



## MEMORANDUM

TO: Michigan Independent Citizens Redistricting Commission (MICRC)

CC: MICRC & MDOS Staff

FROM: Julianne V. Pastula *JVP*  
General Counsel, MICRC

DATE: January 25, 2022

RE: **Potential Options for Further Modification of the Rules of Procedure**

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The Michigan Independent Citizens Redistricting Commission (MICRC) is moving toward the effective date of its adopted maps<sup>1</sup> and is currently in the process of completing its final work relative to those maps (i.e., publication<sup>2</sup> and final report<sup>3</sup>). As the MICRC is currently defending two lawsuits<sup>4</sup>, the judicial review of the adopted redistricting plans is ongoing. When both the final work of the MICRC and the judicial review is complete, Section 6(18) of Article 4 of Michigan's 1963 Constitution will be activated. Prior to this occurring, the MICRC has two additional options to consider for potential amendment<sup>5</sup> of its Rules of Procedure.

### I. Remote Meetings

During its January 13, 2022, MICRC meeting, the Commission requested additional language to consider in regard to convening remote meetings. The Commission also voted to temporarily conduct its meetings remotely (through the end of March 2022) in light of the ongoing pandemic and increase in variant cases. Therefore, the Commission has time to further debate and decide its preferred course of action.

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<sup>1</sup> Const 1963, art 4, § 6(17).

<sup>2</sup> Const 1963, art 4, § 6(15).

<sup>3</sup> Const 1963, art 4, § 6(16).

<sup>4</sup> *Detroit Caucus v. Michigan Independent Citizens Redistricting Commission*, MSC Docket No. 163926 and *Banerian v. Benson*, WD Mich, Case 1:22-cv-00054.

<sup>5</sup> Please note this memorandum is a discussion document that does not satisfy the notice and publication requirements under Section 14.2 of the current Rules of Procedure for action to be taken at the January 27<sup>th</sup> MICRC meeting. Formal action at any subsequent MICRC meeting would be appropriate.

The following redlined language provides the MICRC the most flexibility in setting its meetings to occur either in person or remotely:

**Section 6.2: Meetings.** Official actions shall be taken only at a meeting which is conducted in accordance with these rules. The Commission shall conduct meetings in person or remotely by majority vote of the Commission in setting such meetings as follows. . .”

## II. Reconvening the MICRC

As the Commission moves toward final completion of its work, Section 6(18) of Article 4 of Michigan’s 1963 Constitution states that “[t]he terms of the commissioners shall expire once the commission has completed its obligations for a census cycle but not before any judicial review of the redistricting plan is complete.” Given this language, I recommend the Commission also consider language to reconvene the Body in the event it completes its final work, the current lawsuits are resolved, and new legal challenges are not filed until later this decade. It is not uncommon for redistricting litigation to be filed 5-6 years after plans are adopted. During the previous redistricting cycle in Michigan, a challenge to the 2011 plan was filed in 2017.<sup>6</sup> If and when the language of Subsection 18 is triggered, a mechanism is needed to reconvene the MICRC. Therefore, proposed redlined language to reconvene the 2020 Commission prior to the seating of the 2030 Commission follows:

**Section 6.2.4: Special Meetings.** Special Meetings of the Commission may be scheduled by majority vote of the Commission during a meeting or may be called by the Chairperson, Vice-Chairperson or the Executive Director with not less than fifteen (15) hour notice. The location of a special meeting shall be a place and time designated in the special meeting notice. All official actions taken at a Special Meeting shall have the same force and effect as those taken at a Regular Meeting of the Commission. Pursuant to this section and section 6.2.6, only the secretary of state shall call a special meeting to reconvene the Commission.

**Section 6.2.6: Reconvene Commission.** Should the current Commission be reconvened, due to commencement of litigation or any other reasons requiring formal action, the secretary of state shall issue a call re-convening the commission by posting notice of a special meeting in accordance with Section 6.2.4 of these rules.

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<sup>6</sup> *League of Women Voters v Benson*, 373 F Supp 3d 867 (ED Mich, 2019).