

STATE OF MICHIGAN
IN THE SUPREME COURT

Appeal from the Court of Appeals

(Borrello, P.J. (concurring in part and dissenting in part),
Meter, J. (concurring in part and dissenting in part), and Shapiro, JJ.

TAXPAYERS FOR MICHIGAN
CONSTITUTIONAL GOVERNMENT, STEVE
DUCHANE, RANDALL BLUM, and SARA
KANDEL,

Supreme Court No. 160658, 160660

Court of Appeals No. 334663
Original Action

Plaintiffs-Appellees,

v

STATE OF MICHIGAN, DEPARTMENT OF
TECHNOLOGY, MANAGEMENT, AND
BUDGET, and OFFICE OF AUDITOR
GENERAL,

**The appeal involves a ruling
that State governmental
action is invalid.**

Defendants-Appellees.

**MOTION OF THE MICHIGAN HOUSE OF REPRESENTATIVES AND THE
MICHIGAN SENATE FOR LEAVE TO FILE AN AMICUS CURIAE BRIEF**

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Dated: November 25, 2020

The Michigan House of Representatives and the Michigan Senate (the “Legislature”), by their counsel, move pursuant to MCR 7.312(H)¹ for leave to file a brief *amicus curiae* in this matter. In support of their Motion, Amici state as follows:

1. Pursuant to Const 1963, art 4, § 1, the legislative power of the State of Michigan is vested in the House of Representatives and the Senate.

2. The Michigan Legislature is mandated to “pass suitable laws for the protection and promotion of the public health.” Const 1963, art 4, § 51.

3. The Legislature has broad legislative power and discretion to enact laws for public purposes, including to encourage the means of education and to protect and promote public health, safety, and welfare, and the Legislature’s power is limited only by the United States and Michigan Constitutions. *Young v City of Ann Arbor*, 267 Mich 241, 243; 255 NW 579 (1934).

4. This appeal considers whether the Legislature’s appropriations to local units of government—including funds that come with state mandates, funds from the state revenue generated under Proposal A of 1994, and funds appropriated to public school academies—can be counted for the Legislature to meet the minimum spending requirement on local units of government required by the Headlee Amendment to the Michigan Constitution, Const 1963, art 9, § 30.

5. Plaintiffs in this case seek relief that would cripple the Legislature’s ability to address statewide issues and provide for public schooling as required by the voter-passed Proposal A.

¹ The Legislature recognizes that pursuant to MCR 7.312(H), a “motion for leave to file an *amicus curiae* brief is not required if the brief is presented by . . . an agency or official of the state of Michigan; on behalf of any political subdivision of the state when submitted by its authorized legal officer, its authorized agent, or an association representing a political subdivision.”

6. Therefore, this matter implicates basic constitutional principles of legislative authority, including the scope of legislative power and deference owed to duly enacted legislation.

7. Amici offer a unique perspective on the issues presented here because of their interest in preserving the current scope of the Legislature’s authority—specifically, its authority to legislate and appropriate for the public good within constitutional parameters.

8. The postures of the current parties to this appeal now leave no party fully representing the Legislature’s interests as the body that appropriates the state funding at issue, which will have a direct and significant impact on Amici’s ability to meet its constitutional duty to protect and promote the public health and general welfare.

9. Amici respectfully submits that granting its Motion would advance the convenient administration of justice by assisting this Court in analyzing the issues in this appeal completely, would not prejudice any party to the case, and would not delay the Court’s consideration of this appeal.

10. In the interests of expediency and conservation of judicial resources, Amici’s proposed *amicus curiae* brief is attached to this Motion as Exhibit 1.

RELIEF

WHEREFORE, Amici respectfully requests that:

- A. The Court grant Amici leave to file the attached brief *amicus curiae* in this case.
- B. Accept the attached brief.
- C. Grant such further and additional relief as may be lawful and proper.

Respectfully submitted,

Dated: November 25, 2020

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