Order

Michigan Supreme Court
Lansing, Michigan

July 10, 2026

Megan K. Cavanagh,
Chief Justice

Brian K. Zahra
Richard H. Bernstein
Elizabeth M. Welch
Kyra H. Bolden
Kimberly A. Thomas
Noah P. Hood,
Justices

SC: 169381
COA: 374786
Ct of Claims: 25-000014-MB

SENATE and SENATE MAJORITY LEADER,
Plaintiffs-Appellees/
Cross-Appellants,

v

HOUSE OF REPRESENTATIVES and HOUSE CLERK,
Defendants-Appellants/
Cross-Appellees,

and

HOUSE SPEAKER,
Defendant.

On May 6, 2026, the Court heard oral argument on the application for leave to appeal the October 27, 2025 judgment of the Court of Appeals and the application for leave to appeal as cross-appellants. On order of the Court, the applications are again considered, and they are DENIED, because we are not persuaded that the questions presented should be reviewed by this Court.

ZAHRA, J. (*dissenting*).

This case concerns the fate of nine bills passed by the 102nd Legislature but never presented to the Governor. The Court of Appeals took the extraordinary step of directing the Court of Claims to issue a writ of mandamus against defendants, the House of Representatives of the 103rd Legislature, Speaker of the House Matt Hall, and House Clerk Scott Starr, ordering them to present the nine bills to the Governor for her signature.[1] Today, this Court acquiesces to the Court of Appeals' decision by denying the parties'

[1] *Senate v House of Representatives*, ___ Mich App ___ (October 27, 2025) (Docket No. 374786).

applications for leave to appeal. This is an error that may have longstanding implications damaging the balance of power between this Court and the Legislature. The Court of Appeals glossed over several consequential and troublesome questions to impose, under unprecedented circumstances, the very rare and heavy-handed remedy of mandamus. Its decision will foster future political gamesmanship and adversely affect the interaction between the two chambers of our Legislature. I would grant the parties' applications for leave to appeal. Regardless of the outcome, our Legislature, an equal branch of our state government, deserves this Court's full consideration of the weighty issues presented in this matter. For these reasons and others developed in this dissenting statement, I dissent from the denial of the applications for leave to appeal.

I. BACKGROUND

On December 23, 2024, Rich Brown, then the Clerk of the Michigan House of Representatives, was directed to present several passed bills to the Governor. On December 30, 2024, the Michigan Senate adjourned indefinitely. The House adjourned indefinitely the next day. On the morning of January 8, 2025, House Clerk Brown sent several bills to the Governor as directed. But when the newly elected 103rd Legislature convened at noon that day, at least[2] nine bills still had not been sent to the Governor. The House elected defendant Scott Starr as Clerk and defendant Matt Hall as Speaker of the House. Speaker Hall directed Clerk Starr not to send the nine bills to the Governor.

On February 3, 2025, the Michigan Senate and Senate Majority Leader Winnie Brinks filed suit against the Michigan House, Speaker Hall, and Clerk Starr to compel them to present the nine bills to the Governor. The complaint lodged counts for mandamus, declaratory judgment, and permanent injunction. On February 27, 2025, the Court of Claims granted in part plaintiffs' motion for summary disposition and granted in part defendants' motion for summary disposition.[3] The Court of Claims concluded that plaintiffs have standing, that the question is justiciable, that Const 1963, art 4, § 33 requires presentment of bills passed by both houses, and that plaintiffs are entitled to declaratory relief.[4] However, the court declined to order mandamus, reasoning that the act of presentment includes some degree of discretion as to timing and is therefore not ministerial.[5] The court also declined plaintiffs' request for a permanent injunction, noting

---

[2] The parties dispute whether as many as 69 other bills had not yet been presented to the Governor at the time the new Legislature was sworn in.

[3] *Mich Senate v Mich House of Representatives*, unpublished opinion and order of the Court of Claims, issued February 27, 2025 (Case No. 25-000014-MB).

[4] *Id*.

[5] *Id*.

in its analysis of the relevant factors articulated in *Kernen v Homestead Dev Co*[6] that "the political nature of this dispute cannot be ignored" and concluding that a permanent injunction would be inappropriate.[7] The Court of Claims entered a judgment declaring that "Article 4, § 33, of Michigan's 1963 Constitution requires that all bills passed by the Legislature be presented to the Governor in sufficient time to allow her 14 days to review the bills prior to the earliest date that the legislation may take effect under Article 4, § 27, of Michigan's 1963 Constitution."[8] The House responded by adopting House Resolution No. 41, indicating that it would not present the nine bills to the Governor.[9]

Defendants filed a claim of appeal in the Court of Appeals on March 12, 2025, and plaintiffs cross-appealed.[10] On October 27, 2025, in a published opinion, the Court of Appeals affirmed the Court of Claims' reasoning in most respects but reversed the Court of Claims' denial of mandamus.[11] The Court of Appeals remanded to the Court of Claims for that court to issue "a writ of mandamus ordering defendants to present the bills to the Governor."[12] The Court of Appeals left the time frame for presentment for the Court of Claims to determine in its discretion.[13] Defendants applied for leave to appeal in this Court, and plaintiffs applied conditionally for leave to cross-appeal.

II. ANALYSIS

A. JUSTICIABILITY

---

[6] *Kernen v Homestead Dev Co*, 232 Mich App 503, 514-515 (1998), citing 4 Restatement Torts, 2d, § 936, pp 565-566.

[7] *Mich Senate*, unpub op at 18.

[8] *Id*.

[9] 2025 House Journal 227-228.

[10] On March 17, 2025, plaintiffs filed a bypass application and motion for immediate consideration with this Court. This Court denied the bypass application on April 2, 2025, but ordered the Court of Appeals to expedite its consideration. *Senate v House of Representatives*, ___ Mich ___; 18 NW3d 319 (April 2, 2025) (Docket No. 168269).

[11] *Senate*, ___ Mich App at ___, ___, ___; slip op at 2, 4, 7.

[12] *Id*. at ___; slip op at 14.

[13] *Id*. at ___; slip op at 14.

As a preliminary matter, this case cannot proceed without first determining whether the suit is justiciable. " 'In seeking to make certain that the judiciary does not usurp the power of coordinate branches of government, and exercises only "judicial power," both this Court and the federal courts have developed justiciability doctrines to ensure that cases before the courts are appropriate for judicial action.' "[14] Justiciability doctrines " 'include the doctrines of standing, ripeness, and mootness.' "[15] Without a finding of justiciability, the judiciary lacks constitutional power to adjudicate a claim.[16] What makes this case particularly thorny is the interaction between the merits of plaintiffs' arguments and the justiciability doctrine.

First, nothing in the Michigan Constitution imposes a time frame within which bills passed through both chambers of our Legislature must be presented to the Governor. Thus, even if the Michigan Constitution mandates presentment of bills that were passed but not presented by a prior Legislature, a persuasive argument may be made that the issue is not ripe. " 'The ripeness doctrine prevents the adjudication of hypothetical or contingent claims before an actual injury has been sustained.' "[17] Indeed, " '[i]t is well settled that a court will never entertain a suit to give a construction or declare the rights of parties upon a state of facts which has not yet arisen, nor upon a matter which is future, contingent and uncertain.' "[18] Even if a court were to affirmatively agree that Const 1963, art 4, § 33, mandates presentment to the Governor, because the Michigan Constitution does not provide a specific timeline for presentment, it cannot be said that the House has failed to present the bills. This fact was considered by the Court of Appeals, which remarked in a footnote, "Const 1963, art 4, § 33, does not indicate any time requirement for the duty of presentment it provides."[19] Yet, without a timeline for presentment, a court cannot definitively establish whether or when the Legislature has violated the mandate. If there is

---

[14] *Lansing Sch Ed Ass'n, MEA/NEA v Lansing Bd of Ed*, 487 Mich 349, 430 n 25 (2010) (CORRIGAN, J., dissenting), quoting *Mich Chiropractic Council v Comm'r of the Office of Fin & Ins Servs*, 475 Mich 363, 370 (2006).

[15] *Lansing Sch Ed Ass'n*, 487 Mich at 430 n 25 (CORRIGAN, J., dissenting), quoting *Mich Chiropractic Council*, 475 Mich at 370-371.

[16] *Lansing Sch Ed Ass'n*, 487 Mich at 430 n 25 (CORRIGAN, J., dissenting), citing *Mich Chiropractic Council*, 475 Mich at 372.

[17] *People v Warner*, 514 Mich 41, 62 (2024), quoting *People v Hulben*, 489 Mich 979, 980-981 (2011) (MARILYN KELLY, J., dissenting).

[18] *Warner*, 514 Mich at 74, quoting *Anway v Grand Rapids R Co*, 211 Mich 592, 611 (1920) (quotation marks, citation, and emphasis omitted).

[19] *Senate*, ___ Mich App at ___ n 8; slip op at 8 n 8.

no deadline for presentment, the House is not in breach of the Constitution. Accordingly, there is no controversy, and the issue is not ripe.

Conversely, if the Constitution does impose a timetable for presentment, the court again lacks power to provide relief. As this Court has noted, " '[T]he primary objective of constitutional interpretation is to realize the intent of the people by whom and for whom the constitution was ratified.' "[20] This Court will not " 'rewrite the plain statutory language and substitute our own policy decisions for those already made by the Legislature.' "[21] If the Constitution establishes a timeline for presentment, courts may not change it. In this case, holding the House to a different timeline—any substitute timeline—would contradict the will of the people of the state of Michigan as expressed in their Constitution.

Some might argue that mandating presentment by court order is more faithful to the Michigan Constitution than no presentment at all. On the contrary, court-ordered presentment undermines the text of the Constitution in several ways. For example, Article 4, § 33, states that if a bill is presented to the Governor and the Governor "does not approve, and the legislature has within that time finally adjourned the session at which the bill was passed, it shall not become law."[22] This provision establishes what is known as the "pocket veto." It gives our Governor the power to allow presented bills to lapse at the close of a legislative session. The pocket veto represents the Constitution's definitive articulation of what occurs when a bill is presented but not approved or disapproved by the Governor prior to the end of a legislative session. For a court to hold that the House must present the nine bills to the Governor would remove the Governor's ability to exercise this constitutionally guaranteed mechanism.

There is no merit to the claim that mandated presentment leaves the pocket veto intact. The Constitution states that if the Governor "does not approve, and the legislature has within that time finally adjourned the session at which the bill was passed, it shall not become law."[23] The Legislature that passed the bills has "finally adjourned,"[24] so inaction by the Governor would kill the bill just as it would under normal circumstances. The Senate asks the courts to hold that the 103rd Legislature must carry out the duties of the

---

[20] *Paquin v City of St Ignace*, 504 Mich 124, 129 (2019), quoting *Studier v Mich Pub Sch Employees' Retirement Bd*, 472 Mich 642, 652 (2005) (alteration in original).

[21] *Mich Ass'n of Home Builders v City of Troy*, 504 Mich 204, 212-213 (2019), quoting *DiBenedetto v West Shore Hosp*, 461 Mich 394, 405 (2000).

[22] Const 1963, art 4, § 33.

[23] *Id*.

[24] *Id*.

102nd Legislature by presenting the nine bills to the Governor. At the same time, the Senate also asks the courts to preserve the pocket veto by treating the 102nd Legislature as if it is no longer in session and its bills can expire under the Governor's inaction. In other words, the 103rd Legislature is continuous with the 102nd Legislature for purposes of presentment, but not for whatever follows presentment. Such a distinction is arbitrary, inconsistent, and not contemplated by our state constitutional structure.

The political-question doctrine presents another aspect of justiciability that is worthy of consideration in this matter. The Court of Appeals considered whether the issues in this case present political questions unreviewable by the courts.[25] As the Court of Appeals noted, courts conduct the following inquiries when analyzing cases under the political-question doctrine:

> (i) Does the issue involve resolution of questions committed by the text of the Constitution to a coordinate branch of Government? (ii) Would resolution of the question demand that a court move beyond areas of judicial expertise? (iii) Do prudential considerations [for maintaining respect between the three branches] counsel against judicial intervention?[26]

The Court of Appeals considered the first two factors, correctly concluding that the interpretation of constitutional provisions is a duty committed to the judiciary and not outside its realm of expertise.[27] The Court of Appeals' analysis of the third prong, however, is lacking. Specifically, the Court of Appeals stated, "The question here involves the interpretation of the rules and requirements imposed by our Constitution."[28] The panel continued, "The fact that the entity subject to these rules is the Legislature does not change the fact that the *rule* at issue is one imposed by our Constitution—the interpretation of which, absent exceptions not present here, falls to the judiciary."[29] To paraphrase, the Court of Appeals essentially held that it could address the questions in this case because interpretation of the Constitution is a judicial function. This analysis erroneously concludes that because the issues survive the first and second prongs, they also pass the third prong. The third prong exists to test for the presence of an independent concern, distinct from commitment and expertise. The Court of Appeals panel should have

---

[25] *Senate*, ___ Mich App at ___; slip op at 4-6.

[26] *Id*. at ___; slip op at 5, quoting *House Speaker v Governor*, 443 Mich 560, 574 (1993) (quotation marks omitted; alteration in *House Speaker*).

[27] *Id*. at ___; slip op at 5-6.

[28] *Id*. at ___; slip op at 6.

[29] *Id*. at ___.

conducted a separate analysis regarding prudential concerns but failed to do so. I take no position on the proper results of such an analysis; I only highlight that the Court of Appeals failed to conduct it, and that this Court does nothing to correct its mistake.

B. MERITS

Turning to the merits of the case, this Court should consider several issues that are not adequately addressed by the Court of Appeals. For example, in considering a claim for mandamus, courts must determine, among other things, whether the plaintiff " 'has a clear, legal right to performance of the specific duty sought.' "[30] Accordingly, the Court of Appeals addressed whether Article 4, § 33 creates an affirmative duty of presentment, or whether it merely sets out a condition of enactment. To resolve the question, the Court looked to an isolated statement from the 1963 constitutional convention.[31] The Court concluded from that statement that Article 4, § 33, creates an affirmative duty, not merely a condition for enactment. The Court of Appeals acknowledged that, as defendants put it, "convention colloquies are 'not decisive as to the intent of the general convention (or of the people) in adopting the measures,"[32] and it recognized "that the statement of one speaker is 'an individual expression[] of concepts as the speaker[] perceive[d] them[.]' "[33] However, the Court of Appeals asserted that convention debates are "considerable" when

---

[30] *Taxpayers for Mich Constitutional Gov't v Michigan*, 508 Mich 48, 82 (2021), quoting *Rental Props Owners Ass'n of Kent Co v Kent Co Treasurer*, 308 Mich App 498, 518 (2014).

[31] *Senate*, ___ Mich App at ___; slip op at 8 (" 'Then the 2 houses have to agree to it in a conference, but it finally is adopted by both houses in a particular form. Then, it being a senate bill, it becomes the duty of the secretary of the senate to print that bill in the form in which it was finally adopted and it is the duty of the secretary of the senate, since it was a senate bill, to present that bill to the governor. Sometimes a bill can be speedily printed, sometimes it takes 2 or 3 weeks to get a bill printed, if it's a great big thick bill and there's an awful lot of other bills also to be printed.' "), quoting 1 Official Record, Constitutional Convention 1961, p 1719 (emphasis omitted).

[32] *Id*. at ___ n 8; slip op at 8 n 8, quoting *Regents of Univ of Mich v Michigan*, 395 Mich 52, 60 (1975).

[33] *Id*. at ___ n 8; slip op at 8 n 8, quoting *Univ of Mich Regents*, 395 Mich at 59-60 (alterations in *Senate*).

there is an " 'absence of guidance in the constitutional language' "[34] and decided that in this case, the quotation was "instructive."[35]

The Court of Appeals' analysis on this point is erroneous in two respects. First, the Court of Appeals did not conduct any analysis of the language of the constitutional provision but instead immediately turned to the constitutional convention for guidance. Ironically, the Court of Appeals had earlier emphasized that the judiciary " 'has not only the authority, but also the primary responsibility of interpreting and enforcing our Constitution.' "[36] Despite being such a stalwart advocate of the interpretive duties of the courts, the Court of Appeals in this case conducted remarkably little textual analysis of the provision under interpretation. Second, it is hardly sufficient to premise such a momentous exercise of the judicial power as mandamus against the legislative branch on such a diminutive foundation as a lone statement from the constitutional convention—not least of all a statement spoken during a debate on a different subject and which only implicitly suggests an affirmative duty.[37] Whatever the rightness or wrongness of the Court of Appeals' conclusion, its supporting argument is threadbare and should have been subject to scrutiny in this Court.

Another significant issue is whether defendants bear the exclusive duty to present the bills to the Governor. In mandamus actions, courts must determine whether "the defendant has a clear legal duty to perform[.]"[38] Neither the Court of Claims nor the Court of Appeals addressed the question of which chamber of the Legislature bears the responsibility of presenting bills to the Governor. The Court of Claims merely stated, "The parties agree that responsibility for carrying out this mandate falls on the House because the bills originated there."[39] Yet the Constitution does not specify which chamber is

---

[34] *Id*. at ___ n 8; slip op at 8 n 8, quoting *Univ of Mich Regents*, 395 Mich at 60.

[35] *Id*. at ___ n 8; slip op at 8 n 8.

[36] *Id*. at ___; slip op at 5, quoting *Bauserman v Unemployment Ins Agency*, 509 Mich 673, 692 (2022).

[37] At the time this statement was made, delegates were discussing the proper way to measure the 14 days the Governor has to consider presented bills, not whether a duty of presentment existed in the first place.

[38] *Taxpayers for Mich Constitutional Gov't*, 508 Mich at 82.

[39] The Court of Appeals further extrapolated the statement from the constitutional convention referenced earlier to conclude that, after a bill has passed both houses, "it becomes the 'duty' of the relevant member of the chamber in which the bill originated to present it to the governor."

responsible for presenting a passed bill. The parties' agreement that the originating house bears the responsibility is convention, not law. To be sure, it has been enshrined in the legislative rules of both houses.[40] However, I question whether legislative rules are legally binding. At the very least, the lower courts failed to acknowledge that the basis for finding that defendants have a clear legal duty to perform comes not from the Constitution, but from legislative rule and convention.

Relatedly, the lack of an identifiable bearer of the duty is relevant to the mandamus question of whether the act is ministerial. When considering whether the act in question is ministerial, courts are to ask whether "the law prescribes and defines the duty to be performed with such precision and certainty as to leave nothing to the exercise of discretion or judgment."[41] Interestingly, Article 4, § 33 of the Constitution does not explicitly identify the Legislature as bearing the responsibility for presentment,[42] let alone a specific chamber. Evidently, the Constitution left it up to the two houses to determine which was responsible for presenting the bills.[43] In my view, that qualifies as an "exercise of discretion or judgment" sufficient to extinguish a claim of mandamus. At a minimum, this Court and the lower courts should have considered whether it is appropriate for the courts to involve themselves in the determination of an issue that is subject to resolution by legislative rule, not by statute or constitutional provision.

The Court of Appeals also inadequately addressed the argument that the lack of a constitutionally mandated timeline creates a degree of discretion sufficient to make mandamus an inappropriate remedy. The Court of Appeals stated:

> To hold that a writ of mandamus cannot be entered in the face of a clear violation of a clear constitutional duty simply because the constitutional provision itself does not provide a deadline for performance would render

---

[40] See Senate Rule 1.114 and House Rule 19.

[41] *Taxpayers for Mich Constitutional Gov't*, 508 Mich at 82 (quotation marks and citation omitted).

[42] Although at least that much can logically be inferred.

[43] This is confirmed by plaintiffs' assertion, in their answer in opposition to defendants' application for leave to appeal, that the Senate amended its rule on March 18, 2025, "to authorize the Secretary of the Senate to present enrolled House bills to the Governor. *See* Senate Resolution No. 20."

> the provision's mandate nothing more than "a voluntary obligation that a person can fulfill or not at his whim, or merely a hope or a wish."[44]

That may be correct, but the Court of Appeals ignored the fact that jumping straight to a mandamus remedy in this case involves the removal of a constitutionally built-in level of discretion regarding the timing of presentment. Ordinarily, mandamus will not lie when "the law prescribes and defines the duty to be performed" without sufficient "precision and certainty as to leave nothing to the exercise of discretion or judgment."[45] In this case, the Court of Appeals decided to remove the discretion from defendants and hand it over to the lower courts: "Because enforcement is required, but the provision does not indicate a specific time frame, the deadline for presentment may be determined in the Court of Claims' discretion."[46] Because this is contrary to mandamus caselaw, I conclude that the Court of Appeals erred, and I would grant the applications for leave to appeal currently before the Court to fully and finally resolve this issue.

C. GAMESMANSHIP

In addition to debating the merits, the parties also debate the potential for "gamesmanship" in future legislative practices. For example, plaintiffs warn that "[p]ermitting the House to block presentation here would destroy the integrity of the joint bicameral lawmaking process . . . because it would allow one house and one legislator to essentially veto the bills passed by the Legislature during a previous legislative session that has ended." Plaintiffs contend that such a state of affairs is undemocratic and antimajoritarian. Defendants respond that in the case of a single legislative leader withholding bills, the Legislature has internal tools at its disposal for compelling its leadership to present bills. If, as is the case here, a new Legislature refuses to present previously passed bills, the real antimajoritarian danger is in compelling the new Legislature to present bills for which they did not vote.

For their part, defendants assert that if they are forced to present the bills, it will create an opportunity for future lame-duck majorities in the Legislature to circumvent an unfavorable Governor by delaying presentment until after the new Governor has taken office and then suing to compel the new Legislature to present the bills. Plaintiffs respond that the duty to present attaches at the moment the bills are passed by both houses, meaning that it would be illegal for a future Legislature to intentionally delay presentment as a matter of strategy. That defense sounds convincing until one considers that a complaint

---

[44] *Senate*, ___ Mich App at ___; slip op at 13, quoting *Bauserman*, 509 Mich at 691.

[45] *Taxpayers for Mich Constitutional Gov't*, 508 Mich at 82 (quotation marks and citation omitted).

[46] *Senate*, ___ Mich App at ___; slip op at 14.

against the Legislature would not even be ripe until after the deadline for presentment had passed, and particularly so in cases where passage of the bills occurs just days prior to final adjournment of the Legislature. By the time a ripe suit could be filed and acted on by the courts, it might already be too late.

Neither the Court of Claims nor the Court of Appeals adequately addressed these concerns over gamesmanship. In taking the extraordinary step of ordering mandamus against the Legislature, courts should consider whether their decisions will adversely affect the functioning of the legislative process and whether the decision creates incentives or loopholes that undermine the structural purpose of the constitutional design for lawmaking in Michigan.

III. CONCLUSION

Each of the parties asks us to conclude that the proper resolution of this case is simple. On the contrary, this case presents numerous difficult questions, often without parallel in our caselaw. The Court of Appeals confidently breezed past several of these looming and potentially decisive issues in this case to reach the simplest conclusion. In doing so, the panel failed to adequately consider whether the claims in this case are ripe, failed to address whether imposing a mandamus remedy violates any constitutionally mandated timelines, gave almost no attention to the third prong of the political-question test, sidestepped its duty of textual interpretation by placing the weight of its decision on a single off-topic statement from the 1963 constitutional convention, failed to explain why it was the House in particular that constitutionally bears the duty of presentment in these circumstances, and inadequately considered concerns of gamesmanship. These errors are serious and deserving of this Court's attention. I would grant leave to appeal as I have very serious concerns about whether the Court of Appeals is correct. Accordingly, I dissent from the denial of leave to appeal.