STATE OF MICHIGAN

COURT OF CLAIMS

MACKINAC CENTER FOR PUBLIC POLICY,

Plaintiff,

v Case No. 25-000082-MM

DEPARTMENT OF LABOR AND ECONOMIC OPPORTUNITY, Hon. Michael F. Gadola

Defendant.

and

PEOPLE OF THE STATE OF MICHIGAN,

Intervening Defendant.
_____ /

OPINION AND ORDER GRANTING PLAINTIFF'S MOTION FOR A PRELIMINARY INJUNCTION

In this declaratory action involving two legislative grants for ballparks from the fiscal year 2024–2025 general omnibus budget (FY 24–25 budget), 2024 PA 121, plaintiff, the Mackinac Center for Public Policy, moves for a preliminary injunction under MCR 3.310(A), requesting that this Court order defendant, the Department of Labor and Economic Opportunity (DLEO), to hold the challenged appropriations and refrain from further disbursements of the grant funding until this lawsuit has concluded. DLEO has responded to the motion but has not taken a position on the merits of the constitutional question presented. The People of the State of Michigan (the People), who intervened in this matter, respond to the motion and argue that plaintiff's constitutional argument is unlikely to succeed on the merits. Judge SWARTZLE, who was previously assigned to

this matter, heard arguments on the motion on September 16, 2025. The Court GRANTS the motion and PRELIMINARILY ENJOINS further disbursements from the grant funding pending the outcome of this lawsuit.

I. BACKGROUND

This lawsuit involves two "community enhancement grants" to baseball stadiums that were included in the FY 24–25 budget. The first legislative grant was to Jackson Field, a baseball stadium in Lansing, which is in Ingham County. The second legislative grant was to Jimmy John's Field,[1] a baseball stadium in Utica, which is in Macomb County. The parties do not dispute that the grants in question were one-time appropriations. On June 27, 2024, the FY 24–25 budget passed by a vote of 56-54 in the Michigan State House of Representatives and a vote of 21-17 in the Michigan Senate. The Governor of Michigan signed the FY 24–25 budget on July 24, 2024. The FY 24–25 budget took effect on October 1, 2024.

The central dispute in this matter is whether the two community enhancement grants in the FY 24–25 budget violated Const 1963, art 4, § 30, which provides, "The assent of two-thirds of the members elected to and serving in each house of the legislature shall be required for the appropriation of public money or property for local or private purposes." There is no dispute that the FY 24–25 budget did not pass by a vote of two-thirds of the members in each House of the Legislature. Rather, the disagreement in this case is about whether the two grants in question constituted appropriations of public money for a local or private purpose, for which a two-thirds vote would have been necessary.

[1] This Field was renamed earlier this year. However, because the Field is referred to as Jimmy John's Field throughout the briefing, the Court will use that name in this opinion and order.

The FY 24-25 general omnibus budget included funding for community enhancement grants. 2024 PA 121, art 9, part 1, § 113. The budget dictated that a grant agreement for a community enhancement grant was to be in place by June 1, 2025, and that projects were to be completed by September 30, 2029. 2024 PA 121, art 9, part 2, § 222(7). The two baseball stadium grants in question appeared as follows:

> From the funds appropriated in part 1 for community enhancement grants, $1,000,000.00 shall be awarded to a baseball stadium located in a city with a population between 112,000 and 113,000 according to the most recent federal decennial census to support infrastructure improvements.
>
> * * *
>
> From the funds appropriated in part 1 for community enhancement grants, $1,500,000.00 shall be awarded to support capital and security improvements to a ballpark located in a city with a population between 5,000 and 5,500 in a county with a population between 800,000 and 900,000 according to the most recent federal decennial census. [2024 PA 121, art 9, part 2, §§ 1050c(6) and 1050a(8).]

The first grant described in the preceding paragraph was awarded to Jackson Field and the second was awarded to Jimmy John's Field. State legislators sponsored both grants. Jackson Field is an 11,000-seat, municipally-owned stadium where the Lansing Lugnuts professional baseball team plays its games. The Lugnuts are a High-A Affiliate of a Major League Baseball (MLB) team and play games against other minor league teams from various Midwestern states. Jackson Field also hosts collegiate baseball games, corporate events, festivals, and concerts. Admission is by paid ticket. The Jackson National Life Insurance Company purchased the naming rights to the field through 2027. Jackson Field is operated through a public entity named the Lansing Entertainment & Public Facilities Authority. The grant funds are intended to be used to renovate the ballpark turf to meet certain MLB requirements.

Jimmy John's Field is owned by a private company called GS Entertainment, LLC, and is the home to four regional baseball teams that make up the United Shore Professional Baseball League (USPBL). The ballpark seats 4,500 people and is located off the M-59 highway near the Macomb County border with Oakland County. In addition to the baseball field, the ballpark holds a children's playground, a whiffleball area, and family picnic areas. Admission is by paid ticket. According to the People, the Field hosts various community events, including a Girl Scout fundraiser, a reading program (in which about 68,000 southeastern Michigan students participated in 2024), and a Nike Baseball Camp for children across the State. The grant funds are intended to improve the facility, but the exact intended use is unclear.

The FY 24–25 budget declared that the grant projects in question were for a public purpose:

> For any grant program or project funded in part 1 intended for a single recipient organization or unit of local government, the grant program or project is for a *public purpose* and the department [DLEO] shall follow procurement statutes of this state, including any bidding requirements, unless the department can fully validate, through information detailed in this part or public supporting documents, both of the following:
>
> (a) The specific organization or unit of local government that will receive or administer the funds.
>
> (b) How the funds will be administered and expended. [2024 PA 121, art 9, part 2, § 222(1) (emphasis added).]

According to plaintiff, however, the Legislature cannot definitively declare whether a purpose is public in nature as this is a matter for the Court to decide.

The FY 24-25 budget also outlined certain requirements that DLEO must follow in administering the grants, such as the following:

> Notwithstanding any other conditions or requirements for direct appropriation grants, the department shall perform at least all of the following activities to administer the grants described in subsection (1):
>
> * * *
>
> (c) Verify to the extent possible that a grant recipient will use funds for a public purpose that serves the economic prosperity, health, safety, or general welfare of the residents of this state. [2024 PA 121, art 9, part 2, § 222(2)(c).]

II. PROCEDURAL BACKGROUND

Plaintiff, a nonprofit corporation,[2] filed this lawsuit in May 2025, alleging that the two ballpark grants were unconstitutional appropriations of public money for a local or private purpose without the necessary two-thirds vote of both Houses of the Legislature. Plaintiff alleges that no other stadiums met the criteria for the city and county population, so the grants had to be given to Jackson Field and Jimmy John's Field. Count I of the amended complaint[3] is a claim that the grant under 2024 PA 121, art 9, part 2, § 1050(c)(6) (Jimmy John's Field) was unconstitutional under Const 1963, art 4, § 30 because it served both a private and local purpose. Count II of the amended complaint is a claim that the grant of funds under 2024 PA 121, art 9, part 2, § 1050(a)(8) (Jackson Field) was an unconstitutional local-purpose grant. Plaintiff requests that the Court issue a declaratory judgment that the two grants are unconstitutional. Plaintiff also requests that this Court permanently enjoin future disbursement of the appropriated funds.

On the same day it filed the lawsuit, plaintiff moved for a preliminary injunction prohibiting further disbursement of the two grants while this lawsuit is pending. Plaintiff argues that both ballpark grants were for a local purpose and that the Jimmy John's Field grant was also

[2] Plaintiff's standing to sue under MCL 600.2041(3) and MCR 2.201(B)(4)(a) is not challenged for purposes of this motion.

[3] The complaint was amended per order of the Court to include the required verification.

for a private purpose. Thus, both grants were unconstitutional because the FY 24–25 budget did not receive the necessary two-thirds vote. Plaintiff relies, in relevant part, on caselaw interpreting Article 4, § 29 of the Michigan Constitution, which contains language similar to Article 4, § 30. Plaintiff maintains that it is likely to prevail on the merits given that the wording of the grants renders them "closed-ended" pieces of legislation that can only apply to two specific ballparks. Therefore, the statute disguises local purposes as general ones by using descriptors that seem open-ended in nature but could only apply to two specific ballparks. It argues that a danger exists that it will suffer irreparable harm if this Court does not issue the preliminary injunction. Specifically, it notes that there were approximately $1 billion in earmarks for FY 24–25 and states, "While Plaintiff only challenges two appropriations here, a ruling in its favor could affect hundreds of previous earmarks and billions of dollars." In contrast, plaintiff argues that DLEO would not be harmed by maintaining the status quo and continuing to hold the funds in question until this lawsuit is decided on the merits. Plaintiff reasons that these types of appropriations often take a long time to be disbursed. Finally, plaintiff argues that preventing the unconstitutional expenditure of funds is a matter in the public interest, so this factor also weighs in favor of granting the preliminary injunction.

DLEO responds to the motion by challenging the justiciability of plaintiff's claims on the basis that the parties are not adverse. DLEO explains that it is taking a neutral position on the constitutionality of the appropriations. The grants in question were sponsored by state legislators rather than DLEO. So DLEO's role was limited to administrative tasks, such as the drafting and execution of a grant agreement, disbursement of the funds, and oversight of the use of the funds. DLEO clarified in its briefing and during the hearing that it executed a grant agreement with Jimmy John's Field before this lawsuit was filed, but that it would take "several years to complete." At

the time of the hearing, DLEO had only disbursed about $200,000 out of $1.5 million in grant funding. According to DLEO, it disburses funds on the basis of reimbursement requests submitted by Jimmy John's Field, which have to be reviewed and vetted before the funds are authorized. DLEO argues that the issues presented in this case are moot considering that it has already executed an agreement with Jimmy John's Field and has disbursed some of the funding. However, DLEO has not executed a grant agreement or disbursed any funds to Jackson Field. DLEO further argues plaintiff faces no real or imminent threat of irreparable injury and that the remaining injunction factors weigh in DLEO's favor. Plaintiff replies that the issues presented in this case are not moot because DLEO has not disbursed all the funds in question.

Considering the position taken by DLEO that it is not adverse on the merits of the constitutional challenges plaintiff raised in its motion for a preliminary injunction, the People moved to intervene as a defendant so that they could take an adverse position. This Court granted that motion, thus addressing the adversity question presented in DLEO's response brief.

The People argue in response to plaintiff's motion that plaintiff focuses on historical sources to avoid having to discuss modern caselaw, which has interpreted Const 1963, art 4, § 30 more favorably to the position taken by the People. The People argue both appropriations served a public, statewide purpose—and therefore did not require approval by two-thirds of the Legislature—because the grants were "aimed at enhancing and preserving recreational opportunities for Michigan residents."

The People argue that the Jackson Field appropriation does not violate Const 1963, art 4, § 30 because it serves a nonlocal purpose. The grant does not just benefit Lansing or Ingham County—it benefits all citizens of the State. The People point out that the ballpark seats 11,000

people and serves a baseball team affiliated with the MLB. Jackson Field hosts baseball teams from several states and attracts fans from across Michigan. Jackson Field also hosts collegiate baseball tournaments and serves as the venue for special events throughout the year. Given the reach of the activities and events hosted by Jackson Field, the appropriation designed to improve the stadium is not solely or exclusively a matter of local concern.

Similarly, the People argue that the Jimmy John's Field grant served a statewide, public purpose because it benefited the public at large, although the People acknowledge the grant also benefited the private owner of the Field. The People note that Jimmy John's Field provides a venue for family entertainment and is used for several community events. The People note that the ballpark is connected to a major highway and offers various nonlocal benefits, such as programs for the Girl Scouts of America and baseball camps for children from across the State. The People reason that the appropriation to Jimmy John's Field served a nonlocal purpose because the appropriation does not solely benefit the City of Utica or Macomb County. So the appropriation did not require a two-thirds vote of the Legislature. The People argue that the remaining injunction factors do not weigh in plaintiff's favor. Thus, the People argue that this Court should deny the motion for a preliminary injunction.

Plaintiff replies that the appropriations serve a local purpose under the relevant caselaw focusing on whether the statute is applied to a limited area or to the entire state. They argue that the caselaw does not support the People's construction of Article 4, § 30 based on the grant recipient's "availability to tourists." Plaintiff argues that the availability of community, family, or recreational events at the ballparks is not dispositive of the issue whether the purpose of the grant was local or statewide.

III. ANALYSIS

The purpose of a preliminary injunction is to preserve the status quo in a case pending a final hearing on the rights of the parties. *Hammel v Speaker of the House of Representatives*, 297 Mich App 641, 647-648; 825 NW2d 616 (2012). A preliminary injunction "is an extraordinary remedy that issues only when justice requires, there is no adequate remedy at law, and there exists a real and imminent danger of irreparable injury." *Pontiac Fire Fighters Union Local 376 v Pontiac*, 482 Mich 1, 8; 753 NW2d 595 (2008) (quotation marks and citation omitted). A preliminary injunction may not be granted without a hearing, and at the hearing, the party requesting the preliminary injunction has the burden to establish that the Court should issue the injunction. *Id*. at 9; MCR 3.310(A)(1) and (4). The movant must prove that the four elements favor issuing the preliminary injunction. *Hammel*, 297 Mich App at 648. Those elements include:

> (1) the likelihood that the party seeking the injunction will prevail on the merits, (2) the danger that the party seeking the injunction will suffer irreparable harm if the injunction is not issued, (3) the risk that the party seeking the injunction would be harmed more by the absence of an injunction than the opposing party would be by the granting of the relief, and (4) the harm to the public interest if the injunction is issued. [*Id*. (quotation marks and citation omitted).]

A preliminary injunction should not be granted if an adequate remedy exists at law. *Slis v Michigan*, 332 Mich App 312, 337; 956 NW2d 569 (2020). Additionally, "[t]he mere apprehension of future injury or damage cannot be the basis for injunctive relief." *Id*. (quotation marks and citation omitted).

Review of the legal issues presented in this motion involves the interpretation of the phrase "local purpose" in Const 1963, art 4, § 30. When interpreting a constitutional provision, this Court will seek to determine the purpose and intent of the constitutional provision. *Mothering Justice v*

Attorney General, 515 Mich 328, 346; 29 NW3d 346 (2024), as clarified by 515 Mich 920 (2024). Our Supreme Court has adopted the following principles of constitutional interpretation:

> When interpreting our Constitution, this Court's primary objective . . . is to realize the intent of the people by whom and for whom the constitution was ratified. Accordingly, we seek to determine the text's original meaning to the ratifiers, the people, at the time of ratification. To do so, we must consider the circumstances leading to the adoption of the provision and the purpose sought to be accomplished. [*Id*. (quotation marks and citations omitted).]

When considering the text's original meaning to the ratifiers, the Court will employ the interpretation that is in "the sense most obvious to the common understanding; the one which reasonable minds, the great mass of people themselves, would give it." *Makowski v Governor*, 495 Mich 465, 472; 852 NW2d 61 (2014) (quotation marks and citation omitted).

As for the constitutionality of the statute in question, a statute is presumed constitutional, and this Court must construe the statute as constitutional unless the unconstitutionality of the statute is clearly apparent. *In re Request for Advisory Opinion regarding Constitutionality of 2011 PA 38*, 490 Mich 295, 307; 806 NW2d 683 (2011). The Michigan Supreme Court has explained that "[b]ecause the determination of what constitutes a public purpose for which an appropriation of public money may be made is primarily the responsibility of the Legislature, . . . considerable deference is owed to the Legislature's determination." *Grebner v Michigan*, 480 Mich 939, 940; 744 NW2d 123 (2007) (quotation marks and citations omitted). However, the Michigan Supreme Court has not articulated a similar deferential standard for determining what constitutes a *local* purpose.

A. LIKELIHOOD OF SUCCESS ON MERITS

1. MERITS OF THE ISSUE

The Court concludes that a likelihood exists that plaintiff will prevail on the merits on the issue whether the appropriations to both Jackson Field and Jimmy John's Field served a local purpose rather than a general or statewide purpose, thus requiring the vote of two-thirds of the members elected to and serving in the Michigan House and Senate.

As noted earlier, Const 1963, art 4, § 30 provides, "The assent of two-thirds of the members elected to and serving in each house of the legislature shall be required for the appropriation of public money or property for local or private purposes." As the parties acknowledge, there is not an abundance of recent caselaw interpreting the meaning of the phrase "local purpose" in Const 1963, art 4, § 30, despite the lengthy history of this constitutional provision. However, the phrase "local or private purposes" appeared in the analogous provision in Michigan's 1908 Constitution, which provided, in relevant part, "The assent of 2/3 of the members elected to each house of the legislature shall be requisite to every bill appropriating the public money or property for local or private purposes." Const 1908, art 5, § 24. Caselaw interpreting Michigan's 1908 Constitution is useful to understanding the history of Article 4, § 30 of Michigan's 1963 Constitution and its historical application in Michigan.

Plaintiff and the People both acknowledge that an important case on the meaning of the phrase "local purpose" is *Moreton v Haggerty*, 240 Mich 584; 216 NW 450 (1927), a case involving the analogous provision of Michigan's 1908 Constitution. *Moreton* involved a challenge to an appropriation relating to the state highway fund, which was given to cities and counties on an appropriated basis calculated on the basis of the miles of state-trunk-line highways in the city or village limits. *Id*. at 586-587. An issue in the case was whether the act in question, which was not passed by a vote of two-thirds of the members elected to each House of the Legislature, was for a local purpose. *Id*. at 588.

On appeal, the Michigan Supreme Court explained that the State has an interest "in all public roads and the policy which it has adopted in respect to their construction and maintenance." *Id*. The Court explained: "If ever the building and maintenance of highways was a matter of purely local concern, that time passed with the coming of the automobile into general use as a means of transportation. Good roads became economically necessary." *Id*. Thus, the Legislature adopted a "comprehensive state-wide system," in which "a building of a highway in any section of the state is of interest to every other section; that it is a matter of state-wide concern rather than of any particular locality." *Id*. at 588-589. The Court therefore recognized that the State had a "direct and substantial" public interest in the building of highways within the state, and the benefit was not centered on certain localities, although certain localities would benefit more than others in terms of dollars appropriated. *Id*. The Court reasoned:

> But probably the most convincing reason why the appropriations in question are not for local purposes is that the act does not in form or in fact apply to any one particular locality. It is made to operate in the same way on every section of the state. It is not directed to one county, but to every county. It is a general statute enacted for a statewide purpose. The extent of the territory to which it is applied, whether to a limited area or to the entire territory of the state, would seem to furnish a reasonably accurate test as to whether it is for general or local purposes. [*Id*. at 589-590.]

Therefore, the test from *Moreton* for determining whether the statute has a local purpose or a general purpose is whether the statute is applied to a limited area or to the State as a whole. See *id*.

To support their position that the funds in question were used for a nonlocal purpose, the People rely on a more recent Attorney General opinion involving the Detroit Institute of Arts (the DIA). OAG, 1983–1984, No. 6,225, p 303 (May 7, 1984). Although Attorney General opinions are not binding precedent, this Court may consider them for their persuasive value. *Mothering*

Justice, 515 Mich at 353 n 14. In the opinion, then-Attorney General Frank J. Kelley addressed, in relevant part, whether an appropriation to the city of Detroit for the DIA served a nonlocal purpose for purposes of Const 1963, art 4, § 30. *Id*. at 303-304. He compared the constitutional provision to a provision of New York's 1821 Constitution "requiring a two-thirds vote of the members elected to each house of the Legislature to appropriate money for 'local purposes,' " which was interpreted to "mean an appropriation to be expended in a particular locality for the direct benefit of the people of that locality." *Id*. at 308. Attorney General Kelley reasoned as it related to the DIA:

> Unquestionably, and uniquely in Michigan, the Detroit Institute of Arts, as a widely acclaimed cultural facility, is utilized by the citizens of this state without regard to residency in the city. The facility is an outstanding tourist attraction utilized by tourists and their families. Its vast displays and cultural facilities are readily and regularly available to Michigan students. Both the Governor in his Executive Budget, and the Legislature in the enactment of appropriations for the support of the Detroit Institute of Arts, have recognized its place in the cultural life of this state. [*Id*.]

Thus, he opined that the appropriation was for a nonlocal purpose not requiring a vote of two-thirds of the members elected to and serving in each House, even though the money was part of a grant to the city of Detroit and would be spent in the city of Detroit. *Id*. at 309. Critically, the opinion focused on the fact that the DIA is a famous cultural and tourist attraction. See *id*. The key factor was its prominent place in the State and use by the citizens of Michigan regardless of residency. See *id*. at 308-309.

In contrast, plaintiff argues that caselaw interpreting a similar provision in Michigan's 1963 Constitution, Const 1963, art 4, § 29, supports its interpretation of a "local purpose" as including " 'closed-ended' " pieces of legislation, such as the grants in issue, which plaintiff argues use

population numbers to disguise local interests as general ones. Const 1963, art 4, § 29 relates to local or special acts and provides, in relevant part:

> The legislature shall pass no local or special act in any case where a general act can be made applicable, and whether a general act can be made applicable shall be a judicial question. No local or special act shall take effect until approved by two-thirds of the members elected to and serving in each house and by a majority of the electors voting thereon in the district affected.

First, plaintiff relies on *Michigan v Wayne Co Clerk*, 466 Mich 640; 648 NW2d 202 (2002), a case involving a public act directing the City of Detroit to place on the August 6, 2002 election ballot a proposal to change from the current at-large city-council election system to a single-member district plan. *Id*. at 641. The statute in question did not refer to Detroit by name but instead stated that it applied to "any city with a population of more than 750,000 that has a nine-member at-large elected city council." *Id*. at 642. However, only Detroit met the population and city-council criteria at the time of the August 6, 2002 election. *Id*. The Detroit Election Commission declined to certify the measure for inclusion on the ballot. *Id*. at 641.

On appeal, the Michigan Supreme Court concluded that the statute violated Const 1963, art 4, § 29 because it was a local act that was not passed by the two-thirds majority vote. *Id*. at 643. The Court recognized that the general rule was that population-based statutes do not constitute local acts when more than one municipality or county could qualify over time if their populations changed. *Id*. But in that case, the statute could not qualify as general in nature because of the time restriction providing that the proposal in question appear on the August 6, 2002 ballot. *Id*. The Court explained, "No other city can meet that requirement because there will be no new census before that date." *Id*.

Second, plaintiff relies on *Houston v Governor*, 491 Mich 876, 876 (2012),[4] a published order of the Michigan Supreme Court addressing whether an amendment to the County Apportionment Act, MCL 46.401 *et seq*., was a "local" act violating Article 4, § 29 of the Michigan Constitution. The amendment, 2011 PA 280, limited the number of commissioner districts that any county could apportion on the basis of population, reassigned apportionment duties to the Board of Commissioners in counties exceeding 1 million residents and that adopted an optional unified form of county government, and required any county not in compliance with the Act to reapportion its districts within 30 days of the effective date of the law. *Id*. at 877-878. The Court explained, "As a practical matter, because Oakland County is the only county that will not be in compliance with the law on its effective date, only Oakland County will have to reapportion during the transitional period." *Id*. at 878.

Nevertheless, the Court found that the Act did *not* violate Article 4, § 29 of the Michigan Constitution. *Id*. The Court employed a two-part test to determine whether the act in question was general or local in nature. *Id*. "First, the limiting criteria of the act must be reasonably related to the overall purpose of the statute. Second, the act must be sufficiently open-ended so that localities may be brought within the scope of its provisions as such localities over time meet the required criteria." *Id*. In that case, the statute met the first requirement because the limiting criteria of 2011 PA 280 were reasonably related to the overall purpose of the Act, and the population criteria outlined in the Act were a reasonable means to achieve that purpose. *Id*. Additionally, the

[4] "An order that is a final Supreme Court disposition of an application and that contains a concise statement of the applicable facts and reasons for the decision is binding precedent." *Steele v Winfield*, 343 Mich App 394, 400; 997 NW2d 341 (2022) (quotation marks and citation omitted).

Court concluded that the Act was open-ended in that it provided various population ranges and placed limits on the number of districts for every county within those population ranges. *Id*.

The Court differentiated the case from *Wayne Co Clerk*, reasoning that in *Wayne Co Clerk*, "the relevant act ostensibly required any city with a population of 750,000 or more and a city council composed of nine at-large members to place a specific proposal on its August 6, 2002 ballot." *Id*. at 880. Therefore, "[b]ecause Detroit was the only city that could satisfy those criteria by the date certain, we held that the act constituted 'local' legislation." *Id*. Thus, the act in that case was "closed-ended" and no other locality could have been brought within the Act *Id*. In contrast, in *Houston*, while Oakland County was the only county immediately out of compliance with the Act, "every county remains potentially subject in the future to the limitations established by 2011 PA 280." *Id*.

In this case, plaintiff presents a compelling argument that the appropriations in question were for the benefit of the cities and counties where they are located rather than for the State as a whole. *Wayne Co Clerk* is analogous in this situation. Although *Wayne Co Clerk* involved Article 4, § 29 of the Michigan Constitution, both constitutional provisions relate to laws affecting localities and require analysis of the meaning of the term "local." *Wayne Co Clerk* supports that even when a grant does not specify which locality it is intended to benefit, the Court can glean that information from the act itself when no other locality would meet the requirements of the grant. The grants in this case are closed-ended like the statute in *Wayne Co Clerk* because they can only apply to the cities and counties where the two ballparks are located given the population requirements and limited one-year duration of the grant.

Furthermore, unlike the highway grant in *Moreton*, the grants to the ballparks in this case were designed to benefit two (and only two) municipalities: Lansing and Utica. The two ballparks chiefly serve their local communities by hosting the baseball games of local sports teams and other events. This case does not present a situation like in *Moreton*, in which grant money was given to municipalities to improve a statewide highway system, which would benefit all Michiganders. These grants are also distinguishable from the grant to the DIA, which is a widely acclaimed cultural facility with a prominence reaching far beyond the city of Detroit and a cultural significance that benefits all Michiganders.

While the People argue that Jackson Field hosts various conferences, festivals, concerts, and ballgames, there is no dispute that Jackson Field is the home of the Lansing Lugnuts and is used primarily for their home baseball games. The idea that fans from other areas of the state or Midwest may come to Jackson Field on occasion does not change the fact that the grant to the ballpark will primarily benefit Lansing and Ingham County. Even the People recognize that Jackson Field has a key local role in " 'revitalizing Lansing's downtown' " area.

The same is true of Jimmy John's Field,[5] which is used primarily as a stadium to spectate the games of four USPBL teams, all of which are local to the metropolitan Detroit area and all of which play out of the Utica stadium. While the People point out that Jimmy John's Field has other amenities, such as a whiffleball field, a playground, and a picnic area, it is illogical to conclude

[5] The People suggest that an appropriation to a private entity need not be analyzed under the "local purpose" provision. There is no support for this position in the language of Article 4, § 30. Again, Michigan's Constitution requires a two-thirds vote for the appropriation of public money for "local *or* private purposes." Const 1963, art 4, § 30 (emphasis added). Thus, even if the Utica grant were considered "public" in nature, it would still need to be nonlocal in nature to avoid the two-thirds vote requirement. See *id*.

that individuals from across the State would travel to Jimmy John's Field for those common amenities, which they can likely find locally. Unlike the DIA, these amenities are not of statewide significance. The People also note that Jimmy John's Field hosts various community events in "southeast Michigan," but most of those events are local in nature, tie back to the community, and lack a statewide outreach. Again, the primary benefit of the grant to Jimmy John's Field will be to serve the local community. Neither ballpark has the same statewide benefits as a highway system or the same statewide cultural significance as the DIA.

Grants of public money for local purposes are constitutional only if two-thirds of the members in each House of the Legislature vote in favor of the expenditure. Because the grants in question did not receive a two-thirds vote in either House, a likelihood exists that plaintiff can establish that the two grants were unconstitutional.[6]

2. MOOTNESS

DLEO argues that the issues presented in this case are moot because it has disbursed some of the funding in question, and plaintiff could have challenged the appropriations before the funds were disbursed.[7] Courts will generally not address moot questions, which are issues that will have no practical effect in a case. *Barrow v Detroit Election Comm'n*, 305 Mich App 649, 659; 854 NW2d 489 (2014). Also, "[a]n issue is moot if an event has occurred that renders it impossible for the court to grant relief." *Id*. (quotation marks and citation omitted). However, an exception

[6] Because the Court concludes that plaintiff is likely to prevail on the issue whether the appropriations in question served a local purpose, the Court need not address the additional question whether the Utica appropriation served a private purpose.

[7] DLEO does not raise a laches defense or argue that plaintiff's complaint was filed untimely.

to the mootness doctrine exists if the issue is publicly significant, likely to recur, yet likely to evade judicial review. *Id*. at 660.

DLEO argues that it has already executed a grant agreement with the owner of Jimmy John's Field, and some of the funds have been disbursed. DLEO suggests that when the grant agreement was signed, the owner of Jimmy John's Field received a protected legal interest in the funds. However, DLEO does not provide legal authority to override the general principle that unconstitutional statutes are deemed void *ab initio* or to support that the State can isolate itself from a finding of unconstitutionality by executing agreements with third parties. See *Mothering Justice*, 515 Mich at 365 (explaining that the general rule is that an unconstitutional statute is considered void *ab initio*). And by DLEO's own admission, the vast majority of the funds in question have not been disbursed. Moreover, even if this issue were moot, it is one that is capable of repetition, yet likely to evade judicial review. Despite DLEO's claim that the process is slow and that plaintiff could have sued sooner, there is nothing in the constitutional provision to dictate how quickly the grant agreements may be signed. Thus, every appropriations grant could face the same mootness challenge should any part of a grant funding be disbursed before the constitutionality of the grant is challenged. Accordingly, plaintiff is likely to prevail on the mootness issue. Therefore, this factor weighs in favor of granting a preliminary injunction.

B. DANGER OF IRREPARABLE HARM

The next factor is whether there exists a danger of irreparable injury. On this factor, the Michigan Court of Appeals has explained:

> In order to establish irreparable injury, the moving party must demonstrate a noncompensable injury for which there is no legal measurement of damages or for which damages cannot be determined with a sufficient degree of certainty. The injury must be both certain and great, and it must be actual rather than theoretical.

> Economic injuries are not irreparable because they can be remedied by damages at law. A relative deterioration of competitive position does not in itself suffice to establish irreparable injury. [*Slis*, 332 Mich App at 361 (quotation marks and citation omitted).]

The Court agrees with plaintiff that its claim for irreparable injury is not solely economic in nature. Should DLEO disburse the remaining funds in question while this lawsuit is pending, it will be difficult, if not impossible, to claw back the funds should plaintiff prevail on the merits, rendering the injury irreparable in nature. This is not the type of injury that can be remedied through economic damages. Thus plaintiff, which purports to represent the taxpayers of the State, does not request damages but instead requests declaratory relief. A preliminary injunction would prevent further spending and preserve the status quo while this case proceeds to a hearing on the merits. Under the facts presented, the Court concludes that the irreparable injury factor also weighs in favor of a preliminary injunction.

C. WEIGHING OF THE HARMS TO THE PARTIES AND THE PUBLIC

The next element is whether the harm to plaintiff without a preliminary injunction would outweigh the harm to defendant should an injunction be issued. In this circumstance, DLEO has been holding a good portion of the funds in question for over one year. There is no apparent harm to DLEO in continuing to hold the funds in question during the life of this lawsuit. Given that a preliminary injunction is designed to preserve the status quo, this factor weighs in favor of plaintiffs. See *Busuito v Barnhill*, 337 Mich App 434, 451; 976 NW2d 60 (2021) (explaining that "a preliminary injunction should only issue to preserve the status quo, not to change it").

As for whether the public interest will be harmed if a preliminary injunction is issued, plaintiff argues that the public has an interest in ensuring that earmarked funds are spent appropriately (i.e., not in violation of the constitution), noting that this decision could have a

collateral effect on future expenditures. In contrast, the People note that the funds in question were designed to be used for improvements to two baseball stadiums to benefit the public at large. The Jackson Field appropriation was designed to be used for new turf on the baseball field. The Jimmy John's Field appropriation will also be used for improvements, although it is unclear exactly how the funds will be used. Neither DLEO nor the People argue that either ballpark requires urgent improvements. The deadline for signing new agreements expired shortly after plaintiff filed this lawsuit, and improvements made in relation to any existing agreements may be reimbursed through September 2029. Thus, it is not apparent that the People will be harmed if this Court issues a preliminary injunction considering the public interest in ensuring that appropriations of taxpayer funds are spent in a constitutional manner and considering the nonurgent nature of the grants in question. For this reason, the final element also weighs in favor of granting a preliminary injunction.

Considering that a preliminary injunction would serve to maintain the status quo pending a final hearing and that each of the four elements weigh in favor of granting a preliminary injunction, the Court will GRANT plaintiff's motion for a preliminary injunction. However, to preserve the status quo, the scope of the preliminary injunction will extend only to those funds that remain in DLEO's possession and will not affect any funds that have already been disbursed to Jimmy John's Field.

IV. CONCLUSION

For the reasons stated in this Opinion and Order,

IT IS ORDERED that plaintiff's motion for a preliminary injunction is GRANTED.

IT IS FURTHER ORDERED that DLEO is PRELIMINARILY ENJOINED from disbursing additional funds held in its possession in relation to the FY 24–25 budget grants to Jackson Field and Jimmy John's Field without further order of this Court.

IT IS FURTHER ORDERED that DLEO is PRELIMINARILY ENJOINED from executing a grant agreement for the FY 24–25 budget grant in relation to Jackson Field without further order of this Court.

IT IS FURTHER ORDERED that DLEO and the People shall respond to the amended complaint, either by answer or dispositive motion, within 21 days of the date of this opinion and order.

IT IS SO ORDERED. This is not a final order that resolves the last pending claim and does not close the case.

Date: May 12, 2026

Hon. Michael F. Gadola
Chief Judge, Court of Claims