

CHAPTER 2

About State Government

Michigan was the first of the post–Civil War wave of states to model its capitol building after the Capitol in Washington. And like the building, Michigan’s state government is patterned on the federal model. Both Michigan’s capitol and its government have undergone renovations several times in this century—many quite recently—that have affected its appearance and function somewhat but not its 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, by a vote of 810,860 to 803,436. Presented here are brief descriptions of each branch and its subdivisions.

EXECUTIVE BRANCH

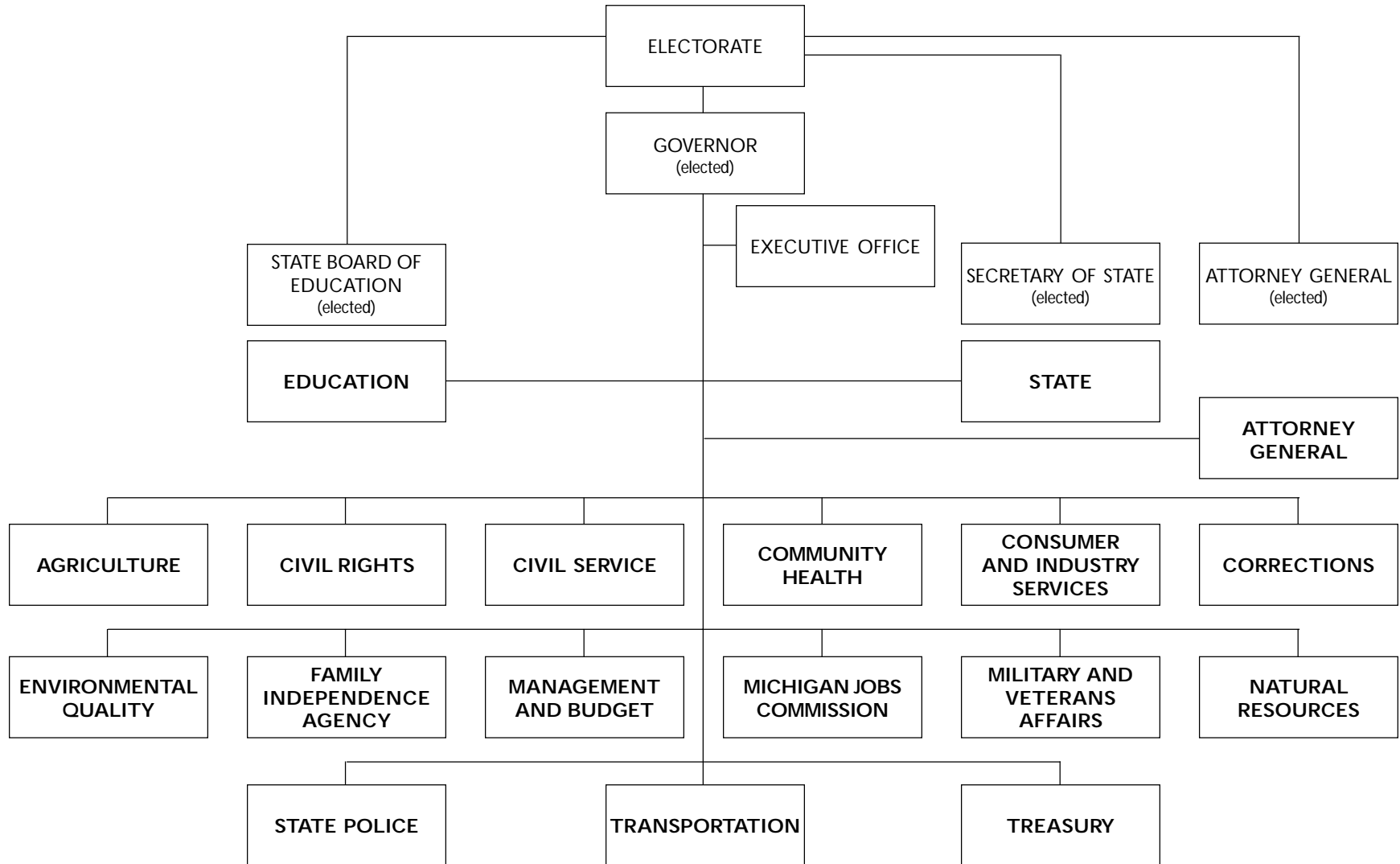
Elected Officials

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, attorney general, State Board of Education, and 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 12 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 1997 a two-stage raise was approved that set the following 1998 salary levels:

EXHIBIT 1. Executive Branch, State of Michigan



SOURCE: Public Sector Consultants, Inc.
 NOTE: Boldface type = departments.

- Governor \$127,300
- Lieutenant governor \$93,978
- Supreme court justices \$124,770
- Legislators \$53,192

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.

In 1992 the electorate voted to impose term limits on certain elected state officials. These lifetime limits affect officeholders sworn into office on or after January 1, 1993. In the executive branch, the governor, lieutenant governor, secretary of state, 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 18.

The constitution also permits the governor to reorganize the executive branch or reassign duties among the departments. Some such changes are purely administrative; some require the force of law. In the latter case, the legislature has 60 days to reject the governor's changes. If a majority in each chamber fails to reject the governor's changes, they take effect on a date s/he sets.

Although previous governors used the executive reorganization power, none used it more frequently or extensively than Gov. John Engler. During his first seven years in office, he has issued more than

50 executive orders¹ regarding reorganization. In summary, he has

- abolished the Department of Licensing and Regulation, shifting its powers first to the Department of Commerce and then, upon its abolition, to the new Department of Consumer and Industry Services;
- reconfigured the Department of Natural Resources, giving the governor the authority to appoint the chair of the Natural Resources Commission, abolishing several legislatively created boards and commissions and transferring their powers to the department director;
- transferred several environmental-regulation functions to a new agency, the Department of Environmental Quality;
- created the Michigan Jobs Commission as the agency responsible for all state job-training initiatives and programs, raised it to department status, and transferred to it many functions of the former Department of Commerce;
- created the Department of Community Health out of the former departments of Public Health and Mental Health;
- reorganized the Department of Social Services into the Family Independence Agency and moved its Medicaid program to the Department of Community Health;
- changed the Michigan Employment Security Commission to the Michigan Unemployment Agency and transferred it to the Department of Consumer and Industry Services; and
- reorganized the Department of Civil Service.

¹Executive 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 the legislature. 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.

CHAPTER 2: ABOUT STATE GOVERNMENT

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, and, in some areas, state highway maintenance. The Michigan Biologic Products Institute (popularly known as the public health laboratory) was put up for sale in 1997, but the sale has not yet occurred.

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 at home and abroad
- Regulating the dairy industry and its products
- Regulating food sanitation and labeling
- Administering the Soil Conservation Districts Act and the County Drain Code
- 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 through the Pesticide Control Act
- Regulating importation of plants and their movement within the state
- Assisting in establishing agriculture bargaining associations for fruit and vegetable growers
- Enforcing health standards for and humane treatment of farm animals
- Licensing pet shops and animal shelters
- Assuring the quality of agricultural products and commercial feeds
- Assuring the quality of motor fuel
- Regulating the sale of gasoline

Regional offices are located in Benton Harbor/St. Joseph, Detroit, Escanaba, Grand Rapids, Lansing, Saginaw, and Traverse City.

ATTORNEY GENERAL

The attorney general (AG), who is elected by the voters every four years, is the state's chief law enforcement officer and 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 fourth in line of succession should the governor, lieutenant governor, and secretary of state be unable to fulfill gubernatorial responsibilities. The department

- represents the “public interest” in hearings before state boards and commissions, such as the Public Service Commission, and
- has broad powers to investigate 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 handles appeals to the Michigan Supreme Court, the U.S. Circuit Court of Appeals, and the U.S. Supreme Court.

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 both private and public entities in developing equal employment opportunity and affirmative action programs

- Certifying the status of minority-, women-, and handicapper-owned businesses so as to increase their participation in the state government procurement process
- Certifying the contract-awardability status of businesses seeking to do business with the state

The Michigan Women’s Commission, Indian Affairs Commission, and Commission on Spanish Speaking Affairs are placed in the department and make recommendations to improve the quality of life for their constituencies in Michigan.

The department has executive offices in Lansing and Detroit and district offices in Battle Creek, Benton Harbor, Detroit, Flint, Grand Rapids, Lansing, Muskegon, and Saginaw.

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 workers who carry on the work of state government regardless of change in political leadership. 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 affirmative action policies
- Administering employee benefit programs

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.

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. Three additional positions “of a policy-making nature” also may be exempted in each department if approved by the Civil Service Commission.

The department has regional offices in Detroit and Escanaba.

COMMUNITY HEALTH

The Michigan Department of Community Health (MDCH), the largest in Michigan state government, was created on January 1, 1996. A series of executive orders consolidated the former departments of Public Health and Mental Health, the Medical Services Administration (the state’s Medicaid agency), Office of Drug Control Policy, and Office of Services to the Aging. With a staff of 6,500, a budget of \$7 billion, and a clientele of 1.5 million, the MDCH is responsible for health policy and managing public-funded health service systems; the department plans and delivers services through the following four integrated components:

- Medicaid coverage for people with limited income
- Mental health services for people with mental illness or developmental disorder, as well as services for those with substance-abuse problems
- Health needs assessment, health promotion, disease prevention, and access to appropriate health care for all
- Drug law enforcement, treatment, education, and prevention programs
- MIChild, a new federal/state program to cover children without health insurance

The department also seeks to promote the independence and enhance the dignity of older citizens and their families.

CHAPTER 2: ABOUT STATE GOVERNMENT

The Medical Services Administration is the department's largest component—providing coverage to more than one million Medicaid recipients. Mental health services are provided principally through contracts with 51 community mental health boards throughout the state, serving an estimated 220,000 people a year. The behavioral health component operates 12 state hospitals and regional centers, the Center for Forensic Psychiatry, and Huron Valley Center, a psychiatric hospital. Substance-abuse services are funded through 15 substance abuse coordinating agencies throughout the state. The community public health component contracts with 50 local public health agencies to assess health needs, promote and protect health, prevent disease, and assure accessibility to health care.

CONSUMER AND INDUSTRY SERVICES

Michigan's primary licensing and regulatory agency, the Michigan Department of Consumer and Industry Services (MDCIS) was created by executive order in 1996. It merged programs from the former departments of Commerce and Labor as well as several from the former departments of Mental Health, Public Health, and Social Services. Among its agencies are the following:

- Council for Arts and Cultural Affairs
- Office of Commercial Services (licensing)
- Bureau of Construction Codes
- Office of Contract and Grant Administration
- Corporation, Securities, and Land Development Bureau
- Employment Relations (commission and bureau)
- Financial Institutions Bureau
- Office of Health Services
- Bureau of Health Systems
- Insurance Bureau
- Michigan State Housing Development Authority
- Michigan Tax Tribunal
- Public Service Commission

- Bureau of Safety and Regulation
- Workers' Compensation and Disability Compensation agencies and commissions

CORRECTIONS

The Department of Corrections (MDOC) administers Michigan's adult prison, probation, and parole systems. The governor appoints a director to serve as chief executive officer.

With a 1998 inmate population exceeding 42,000 (more than 40,000 males and about 1,700 females), the MDOC administers 41 adult penal facilities and 15 corrections camps. Several thousand additional inmates are in camps or other centers.

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), administers state aid to schools, certifies teachers, provides technical assistance to school districts, and selects 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 16 offices; among their responsibilities are the following:

- Curriculum development
- Professional preparation
- Special-education services
- Higher-education services (to ensure access to higher education for all who qualify)
- Career- and technical- (formerly vocational) education services (to administer state and fed-

eral funds for career and technical training in K–12 districts, intermediate school districts and community colleges)

- Operating schools for the deaf and blind
- Administering extended-learning services (to provide education opportunities for adults, children of migrant workers, and families)

ENVIRONMENTAL QUALITY

Created by executive order, the Michigan Department of Environmental Quality (MDEQ) came into being in 1995 with a mission “to drive improvements in environmental quality for the protection of public health and natural resources to benefit current and future generations.” Its divisions and their functions—many carved out of the old Department of Natural Resources—are the following:

- Air Quality Division
- Drinking Water and Radiological Protection Division
- Environmental Assistance Division
- Environmental Response Division
- Geological Survey Division
- Office of the Great Lakes
- Surface-Water Quality Division
- Underground Storage Tank Division
- Wastewater Management Division
- Land and Water Management Division
- Low-Level Radioactive Waste Authority
- Michigan Environmental Science Board
- Office of Special Environmental Projects

The department maintains district offices in Bay City, Cadillac, Grand Rapids, Jackson, Livonia, Marquette, Morrice, and Plainwell.

FAMILY INDEPENDENCE AGENCY

Formerly the Department of Social Services, the Michigan Family Independence Agency (FIA) helps individuals and families to meet financial,

medical, and social needs; assists people to become self-sufficient; 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
- Daycare
- Counseling for families and delinquent youth
- Domestic violence
- Employment and training for welfare clients
- Short-term crises
- Foster care
- Delinquency/violence
- Abuse, neglect, or exploitation of children and vulnerable adults
- Foster care
- Teen parenting

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

- Family Independence Program (cash assistance for families with children)
- Family assistance (for those in need but not meeting Family Independence Program criteria)
- Disability assistance
- Emergency assistance
- Medical program (for certain low-income people who do not qualify for Medicaid or other medical coverage)
- Low-income energy assistance (to help meet home-heating costs)
- Child support enforcement (to assist in establishing paternity and collecting child support payments from absentee parents)
- Such federal programs as Supplemental Security Income and food stamps

CHAPTER 2: ABOUT STATE GOVERNMENT

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

MANAGEMENT AND BUDGET

The Michigan Department of Management and Budget (MDMB) is an interdepartmental service and management agency responsible for providing financial record keeping, systems development, property management, capital facility development, procurement, and retirement and office support services to state agencies. The Office of the State Budget Director prepares, presents and executes the state budget in the governor's behalf.

The MDMB director and the state budget director are appointed by the governor. The department is divided into *management* and *budget* units. Management units are the following:

- Office of Administrative Services
- Office of Computing and Telecommunications
- Office of Facilities
- Office of Information and Technology Solutions
- Office of Retirement Systems
- Office of Purchasing (includes project, property, and vehicles management)
- State Building Authority
- Year 2000 Project Office
- Office of the Children's Ombudsman
- Office of the State Employer
- State Administrative Board (exercises general supervisory control over administrative agencies and approves contracts, leases, investments and claims against the state)
- Michigan Information Network and the Michigan Information Network Advisory Board

Budget units are the offices of the Budget Director, Budget Development and Financial Management, and offices pertaining to various aspects of the state budget development process.

In addition, the Michigan Administrative Information Network (MAIN) is charged with creating an integrated, automated financial management system for state government, and the Michigan Information Center compiles, archives, and interprets data.

MICHIGAN JOBS COMMISSION

Created by executive order in 1993, the Michigan Jobs Commission (MJC) is responsible for the state's economic-development and worker-training efforts. It has three primary goals: to work with employers to help retain and expand businesses in Michigan, prepare workers for jobs, and continue to improve Michigan's business climate. The MJC's divisions are as follows:

- Customer Assistance and Small Business Services
- Economic Development Job Training
- International and National Business Development
- Michigan Employment Security Agency
- Michigan Film Office
- Michigan Rehabilitation Services
- Michigan Renaissance Fund
- Travel Michigan (the state's travel and tourism promotion agency)
- Workforce Development/Job Training

The department disperses funds for venture capital and industry round tables; gives advice and help in starting, expanding, or moving a business into Michigan; and administers Michigan's tax-free renaissance zones. It also works with employers to help them recruit and train skilled workers and with workers to help them connect with placement resources and employers.

The MJC discharges many of its responsibilities through 26 local workforce development boards.

MILITARY AND VETERANS AFFAIRS

Restructured in 1991–92 to incorporate administration of veterans programs into the Michigan military estab-

ishment, the Michigan Department of Military and Veterans' Affairs is directed by the adjutant general of Michigan, who is appointed by the governor. The department has the following three missions:

- To protect lives and property in times of natural disaster and to promote peace, order and public safety at the governor's direction
- To assist the federal government in protecting the sovereign interests of the United States
- To administer the Veterans Trust Fund and the state veterans' homes in Grand Rapids and Marquette

The 12,000 guard members are based in 52 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

A 1991 executive order transferred the statutory authority, powers, and duties of the Michigan Department of Natural Resources (MDNR), Natural Resources Commission, department director, and various boards and commissions to the director of a new Department of Natural Resources. Under the reorganization, the governor assumed power to appoint the commission chair, while the seven-member commission, which he also appoints, appoints the director.

In 1995 the governor issued an executive order creating the new Department of Environmental Quality, which assumed the state's environmental regulatory programs previously vested in the MDNR. The MDNR's mission now is concentrated on conserving and developing the state's natural resources. The department is organized into the following six resource-management offices:

- Forest Management
- Parks and Recreation
- Wildlife Division
- Fisheries Division

- Law Enforcement
- Real Estate

The department has two regional offices (Marquette for the Upper Peninsula and Roscommon for the lower) and 13 district 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 secretary of state directs services and programs in the following four major areas:

- Traffic safety and motor vehicles (driver and vehicle licensing, licensing automobile-related businesses)
- Elections (election supervision, voter registration, campaign finance oversight, lobbyist registration)
- History (the State Historical Museum, state archives, and historic preservation programs)
- Keeper of the Great Seal (maintains many important state and local documents and 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 177 local branch offices.

STATE POLICE

The mission of the Michigan Department of State Police (MDSP) 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 enforc-

CHAPTER 2: ABOUT STATE GOVERNMENT

ing the state's criminal laws. Also assigned to carry out department responsibilities are the following:

- Investigative Services Bureau
- Office of Highway Safety Planning
- Fire Marshal Division
- Forensic Science Division (operates seven regional laboratories for analyzing and identifying fingerprints, drugs, firearms, and other evidence from crime scenes)
- Motor Carrier Division (regulates safety and weight of trucks using state highways)
- Emergency Management Division (deals with planning for and responding to natural disasters, hazardous chemical spills, or toxic waste)

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, labs and motor-carrier scale houses.

TRANSPORTATION

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

- Overseeing state highway design, construction, and maintenance
- Administering grants to local governments for local road projects
- Overseeing airline service in the state, including constructing and operating airports
- 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)
- Provides financial and technical support for bus systems and railroads

TREASURY

The Michigan Department of Treasury (MDT) is headed by the state treasurer, who is appointed by

the governor. The department's responsibilities include the following:

- Collecting state taxes (including income, sales and use, motor fuel, cigarette, intangibles, death, and single business levies)
- 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 Fund, and various trust and agency funds)
- Auditing local governments and providing fiscal-management training to local officials

The Higher Education Facilities Commission and Michigan Higher Education Facilities Authority were transferred into the Treasury Department by executive order in 1992 and the Michigan Higher Education Assistance and Michigan Higher Education Student Loan authorities in 1995. The department also houses the Bureau of State Lottery and the Higher Education Facilities and Michigan Hospital Finance authorities.

The state treasurer acts as financial advisor to the governor. The Office of Revenue and Tax Analysis estimates revenue for the state budget, analyzes tax proposals, and prepares the governor's annual economic and tax-expenditures reports.

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 to four-year terms coterminous with the governor's. The House currently is constituted of 58 Democrats and 53 Republicans. The Senate has 22 Republicans and 16 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).

Based on the 1990 census, each House district averages about 85,000 residents; Senate districts average about 245,000. Districts are redrawn every ten 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. Currently, the annual legislative salary is \$53,192 plus \$8,925 for expenses. Those serving in the ten leadership positions receive supplemental salaries ranging from \$23,000 annually for the Speaker of the House to \$5,000 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 chairpersons (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 spokesperson for the controlling party.

The state constitution provides that the president of the Senate shall be the lieutenant governor, but s/he will 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 28 *standing* (permanent) committees in the House and 17 in the Senate; the Appropriations Committee in each chamber has several subcommittees that specialize in various sections of the budget. Standing committees generally have 9–27 members, and each representative and sena-

tor sits on at least one committee. Exhibit 2 lists the chambers’ standing committees.

EXHIBIT 2. Legislative Standing Committees, 1998

Michigan House of Representatives

- Advanced Technology and Computer Development
- Agriculture
- Appropriations (with 16 subcommittees)
- Colleges and Universities
- Commerce
- Conservation, Environment, and Recreation
- Constitutional and Civil Rights
- Consumer Protection
- Corrections
- Education
- Forestry and Mineral Rights
- Health Policy
- House Oversight and Ethics
- Human Services and Children
- Insurance
- Judiciary
- Labor and Occupational Safety
- Local Government
- Marine Affairs and Port Development
- Mental Health
- Public Retirement
- Public Utilities
- Regulatory Affairs
- Senior Citizens and Veterans Affairs
- Tax Policy
- Tourism
- Transportation
- Urban Policy and Economic Development

Michigan Senate

- Agriculture and Forestry
- Appropriations (with 14 subcommittees)
- 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 and Senior Citizens
- Human Resources, Labor, and Veterans’ Affairs
- Judiciary
- Local, Natural Resources, and Environmental Affairs
- Technology and Energy
- Transportation and Tourism
- Urban and State Affairs

SOURCE: Michigan Legislature.

CHAPTER 2: ABOUT STATE GOVERNMENT

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 state Capitol Building and its grounds)

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 staff as well as the staff 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 legislature with economic and fiscal analyses and research.

Passing Legislation

During an average two-year session, 4,400 to 6,000 bills are introduced in the House and Senate; usually, 600 to 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. 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 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 out of 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

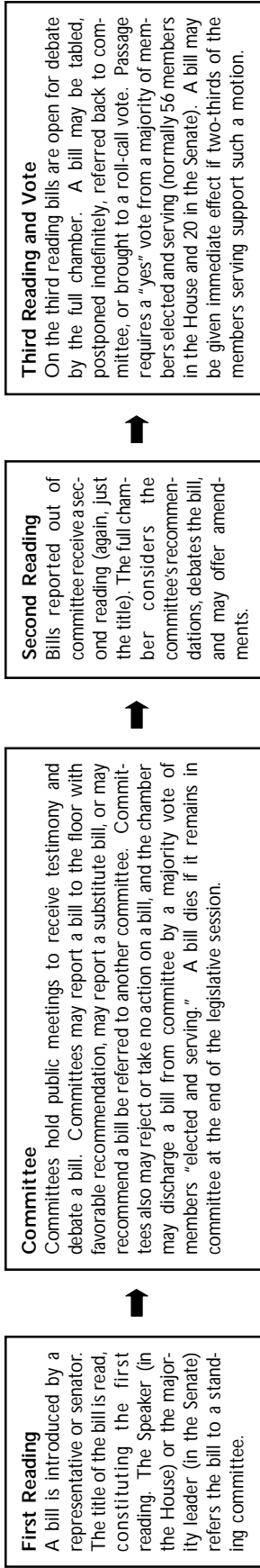
- passed or defeated by a recorded roll-call vote (which is reported in the chamber’s journal of proceedings) of the majority of members elected and serving (56 members comprise a majority in the House and 20 in the Senate);
- referred back to committee for further consideration;
- postponed indefinitely;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

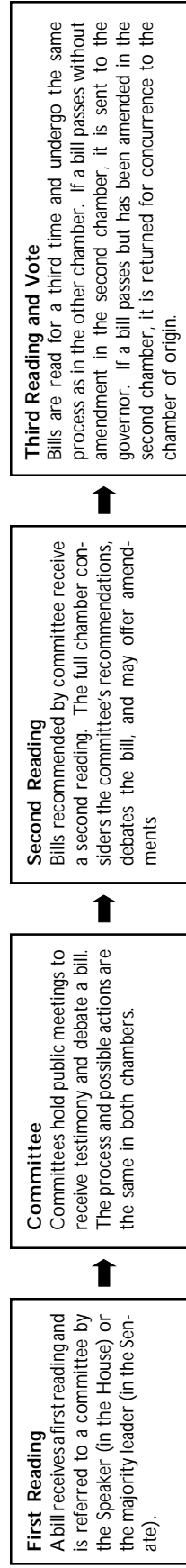
If the bill is passed in a different form by the other chamber, it is returned to its house of origin for a vote of concurrence on the changes. If the changes are accepted, the bill is enrolled and sent to the governor. If they are rejected, the bill is sent to a conference committee, composed of three 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.

EXHIBIT 3. Michigan's Legislation Enactment Process

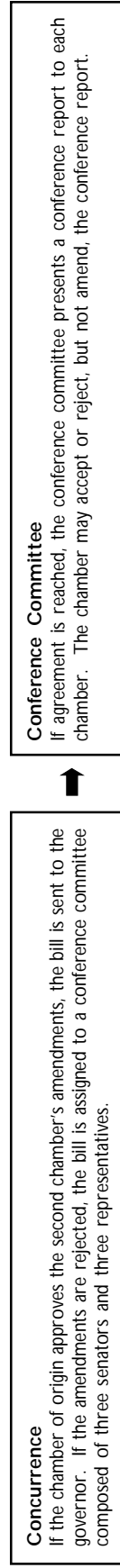
PROCESS IN THE CHAMBER OF ORIGIN



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.

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, or (3) do neither, in which case the bill becomes law without signature.

If the governor vetoes a bill, 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).

Other Responsibilities

Advice and Consent

In addition to its principal responsibility to enact 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 100 individual state funds and an annual budget of \$30 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 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 4.

Ballot Questions and Constitutional Amendments

State residents may participate directly in lawmaking through the initiative and referendum processes. The Michigan Constitution of 1963 defines the *right of initiative* as "the power to propose laws and to enact and reject laws," and the *right of referendum* as "the power to approve or reject laws enacted by the legislature."

Initiative

To initiate legislation, a person or group usually must obtain the signatures of at least 247,127 registered voters (8 percent of the total vote cast for all candidates for governor in the previous election—3,089,077 in 1994). 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 ten 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 each legislative chamber.

Referendum

Currently, the signatures of 154,454 registered voters (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 ten 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 308,908. 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 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.)

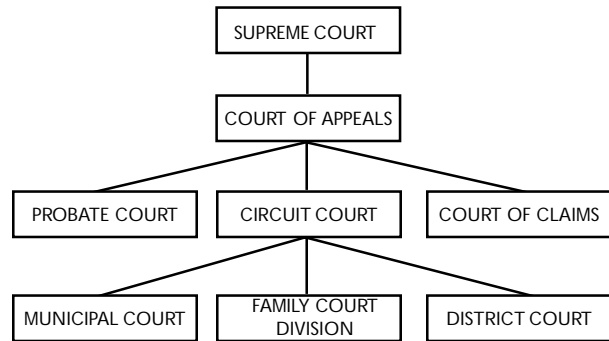
If the legislature seeks to have the state borrow money long term (more than one year), a two-thirds majority in each chamber must approve legislation authorizing the action and then put the question before the voters. The proposal must state the amount to be borrowed, the specific purpose to which the 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.” (See Exhibit 4.)

EXHIBIT 4. Judicial Branch, State of Michigan



SOURCE: Legislative Council.

The legislature approved major court reforms in 1996. One changed the court funding formula. Instead of judges being compensated from a combination of state and local funds, which produced salary variations among the regions of the state, the state began phased-in funding of judicial salaries: Circuit and probate judges eventually will receive a salary equivalent to 85 percent of that of a supreme court justice, and district judges 84 percent. A second reform created the Family Court Division in the circuit court, to correct the inconvenient fragmentation of family-oriented judicial services (a family undergoing divorce, for example, could have property, custody, and juvenile justice issues pending in different courts). Finally, caseload was a concern: Judges were too busy in some circuits and not busy enough in others, a consequence of Michigan’s uneven population distribution over its large land mass; the reorganization law also created a judicial assessment commission to examine whether a county has too many or too few judges. A final change absorbed Detroit’s Recorders Court into Wayne County Circuit Court.

CHAPTER 2: ABOUT STATE GOVERNMENT

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.

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 chosen in nonpartisan elections (although they are nominated by political parties) 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. Justices must be attorneys, aged under 70 on date of election, and qualified electors.

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 supreme 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.

COURT OF APPEALS

The Michigan Court of Appeals has jurisdiction in civil and criminal cases appealed from lower courts. The 24 appeals court judges are elected to six-year terms in nonpartisan elections, eight from each of the three districts in the state, which have roughly equal population. To change the number of judges or

alter the districts, state law must be amended. A candidate for judge must be an attorney, aged under 70 on date of election, a qualified elector, and a resident in the district in which s/he is running.

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 opinions 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; a candidate must be an attorney, aged under 70 on date of election, a qualified elector, and a resident in the judicial circuit in which s/he would serve. Circuit judges are prohibited from holding any other public office during their term and for one year after their term ends.

As of January 1, 1998, 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 divi-

sion 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 is a special court with jurisdiction over claims of more than \$1,000 against state government or any of its departments, commissions, or institutions, except where a circuit court has jurisdiction. The legislature established the court of claims as a function of the 30th Circuit Court, Ingham County (Lansing).

PROBATE COURT

The probate court has limited jurisdiction. It supervises “probation” of wills, administration of deceased persons’ estates/trusts by their personal representatives, and cases of guardianship and committal not scheduled in the Family Court Division.

There is a probate court in 73 Michigan counties; the remaining ten have formed five two-county probate districts. Each county or two-county district has one or more judges, depending on case load. Probate judges are elected every six years on a nonpartisan ballot; they must meet the same general qualifications as for the other courts.

DISTRICT COURT

The district court was mandated by the 1963 constitution to replace justice-of-the-peace-courts, circuit court commissioners, and most municipal and police courts. It has limited jurisdiction—covering all civil actions up to \$25,000. In criminal cases, it handles misdemeanors punishable by not more than one year of punishment, as well as arraignment, bail hearings, and preliminary examination of accused felons. The court also handles garnishments, eviction proceedings, land contract and mortgage foreclosures, and certain other proceedings.

District courts have a *Small Claims Division* for civil actions up to \$1,750. A case may be heard in small claims court if both parties agree to waive their rights 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 courts also may set up *traffic bureaus* to handle motor vehicle offenses.

In judicial districts having only one judge, the judge may appoint one magistrate for each county in the district. The magistrate, who need not be a lawyer, has duties generally limited to setting bail for criminal offenses, accepting guilty pleas, and issuing sentences for traffic, boating, and game law violations. A magistrate also may issue arrest warrants (if approved by the prosecutor or municipal attorney) and search warrants (if approved by the district judge).

District judges are chosen in nonpartisan elections every six years; they must have the same general qualifications as other judges. Michigan is divided into 98 district court jurisdictions.

MUNICIPAL COURT

The District Court Act of 1968 abolished all but five municipal courts (in East Pointe, Grosse Pointe, Grosse Pointe Farms, Grosse Pointe Park, and Grosse Pointe Woods), absorbing the remainder into the district court system. A municipal court judge must be an attorney as well as a resident and elector in his/her city; the judges serve a six-year term. Municipal courts have jurisdiction over local ordinances, civil actions up to \$1,500, and all criminal cases within the municipality.

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 geographical focus—Detroit versus outstate and so forth—trigger a problem.) Disputes generally are resolved by negotiation, but each branch has the means to frustrate the other’s intentions: The legislature may decline to pass legislation that the governor wants, or the governor may veto legislation s/he doesn’t like (which the legislature, in turn, may overturn if it has 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 (“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 department 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 appropriations 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 from the legislature its oversight (review and approval) of administrative rules (the regulations that executive agencies promulgate in implementing legislation), ending the legislature’s involvement in rule writing and leading to the demise of its once-powerful Joint Committee on Administrative Rules.

Some political observers believe that term limits will bring with them the opportunity for 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.