

CHAPTER 2

About State Government

Michigan was the first of the post-Civil War states to model its capitol building after the Capitol in Washington. Michigan's state government likewise is patterned on the federal model. Both the state capitol and government have undergone renovations that have affected their appearance and function but not their basic structure.

Michigan state government is divided into three branches—executive, legislative and judicial—each with separate and clearly defined powers. These branches and their separate and exclusive powers have been spelled out in each of Michigan's four constitutions—those of 1835, 1850, 1908, and 1963. The most recent was adopted April 1, 1963. Presented here are brief descriptions of each branch and its subdivisions.

EXECUTIVE BRANCH

Elected Officials

Article V of the 1963 Michigan Constitution vests principal executive authority in the governor, who is elected to a four-year term. The governor oversees the departments of state government (see Exhibit 1), makes appointments to boards and commissions, delivers an annual State of the State Message in which the administration's priorities are outlined, presents the executive budget, and signs or vetoes bills passed by the legislature.

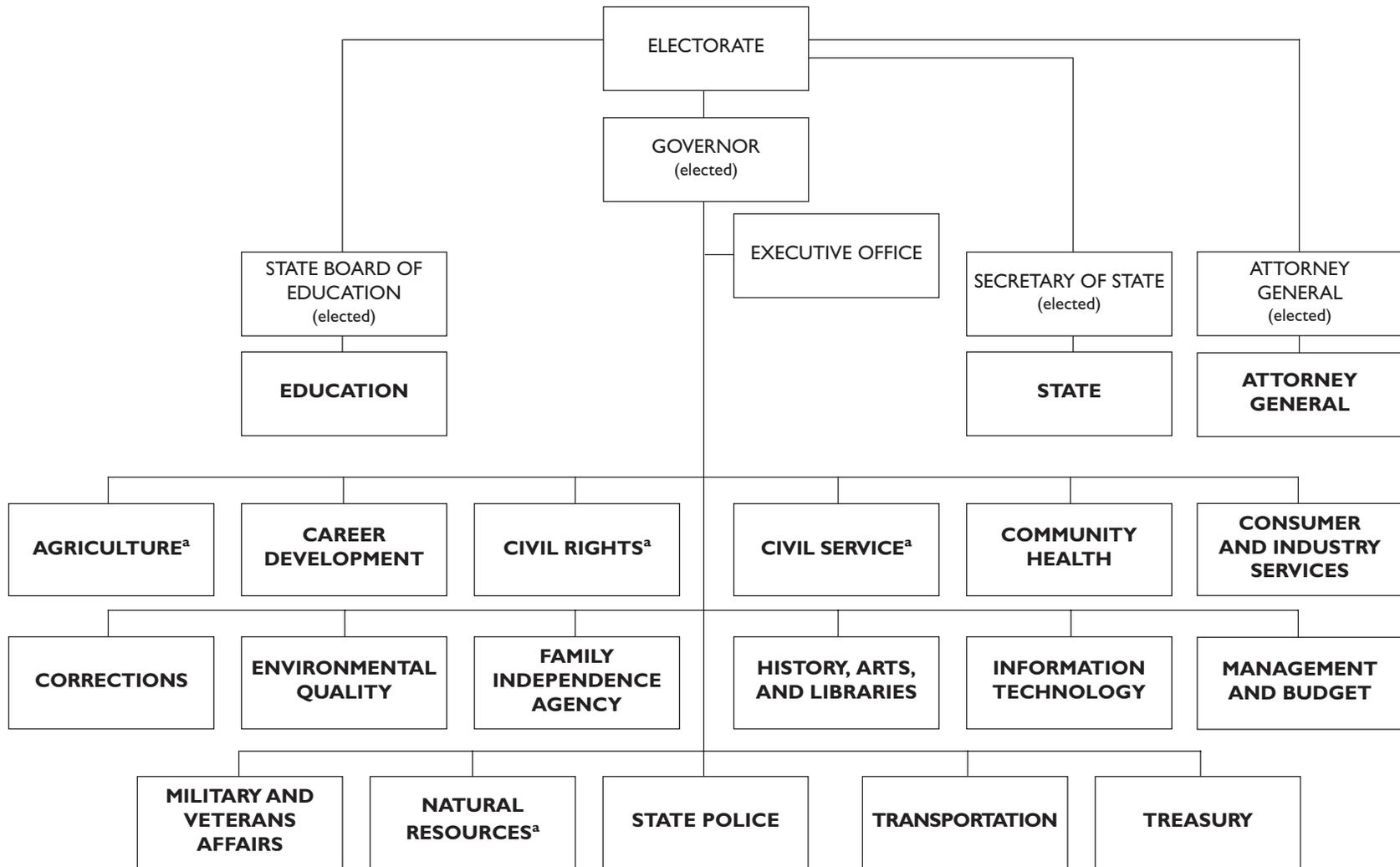
Unlike the federal government, executive authority in Michigan does not rest solely with the chief executive. The secretary of state and attorney general as well as members of the State Board of Education and the boards of control of Michigan State University, University of Michigan, and Wayne State University are elected positions having direct executive authority over their department or institution. In addition, some departments are governed by commissions appointed by the governor. The governor directly names 13 department heads, subject to the advice and consent of the Senate.

Salaries for certain elected officials are set by the State Officers Compensation Commission, a seven-member panel appointed by the governor; its recommendations stand unless overturned by a two-thirds majority in both legislative chambers. In 2000 a two-stage raise was approved that set the following 2002 salary levels:

- Governor \$177,000
- Lieutenant governor \$123,900
- Supreme court justices \$164,610
- Legislators \$79,650 plus \$12,000 for expenses

Salaries for the secretary of state and attorney general are set by the legislative appropriations process as are the salaries for all other department heads.

EXHIBIT I. Executive Branch, State of Michigan, 2002



SOURCE: Public Sector Consultants, Inc.

NOTE: Boldface type = departments.

^aDirector is appointed by the commission; all other nonelected department directors are appointed by the governor.

In 1992 the electorate voted to impose term limits¹ on certain elected state officials sworn into office on or after January 1, 1993. In the executive branch, the governor, lieutenant governor, secretary of state, and attorney general are limited to two terms. Terms served need not be consecutive, and if less than half a term is served in an office, it does not count toward the limitation.

Departments

The 1963 constitution dramatically reorganized the executive branch. Before that, there had been more than 100 independent agencies over which the governor had little control, making accountability difficult. The 1963 constitution decrees that all duties and functions of the executive branch (except for the governor, lieutenant governor, and university governing boards) are to be distributed by law among the 20 (or fewer) departments; today there are 20.

The constitution also permits the governor to reorganize the executive branch or reassign duties among the departments. Although previous governors used the executive reorganization power, none used it more frequently or extensively than Gov. John Engler. Since he took office in 1991, he has issued more than 100 executive orders² regarding reorganization.

In addition, in recent years several state functions have been turned over to the private sector—including the State Accident Fund (workers’ disability insurer), liquor distribution, vaccine manufacture, business and economic development, and some state highway maintenance.

Agriculture

The Michigan Department of Agriculture (MDA) is headed by a five-member commission appointed by the governor. The commission develops policy and appoints the director. The department plays a dual role: marketer and regulator. Among its responsibilities are the following:

- Promoting Michigan-grown products and animal industries at home and abroad
- Regulating the commercial handling of farm produce
- Assuring a safe, high-quality supply of dairy products
- Regulating food sanitation and labeling
- Administering the Soil Conservation Districts Act and the County Drain Code
- Supporting Michigan’s county and local fairs
- Compiling weather data
- Setting rules and regulations for pari-mutuel horse racing in the state
- Developing policy on toxic substance matters
- Regulating restricted-use pesticides
- Regulating importation of plants and their movement within the state
- Assisting in establishing bargaining associations for fruit and vegetable growers
- Enforcing health standards for and humane treatment of farm animals
- Licensing pet shops and animal shelters
- Regulating the sale and quality of motor fuel

Regional offices are located in Escanaba, Grand Rapids, Lansing, Saginaw, Southfield, St. Joseph, and Traverse City.

Attorney General

The attorney general (AG) is elected by the voters every four years and is the state’s chief law enforcement officer; s/he heads the Department of the Attorney General. The AG is the legal counsel for the legislature and for each office, department, board, and commission of state government; s/he is third in line of succession, after the lieutenant governor and secretary of state, should the governor be unable to fulfill gubernatorial responsibilities. The department’s responsibilities are the following:

- Intervening in any lawsuit, criminal or civil, when the interests of Michigan residents require; the office has various specialized legal divisions for this purpose, such as Consumer Protection and Charitable Trusts, Social Services, and Workers’ Compensation
- Representing the “public interest” in hearings before state boards and commissions, such as the Public Service Commission

¹For a full discussion of term limits, the reader is directed to *Michigan in Brief, 6th Edition*, available at www.michiganinbrief.org.

²Executive orders are the governor’s official pronouncements. Executive *reorganization* orders have the force and effect of law and permit the governor to reassign functions within executive branch departments or agencies to the same extent as the legislature; they take effect in 60 days unless rejected by a majority in each legislature chamber. Other executive orders may be used to establish boards and commissions and carry out special projects appropriate to the governor’s executive authority; these do not have the force of law—their purpose is to facilitate or advance policymaking. Governors also use executive orders to make budget reductions when it appears that revenue will be insufficient to support appropriations; such orders must be approved by the legislative appropriations committees.

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- Investigating state departments and agencies in matters of fraud and unethical or illegal activity

To help meet the office's requirements, the attorney general appoints assistant attorneys general. Among them is the solicitor general, who supervises appeals to the Michigan Supreme Court, the U.S. Circuit Court of Appeals, and the U.S. Supreme Court.

In addition to the Lansing office, the department maintains offices in Detroit, Escanaba, Grand Rapids, and Petoskey.

Career Development

The Michigan Department of Career Development (MDCD) was created in 1999 to develop a system that will produce a workforce with the skills necessary to maintain and enhance the state economy. The 20-member Governor's Workforce Commission is housed in the MDCD and provides policy guidance and overall coordination of workforce development programs in the state. The department works with employers, K–12 schools, community colleges, and local workforce development boards to accomplish its goals. Its responsibilities include the following:

- Providing students with opportunities to explore a variety of careers
- Approving, administering, and evaluating career and technical education programs for secondary school students
- Administering a variety of programs designed to help prepare workers for jobs
- Helping Michigan residents with disabilities achieve employment and self-sufficiency
- Providing job seekers with information on line and through local service centers
- Developing policies and plans, through the Commission on Spanish-Speaking Affairs, to serve the needs of Michigan's Spanish-speaking residents
- Encouraging, through the Michigan Community Service Commission, citizens to volunteer and connect with their neighbors

Local programs are administered by 25 workforce development boards (WDBs) that are appointed by local elected officials.

Civil Rights

The Michigan Department of Civil Rights (MDCR) is headed by the eight-member Civil Rights Commission,

which is charged by the constitution "to investigate alleged discrimination against any person because of religion, race, color, or national origin." Since 1963 legislation has been adopted that also prohibits discrimination based on age, sex, marital status, height, weight, arrest record, or handicap. The commission sets department policy and selects the director. Commission members are appointed by the governor. Among the MDCR's duties are the following:

- Investigating and handling complaints and issuing final orders in discrimination cases
- Attempting through education to prevent discrimination
- Assisting private and public entities in developing equal employment opportunity and affirmative action programs
- Certifying the status of handicapper-owned businesses so as to increase their participation in the state-government procurement process
- Certifying the contract-awardability status of firms seeking to do business with the state

The Michigan Women's Commission is housed in the department and makes recommendations to improve the status of women in Michigan.

The department has offices in Battle Creek, Benton Harbor, Detroit, Flint, Grand Rapids, Kalamazoo, Lansing, Marquette, Saginaw, and Traverse City.

Civil Service

The Michigan Department of Civil Service (MDCS), the principal personnel office for state government, is charged by the constitution with "regulating all conditions of employment for the state's civil service workers,"—in short, for maintaining a corps of competent career employees who carry on the work of state government regardless of change in political leadership. The MDCS is headed by the bipartisan, four-person Civil Service Commission, which is appointed by the governor. The commission appoints the state personnel director, who administers the department. Among the department's responsibilities are the following:

- Examining candidates for state government jobs
- Classifying positions in state government
- Setting pay levels for state employees
- Developing equal employment opportunity policies
- Administering employee benefit programs

- Providing dispute resolution services for many aspects of labor and management relations

The constitution requires that all posts in state government be classified under the civil service system except elected positions, department heads, board and commission members, court employees, the legislature, employees of institutions of higher education, Michigan National Guard members, eight positions in the governor's office, and two positions in each department if the director so requests. If approved by the Civil Service Commission, three additional positions "of a policy-making nature" also may be exempted in each department.

The department has offices in Detroit and Lansing.

Community Health

The Michigan Department of Community Health (MDCH), the largest agency in Michigan state government, is responsible for state health policy and managing public-funded health-service systems. The director is appointed by the governor, and the department's responsibilities are the following:

- Providing coverage, through the Medical Services Administration, to Medicaid recipients
- Providing mental health services, principally through contracts with 48 community mental health boards, and operating a small number of state and regional facilities for people with developmental disabilities and psychiatric illness
- Providing substance-abuse services through 15 substance-abuse coordinating agencies
- Contracting with 45 local public health departments to assess Michiganders' health needs, promote and protect their health, prevent disease, and assure their access to health care
- Assisting and promoting, through the Office of Services to the Aging, the independence and dignity of older citizens
- Addressing, through the Commission on End of Life Care, ways to improve end-of-life care
- Administering the Crime Victims Rights Fund, investigating and processing crime victim compensation, and administering federal Victims of Crime Act grants

Consumer and Industry Services

The Michigan Department of Consumer and Industry Services (MDCIS) is the state's primary licensing and regula-

tory agency. The director is appointed by the governor. The department's principal agencies are the following:

- Bureau of Commercial Services (licensing)
- Bureau of Construction Codes
- Bureau of Corporation and Land Development
- Bureau of Health Services
- Bureau of Health Systems
- Bureau of Regulatory Services
- Bureau of Safety and Regulation
- Bureau of Workers' and Unemployment Compensation
- Liquor Control Commission
- Michigan Employment Relations Commission
- Michigan Public Service Commission
- Michigan State Housing Development Authority
- Michigan Tax Tribunal
- Office of Contract and Grant Administration
- Office of Financial and Insurance Services
- Office of Fire Safety

Corrections

The Michigan Department of Corrections (MDOC) administers the state's adult prison, probation, and parole systems. The governor appoints the director. Among the MDOC's responsibilities are the following:

- Administering 44 adult penal facilities and 11 corrections camps (in addition, about 1,500 prisoners are in corrections centers or the electronic monitoring program)
- Supervising convicted felons who receive a sentence of probation
- Determining, through the Parole Board, whether convicted felons who have served time in prison are eligible to be placed back into the community
- Managing manufacturing and service functions in state prisons
- Delivering health care for state prisoners

The department has several regional offices across the state.

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Education

The Michigan Constitution vests leadership of and general supervision over all public education (except four-year degree-granting institutions) in an elected State Board of Education. In addition, the constitution makes the board “the general planning and coordinating body for all public education, including higher education” and requires it to advise the legislature on education’s financial needs. The elected eight-member board runs the Michigan Department of Education (MDE), approves accreditation standards for school districts, sets criteria for grants awarded by the MDE, approves teacher preparation standards, approves K–12 curriculum standards, and appoints the superintendent of public instruction, who administers the department. The governor and superintendent sit on the board as nonvoting, ex officio members.

The board and department provide specialized services and outreach through the department’s offices, which oversee the following:

- School excellence
- Teacher certification
- Professional preparation
- Special-education services
- Schools for the deaf and blind
- School support services
- Field services
- Education options, charters, and choice
- School aid and finance

Environmental Quality

The mission of the Michigan Department of Environmental Quality (MDEQ) is “to drive improvements in environmental quality for the protection of public health and natural resources to benefit current and future generations.” The director is appointed by the governor. The department’s divisions are the following:

- Air Quality
- Drinking Water and Radiological Protection
- Environmental Assistance
- Environmental Response
- Geological Survey
- Land and Water Management
- Office of Special Environmental Projects

- Office of the Great Lakes
- Surface-Water Quality
- Storage Tanks
- Waste Management

The department maintains district offices in Bay City, Cadillac, Grand Rapids, Jackson, Kalamazoo, Livonia, Marquette, and Morrice and field offices in Detroit and Gaylord.

Family Independence Agency

The Michigan Family Independence Agency (FIA) helps individuals and families to meet financial, medical, and social needs; assists people to become self-sufficient; and helps to protect children and adults from abuse, neglect, and exploitation. Among the FIA’s many services are programs dealing with the following:

- Adoption
- Adult independent living
- Adult community placement
- Children’s Trust Fund
- Disability determination, information, and advocacy
- Domestic violence
- Employment and training for welfare clients
- Family preservation (short-term crisis services; parenting and home-management education)
- Family support (programs to help parents successfully nurture children)
- Foster care
- HIV/AIDS
- Juvenile justice
- Delinquency/violence
- Abuse, neglect, or exploitation of children and vulnerable adults
- Foster care
- Migrant services
- Native American services
- Refugee assistance
- Runaway and homeless youth
- Teen parenting

The FIA also administers several financial assistance programs, among them the following:

- Family Independence Program (cash assistance for eligible families with children)
- Disability assistance
- Emergency assistance
- Medical program (for certain low-income adults who do not qualify for Medicaid or other medical coverage)
- Low-income energy assistance
- Child-support enforcement (to assist in establishing paternity and collecting child-support payments from noncustodial parents)
- Child care
- Such federal programs as Supplemental Security Income and food stamps

The department delivers services through more than 100 offices statewide (at least one in each of Michigan’s 83 counties).

History, Arts, and Libraries

Created in 2001, the Department of History, Arts, and Libraries is responsible for coordinating state efforts to encourage the preservation of history, creation of art, and development of culture. It is headed by a director appointed by the governor and comprises the following agencies:

- Council for Arts and Cultural Affairs
- Library of Michigan
- Mackinac State Historic Parks
- Michigan Commission on Asia in the Schools, a new agency charged with furthering understanding about Asia in Michigan businesses, communities, and schools
- Michigan Film Office
- Michigan Historical Center
- Michigan Quarter Commission, a temporary agency involved in designing the state quarter, which will be coined in 2004

Information Technology

The Department of Information Technology was created in 2001 to lead efforts to reengineer the state’s information technology (IT) infrastructure with the goal of achieving the use of common technology across the executive branch. A number of resources, services, and technology-management functions were transferred to the department. The director is appointed by the governor. Among the department’s responsibilities are the following:

- Coordinating a unified, executive-branch strategic IT plan
- Identifying “best practices” from executive branch agencies and other public- and private-sector entities
- Developing and implementing processes to replicate IT best practices and standards throughout the executive branch
- Serving as a general contractor between the state’s IT users and private-sector providers of IT products and services
- Developing standards for IT application development

Housed in the department is the e-Michigan Office, created in 2000 to lead all state agencies in electronic-government initiatives and policy development. The office is headed by a director appointed by the governor and receives advice from the five-member e-Michigan Advisory Council.

Management and Budget

The Michigan Department of Management and Budget (MDMB) is an interdepartmental service-and-management agency. The department director and the state budget director are appointed by the governor, and the department is organized into budget and management units.

The budget unit, headed by the state budget director, prepares, presents, and executes the state budget on behalf of the governor. The management units carry out the following responsibilities:

- Financial management
- Property management
- Capital facility development
- Procurement
- Retirement and related benefits
- Employee benefits programs
- Accounting and payroll functions
- Demographic functions
- Geographic information
- Systems development
- Office support to state agencies

The department also includes the Office of Children’s Ombudsman, an independent agency authorized to investigate complaints about children in Michigan’s child-welfare system. The ombudsman is appointed by the gover-

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nor and recommends changes in child-welfare laws, rules, and policies.

Also housed in the MDMB is the Michigan Economic Development Corporation (MEDC), which assumed the economic development functions of the former Michigan Jobs Commission. The MEDC is not a traditional state agency but rather a partnership between the state and local communities. A 15-member MEDC Executive Committee hires the president and chief executive officer of the corporation. The MEDC's responsibilities are the following:

- Attracting new business to Michigan
- Keeping business in Michigan and helping them grow
- Providing information on Michigan and its industries
- Providing site location and financial assistance
- Assisting in employee recruitment and training
- Providing permit assistance
- Coordinating site development, resources, and services

The department also provides clerical, management, and other general services support to the State Administrative Board. The board approves contracts and leases, oversees the state capital-outlay process, and settles small claims against the state. Its members are the governor, lieutenant governor, secretary of state, attorney general, superintendent of public instruction, and state treasurer.

Military and Veterans Affairs

The Michigan Department of Military and Veterans Affairs (DMVA) is directed by the adjutant general of Michigan, who is appointed by the governor. The Michigan Army and Air National Guard constitute the armed forces of the state; the commander-in-chief is the governor. Major responsibilities of the department are the following:

- Recruiting, training, and maintaining the Michigan Army National Guard and the Michigan Air National Guard as reserve components of the U.S. Army and Air Force, respectively
- Protecting lives and property in times of disaster and promoting peace, order, and public safety at the governor's direction
- Administering state-supported veterans' programs, including the Michigan Veterans Trust Fund and veterans' homes in Grand Rapids and Marquette

Approximately 11,000 guard members are based in 51 armories and trained at five sites (Alpena, Battle Creek,

and Selfridge Air National Guard bases and Camp Grayling and Fort Custer Army National Guard facilities).

Natural Resources

The mission of the Michigan Department of Natural Resources (MDNR) is to conserve, protect, manage, and develop the state's natural resources. The department director is appointed by the seven-member Natural Resources Commission, which is appointed by the governor. The department has jurisdiction over most of the 4.5 million acres of state-owned land and is organized into the following six resource-management offices:

- Fisheries Division
- Forest Management
- Land and Mineral Services
- Law Enforcement
- Parks and Recreation
- Wildlife Division

The department has two regional offices (Marquette for the Upper Peninsula and Roscommon for the lower) and 10 field offices.

State

The oldest department in state government, the Michigan Department of State (MDS) is headed by the secretary of state, who is elected every four years and is second in line (after the lieutenant governor) to succeed the governor. The department is responsible for services and programs in the following areas:

- Traffic safety and motor vehicles (driver and vehicle licensing, licensing automobile-related businesses)
- Elections (election supervision, voter registration, campaign finance oversight, lobbyist registration)
- Record keeping (maintains many important state and local documents, administers the notary public program, and operates the Office of the Great Seal, which provides the highest level of document certification)

The four-member bipartisan Board of State Canvassers certifies election results for state offices and other races that may be referred to it.

The department has four regional offices (Gaylord, Inkster, Lansing, and Oak Park), 15 district offices, and 173 local branch offices.

State Police

The mission of the Michigan State Police (MSP) is to “provide leadership, coordination, and delivery of law enforcement and support services in order to preserve, protect, and defend people and property, while respecting the rights and dignity of all persons.” The governor appoints the director, traditionally a state police officer, who holds the rank of colonel and has the powers of a peace officer in enforcing the state’s criminal laws. The department’s primary responsibilities are the following:

- Providing investigative services, conducting arson investigations, and operating regional crime labs
- Developing and setting employment and training standards for police officers
- Coordinating traffic safety in the state
- Regulating safety and weight of commercial vehicles using state highways
- Providing emergency-management services that deal with preventing, mitigating, and helping with disaster recovery
- Maintaining all criminal and noncriminal records, freedom-of-information requests, firearm and licensing information, and uniform crime reporting
- Developing plans, through the Michigan Automobile Theft Prevention Authority, to combat automobile theft

The department also provides personal protection for the governor and his/her immediate family. It operates from 64 state police posts as well as district offices, laboratories, and motor-carrier scale houses.

Transportation

The Michigan Department of Transportation (MDOT) is headed by a six-member bipartisan commission and the director, all appointed by the governor. The department is charged with the following:

- Overseeing state highway design, construction, improvement, and maintenance
- Administering grants to local governments for local road projects
- Promoting aviation in the state
- Managing the International Bridge at Sault Ste. Marie (connecting Michigan and Canada), the Mackinac Bridge (connecting Michigan’s peninsulas), and half of the Blue Water Bridge at Port Huron (connecting Michigan and Canada)

- Providing financial and technical support for inter-city bus services, passenger services, and freight transportation services
- Operating freeway rest areas and roadside parks

Treasury

The Michigan Department of Treasury (MDT) is headed by the state treasurer, who is appointed by the governor and acts as financial advisor to him/her. The department’s responsibilities include the following:

- Collecting state taxes (e.g., income, sales and use, motor-vehicle fuel, cigarette, alcoholic beverages, intangibles, estate, single business)
- Estimating revenue for the state budget, analyzing tax proposals, and preparing the governor’s annual economic and tax-expenditures reports
- Managing the State of Michigan’s short-term borrowing and long-term bond debt
- Managing and investing funds deposited in state accounts (common cash fund, retirement funds, Michigan Education Trust, and various trust and agency funds)
- Auditing local governments and providing fiscal-management training to local officials
- Administering the local government revenue-sharing program

Also housed in the department are the following:

- Bureau of State Lottery
- Higher Education Facilities Commission
- Michigan Broadband Development Authority
- Michigan Higher Education Assistance Authority
- Michigan Higher Education Facilities Authority
- Michigan Higher Education Student Loan Authority
- Michigan Public Educational Facilities Authority
- State Hospital Finance Authority

LEGISLATIVE BRANCH

Article IV of the 1963 Michigan Constitution vests the state’s legislative power in a House of Representatives (110 members) and a Senate (38 members). Representatives are elected to two-year terms, and senators are elected to four-year terms coterminous with the governor’s. The House currently comprises 51 Democrats and 58 Republi-

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cans, with one seat vacant. The Senate has 23 Republicans and 15 Democrats.

Unless convicted of certain crimes, any person aged 21 or older who is a U.S. citizen and a registered voter in the district to be represented may be elected to the legislature. Legislators may hold no other public office except notary public, and they are subject to term limits: three terms for House members and two for senators (terms served need not be consecutive, and if less than half a term is served in an office, it does not count toward the limitation).³

House districts range in population from 77,000 to 91,000 residents, Senate districts from 225,000 to 265,000. Districts are redrawn every 10 years, to assure that the population in each is roughly equal (the U.S. Supreme Court has permitted variances up to 16.4 percent).

Legislative salaries and expense allowances are recommended by the State Officers Compensation Commission.⁴ Currently, the annual legislative salary is \$79,650 plus \$12,000 for expenses. Those serving in the 10 leadership positions receive supplemental salaries ranging from \$27,000 annually for the Speaker of the House to \$7,000 for the Appropriations Committee chair in each chamber.

Organization

The presiding officer of the House of Representatives is the Speaker, who is elected by the controlling party. The Speaker's primary responsibilities are to appoint committee members and chairs (the House minority leader nominates minority members, who traditionally are approved by the Speaker), assign bills to the appropriate committees, manage floor debate, and serve as the chief legislative spokesperson for the majority party.

The state constitution provides that the president of the Senate shall be the lieutenant governor, but s/he does not vote except to break a tie. The controlling party elects the Senate majority leader, whose responsibilities are similar to those of the Speaker of the House.

To conduct its business, the legislature is organized into committees. There are 23 *standing* (permanent) commit-

tees in the House and 21 in the Senate, and the Appropriations Committee in each chamber has several subcommittees that specialize in various sections of the budget. Standing committees generally have 5–29 members, and each legislator sits on at least one. Exhibit 2 lists the chambers' standing committees.

A *joint* committee is composed of members from both chambers. The following are permanent:

- Legislative Council (runs such joint administrative offices as the Legislative Service Bureau)
- Legislative Retirement Board of Trustees (administers the legislative retirement system)
- Michigan Capitol Committee (manages the Capitol Building and its grounds)
- Joint Committee on Administrative Rules (reviews administrative rules promulgated by the executive branch)

In addition, *special purpose* and *conference* committees often are established. The former do not consider legislation but study and investigate topics of special interest; the latter try to resolve differences in versions of the same bill passed by the two chambers.

Legislators are assisted by their personal staffs as well as the staffs of the committees on which they serve and that of their party caucus. The lawmakers rely on the nonpartisan Legislative Service Bureau for drafting and editing bills, research, printing, and similar tasks. The nonpartisan House and Senate fiscal agencies provide the lawmakers with economic and fiscal analyses and research.

Passing Legislation

During an average two-year session, approximately 6,000 bills are introduced in the House and Senate; usually, 600–800 become law. Exhibit 3 summarizes the bill-enactment process. Legislation may be introduced in either chamber; sometimes, identical bills are introduced simultaneously in both. After introduction, a bill is read (not literally; only the title is read aloud), and then the Senate majority leader or the Speaker of the House refers the bill to an appropriate standing committee.

The committee debates the bill, then may (1) report it, with or without change, to the floor with a favorable recommendation, (2) report a substitute bill in place of the original, or (3) recommend that the bill be referred to another committee. A committee also may “kill” a bill by simply refusing to act on it unless the full chamber votes to discharge it from the committee. If a discharge motion is approved by a majority of the chamber's members, the

³Term limit opponents are pushing for a November 2002 Michigan ballot question to amend the state constitution to allow House and Senate members to serve 12 years each, up from the current limits of six and eight years, respectively.

⁴A question on the 2002 primary ballot would require legislators to approve by majority vote the commission's recommendations. Currently, a reject/accept vote is not required, but if one is held, two-thirds in each chamber are needed to reject the recommendations.

EXHIBIT 2. Legislative Standing Committees, 2002

Michigan House of Representatives

- Agriculture and Resource Management
- Appropriations
- Civil Law and the Judiciary
- Commerce
- Conservation and Outdoor Recreation
- Criminal Justice
- Education
- Employment Relations, Training and Safety
- Energy and Technology
- Family and Children Services
- Gaming and Casino Oversight
- Health Policy
- House Oversight and Operations
- House Television and Oversight
- Insurance and Financial Services
- Land Use and Environment
- Local Government and Urban Policy
- Redistricting and Elections
- Regulatory Reform
- Senior Health, Security and Retirement
- Tax Policy
- Transportation
- Veterans Affairs

Michigan Senate

- Appropriations
- Banking and Financial Institutions
- Detroit Metro Airport Review
- Economic Development, International Trade and Regulatory Affairs
- Education
- Families, Mental Health and Human Services
- Farming, Agribusiness and Food Systems
- Finance
- Financial Services
- Gaming and Casino Oversight
- Government Operations
- Health Policy
- Human Resources and Labor
- Hunting, Fishing and Forestry
- Judiciary
- Local, Urban and State Affairs
- Natural Resources and Environmental Affairs
- Reapportionment
- Senior Citizens and Veterans Affairs
- Technology and Energy
- Transportation and Tourism

SOURCE: Michigan Legislature.

bill goes to the floor for consideration by the full body. Discharge motions, though frequently made, rarely succeed. Under the state Open Meetings Act, all committee business must be conducted during public meetings of which notice has been given.

A bill reported from committee moves to the floor, where it receives *general orders* status in the Senate or *second-reading* status in the House. In this phase, committee recommendations are considered, and amendments may be offered by any member of the body. The bill then advances to *third reading*, where it again may be debated and amended. At the conclusion, the bill may be

- passed or defeated by a recorded roll-call vote (which is reported in the chamber’s journal of proceedings) of the majority of members elected and serving (56 members comprise a majority in the House and 20 in the Senate);
- referred back to committee for further consideration;
- postponed indefinitely; or
- tabled.

If a bill passes in one chamber, it goes to the other, where the same procedure is followed. If the bill passes in the same form by both chambers, it is ordered “enrolled” in the chamber in which it originated. It then goes to the governor for signature or veto.

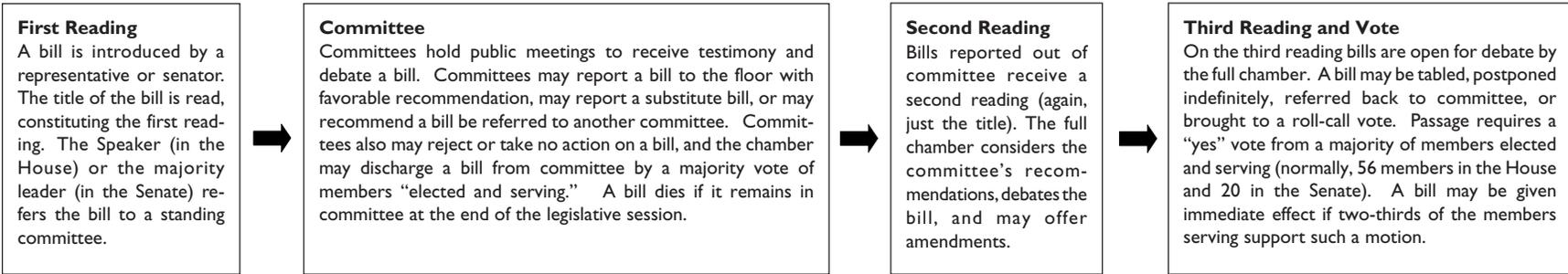
If the bill is passed in a different form by the second chamber, it is returned to its house of origin for a vote of concurrence on the changes. If the changes are accepted, the bill is enrolled and sent to the governor. If they are rejected, the bill is sent to a conference committee, composed of three members from each chamber, to iron out the differences. If there is no agreement, a second conference committee may be appointed. When a compromise is reached, a conference report is sent to the floor of each chamber for acceptance or rejection—not amendment—by the respective bodies.

Once the legislature has passed a bill, it is printed and presented to the governor, who has 14 calendar days in which to act. The governor may (1) sign the bill, (2) veto the bill, (3) veto a “line” (a specific expenditure) in a budget bill, or (4) do nothing, in which case the bill becomes law without signature.

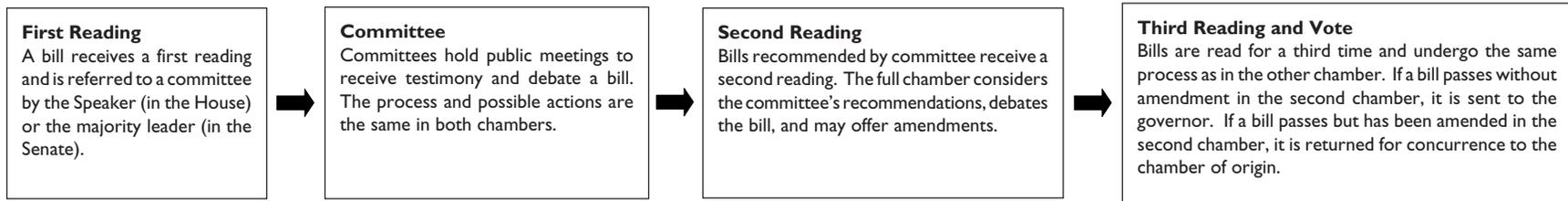
If the governor vetoes a bill or line-item expenditure, the legislature may override the veto by a two-thirds vote of the members elected and serving in each chamber (74 votes in the House of Representatives and 26 in the Senate).

EXHIBIT 3. Michigan’s Legislation Enactment Process

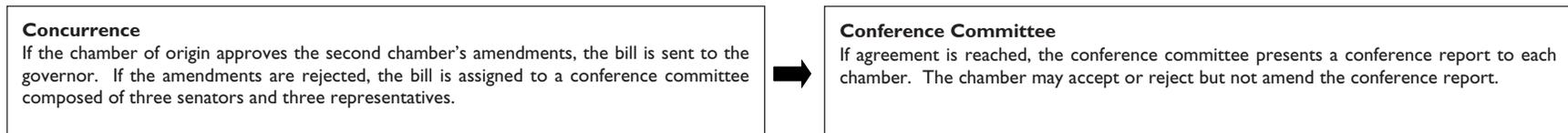
PROCESS IN THE CHAMBER OF ORIGIN



PROCESS IN THE SECOND CHAMBER



PROCESS IF THE TWO CHAMBERS DIFFER



ROLE OF THE GOVERNOR

A bill becomes law if the governor signs it or fails to sign or veto it within 14 days after officially receiving it. In the event of veto, a bill becomes law if both chambers vote to override the veto by a two-thirds majority; if one or the other does not override, the bill dies.

SOURCE: Public Sector Consultants, Inc.

NOTE: Acts ordinarily take effect on the 91st day after the end of the legislative year; as the legislature usually ends its year in late December, the effective date of most legislation is approximately April 1 of the following year. An earlier or later effective date may be written into the bill, however, or, after a bill has been passed, “immediate effect” may be granted by a two-thirds vote of the membership both chambers.

Sometimes a bill is “tie-barred” to another bill, which means that even if it passes, it cannot take effect unless the other also is enacted.

Acts ordinarily take effect on the 91st day after the end of the legislative year; as the legislature usually ends its year in late December, the effective date of most legislation is approximately April 1 of the following year. An earlier or later effective date may be written into the bill, however, or, after a bill has been passed, *immediate effect* may be granted by a two-thirds vote of the membership both chambers.

Other Responsibilities

Advice and Consent

In addition to its principal responsibility to pass laws, the legislature has other important functions. One is the Senate’s power of advice and consent on many gubernatorial appointments. The Senate has 60 days to reject an appointment. If it does not act within that time, the appointment is confirmed.

Auditor General

Michigan is one of 25 states in addition to the federal government in which the audit function is vested in the legislative branch. The Michigan Office of the Auditor General (OAG) was established by state constitution to conduct post-financial (end of fiscal year), compliance, and performance (measuring efficiency and effectiveness) audits of state government operations. The OAG’s reports provide a continuing information flow that assists the legislature in overseeing approximately 83 individual state funds and an annual budget of \$45 billion. The OAG’s overall goal is to improve accounting and financial reporting practices and promote effectiveness, efficiency, and economy in state government.

Audit activities are performed in accordance with generally accepted auditing standards of the American Institute of Certified Public Accountants and with government auditing standards issued by the U.S. comptroller general.

State Budget

Finally, each year the legislature adopts the state budget, a process discussed in detail in Chapter 3 of this book.

Citizen Involvement

State residents may participate directly in the lawmaking process, and they also may propose and vote on amendments to the state constitution. In addition, questions of long-term borrowing must be submitted to the electorate.

Initiative

The Michigan Constitution of 1963 defines the right of initiative as “the power to propose laws and to enact and reject laws.” To initiate legislation, a person or group must obtain a number of signatures of registered voters equal to 8 percent of the total vote cast for all candidates for governor in the previous election. In 1998, 3,027,104 such votes were cast, which means that currently, 242,168 valid signatures must be obtained for an initiative. Public Act 116 of 1954 specifies the procedure that must be followed for an initiative petition to become a question on the ballot (usually referred to as a ballot proposal). First, the petitions proposing the measure are filed with the secretary of state, and the Board of State Canvassers determines whether they carry a sufficient number of valid signatures. If so, the initiative goes to the legislature, which has 40 days to enact the measure, reject it, or propose a different measure on the same question. The legislature makes the initiative law if both chambers adopt it without change. If not enacted, the initiative proposal and any alternative passed by the legislature go before the voters as a ballot question.

If an initiated ballot proposal that has been rejected or changed by the legislature is approved by the voters, it becomes effective 10 days from the date of the secretary of state’s official declaration of the vote. An initiated law may not be vetoed by the governor and may be amended or repealed only by a subsequent vote of the electors or a three-fourths vote of the members elected and serving in both legislative chambers.

Referendum

The 1963 constitution defines the right of referendum as “the power to approve or reject laws enacted by the legislature.” Currently, the signatures of 151,355 registered voters (equal to 5 percent of the total vote for governor in the last election) are required for a referendum by the voters on a law passed by the legislature. The petitions are filed with the secretary of state, and if the Board of State Canvassers declares them valid, the proposal appears on the ballot in the next general election. If a majority of the voters approve, the action takes effect 10 days after the date of the official declaration of the vote. The legislature may amend a law approved by the referendum process.

Constitutional Amendment

The petition also may be used to propose amendments to the state constitution. Signatures of registered voters must number at least 10 percent of the number of votes cast for all candidates in the previous gubernatorial election, currently 302,710. After petitions are filed with the secretary of state, they are examined by the Board of State Canvassers. If the petitions qualify, the proposed amendment

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goes on the ballot. If a majority of voters approve, the measure becomes part of the constitution, taking effect in 45 days.

If the legislature wishes to have the state constitution amended, either chamber may introduce a joint resolution describing the proposed change. To qualify the proposal for the ballot in the next general or special election, the resolution must pass both legislative bodies by two-thirds or more. If a majority of the voters approve, the measure becomes effective in 45 days.

Other

Ordinarily, a bill becomes a law when passed by both legislative chambers and signed by the governor. Sometimes, however, the legislature also wishes voter concurrence and inserts into the bill a provision requiring such approval. (Bills that appropriate money cannot include such a provision.)

If the legislature seeks to have the state borrow money long term (more than one year), a two-thirds majority in each chamber must approve legislation authorizing the action and then put the question before the voters. The proposal must state the amount to be borrowed, the specific purpose to which the funds are to be devoted, and the repayment method.

JUDICIAL BRANCH

Article VI of the 1963 Michigan Constitution provides that “the judicial power of the state is vested exclusively in one court of justice which shall be divided into one supreme court, one court of appeals, one trial court of general jurisdiction known as the circuit court, one probate court, and courts of limited jurisdiction that the legislature may establish by two-thirds vote of the members elected to and serving in each house.” Exhibit 4 presents the current state judicial structure.

Judicial compensation is based on the salary of a supreme court justice (currently, \$164,610). Circuit and probate judges receive a salary equivalent to 85 percent of that of a justice, and district judges receive 84 percent.

All Michigan judges are elected, although the governor is empowered to make appointments (not subject to the Senate’s advice and consent) to fill vacancies until the end of the term in question. A candidate for any judgeship must be an attorney, aged under 70 on the date of appointment or election, and a qualified elector. Candidates for the appeals, circuit, district, and probate benches must reside in the jurisdiction in which they will serve.

Judges are prohibited from holding any other elective office during their term and for one year thereafter.

Judges are disciplined by the supreme court on recommendation from the Judicial Tenure Commission, which consists of nine members: two attorneys and one judge elected by the State Bar of Michigan, four judges elected by their peers, and two lay members appointed by the governor. The commission investigates complaints and recommends disciplinary action when necessary.

Supreme Court

The Michigan Supreme Court is the highest court in the state, hearing cases appealed to it from other state courts. In addition to its judicial duties, the court is charged with general administration of all courts in the state. The court is composed of seven justices (chief justice and six associate justices) chosen in nonpartisan elections (they are nominated by political parties, however) to serve eight-year terms. For continuity, the terms are staggered; no more than two seats are on the ballot in any one election year except to fill vacancies.

The supreme court, which sits in Lansing and does much of its work in conference, hears only cases on appeal from lower courts. A party wishing to have its case heard files an “application for leave to appeal.” If the application is denied, the lower court’s decision stands. A decision of the court is written and must be approved by a majority of the justices. If a justice disagrees with the majority opinion in whole or in part, s/he may write a dissenting opinion. The court issues 2,400 to 3,000 decisions a year.

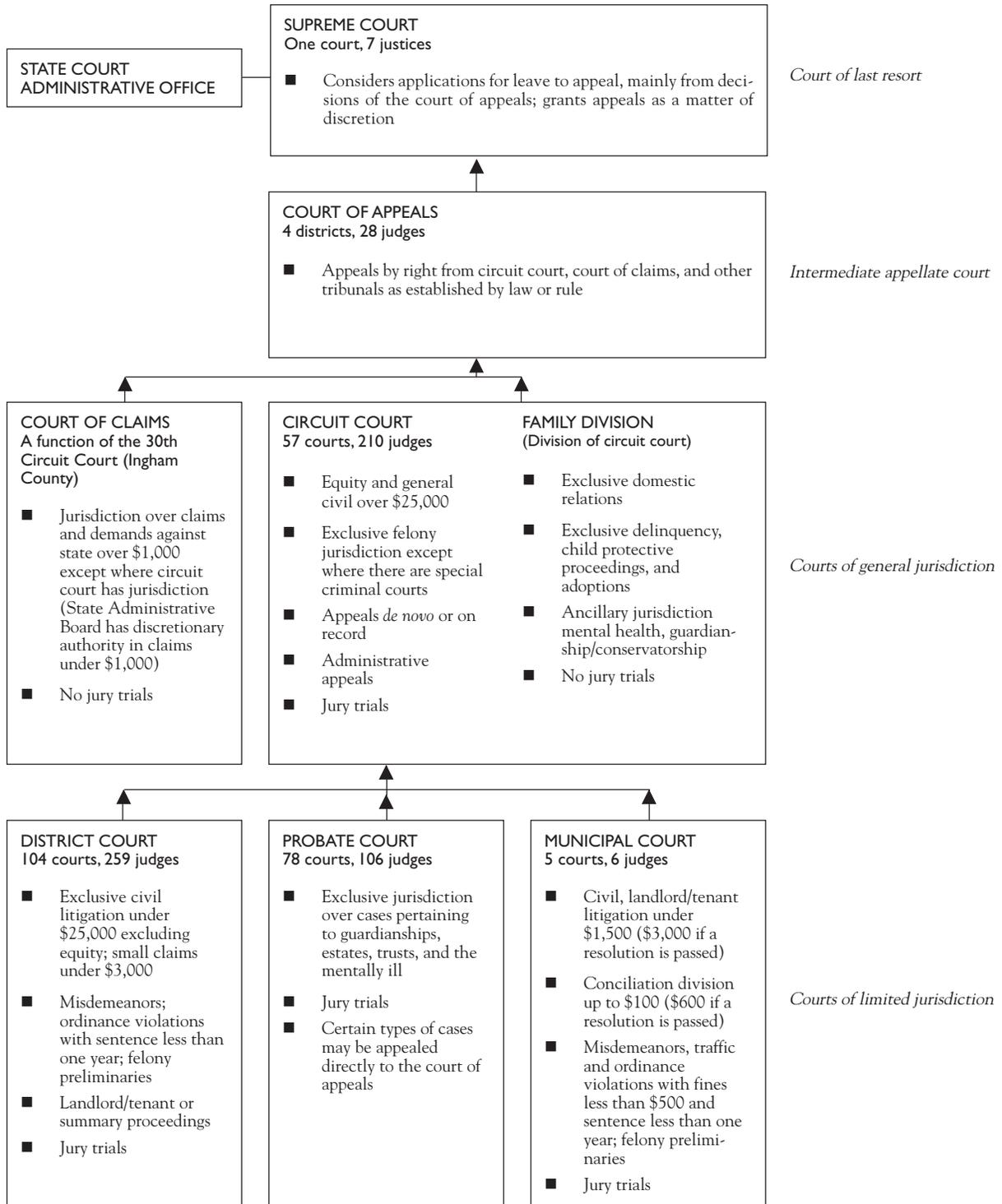
Court of Appeals

The Michigan Court of Appeals has jurisdiction in civil and criminal cases appealed from lower courts. The 28 appeals court judges are elected to six-year terms in nonpartisan elections, seven from each of the four districts in the state, which have roughly equal population. To change the number of judges or alter the districts, state law must be amended.

Panels of at least three of any of the appeals court judges hear cases in Detroit, Grand Rapids, Lansing, and Marquette; the panels are rotated among these locations. Cases are decided in a procedure similar to that followed by the supreme court, and decisions are final unless the supreme court agrees to review a case.

Appeals court opinions may be published or unpublished. Published opinions are binding on all lower courts and may be used by lawyers to argue cases authoritatively. Unpublished opinions are not binding and may be used to argue cases only persuasively. Generally, unpublished opin-

EXHIBIT 4. Michigan Judicial Branch (arrows indicate route of appeal)



SOURCE: State Court Administrative Office, 2001.

NOTE: A "cyber court," expected to be in operation in late 2002, has been created to conduct electronic hearings and proceedings in commercial litigation involving more than \$25,000. All matters heard in the court will be via electronic communication. Use of the court will be voluntary, and proceedings will be similar to those of the circuit court. The supreme court will determine where the court will be located and assign circuit court judges to serve as cyber court judges for terms of at least three years.

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ions are issued in cases that either raise no unusual legal issue or have narrow application.

Circuit Court

As Michigan's trial court of general jurisdiction, the circuit court operates statewide in 57 circuits, staffed by 210 judges. It has original jurisdiction in all civil cases involving more than \$25,000, in all criminal cases involving a felony or certain serious misdemeanors, and in all domestic-relations cases, including divorce and paternity actions. The court also hears cases appealed from lower courts and from some state-government administrative agencies. Circuit judges are elected every six years on a nonpartisan ballot.

Cyber Court

To accommodate parties located outside the state, a "cyber court" is being created to conduct electronic hearings and proceedings in commercial litigation involving more than \$25,000; the court is expected to be in operation in the fall of 2002. All matters heard in the court will be via electronic communication, including but not limited to video and audio conferencing and Internet conferencing. Use of the court will be voluntary, and proceedings will be similar to those of the circuit court. The supreme court will determine the court's location and assign circuit court judges to serve as cyber court judges for terms lasting at least three years.

Family Division of Circuit Court

The Family Court Division of circuit court has exclusive jurisdiction over all family matters—divorce, custody, parenting time, support, paternity, adoption, name change, juvenile proceedings, emancipation of minors, parental consent, and personal protection proceedings. The division also has jurisdiction over guardianship and conservatorship and proceedings involving the mentally ill and developmentally disabled when they arise from a case already being heard in family court. (Otherwise, estate, guardianship cases, and those involving the mentally ill and developmentally disabled continue to be heard in probate court.)

Court of Claims

The court of claims, part of the 30th Circuit Court of Ingham County (Lansing), is limited to hearing claims against the State of Michigan. It has jurisdiction over claims of more than \$1,000. (The State Administrative Board is vested with discretionary authority in claims against the state under \$1,000.)

District Court

The district court has exclusive jurisdiction in all civil litigation up to \$25,000 and handles garnishments, evic-

tion proceedings, land contract and mortgage foreclosures, and certain other proceedings. In criminal cases, it handles misdemeanors punishable by not more than one year of punishment, including arraignment, bail hearings, trial and sentencing, and preliminary examination of accused felons.

District courts have a Small Claims Division for civil actions up to \$3,000. A case may be heard in small claims court if both parties agree to waive their right to a trial by jury, rules of evidence, representation by a lawyer, and appeal. If either party objects, the case will be heard in general district court.

District judges may appoint magistrates, who need not be a lawyer, whose duties generally are limited to setting bail for criminal offenses, accepting guilty pleas, and issuing sentences for violations of traffic, motor carrier, snowmobile, dog, game, and marine law. A magistrate also may issue arrest warrants or search warrants authorized by the prosecutor or municipal attorney. Attorney magistrates may hear small claims cases and, at the direction of the chief judge, perform other duties allowed by statute.

District judges are chosen in nonpartisan elections every six years.

Probate Court

The probate court has limited jurisdiction. It supervises "probation" of wills and the administration of deceased persons' estates and trusts, guardianships, conservatorships, and the treatment of mentally ill and developmentally disabled persons.

There is a probate court in 73 Michigan counties; the remaining 10 have formed five two-county probate districts. Each county or two-county district has one or more judges, depending on population and caseload. Probate judges are elected for a six-year term on a nonpartisan ballot.

Municipal Court

Municipal courts have jurisdiction over local ordinances, civil actions up to \$1,500 (unless the city in which the court is located increases the jurisdictional amount to \$3,000), and all criminal cases within the municipality. Five municipalities have chosen to retain a municipal court rather than change to district court. Municipal judges are elected to four-year terms as provided by city charter. They are part-time judges and may practice law.

DIVISION AND BALANCE OF POWER

Just as the framers of the U.S. Constitution divided government into branches, to provide checks and balances against

the tyranny or supremacy of any one individual or group, the writers of Michigan's four constitutions balanced state power among legislative, executive, and judicial branches. It is said that the legislature makes policy, the executive implements it, and the judiciary interprets it.

One characteristic of a government built on checks and balances is that it is guarded against an individual public official or branch having excessive authority. Another characteristic is that the division of power and the checks against intrusion by one branch into the authority of another means that the governing process proceeds at a pace more deliberate than is appreciated by those who would like to "just get it done." Checks and balances also sometimes give rise to jurisdictional disputes, and this can slow—even paralyze—policymaking.

The most frequent inter-branch conflicts occur between the legislature and governor, usually over policy or budget. (Partisan and ideological differences typically are the basis of disagreement, but sometimes personality clashes or geographic focus—Detroit versus out state and so forth—trigger a problem.) Disputes generally are resolved by negotiation, but each branch has the means to frustrate another's intentions: For example, the legislature may decline to pass legislation that the governor wants, or the governor may veto legislation s/he doesn't like (the legislature, in turn, may overturn a veto if there are sufficient votes).

In Michigan, as in most states, the governor possesses the line-item veto, which is a device that gives the chief executive considerable power in the appropriation of funds. Although only the legislature may appropriate funds, the governor may reject specific spending (the "lines" in a budget bill).

The third branch, the judiciary, may determine that a state law (passed by the legislature and signed into law by the governor) violates the state constitution, which is the highest written authority. Such a decision is binding on the legislature and governor.

Examples of Checks and Balances in Action

Occasionally, disputes go beyond policy and budget differences, to jurisdiction. For example, the state supreme court cannot raise taxes and appropriate monies to special education, but its decision in the 1997 *Durant v. State of Michigan* case essentially ordered the legislature to appropriate more money to local school districts (in partial compensation for programs the state had mandated but not fully funded). And the governor cannot write a law that establishes a new executive department, but through an executive order, s/he may move agencies from one de-

partment to another, rename an old one, or create a new one. And the legislature does not administer the judicial branch, but in 1996 lawmakers passed a statute reorganizing the way in which local courts are configured. The legislature cannot administer the executive branch, either, but at the end of an appropriation bill, lawmakers may put language (so-called boilerplate) that clearly conveys to the governor how lawmakers desire the funding to be administered.

Balance of Power Today

Since Gov. John Engler first was inaugurated, in 1991, the executive branch has gained a good deal of power relative to the legislative branch. Governor Engler has used executive reorganization orders to end various commissions' power to appoint department directors, move agencies from one department to another, eliminate several departments, rename and change the duties of others, and create new ones.

Governor Engler also stripped the legislature of its pre-promulgation involvement in the rules that executive agencies make to implement legislation; although the legislature may take action to change rules *after* they have been issued, that branch's power in regard to rule writing has been reduced significantly.

Some political observers believe that term limits will allow future governors to gain and exercise even greater power over the legislature. So many legislators will come and go that the governor—even though s/he, too, is limited to only two terms—will wield enormous clout. Likewise, some believe that the nonelected officials in the executive branch—career civil servants—will come to greatly influence policy because they will be the repository of institutional memory and expertise; the check on their power will be lost when governors and legislators are forced to give up their offices.