

EXECUTIVE REORGANIZATION ORDERS 1999

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[No. 1999-5]

38.2721 Transfer of authority and duties relative to the deferred compensation plans and defined contribution plan from the state treasurer to the director of the department of management and budget by Type II transfer.

WHEREAS, Article V, Section 2, of the Constitution of the state of Michigan empowers the Governor to make changes in the organization of the Executive Branch or in the assignment of functions among its units which he considers necessary for efficient administration; and

WHEREAS, Act 306 of the Public Acts of 1976, as amended, being MCL 38.1151, provides that the State Treasurer is responsible for the administration and investment of the deferred compensation plan, which consists of (1) the state of Michigan Deferred Compensation Plan I under Section 457 of the Internal Revenue Code and (2) the Michigan State Employees Deferred Compensation Plan II under Section 401(k) of the Internal Revenue Code (collectively, the "Deferred Compensation Plans"); and

WHEREAS, Act 234 of the Public Acts of 1992, as amended, being MCL 38.2101 et seq., Act 240 of the Public Acts of 1943, as amended, being MCL 38.1 et seq., and Act 261 of the Public Acts of 1957, as amended, being MCL 38.1001 et seq., provide that the State Treasurer is responsible for administering, investing the assets of, and determining the provisions and procedures of Tier 2 (the "Defined Contribution Plan") for the Judges Retirement System, State Employees Retirement System, and the Legislative Retirement System, respectively; and

WHEREAS, the state of Michigan has entered into a contract with a third party administrator to provide administration, customer education, enrollment, investment, and recordkeeping services for the Deferred Compensation Plans and the Defined Contribution Plan; and

WHEREAS, the Department of Management and Budget administers various retirement systems and employee benefits programs for state employees and retirees; and

WHEREAS, the Deferred Compensation Plans and the Defined Contribution Plan, and any contracts for the provision of services related to the Deferred Compensation Plans and the Defined Contribution Plan, may be more effectively and efficiently administered and coordinated within the Department of Management and Budget; and

WHEREAS, it is most beneficial to the participants of the Deferred Compensation Plans and the Defined Contribution Plan if the State Treasurer, who is the investment fiduciary for the four state sponsored retirement plans and is also responsible for the investment functions for various other state operating and trust funds, continues to utilize his investment expertise in overseeing the investment options provided in the Deferred Compensation Plans and the Defined Contribution Plan;

NOW, THEREFORE, I, John Engler, Governor of the state of Michigan, pursuant to the powers vested in me by the Constitution of the state of Michigan of 1963 and the laws of the state of Michigan, do hereby order the following:

1. Except as provided in Paragraph 3, all the authority, powers, duties, functions, and responsibilities relative to the Deferred Compensation Plans set forth in Act No. 306 of the Public Acts of 1976, as amended, being MCL 38.1151, are hereby transferred from the State Treasurer to the Director of the Department of Management and Budget by a Type II transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

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2. Except as provided in Paragraph 3, all the authority, powers, duties, functions, and responsibilities relative to the Defined Contribution Plan set forth in Act 234 of the Public Acts of 1992, as amended, being MCL 38.2101 et seq., Act 240 of the Public Acts of 1943, as amended, being MCL 38.1 et seq., and Act 261 of the Public Acts of 1957, as amended, being MCL 38.1001 et seq., are hereby transferred to the Director of the Department of Management and Budget by a Type II transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being MCL 16.103.

3. The State Treasurer, with the advice of the Department of Management and Budget, shall continue to be responsible for approving the various investment offerings provided to the participants of the Deferred Compensation Plans and the Defined Contribution Plan and for establishing investment guidelines for the stable value fund options and mutual fund options in the Deferred Compensation Plans and the Defined Contribution Plan.

4. All records, personnel, property, and unexpended balances of appropriations, allocations and other used, held, employed, available to or to be made available to the Department of Treasury for the activities, powers, duties, functions and responsibilities transferred by this Order are hereby transferred to the Department of Management and Budget.

5. All rules, orders, contracts, investment contracts, investment guidelines, and other agreements relating to the Deferred Compensation Plans and the Defined Contribution Plan lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended or repealed.

6. The Department of Management and Budget shall determine and authorize the most efficient manner possible for handling financial transactions and records in the state's financial management system.

7. The Director of the Department of Management and Budget in cooperation with the State Treasurer shall provide executive direction and supervision for the implementation of the transfer. The Director of the Department of Management and Budget shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities described by this Order.

8. Any suit, action or other proceeding lawfully commenced by, against or before any entity affected by this Order shall not abate by reason of the taking effect of this Order. Any suit, action or other proceeding may be maintained by, against or before the appropriate successor of any entity affected by this Order.

9. The invalidity of any portion of this Order shall not affect the validity of the remainder thereof.

In fulfillment of the requirement of Article V, Section 2, of the Constitution of the state of Michigan of 1963, the provisions of this Executive Order shall become effective October 1, 1999.

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**Compiler's note:** Executive Reorganization Order No. 1999-5 was promulgated on July 28, 1999, as Executive Order No. 1999-7, Eff. October 1, 1999.

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