



When “Local Control” Means Control of the Locals

by Lawrence W. Reed

Summary

In November, Michigan voters will decide on Proposal 2, also known as the “Let Local Votes Count” constitutional amendment. Billed as a way to limit state interference in “municipal concerns,” the proposal would instead lead to minority rule, costly litigation, and greater government intrusion in the lives and businesses of Michigan citizens.

Main text word count: 770

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Michigan citizens have a long and venerable tradition of strongly supporting what is generally known as “local control.” The concept usually means local people, through their own initiative or through their locally elected representatives, making the important decisions that govern their schools, roads, and other public services provided by their townships, villages, cities or counties.

Michiganians would probably have a different view if local control meant minority rule, endless and costly litigation, greater interference by local government in their lives and businesses, and a confusing patchwork of local policies that would make the state as a whole a less attractive place in which to work and do business. But it’s that version of local control that voters will be asked to endorse on the November ballot in the form of Proposal 2, known also as the “Let Local Votes Count” constitutional amendment.

The proposal would require a two-thirds vote of the Michigan Legislature on any measure passed after March 1, 2000, that “intervenes” in areas of “municipal concern.” It was prompted by what mayors and other local officials saw as unwarranted intrusions into local affairs by the legislature earlier this year—such as the repeal of residency requirements for municipal workers and a ban on local government lawsuits against gun manufacturers.

Yet, local governments concerned about state interference may have only themselves to blame. Local residency requirements, for example, had become an anachronism that made little sense in today’s highly mobile workforce. Filing lawsuits against gun makers—not because their products are defective but because a tiny fraction of gun owners misuse them—was nothing more than a grab for cash, an attempt to “tax” an industry through litigation. Whatever happened to personal responsibility—which used to mean going after the individuals responsible for crime, not the company that makes a legal and legitimate product that criminals abuse?

Passing local “prevailing-wage” and “living-wage” ordinances that confer special benefits on organized labor at the expense of the majority of Michigan workers and taxpayers also invites state intervention. Ditto so-called “project labor agreements”—costly and discriminatory favors to organized labor whereby local governments prevent nonunion workers from bidding for work on tax-funded projects.

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Even if one's concept of "local control" embraces out-of-date residency requirements, frivolous lawsuits, and handouts for union friends, Proposal 2 is an ill-conceived and poorly worded over-reaction that will create many new problems of its own:

- **A precedent for minority rule.** Proposal 2 would empower legislators representing a small minority of the states' voters to block laws they don't approve. Just 37 out of 110 representatives, or only 13 of 38 senators, could stop legislation in its tracks. Both the federal and state constitutions contain supermajority requirements, but unlike the circumstances Proposal 2 envisions, they come into play rarely and only with regard to specified and extraordinary issues—approving a treaty or a constitutional amendment, for instance.
- **Excessively vague and broad application.** The nebulous language of Proposal 2 would potentially subject a vast array of state matters to the supermajority rule—anything, in fact, which constitutes a "municipal concern." Arguably, just about everything the state does has some impact on municipalities.
- **Numerous efforts to end-run the Legislature.** There are likely to be a host of bills affecting "municipal concerns" that have enough popular support to win a majority vote in the Legislature but fail to muster a supermajority in both houses. In such cases, supporters will constantly be going directly to the voters, deluging them with initiative petitions on everything from environmental laws to salaries of police and firefighters.
- **Invalidation of valid law.** "The Legislature shall enact no law on or after March 1, 2000 . . . without the approval of two-thirds of the members elected to and serving in each house of the Legislature," according to Proposal 2. That clearly is meant to invalidate anything of "municipal concern" that passes after March 1, even though such laws would have been enacted legally under the statutes and constitutional provisions in effect at the time of their passage. This unprecedented, retroactive repeal of legislation would likely yield many years of costly litigation and uncertainty.

Many local governments have broken ranks to oppose this ill-advised plan. Both the Michigan Association of Counties and the Michigan Township Association have announced their strong opposition.

To those of us who really believe in local control, the "Let Local Votes Count" proposal is alluring on the surface. But that's not good enough for something as important as an amendment to our state's constitution. In actual operation this proposal would be a disaster, and that's not nearly as pretty a picture.

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