

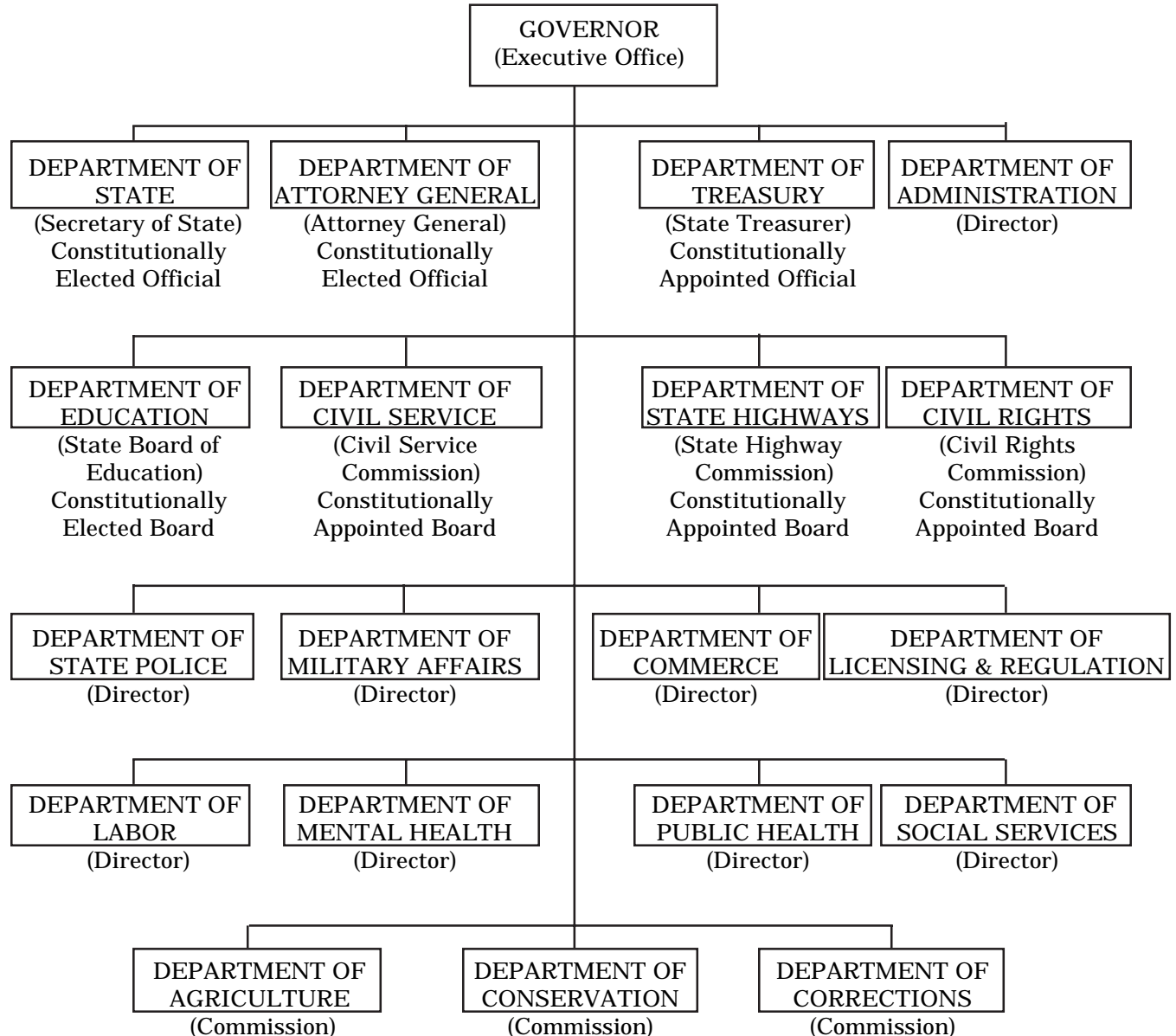
Council Comments

No. 775

July 12, 1965

“AMONG AND WITHIN NOT MORE THAN TWENTY PRINCIPAL DEPARTMENTS”

There is shown below a simplified chart of the organization of the executive branch of the State of Michigan if current legislative decisions prevail—



Somewhat to the mild surprise of everyone, including perhaps themselves, legislators passed the “Executive Organization Act of 1965” before recessing until Fall. The reorganization of the executive branch “among and within not more than 20 principal departments” had to be done by legislative action before the end of this year; if not, the governor had one year more in which to do the job. A product that compromised two conflicting attitudes toward the subject, the bill now appears headed for executive approval.

Thus, a matter conceded by all observers to be a contentious if not impossible legislative issue, was resolved in conference committee and accepted by both chambers with almost effortless ease. Credit for this rests with both the executive and legislative branches. Few more controversial subjects have had such scrupulous attention and so little real controversy.

Opposing Viewpoints

The essence of the opposing viewpoints on organization involve two different philosophies of government. In one view, executive organization is primarily the governor’s responsibility, and its aim and purpose are organizational efficiency achieved mainly through the governor’s direct at-pleasure appointment of individual department heads (by and with the advice and consent of the senate, says the constitution). The executive office, naturally, upheld this view most strongly, and the Constitutional Convention debates of meaning and intent tend to support this interpretation.

In the other view, executive organization is to be subject to continuing legislative control—which essentially, of course, must be true of all major policy activities of government, including this subject. Control of the internal organization itself was sought by some followers of this theory—the right to dictate divisional and sectional make-up of departments, the whole “organization chart” lay-out of the agency. But the principal weapon that would be employed was the commission—over-lapping terms, plural responsibility, senatorial oversight of each appointment. If not a “divide and conquer” technique, certainly in the view of most observers of government this is a “diffuse and disperse” tactic, the opposite of taut lines of individual responsibility for departmental operations, of direct gubernatorial control (and accountability at the polls).

The Main Provisions

The legislative provisions establish 19 principal departments. The general breakdown is as follows—

- 1) Single-headed departments (12)
 - a) Constitutionally elected (2)—secretary of state and attorney general.
 - b) Constitutionally appointed (1)—state treasurer.
 - c) By bill provisions (9)—administration, state police, military affairs, commerce, licensing and regulation, labor, mental health, public health, and social services.

- 2) Commission-headed departments (7)
 - a) Constitutionally elected (1)—board of education
 - b) Constitutionally appointed (3)—civil service, state highways, and civil rights.
 - c) By bill provisions (3)—agriculture, conservation, and corrections.

NINETEEN PRINCIPAL DEPARTMENTS PROPOSED BY LEGISLATIVE ACTION, 1965 SESSION

Note: Types of agency transfer are shown by numerals in parenthesis; viz.,

(1) Agency transferred intact; exercises its quasi-judicial and quasi-legislative powers independently of the principal department head; other functions are performed under direction and supervision of department head.

(2) Powers, duties and functions transferred to the principal department; agency exercises only those duties delegated to it by department head.

(3) Powers, duties and functions of the agency transferred to the principal department and the agency abolished.

(4) Agency transferred; retains all statutory powers and "shall be an autonomous entity in the department."

Executive Office of Governor (not a principal department) - Governor

Special commissions - Powers, duties, functions and personnel of department of administration deemed necessary by governor for planning, preparation, execution, management and control of state budget matters (2) - Non-civil service state budget director (new)

Department of State - Secretary of State

Powers, duties and functions of secretary of state, except as otherwise noted (1) - Board of state canvassers (1) - License appeal board (1) - Historical commission (2) . Highway reciprocity board (2) - Apportionment commission (1) - Notaries public duties as delegated by executive order

Department of Attorney General^a - Attorney General

Powers, duties and functions of attorney general, except as otherwise noted (1) - Board of commissioners for promotion of uniformity of legislation (1) - Charitable solicitation control (from social welfare) (2)

Department of Treasury^a - State Treasurer

Powers, duties and functions of state treasurer, except as otherwise noted (1) - Board of escheats (3) - Auditor general: property taxation functions (2); uniform system and examination of local accounts (2); plat duties (2); all other functions) except constitutional duties (3) - Department of revenue (1) - State tax commission (1) - State board of assessors (2) - State board of equalization (3) - State board of tax appeals (1) - Municipal finance commission (1) - Corporation franchise appeal board (1) - Tax collection functions of corporation and securities commission (2)

Department of Administration - Director

Present department of administration less budget and related functions (see Executive Office) (1) - State building commission (2) - State building authority (2) - State administrative board (reconstituted, see text) (1) - Pension boards, except legislative pensions (1) - Veterans' trust fund board of trustees (1)

Department of Education^a - State Board of Education (8 members)^b

Board of education (1) - Superintendent of public instruction (3) - State tenure commission (1) - Higher education facilities commission (1) - Higher education assistance authority (1) - State board of libraries (2)

Department of Civil Service - Commission (4 members)^c

Present civil service commission (1)

(a) Constitutionally required department and department heads.

(b) Constitutional board-elected. (c) Constitutional commission-appointed.

Department of State Highways^a – Commission (4 members)^c

Present state highway department and commissioner (1) - State bridge commission (3) - Mackinac bridge authority (1) - International bridge authority (1)

Department of Civil Rights - Commission (8 members)^c

Present civil rights commission (1)

Department of State Police - Director

Present department and commissioner (3) - Civil defense advisory council (2) - State safety commission (2) - Private detectives licensing (from secretary of state) (2) - Permissive advisory council (new)

Department of Military Affairs - Director

Military establishment and state military board (1) - Naval militia and state naval board (1) - Permissive advisory council (new)

Department of Commerce - Director

Corporation and securities commission, except for duties elsewhere transferred (3) - Banking department and commissioner (1) - Insurance department and commissioner (1) - Liquor control commission (1) - Public service commission (1) - Department of economic expansion (2) - Department of aeronautics and commission (1) - Savings and loan functions (from secretary of state) (2) - Permissive advisory council (new)

Department of Licensing and Regulation - Director

Occupational and professional licensing boards, except as otherwise noted (1) - Corporation and securities commission licensing functions (2) - Sanitarians (from health) (1) - Psychologists (from education) (2) - Superintendent of private employment bureaus (1) - Permissive advisory council (new)

Department of Labor - Director

Commissioner of labor (3) - Workmen's compensation appeal board (1) - Employment security commission (4) - Employment security advisory council (4) - Employment security appeal board (4) - Wage deviation board (1) - Labor mediation board (1) - Workmen's compensation department and director (1) - State construction safety commission (1) - Inspector of coal mines (3) - Board of boiler rules (2) - Permissive advisory council (new)

Department of Mental Health - Director

Present department of mental health and director (1) - State advisory council on mental health (3) - Permissive advisory council (new)

Department of Public Health - Director

Present department of health and commissioner, except as otherwise noted (1) - State veterans' facility and board of managers (1) - State council of health (3) - Advisory councils (three) (3) - State board of alcoholism (2) - Crippled children's commission (2) - Permissive advisory council (new)

Department of Social Services - Director

Present department of social welfare (1) - Present social welfare commission and director (3) - Commission on aging (1) - Permissive advisory council (new)

Department of Agriculture - Commission (5 members)

Present department and director of agriculture (1) - Michigan weather service (1) - Soil conservation committee (2) - Apple commission (1) - Cherry commission (1) - 'Potato industry council (1) - Racing commissioner (1) - State fair authority (2) - Upper Peninsula state fair board of managers (2)

Department of Conservation - Commission (5 members)

Present department of conservation and director (1) - Mackinac Island state park commission (1) - Water resources commission (1) - State waterways commission (3) - Boating control committee (2) - Michigan tourist council (1)

Department of Corrections - Commission (5 members)

Present department of corrections (1)

Provisions are made for eight unpaid advisory councils, which the governor “may establish,” for each of the non-constitutional, single headed departments except the department of administration. Appointment of the new department heads for the purpose of formulating administrative and organizational details is permitted prior to the actual creation of the department. The effective date of each agency transfer shall be stipulated by executive order, except that terms of officials elected prior to January 1, 1964, shall not be shortened and all provisions “shall become effective not later than December 31, 1966.”

On the front page is shown a simplified chart of organization by department, and pages three and four list each principal department, its constituent agencies, and the type of its transfer to the new department.

The State Administrative Board

The state administrative board is constituted anew in the legislative bill. Retention of the board is not surprising in view of its long identification by many as an integral part of state government—although it is a statutory creation and has never had constitutional status.

What is surprising is that the provision returns to the governor the right of absolute veto over the decisions of the board. Originally created at Governor Groesbeck’s behest in 1921, the “Ad Board” was a device to gather diffused executive power into the governor’s hands and to allow him to exercise the responsibility expected of him, but often unable to be utilized amidst the actions of the many independently elected state officers. In 1921, the governor had a veto over Ad Board actions, but this was later removed, and until the recent legislative action, the board was a sort of super-committee of elected officials, always able to overrule the governor by majority vote.

The Ad Board originally consisted of the governor (as chairman), the secretary of state, attorney general, auditor general, state treasurer, superintendent of public instruction, and state highway commissioner—seven members all elected officials. Later, the lieutenant governor was added. The board will henceforth (if the bill is signed) consist of six members—the governor (as chairman), the lieutenant governor, secretary of state, attorney general, superintendent of public instruction (appointed by the state board of education), and the state treasurer (appointed by the governor).

Perhaps as much as any constitutional provision respecting the executive branch, the reconstituted Ad Board with provision for gubernatorial veto of its decisions will promote the constitutional injunction that “the executive power is vested in the governor.”

Conclusion

The first mention of concern with executive organization in Research Council publications dates from 1929. Limitation on the number of state agencies was advocated. Forty years later it may be said that time and tide wait for no man. It remains to be seen whether principles that have proved effective in other states can take root in Michigan. There is certainly no reason for pessimism.