

December 28, 2018

Michigan House of Representatives  
Michigan Senate  
State Capitol Building  
Lansing, Michigan 48913

Ladies and Gentlemen:

Today I am vetoing House Bill 6553, a bill to provide for automatic standing for either chamber of the legislature to intervene in certain litigation in state courts.

I appreciate the concern that the legislature believes it is uniquely positioned to defend the constitutionality of laws it defends, in particular when executive branch officials may have differing positions. I also understand some other states provide their legislatures with this automatic right, and that the United States Congress often authorizes itself to participate in litigation.

The governor, as chief executive officer of the state, is responsible for managing the litigation position of the State as an entity. This legislation, while well-intentioned to ensure that the laws duly passed by the legislature and signed by the governor are properly defended, would serve only to complicate the management of that litigation.

For example, imagine a scenario where the State of Michigan is a defendant to a lawsuit challenging the validity of a recently enacted statute. The governor, as CEO, and thus client, is responsible for coordinating the State's response to the litigation with her or his attorneys at the Department of Attorney General. The Attorney General his- or herself could conceivably erect a conflict wall and take a position "on behalf of the people" that is different from that which the governor as CEO takes. Consider then that the House of Representatives intervenes in the lawsuit to take another position. And then the Senate similarly intervenes and takes yet another position. Who then is speaking in court for the State?

Additionally, legislators routinely seek intervention in litigation in which they are interested through the ordinary intervention process in the Michigan Court Rules. That process has seemingly worked well at ensuring legislators have a say in litigation in which they are interested. Moreover, legislators are permitted to request permission to file amicus briefs to ensure that courts are made aware of their unique perspectives on matters.

While I understand and appreciate the desire for the legislature to have automatic standing to participate in litigation, I believe the current process has worked well to ensure the legislature's position is considered. Furthermore, were this legislation in place during my term as governor, I believe it would have limited my office's ability to coordinate and manage the defense of the state in lawsuits. Accordingly, I do not believe it prudent to sign this legislation as my term as governor comes to an end.

Sincerely,

A handwritten signature in black ink, appearing to read "Rick Snyder", with a stylized, sweeping flourish extending to the right.

Rick Snyder  
Governor