, moral character, and cooperation with the Village.

Circuit Court:
Dismissed the lawsuit for lack of subject matter jurisdiction.

Court of Appeals:
Reversed and remanded the case finding that the Village’s scoring committee was not quasi-judicial and therefore the court had subject-matter jurisdiction – and should not have dismissed the case.

Michigan Supreme Court:
Pending appeal.
Traverse City

• **Case Summary:**
  • Lawsuit filed against Traverse City claiming the scoring system to evaluate recreational marihuana license applications is arbitrary and inconsistent with state law under the MRTMA.

• **Circuit Court:**
  • Issued a temporary injunction on the issuance of any recreational marihuana license by the City until a judgment is entered in the case.
  • The City is reportedly re-drafting its scoring system, as City Attorney argued there’s no sense in carrying on a legal battle that’s going to result in a rewritten ordinance either way.

• **Court of Appeals:**
  • Pending appeal.
• **Case Summary:**
  - Marihuana businesses brought lawsuit against the City challenging the scoring of applicants for marihuana license. The lawsuit claims using criteria used doesn't fall within the scope of the MRTMA – most notably regarding remediation of property for site.

• **Circuit Court:**
  - Issued temporary injunction on issuance of marihuana licenses until a judgment is issued in the case.

• **Court of Appeals:**
  - Pending Appeal.
City of Mount Pleasant

**Case Summary:**
- Lawsuit was filed by a business not awarded a conditional use license to operate a recreational marihuana retail establishment in the City. The business previously operated a medical marihuana facility in the City and claimed its due process rights were violated by an arbitrary scoring system and threatening letter presented to City from another applicant (which was awarded 2/3 retail licenses).

**Circuit Court:**
- The Circuit Court granted the City’s Motion for Summary Disposition finding that Plaintiff did not have a property right in a recreational marihuana license for the purposes of a due process claim. The court further held that there was no evidence of undue influence or arbitrary scoring in the City’s licensure process. Also found that lawsuit was an untimely appeal.

**Court of Appeals:**
- Appeal pending
**Whitewater Township**

- **Case Summary:** Ballot initiative group submitted ballot initiative to prohibit all recreational marihuana establishments in the Township. Local marihuana business filed suit to prevent the initiative from being placed on the ballot.

- **Circuit Court:**
  - Ballot initiative must be placed on ballot for next “regular election”
  - “Regular election”
    - One where there are candidates for offices on the ballot.
    - No candidates for office were on the ballot for the Township at the August 2021 election, so the Court determined that the election was a “special election.”
  - Judge ruled the question can only be placed on regular election ballot.
City of Detroit

Case Summary:
• The City of Detroit adopted an ordinance regulating the licensure process for recreational marihuana establishments in the City. Most notably, the Ordinance grants licensure preferences to Detroit “Legacy” Applicants. A lawsuit was brought against the City claiming the Legacy Preference violates the commerce clause of the U.S. Constitution for discrimination against out-of-state residents.

U.S. District Court:
• The Court granted a preliminary injunction in favor of the Plaintiff finding that the City’s Legacy Preference "gives an unfair, irrational and likely unconstitutional advantage to long-term Detroit residents over all other applicants."
City of Detroit (Cont.)

• Detroit Legacy Program: To qualify for the Detroit Legacy program, you must currently reside in Detroit, and be able to document that you:
  • Lived in Detroit for 15 of the last 30 years, or
  • Lived in Detroit for 13 of the last 30 years and are low income, or
  • Lived in Detroit for 10 of the last 30 years and have marijuana conviction or have a parent with a marijuana conviction.
Case Summary:
• City of Berkley received applications from local business to operate recreational marihuana retail establishments in the City. The City evaluated the applications pursuant to undisclosed scoring metrics by an internal marihuana team.

Circuit Court:
• The Circuit Court ruled in favor of the City finding that its scoring criteria was not in conflict with the MRTMA. However, the City violated the Open Meetings Act by evaluating the applicants at a non-public meeting.

Court of Appeals:
• Pending
City of Warren

- **Case Summary:**
  - Lawsuit brought by marihuana license applicants claiming the City violated the Open Meetings Act during deliberations for issuance of marihuana licenses.

- **Circuit Court:**
  - The Circuit Court determined that the City violated the OMA during the scoring process and invalidated the licenses issued by the City.

- **Court of Appeals:**
  - Pending appeal.
City of Mason

- **Case Summary:**
  - A ballot question committee submitted a ballot initiative petition to amend the City of Mason’s charter to allow for the operation of medical marihuana facilities in the City and create a City Department of Medical Marihuana. The City Clerk denied the petition because the City viewed the amendment as a significant charter revision and not a simple amendment – which requires compliance with the HRCA.

- **Circuit Court:**
  - The ballot question was an amendment (and not a significant charter revision) because it did not abolish or displace an existing government body or office. Instead, the amendment would merely alter the power each branch possessed regarding a very discrete subject matter. Therefore, the City was required to canvas the petition and, if valid, place it on the next election ballot.

- **Court of Appeals:**
  - Pending appeal.
State Review of Initiatory Petitions & Charter Amendments

- By custom and tradition, the Governor continues to request the Attorney General’s review of each proposed amendment that is submitted to the Governor for approval.

- At the same time as the AG’s office is reviewing the substance of a proposed amendment at the request of the Governor, it also reviews the ballot language for that charter amendment.

- NOTE: AG guidance has suggested that city councils should re-write the ballot question when the one the petitioners submit is deceptive or otherwise improper.
AG input thus far:

- City of Perry proposed charter amendment:
  - AG concluded that the proposed amendment is not consistent with the HRCA, because it involves a fundamental restructuring of city government which may not be accomplished by a charter amendment, but only by a charter revision drafted by a charter commission operating under Sections 18–24 of the HRCA.

- Determined the proposed ballot language was not consistent with Section 21(2) of the HRCA:
  - Failing to inform the voters that the charter amendment is contrary to Michigan law.
  - Does not put voters on notice of the burdens being imposed by the proposal.
Long-Term Issues Presented

- Administrative burdens
- Risks of future litigation
- Altering the structure of government

Note: It will be important to consult with your municipal attorney on legal options if your community has a proposal like these eventually approved by the voters.
Questions?