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BALLOT PROPOSAL 10-2

An Overview

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On November 2, 2010, Michigan voters will decide whether to adopt an amendment to the State Constitution to restrict a person's eligibility for elective office and for certain governmental employment. Proposal 10-2 is the result of Senate Joint Resolution V, which passed the Michigan Senate and House of Representatives with more than a two-thirds vote in each chamber. Proposal 10-2 will appear on the ballot as follows:

A PROPOSAL TO AMEND THE STATE CONSTITUTION TO PROHIBIT CERTAIN FELONS FROM HOLDING ELECTIVE OFFICE AND SPECIFIED TYPES OF PUBLIC EMPLOYMENT POSITIONS

The proposed constitutional amendment would:

Make a person ineligible for election or appointment to any state or local elective office or to hold a position in public employment in this state that is policy-making or has discretionary authority over public assets, if:

- *within the preceding 20 years, the person was convicted of a felony involving dishonesty, deceit, fraud, or a breach of the public trust; and*
- *the conviction was related to the person's official capacity while holding any elective office or position of employment in local, state, or federal government.*

Require the State Legislature to enact laws to implement the prohibition.

Should this proposal be adopted?

If a majority of the electors vote "yes", Proposal 10-2 will be adopted as Article XI, Section 8 of the State Constitution.

If approved, the provisions of the constitutional amendment will be in addition to any other qualification for elective office or public employment required under the Constitution or by statute. Currently, Article IV, Section 7 of the State Constitution provides that a person who has been convicted of subversion or who, within the preceding 20 years, has been convicted of a felony involving a breach of the public trust, is ineligible for a position as State Senator or Representative.

Proponents of Proposal 10-2 suggest that, given recent developments in the City of Detroit, where locally elected and appointed officials have been convicted of felonies related to their conduct in office, the current constitutional restriction is too limited because it applies only to holding State legislative office and does not clarify what constitutes a breach of the public trust. Others contend, however, that the proposed constitutional amendment does not go far enough to root out governmental and political corruption, and that *all* felons should be prohibited from holding office or a position involving policy-making or discretionary authority over public assets.

Opponents of the measure suggest that the proposed restrictions are unnecessary because an astute electorate can decide for itself whether someone should be entrusted with holding public office or other governmental positions. They contend that the State Constitution should not bar someone whom the voters may want to elect.

If the voters approve Proposal 10-2, it will apply to elective office, as well as governmental employment that involves policy-making or discretionary authority over public assets, at all levels of State and local government, including universities, courts, counties, cities, villages,

townships, and school districts. The proposed amendment does not specify, however, the positions that will be affected or the felonies that will disqualify someone from holding office or public employment, but it does direct the Legislature to enact laws to implement the prohibition.

Implementing legislation could address such issues as what constitutes policy-making, which positions involve discretionary authority over public assets, which felonies represent a breach of the public trust, and how to determine whether a prior conviction was related to a person's official capacity in office. Legislation also could create a process for disqualifying candidates for election or applicants for public employment, and procedures to settle disputes. The extent of implementing legislation is within the purview of the Legislature, however, and issues that are not addressed in statute ultimately will be resolved by the courts.

If approved, Proposal 10-2 will take effect on December 18, 2010.