



BOARD OF COMMISSIONERS

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PUBLIC HEARING ON PROPOSED ORGANIZATION PLAN

THURSDAY, MARCH 19, 2015

FINAL AGENDA

1. Call to Order
2. Pledge of Allegiance
3. Roll Call
4. Call for Public Comments (three times)
5. Roll Call
6. Adjournment

MACOMB COUNTY BOARD OF COMMISSIONERS

David J. Flynn – Board Chair
District 4

Kathy Tocco – Vice Chair
District 11

Steve Marino – Sergeant-At-Arms
District 10

Andrey Duzyj – District 1
Don Brown – District 7

Marvin Sauger – District 2
Kathy Vosburg – District 8

Veronica Klinefelt – District 3
Fred Miller – District 9

Robert Mijac - District 5
Bob Smith – District 12

James Carabelli – District 6
Joe Sabatini – District 13

MACOMB COUNTY, MICHIGAN

2015 ORGANIZATION PLAN

Adopted by:
Board of Commissioners
 , 2015

Introduction

The County Executive submitted the following to the Board of Commissioners (the "Commission") as the proposed 2015 County Organization Plan:

Organization Plan

Submitted by Mark A. Hackel, County Executive
January 29, 2015

This Plan is being submitted as required by the Macomb County Home Rule Charter. I am not proposing any changes to the organization of County government at this time for the simple reason that I don't believe any changes are necessary at this time. Since no changes are being proposed, there is no financial impact on the County. Public access to the expenditure records of the County will continue to be provided in the same manner as outlined in the Organizational Plan approved by the Commission in 2011.

On March ____, 2015, the Commission voted to amend the proposed County Organization Plan so that it consists of this document.

The Executive's proposal seems to stem from a view that the Home Rule Charter of the County of Macomb (the "Charter") requires the Executive only submit proposed changes in the County government organization. Therefore, according to this view, if the Executive proposes no changes in County government organization, the Executive may propose an organization plan without substance.

The Commission reads the Charter differently. Section 3.6 of the Charter governs the process for proposing and approving the County organization plan:

Section 3.6 Organization Plan

3.6.1 Except as provided in Article XI, within 90 days after the start of a new term of office the Executive shall submit a proposed Organization Plan to the Commission which includes an explanation of the reasons for the plan and an evaluation of its financial impact.

3.6.2 The Organization Plan may provide for the creation or abolition of any Agency except for the departments and offices created by Article VII of this Charter and any others expressly exempted by this Charter or prohibited from being created or abolished by law. The Organization Plan may also transfer powers, duties, and functions of the County among the Agencies, including those created by Article VII of this Charter, if not prohibited by this Charter or law. The Executive may submit proposed amendments to the Organization Plan to the Commission at any time.

3.6.3 The Organization Plan shall provide for public access to the expenditure records of the County in a feasible, accessible, and economical manner.

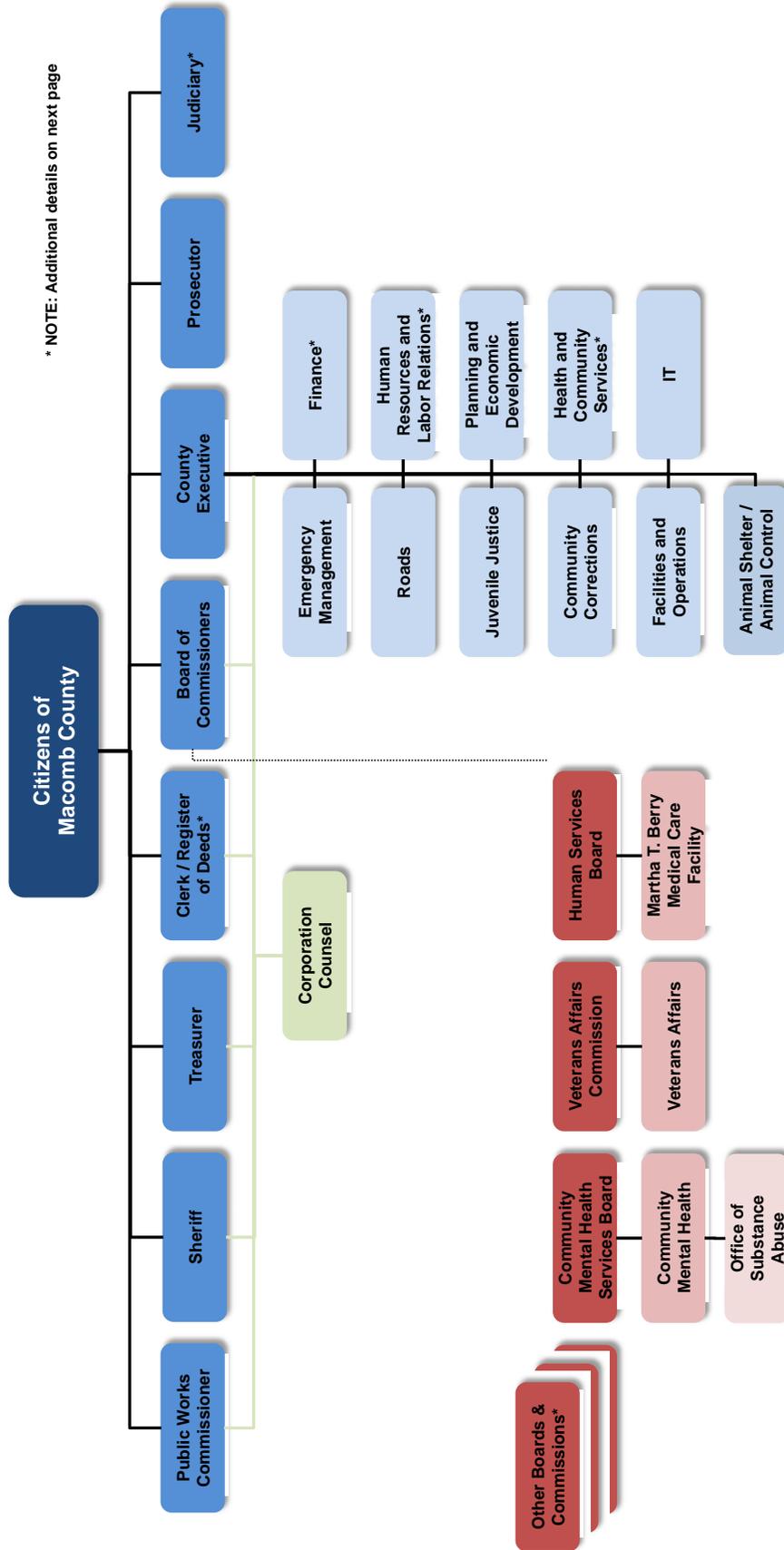
3.6.4 The Commission shall hold a public hearing on the proposed Organization Plan or any proposed amendment within 50 days after its submission and must either approve, with or without amendment, or reject the proposed Organization Plan or any proposed amendment within 75 days after its submission.

The Commission understands these provisions to require the Executive to submit an organization plan, regardless of whether or not that Executive wishes to make any changes in the previous organization plan. Similarly, regardless of whether or not the organization plan proposed by the Executive includes any changes and regardless of whether or not the Commission wishes to see any changes in it, the Commission must hold a public hearing on the organization plan proposed by the Executive within 50 days after the Executive submits it to the Commission. Following the public hearing, the Commission has

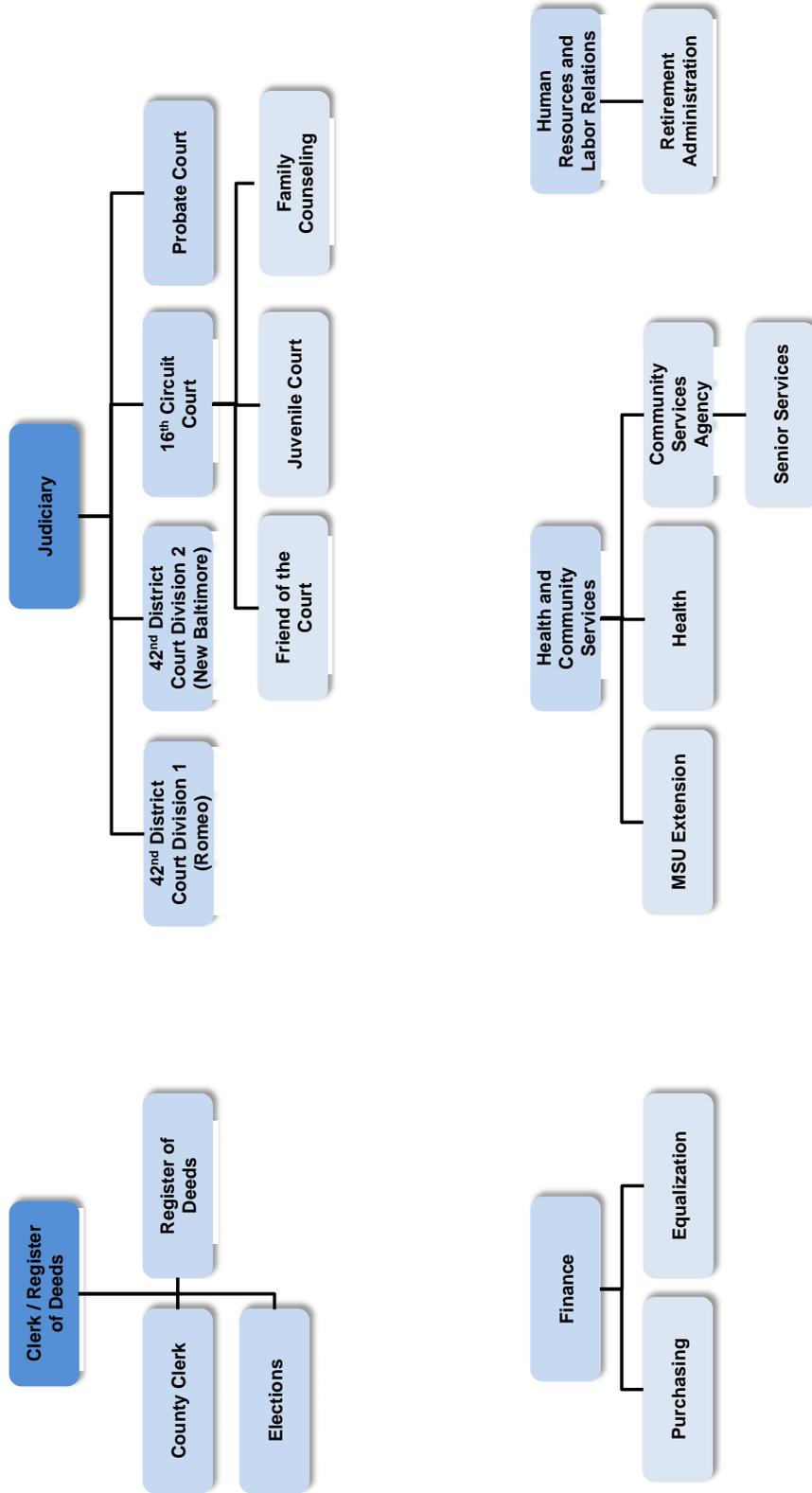
3 alternatives. It may by resolution (1) approve the proposed organization plan without amendments, (2) approve the proposed organization plan with amendments, or (3) reject the proposed organization plan.

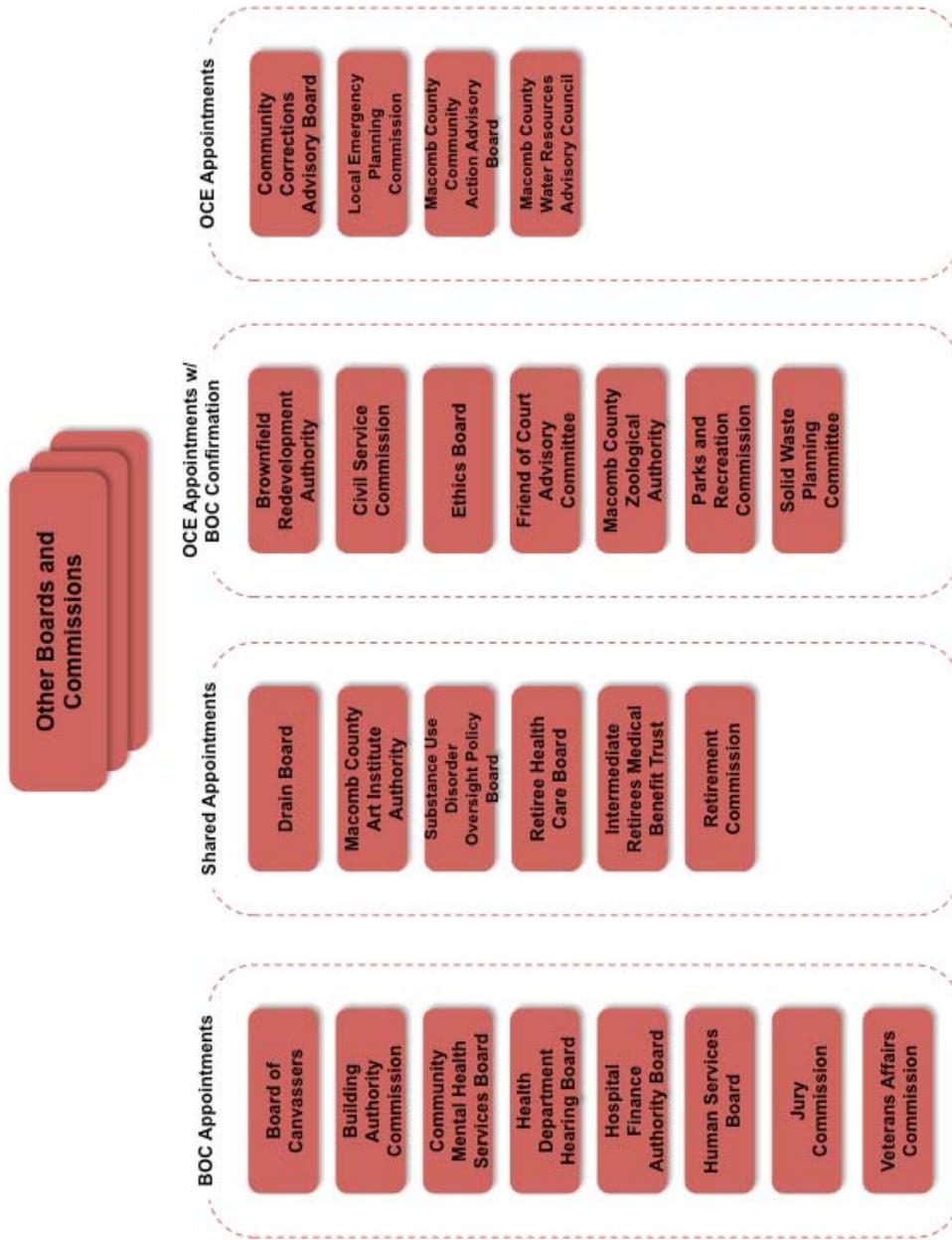
Organizational Chart

An organization chart of Macomb County government is included on the following page. That chart is meant to depict the general organization of County government. It does not depict every department, office or agency. To the extent a department, office or agency is not depicted, its organization and relationship with other departments, offices and agency remains the same as on December 31, 2014.



* NOTE: Additional details on next page





Plan Continuity

As represented in the 2011 Organization Plan, this Plan only addresses those Agencies falling under the Executive or the Commission. *No recommendations for change are being made for administrative functions that are under the jurisdiction of Countywide Elected Officials or for the courts.* The courts are not addressed by this Organization Plan because they are at least partially within the purview of the elected judges who are state, rather than County officers.

This 2015 Organization Plan basically continues the organization of County government as it existed on December 31, 2014. Clarifications are made with respect to the organization chart and the Martha T. Berry Medical Care Facility and Human Services Board so this plan reflects legal and organizational realities.

As indicated on the Organization Chart, each Countywide Elected Official has roles, responsibilities, deputies and other subordinates as provided in the Charter and corresponding state law. The Charter lays out their responsibilities as follows:

ARTICLE VI
DEPARTMENTS HEADED BY COUNTYWIDE ELECTED OFFICIALS

Section 6.1 Sheriff

The department of sheriff is created. The head of the department is the elected sheriff.

- 6.1.1 The powers and duties of the department are those provided by law for a county sheriff.
- 6.1.2 The department may contract with units of government within the County to provide services to such units upon approval of the Executive and the Commission.

Section 6.2 Prosecuting Attorney

The department of prosecuting attorney is created. The head of the department is the elected prosecuting attorney.

- 6.2.1 The powers and duties of the department are those provided by law for a prosecuting attorney.

Section 6.3 County Clerk and Register of Deeds

The departments of county clerk and register of deeds are created and shall remain combined as they existed at the effective date of this Charter. The head of the combined departments is the elected county clerk.

- 6.3.1 The powers and duties of the department are those provided by law for county clerks and registers of deeds.
- 6.3.2 The department shall maintain central records of the County as provided by law or ordinance. The county clerk, with the assistance of the Executive, shall preserve and keep all records and materials of the first and any future Charter Commission, including but not limited to, all audio and video recordings of the Charter Commission and its committees.

Section 6.4 County Treasurer

The department of county treasurer is created. The head of the department is the elected treasurer.

- 6.4.1 The powers and duties of the department are those provided by law for a county treasurer, including the receipt, deposit, and investment of funds belonging to and under the control of the County.

Section 6.5 Public Works

The department of public works is created. The head of the department is the elected public works commissioner.

6.5.1 The powers, duties, and functions of the department are the powers, duties, and functions of the public works commissioner combined with the powers, duties, and functions of the drain commissioner as existed at the effective date of this Charter.

6.5.2 The public works commissioner shall be elected in the same manner and for the same term as a county drain commissioner as provided by law.

Section 6.6 General Provisions

6.6.1 The Countywide Elected Officials provided for in this Article shall be elected on a partisan basis. The powers and duties specifically delegated by this Charter to departments created by this Article shall not be reassigned by an Organization Plan, but additional powers and duties may be assigned by an Organization Plan to any department.

6.6.2 The Countywide Elected Officials provided for in this Article shall manage their departments and exercise their powers and duties within authorized budget appropriations. These departments are part of County government and do not exist as separate or independent entities except as provided by law.

6.6.3 A vacancy in an office created under this Article occurs, and shall be filled within 90 days, in the manner provided by law. If the next general November election is to be held more than 182 days after the vacancy occurs, and is not the general November election at which a successor in office would be elected if there were no vacancy, the person appointed shall hold Approved by the Macomb County Charter Commission on June 17, 2009. office only until a successor is elected at the next general November election in the manner provided by law and qualifies for office. The successor shall hold the office for the remainder of the unexpired term.

6.6.4 The existence, organization, qualifications, powers, and duties of the Countywide Elected Officials and departments created by this Article shall continue as they existed upon the effective date of this Charter, but shall be subject to the following:

- (a) The Michigan Constitution and state law;
- (b) All Charter provisions of general or specific applicability; and
- (c) All personnel, budgeting, and expenditure recommendations of the Executive as approved by the Commission.

6.6.5 The Countywide Elected Officials provided for in this Article shall not cause the expenditure of taxpayer funds or public monies for legal counsel unless permitted by law, but may seek advice and counsel from Corporation Counsel upon request. If a Countywide Elected Official provided for in this Article desires to protect or seek authority to implement the rights, powers, and duties of the office, the Executive may authorize the use of Corporation Counsel, or the Commission may authorize the use of independent legal counsel, to seek injunctive, mandamus, or declaratory relief from a court of competent jurisdiction to clarify or enforce the rights, powers, and duties of the office. Individual departments shall not file suit against each other, and any action against the County shall name the County as a party. All actions relating to the rights, powers, or duties of a Countywide Elected Official provided for in this Article shall be solely for injunctive, mandamus, or declaratory relief against the County.

As is apparent from the quoted provisions, the Charter largely defers to state law with respect to the offices, duties and authority of Countywide Elected Officials. This Organization Plan recognizes the Charter and state law with respect to such officials and proposes no changes to the organization of their offices.

In addition to departments headed by Countywide Elected Officials, the Charter requires certain other offices and departments. The Charter lays this out as follows:

ARTICLE VII ADDITIONAL DEPARTMENTS AND OFFICES

Section 7.1 Planning and Economic Development

7.1.1 The department of Planning and Economic Development is created. The department shall:

- (a) Promote, coordinate, and oversee economic development initiatives within the County, including those that receive or will generate public funds;
- (b) Prepare comprehensive plans for economic development and represent the County in economic development planning activities with other jurisdictions;
- (c) Assist the Executive in planning related to the properties owned by the County, and undertake planning for the development of those properties;
- (d) Make available to cities, townships, and villages in the County, at their request, advice and assistance on matters related to planning functions of the County; and
- (e) Address matters related to the planning functions of the County. Approved by the Macomb

Section 7.2 Health and Community Services

7.2.1 The department of Health and Community Services is created. The department shall:

- (a) Supervise and carry out the performance of County public health and community service programs; and
- (b) Supervise and carry out environmental protection programs.

7.2.2 The office of senior services is created. The office shall coordinate the operations of the County that provide services for the aging and senior citizens, and shall serve within County government as the advocate for senior citizens. The office shall be supervised by an Appointee of the Executive subject to confirmation by the Commission. The coordination of services for the aging and for seniors and the advocacy for senior citizens may not be removed from this office by an Organization Plan.

Section 7.3 Human Resources and Labor Relations

7.3.1 The department of Human Resources and Labor Relations is created. The department of Human Resources and Labor Relations shall:

- (a) Formulate and direct the County's overall human resource program;
- (b) Negotiate all labor and employee relations matters on behalf of the County;
- (c) Administer collective bargaining agreements of the County;
- (d) Establish employment specifications and protocols for County Employees not covered by civil service; and
- (e) Assist the civil service commission.

7.3.2 Notwithstanding the requirements set forth in Section 7.3.1, the Executive shall submit all collective bargaining agreements to the Commission for final ratification or rejection.

Section 7.4 Finance

The department of Finance is created. The department of Finance shall:

- (a) Effectuate the provisions of Article VIII of this Charter; and
- (b) Administer financial affairs of the County in accordance with law.

Section 7.5 Corporation Counsel

7.5.1 The office of Corporation Counsel is created. Corporation Counsel shall be the chief legal counsel to the County and:

- (a) Direct and supervise the office of Corporation Counsel;
- (b) Represent the County, the Executive, the Commission, the department heads, and Agencies in civil legal matters affecting the County, except as provided by Charter, law, or ordinance; and
- (c) Represent the Countywide Elected Officials created by Article VI in the manner provided in Article VI of this Charter.

7.5.2 Corporation Counsel shall be appointed by the Executive and confirmed by the Commission.

7.5.3 Corporation Counsel may:

- (a) Hire assistant attorneys within budgetary appropriations in accordance with the policies of the County;
- (b) Appoint special counsel upon approval of the Commission; and

(c) Keep the Executive and the Commission advised on pending litigation matters on a periodic basis.

7.5.4 Corporation Counsel and all assistant attorneys shall be licensed to practice law in the State of Michigan.

7.5.5 The Executive and the Commission shall include in the general fund of the annual budget for each fiscal year, such sums as the Executive and the Commission deem necessary for the Corporation Counsel to carry out its duties.

Section 7.6 General Provisions Governing Departments and Agencies

Agencies of the County may be created only by ordinance or an Organization Plan or as otherwise provided by law. All departments created by this Article shall perform such other duties as required by this Charter, law, Organization Plan, or the Executive.

Section 7.7 Directors

Each department created in this Article shall be headed by an at will director. With the approval of the Executive, a director may hire employees within budgetary appropriations in accordance with the policies of the County.

The Charter therefore creates these offices, prescribes the duties and authority of the offices and departments and limits the ability of the Executive and the Commission to alter them.

Of the offices created by the Charter, the office of Corporation Counsel is unique. Corporation Counsel is to serve as legal counsel to the County, the Executive, the Commission, County officials, and Agencies in civil legal matters and is to provide advice and counsel to Countywide Elected Officials. Therefore, all of those officers and Agencies are clients of Corporation Counsel. The Organization Chart reflects that working relationship.

The Charter also expressly sets aside certain agencies from any modification. Those provisions state as follows:

Section 10.13 Veterans' Affairs

The Department of Veterans' Affairs existing at the time this Charter becomes effective shall continue and be exempt from reorganization in an Organization Plan subject to law and to the extent of available millage funding for veterans' affairs.

Section 10.14 Community Mental Health

The Community Mental Health Agency existing at the time this Charter becomes effective, including its administration of substance abuse services, shall continue and be exempt from reorganization in an Organization Plan subject to law and to the extent of state and federal funding for community mental health.

The organization chart also reflects the relationship of these agencies and the bodies that oversee them.

As noted in the 2011 Organization Plan, the former County Road Commission was reorganized into the Department of Roads in accordance with a voter approved ballot proposal. There are also some departments in County government that are neither specified by state law or the Charter. The Office of Emergency Management is an inter-disciplinary organization of emergency responders, community leaders, planners and volunteer organizations to provide strategic management processes to prepare and defend critical County assets from natural and other threats and to ensure the continuity of County governance. The Juvenile Justice Center is a childcare institution under the Executive's administration to provide a safe, secure, and caring environment to youth remanded to custody by the family court. Macomb County Community Corrections is a community-based sanction and rehabilitative program to relieve prison and jail overcrowding through court-approved sentencing alternatives. The offices of Information and Technology and of Facilities and Operations provide needed facilities and technology operations and oversight.

As indicated on the Organization Chart, other County boards and commissions will continue as currently provided. The following are County created or are otherwise Macomb County bodies:

Members of the following County bodies are appointed by the Commission:

- Board of Canvassers – a Macomb County body.
- Building Authority Commission – a public body corporate created by Macomb County.
- Community Mental Health Services Board – a Macomb County body.
- Health Department Hearing Board – a Macomb County agency.
- Hospital Finance Authority Board – a public body corporate created by Macomb County.
- Human (f/k/a Social) Services Board – a public body corporate created by state law.
- Jury Commission – a Macomb County body.
- Veterans Affairs Commission – oversees a Macomb County department created by state law and recognized by the Charter.

Members of the following County bodies have members that are appointed by the Commission and members that are appointed by the Executive:

- Drain Board – a Macomb County body.
- Macomb County Art Institute Authority – a public body corporate created by Macomb County.
- Substance Use Disorder Oversight Policy Board – a body required by state law.
- Retiree Health Care Board – a Macomb County body.
- Intermediate Retirees Medical Benefit Trust – a Macomb County body.
- Retirement Commission – a Macomb County body.

Members of the following County bodies are appointed by the Executive with confirmation of the Commission:

- Brownfield Redevelopment Authority – a public body corporate created by Macomb County.
- Civil Service Commission – a Macomb County agency.
- Ethics Board – a Macomb County body required by Charter.
- Friend of Court Citizen Advisory Committee – a Macomb County body.
- Macomb County Zoological Authority - a public body corporate created by Macomb County.
- Parks and Recreation Committee – a Macomb County body.
- Solid Waste Planning Committee – a Macomb County body.

Members of the following are appointed by the Executive:

- Community Corrections Advisory Board – a Macomb County body.
- Local Emergency Planning Commission – a Macomb County body.
- Macomb County Community Actions Advisory Board – a Macomb County body now within the Macomb County Community Services Agency (MCCSA).
- Macomb County Water Resource Advisory Council

The Economic Development Corporation is not active, but cannot yet be eliminated because there are outstanding bonds. When those bonds are fully paid, the Economic Development Corporation can be dissolved.

This 2015 Organization Plan basically continues the organization of County government as it existed on December 31, 2014. Clarifications are made with respect to the organization chart and the Martha T. Berry Medical Care Facility and Human Services Board so this plan reflects legal and organizational realities. Aside from the financial impact explained below with respect to the Human Services Board, there are no financial impacts expected to result from this plan.

Martha T. Berry Medical Care Facility

The 2011 Organization Plan provided a direction for the Human Services Board (“HSB”) and the Martha T. Berry Medical Care Facility (the “MTBMCF”). Differences in understandings of the applicable law between the OCE and the HSB in 2013 and 2014 resulted in a lawsuit seeking a court’s determination and an opinion and order issued by Macomb County Circuit Judge Biernat in that clarified the relationship of the HSB and the MTBMCF with the County.¹ As some differences of understanding continued to be expressed following the conclusion of that lawsuit, on October 16, 2014, the Commission adopted a resolution stating its position concerning the relationship of the HSB and the MTBMCF with the County.

Subsequent action by the County’s Retirement Commission and a 2014 amendment to the Macomb County Employees Retirement System Ordinance make it clear that employees at the MTBMCF will continue to be eligible to participate in the County Employees Retirement System. The Macomb County Retiree Health Care Board of Trustees took a similar position with respect to MTBMCF employees who were eligible for retiree health care benefits.

Some aspects of relationship of the HSB and the MTBMCF with the County are clearly set out in applicable state law. Others are provided by the Joint Operating Agreement, dated January 22, 2009, among the Commission, the HSB, and four labor unions – the AFSCME, the SEIU, the MNA, and the UAW (the “JOA”).

The HSB was created pursuant to state law. The state Social Welfare Act provides for the creation of county social welfare boards (later referred to as county family independence agency board boards and, now, as county human services boards).² The HSB is a public body corporate³ the 3-member board of which consists of two County residents appointed by the Commission and one County resident appointed by the state.⁴ The hybrid state-county nature of the HSB is not dissimilar to that of other county agencies.⁵

The MTBMCF is and must continue to be County-owned⁶ and a county board of commissioners may levy a tax to construct or extend a medical care facility.⁷ A county board of commissioners (and only a board of commissioners) may delegate the supervision (oversight) and operation of a medical care facility to its HSB.⁸

Prior to the JOA, all MTBMCF employees were County employees. The JOA did not change their status as County employees⁹ and *HSB v Hackel* did not reflect any change in their employment or the benefits to which they are entitled. However, under the JOA, MTBMCF employees are under the supervision and control solely of the HSB. Under the JOA, the HSB also serves as the County’s collective bargaining representative and human resources agent with respect to MTBMCF employees.

The JOA requires Board of Commissioners’ approval of the HSB annual budget.¹⁰ Furthermore, state law requires a county HSB to be responsible for collecting funds “for the cost of care given in the [county medical care] facility” which then need to be deposited in the social welfare fund which is maintained by the County Treasurer.¹¹ Even any “grant, devise, bequest, donation, gift,” etc. an HSB’s receives is “on behalf of the county.”¹²

¹ *Macomb County Human Services Board v Hackel*, Case No. 2013-3032-CZ, decided August 28, 2014 (cited *HSB v Hackel*).

² MCL 400.45 and 400.46.

³ MCL 400.81.

⁴ MCL 400.46(1).

⁵ *E.g.*, the state and the county are co-employers of court employees. County drains are county agencies but are separate entities. MCL 280.5. Other bodies listed above are also created by state law and some even serve state bodies (*e.g.*, the Jury Commission).

⁶ MCL 400.58.

⁷ MCL 400.58b.

⁸ MCL 400.58(1). The Social Welfare Act authorizes a county commission to grant to a human services board supervision and oversight of a medical care facility. *HSB v Hackel*, at 10 and 12.

⁹ The JOA assigned human resources and other responsibilities to the HSB and the unions recognized the HSB as the County’s “sole and exclusive *representative*” for collective bargaining, JOA, §§ IV and V.A.1.

¹⁰ JOA § VI.A.

¹¹ MCL 400.58(1); 400.73a.

¹² MCL 400.78.

The HSB recently obtained its own federal employer identification number. As state and federal agencies adjust to this change, some delays in Medicaid payments may occur, perhaps interrupting HSB and MTBMCF cash flows.

Other County offices, departments and agencies will discontinue providing internal services to the HSB and the MTBMCF. This will result in the reduction of \$791,586 in payments from the HSB to the County for internal services. Because the County is unlikely to reduce its workforce in other offices, departments and agencies providing those internal services, that reduction of revenues will need to be addressed in other ways and may have a financial impact on the County. The financial impact upon the MTBMCF may be beneficial as the HSB initially reports it has been able to contract with service providers or to undertake such services "in-house" for lower costs than the budgeted internal services payments. The HSB will continue to be obligated to pay the County amounts sufficient to make the County's periodic payments on its outstanding debt for the MTBMCF.

Conclusion

This plan is intended to depict and describe organizational realities in accordance with the Charter and other applicable law.