

EXECUTIVE REORGANIZATION ORDER
E.R.O. No. 1973-2

299.11 Transfer and consolidation of environmental functions.

WHEREAS, it is necessary to centralize the environmental functions of state government in order to provide a coordinated response to the environmental problems facing the State of Michigan; and

WHEREAS, the continued improvement in Michigan's outstanding environmental programs requires organizational structures to meet emerging problems; and

WHEREAS, Article V, Section 2, of the Michigan Constitution of 1963, empowers the Governor to make changes in the Executive Branch of Government and in the assignment of functions among its units which he considers necessary for efficient administration; and

WHEREAS, the Michigan Water Resources Commission was transferred to the Department of Conservation and its successor, the Department of Natural Resources, by a Type I transfer pursuant to Section 257 of Act 380 of 1965; and

WHEREAS, the Michigan State Waterways Commission was transferred to the Department of Conservation and its successor, the Department of Natural Resources, by a Type I transfer pursuant to Section 258 of Act 380 of 1965.

NOW, THEREFORE, I, WILLIAM G. MILLIKEN, Governor of the State of Michigan, pursuant to Article V, Section 2, of the Michigan Constitution hereby order the following:

1. The Department of Natural Resources and the Natural Resources Commission are hereby designated the state entity responsible for the development and coordination of all environmental functions and programs of the State of Michigan. In carrying out this mandate, the responsibilities of the Department and the Commission, in addition to the duties already prescribed by law, shall include but not be limited to the following:

a. to provide for the protection of persons and property through the protection of land resources and land-water interfaces in the state and the maintenance of water quality in the state.

b. to provide for the health of Michigan citizens through the prevention of hazards from air pollution and the prevention of health hazards in liquid and solid waste.

c. to integrate environmental preservation programs with state economic development programs including agriculture, through state land resource planning, land resources utilization and water resources planning and management.

d. to provide for the recreation and cultural enrichment of Michigan citizens including citizens residing in urban areas of the state, through programs designed to provide recreation opportunities through waterway usage services, fishery resource service, wildlife resource services, park and forest services and resource law enforcement.

2. The statutory authority, powers, duties, functions, and responsibilities of the Water Resources Commission created under Section 1, Act 245 of Public Acts of 1929, as amended, being section 323.1 of the Compiled Laws of 1948, are hereby transferred to the Department of Natural Resources by a Type II transfer as defined by Section 3(b) of Act 380 of the Public Acts of 1965.

a. The Water Resources Commission shall serve in an advisory capacity to the Natural Resources Commission and staff.

b. All records, property, personnel and unexpended balances of appropriations and allocations and other funds used, held, employed, available, or to be made available, to the Water Resources Commission are transferred to the Department of Natural Resources.

3. The statutory authority, powers, duties, functions and responsibilities of the Michigan State Waterways Commission created under Section 2 of Act 320 of Public Acts of 1947, being section 281.502 of the Compiled Laws of 1948 is hereby transferred to the Department of Natural Resources by a Type II transfer as defined by Section 3(b) of Act 380 of Public Acts of 1965.

a. The Michigan State Waterways Commission shall serve in an advisory capacity to the Natural Resources Commission and staff.

b. All records, property, personnel and unexpended balances of appropriations and allocations and other funds used, held, employed, available, or to be made available, to the Michigan State Waterways Commission are transferred to the Department of Natural Resources.

4. The statutory authority, powers, duties, functions and responsibilities of Air Pollution Control Commission created by Section 3 of Act 348 of the Public Acts of 1965 being 336.13 of the Compiled Laws of 1948 is hereby transferred from the Department of Public Health to the Department of Natural Resources by a Type II transfer as defined by Section 3(b) of Act 380 of the Public Acts of 1965.

a. The Air Pollution Control Commission shall serve in an advisory capacity to the Natural Resources Commission.

b. All records, property, personnel and unexpended balances of appropriations, allocations and other funds used, held, employed, available, or to be made available to the Air Pollution Control Commission are transferred to the Department of Natural Resources Commission.

c. The powers, duties and functions of the State Health Director, pursuant to Section 3, Act 250 of the Public Acts of 1965, with respect to certifications of facilities for a Pollution Control tax exemption is hereby transferred to the Department of Natural Resources.

5. There is hereby transferred from the Department of Public Health to the Department of Natural Resources, by a Type II transfer, as defined by Section 3(b) of Act 380 of Public Acts of 1965, the statutory authority, powers, duties, functions and responsibilities set forth in the following:

a. Act 98 of the Public Acts of 1913, as amended, being Section 325.201 et seq. of the Compiled Laws of 1948 insofar as the statute provides for the supervision and control of planning, construction, operation and maintenance of sewage systems and the certification of sewage treatment, works, operators.

b. Act 87 of the Public Acts of 1965, as amended, being 325.291 et seq. with respect to solid waste disposal.

c. Act 243 of Public Acts of 1951, as amended, being Section 325.281 et seq. of the Compiled Laws of 1948, relating to the licensing of septic tank cleaners.

d. All records, property, personnel and unexpended balances of appropriations, allocations and other funds used, held, employed, available, or to be made available to the Department of Public Health for the above purposes are transferred to the Department of Natural Resources.

6. There is hereby transferred from the Department of Agriculture to the Department of Natural Resources by a Type II transfer as defined by Section 3(b) Act 380 of the Public Acts of 1965, the statutory authority, powers, duties, functions and responsibilities set forth in the following acts, or parts of acts:

a. Act 40 of the Public Acts of 1956, as amended, being section 280.1 et seq. of the Compiled Laws of 1948, with respect to drains, more commonly known as the "Drain Code of 1956"

b. Act 238 of the Public Acts of 1972 establishing authority and appropriations for the coordination of watershed development.

7. The statutory authority, powers, duties, functions and responsibilities of the Boundary Commission created by Section 2 of Act 191 of the Public Acts of 1968, being Section 123.1002 of the Compiled Laws of 1948, is hereby transferred from the Department of Treasury to the Department of Natural Resources by a Type II transfer as defined by Section 3(b) of Act 380 of the Public Acts of 1965.

a. The Boundary Commission shall continue to serve in an advisory capacity to the Natural Resources Commission.

b. All records, property, personnel and unexpended balances of appropriations and allocations and other funds used, held, employed, available, or to be made available to the Boundary Commission are transferred to the Department of Natural Resources.

8. The Department of Natural Resources and the Natural Resources Commission are hereby ordered to assume complete responsibility for the development of a State Land Use Plan and to prepare legislative proposals to effectuate that program within one year of the effective date of this Executive Order.

The Special Commission on Land Use created by Executive Order 1970-15, as amended, by Executive Order 1971-7, is hereby abolished. The Interim Office on Land Use within the Executive Office of the Governor is hereby abolished. All of the duties, responsibilities, and functions of the Special Commission on Land Use and the Interim Office are hereby transferred to the Department of Natural Resources by a Type II transfer along with all records, property, personnel and unexpended balances of appropriations, allocations and other funds used, held, employed, available, or to be made available to the Special Commission on Land Use and the Interim Office on Land Use.

9. Executive Order 1969-1 creating the Advisory Council for Environmental Quality is hereby rescinded. The powers, duties, functions and responsibilities of the Council as set forth therein are hereby transferred to the Department of Natural Resources and the Natural Resources Commission.

10. All rules and orders of the agencies and entities transferred by this Executive Order lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended, or repealed.

11. All hearings and proceedings before commissions or other agencies included in the functions transferred by this Order shall be transferred to the Department of Natural Resources.

12. The Natural Resources Commission, after the effective date of this Order, shall make such departmental organizational changes as may be administratively necessary to complete the centralization of environmental functions contemplated by this Order.

The Director, Bureau of Programs and Budget, is hereby ordered to review and approve the internal

reorganization of the Department of Natural Resources on behalf of the Governor as set forth in Section 7(a) of Act 380 of Public Acts of 1965, as being Section 16.107 of the Compiled Laws of 1948.

In fulfillment of the requirements of Article V, Section 2, of the Michigan Constitution, the provisions of this Executive Order shall become effective April 1, 1973.

WHEREAS, Executive Order 1973-2 transferred and consolidated the environmental functions within the Department of Natural Resources; and

WHEREAS, modifications and clarifications of Executive Order 1973-2 would enable the State of Michigan to recognize legitimate concerns with respect to certain transferred functions;

NOW, THEREFORE, I, WILLIAM G. MILLIKEN, Governor of the State of Michigan, pursuant to Article V, Section 2, of the Michigan Constitution hereby order the following:

1. All of paragraph 2, page 2, of said executive order is stricken and in lieu thereof the following is hereby ordered:

"2. The statutory authority, powers, duties, functions, responsibilities of the Water Resources Commission created under Section 1, Act 245, P.A. 1929, as amended, being Section 323.1 of the Compiled Laws of 1948, are hereby transferred to the Department of Natural Resources by a Type II transfer as defined by Section 3(b) of Act 380 of the Public Acts of 1965, except that the following powers, duties and responsibilities specifically related to that function shall be exercised by the Water Resources Commission independent of the Department of Natural Resources.

a. Sections 2-6, 6(a), 6(b), 7-9 and 13 of Act 245, P.A. 1929 as amended; Sections 4, 8, and 10 of Act 167, P.A. 1970; Sections 4 and 5 of Act 211, P.A. 1956, as amended; Sections 3-5, 7, 10, 12, 14-17 of Act 329, P.A. 1966, as amended; Section 3 of Act 222, P.A. 1966; Sections 4, 5, 7, 11, 13, 14 and 15 of Act 347, P.A. 1972; and Section 423 of Act 40, P.A. 1956, as amended, by Act 298, P.A. 1972.

b. The Water Resources Commission shall continue to exercise independent authority with respect to quasi-judicial functions in the rule-making, enforcement, and issuance of orders in the water pollution control functions. In all other areas it shall serve in an advisory capacity to the Natural Resources Commission and staff.

c. All records, property, personnel and unexpended balances of appropriations and allocations and other funds used, held, employed, available, or to be made available to the Water Resources Commission are transferred to the Department of Natural Resources."

2. Paragraph 4, page 2, is amended by striking 4(a) and (b) and inserting the following:

"4. The statutory authority, powers, duties, functions and responsibilities of Air Pollution Control Commission created by Section 3 of Act 348 of the Public Acts of 1965 being 336.13 of the Compiled Laws of 1948 is hereby transferred from the Department of Public Health to the Department of Natural Resources by a Type II transfer as defined by Section 3(b) of Act 380 of the Public Acts of 1965, except that the powers, duties and responsibilities specifically related to that function as set forth in sections 4, 5(a)-(h), 5(j) 7-11, 14(a), 17-25 of Act 348, P.A. 1965, as amended by Act 257 of 1972, shall be exercised by the Air Pollution Control Commission independent of the control and supervision of the Department of Natural Resources.

a. The Air Pollution Control Commission shall continue to exercise independent authority with respect to quasi-judicial functions in the rule-making, enforcement, and issuance of orders in the air pollution control function. In all other areas it shall serve in an advisory capacity to the Natural Resources Commission and staff.

b. All records, property, personnel and unexpended balances of appropriations and allocations and other funds used, held, employed, available or to be made available to the Air Pollution Control Commission are transferred to the Department of Natural Resources."

3. Paragraph 6, page 3, is hereby amended by striking the entire paragraph and inserting the following:

"6. There is hereby transferred from the Department of Agriculture to the Department of Natural Resources the statutory authority, powers, duties, functions and responsibilities set forth in Act 238, P.A. 1972, establishing authority and appropriations for the coordination of watershed development.

a. All records, property, personnel and unexpended balances of appropriations and allocations and other funds used, held, employed, available or to be made available to the Department of Agriculture for the function transferred are transferred to the Department of Natural Resources."

4. Paragraph 7 of page 3 pertaining to transfer of the Boundary Commission is hereby stricken.

5. Within the Department of Natural Resources there is hereby created an environmental protection division and a natural resources division which shall be budgeted separately, with no transferability of funds between divisions except as authorized by the Legislature. The principal executive officer of the environmental protection division is the deputy director for environmental protection, and the principal executive officer of the natural resources division is the deputy director for natural resources. The principal

executive officer of the environmental protection division shall serve as the principal administrative officer of the water resources commission and the air pollution control commission. The water resources commission and the air pollution control commission may delegate to the principal executive officer of the environmental protection division such authority as they deem appropriate. The Natural Resources Commission shall make such additional departmental organizational changes as may be administratively necessary to complete the centralization of environmental functions contemplated by this order.

6. In fulfillment of the requirements of Article V, Section 2, of the Michigan Constitution, provisions of this amendatory order shall become effective May 14, 1973; all provisions of Executive Order 1973-2 that are not affected by this amendatory order shall be effective April 1, 1973. During that period April 1, and May 14, 1973, all determinations of the Air Pollution Control Commission and the Water Pollution Commission specifically reserved to those agencies pursuant to this amendatory executive order, and the determinations of the State Boundary Commission, shall be reviewed and acted upon by the Natural Resources Commission.

WHEREAS, the Michigan Department of Natural Resources, through its various programs, functions and responsibilities, as prescribed by State law, is mandated to conserve and develop the natural resources of the state in the interest of the health, safety and welfare of the people, and to provide for the protection of the air, water and other natural resources of the state from pollution, impairment and destructions; and

WHEREAS, the quality of the environment of Michigan and the opportunity to use and enjoy our natural resources is of great concern to all citizens of the state; and

WHEREAS, the Department of Natural Resources, over the years, has been given many new responsibilities which requires centralized and coordinated decisions and implementation; and

WHEREAS, these diverse responsibilities and continued advances in environmental protection and natural resources management require an organizational structure designed to meet existing and emerging program needs, and to centralize program responsibilities in order to provide a coordinated response to associated problems facing the State of Michigan; and

WHEREAS, Article V, Section 2, of the Michigan Constitution of 1963, empowers the Governor to make changes in the Executive Branch of government and in the assignment of functions among its units which he considers necessary for efficient administration; and

WHEREAS, Executive Order 1973-2 transferred and consolidated the environmental functions within the Department of Natural Resources, and modification and clarifications of Executive Order 1973-2 would enable the State of Michigan, through its Department of Natural Resources to more properly administer and implement its program activities;

NOW, THEREFORE, I, WILLIAM G. MILLIKEN, Governor of the State of Michigan, pursuant to Article V, Section 2, of the Michigan Constitution, hereby order the following:

1. Executive Order 1973-2a is hereby repealed and this order shall supersede the provisions of that order.

2. Executive Order 1973-2 shall remain in full force and effect as amended in the following manner:

a. Paragraph 2, page 1, as amended, reads as follows:

The statutory authority, powers, duties, functions and responsibilities of the Water Resources Commission created under Section 1, Act 245, P.A. 1929, as amended, being Section 323.1 of the Compiled Laws of 1948, are hereby transferred to the Department of Natural Resources by a Type II transfer as defined by Section 3(b) of Act 380 of the Public Acts of 1965, except that the Water Resources Commission shall continue to exercise independent authority with respect to quasi-judicial functions, rule-making, and issuance of permits and orders in the water pollution control functions, as specified in Section 2, Section 5, subsection (1) of Section 7, and subsection (b) of Section 8 of Act No. 245 of the Public Acts of 1929, as amended. In all other areas it shall serve in an advisory capacity to the Natural Resources Commission and staff.

b. Paragraph 4, page 2, as amended, reads as follows:

The statutory authority, powers, duties, functions and responsibilities of the Air Pollution Control Commission created by Section 3 of Act No. 348 of the Public Acts of 1965 being 336.13 of the Compiled Laws of 1948 is hereby transferred from the Department of Public Health to the Department of Natural Resources by a Type II transfer as defined by Section 3(b) of Act No. 380 of the Public Acts of 1965, except that the Air Pollution Control Commission shall continue to exercise independent authority with respect to quasi-judicial functions, rule-making, and issuance of permits and orders in the air pollution control function, as specifically prescribed by Section 4, subsections (a), (b), (c), (d), (e) and (h) of Section 5; Section 7; Section 9; Section 10; and Section 11 of Act No. 348 of the Public Acts of 1965, as amended. In all other areas it shall serve in an advisory capacity to the Natural Resources Commission and staff. The statutory authority, powers, duties, functions and responsibilities of the State Health Commissioner pursuant to Section 6, of Act No. 348 of the Public Acts of 1965, as amended, being Section 336.16 of the Compiled Laws of 1970, is transferred from the Department of Public Health to the Department of Natural Resources by a Type II transfer as defined by Section 3(b) of Act No. 380 of the Public Acts of 1965; further the Director of Public

Health shall continue to exercise independent authority with respect to the emergency powers in Section 14 of Act No. 348 of the Public Acts of 1965.

c. Paragraph 6, page 3, as amended, reads as follows:

There is hereby transferred from the Department of Agriculture to the Department of Natural Resources the statutory authority, powers, duties, functions and responsibilities set forth in Act No. 238 of the Public Acts of 1972, establishing authority and appropriations for the coordination of watershed development.

d. Paragraph 7, page 3, is stricken.

e. Paragraph 12, page 4, as amended, reads as follows:

The Natural Resources Commission, after the effective date of this order, shall issue an administrative order to internally reorganize the Department as may be deemed necessary to promote economic and efficient administration and operation of the Department, and shall promulgate all necessary administrative rules to implement the reorganization.

3. The functions of the "Environmental Protection Branch" of the Department of Natural Resources, as prescribed by subsection (1) and (4) of Section 7 of Act No. 366 of the Public Acts of 1974, are hereby transferred, by Type II transfer, as defined by Section 3(b) of Act No. 380 of the Public Acts of 1965, to the Department of Natural Resources.

4. The Director of the Department of Natural Resources, with the advice and consent of the Air Pollution Control Commission and Water Resources Commission, shall appoint an Executive Secretary to each commission.

The Director, Department of Management and Budget, is hereby ordered to review and approve the internal reorganization of the Department of Natural Resources on behalf of the Governor as set forth in Section 7(a) of Act No. 380 of the Public Acts of 1965, being Section 16.107 of the Michigan Compiled Laws.

In fulfillment of the requirements of Article V, Section 2 of the Michigan Constitution, the provisions of this Executive Order shall become effective September 1, 1976.

History: 1973, E.R.O. No. 1973-2, Eff. Apr. 1, 1973;—Am. 1973, E.R.O. No. 1973-2a, Eff. May 14, 1973;—Am. 1976, E.R.O. No. 1976-1, Eff. Sept. 1, 1976.

Compiler's note: Executive Reorganization Order No. 1976-1 was promulgated June 30, 1976, as Executive Order No. 1976-8 and became effective September 1, 1976. Executive Order No. 1976-8a, promulgated August 25, 1976, extended the effective date of Executive Order No. 1976-8 to November 1, 1976.

For transfer of powers and duties of department of natural resources and environment to department of natural resources, see E.R.O. No. 2011-1, compiled at MCL 324.99921.

Administrative rules: R 281.21 et seq.; R 299.3001 et seq.; R 323.1311 et seq.; R 336.201 et seq.; R 336.501 et seq.; and R 560.101 et seq. of the Michigan Administrative Code.