

COLLEGES AND UNIVERSITIES: Boards of Control
CONSTITUTIONAL LAW: Boards of Control of State Universities
STATE BOARD OF EDUCATION: Authority over certain state institutions.

Under Article VIII, Sec. 6, Michigan Constitution of 1963, the people have entrusted the government of Eastern Michigan University, Central Michigan University, Northern Michigan University and Western Michigan University to its respective board of control to be composed of 8 members appointed by the governor by and with the advice and consent of the Senate. Pursuant to implementing legislation adopted by the Second Extra Session of the 1963 Michigan Legislature, the governor may appoint 8 members by and with the advice and consent of the Senate to serve on the the board of control of each of the aforesaid universities upon the effective date of the Michigan Constitution of 1963, being January 1, 1964.

After the effective date of the Michigan Constitution of 1963 the State Board of Education is without authority to govern Eastern Michigan University, Central Michigan University, Northern Michigan University and Western Michigan University.

No. 4206

December 23, 1963.

Dr. Lynn M. Bartlett, Secretary
 State Board of Education
 Capitol Building
 Lansing, Michigan

You have requested my opinion on the following question:

“Under the new constitution, when will the new governing boards which are to be appointed by the Governor for the four institutions presently under the State Board of Education be installed in office and take over the duties of governing these institutions?”

The State Board of Education is a constitutional body created pursuant to Article XI, Sec. 6 of the Michigan Constitution of 1908 and the people have entrusted the general supervision of the state normal college and the state normal schools in the State Board of Education.

Pursuant to the mandate of the people contained in Article XI, Sec. 6 of the Michigan Constitution of 1908, the State Board of Education has been governing Eastern Michigan University, Central Michigan University, Northern Michigan University and Western Michigan University, in accordance with powers conferred upon it by the legislature as contained in Act 194, P.A. 1889, as amended, being C.L.S. 1961 § 390.401, et seq.; M.S.A. 1959 Rev. Vol. § 15.1001 et seq.

The people have made provision for the State Board of Education in Article VIII, Sec. 3 of the Michigan Constitution of 1963 and pertinent portions thereof are quoted as follows:

“Leadership and general supervision over all public education, including adult education and instructional programs in state institutions, except as to institutions of higher education granting baccalaureate

degrees, is vested in a state board of education. It shall serve as the general planning and coordinating body for all public education, including higher education, and shall advise the legislature as to the financial requirements in connection therewith.

* * *

"The power of the boards of institutions of higher education provided in this constitution to supervise their respective institutions and control and direct the expenditure of the institutions' funds shall not be limited by this section."

Consideration must also be given to Article VIII, Sec. 6 of the Michigan Constitution of 1963, which provides as follows:

"Other institutions of higher education established by law having authority to grant baccalaureate degrees shall each be governed by a board of control which shall be a body corporate. The board shall have general supervision of the institution and the control and direction of all expenditures from the institution's funds. It shall, as often as necessary, elect a president of the institution under its supervision. He shall be the principal executive officer of the institution and be ex-officio a member of the board without the right to vote. The board may elect one of its members or may designate the president, to preside at board meetings. Each board of control shall consist of eight members who shall hold office for terms of eight years, not more than two of which shall expire in the same year, and who shall be appointed by the governor by and with the advice and consent of the senate. Vacancies shall be filled in like manner."

Section 10 of the Schedule and Temporary Provisions of the Michigan Constitution of 1963 provides as follows:

"The provisions of this constitution providing for members of boards of control of institutions of higher education and the state board of public community and junior colleges shall be implemented by law. The law may provide that the term of each member in office on the date of the vote on this constitution may be extended, and may further provide that the initial terms of office of members may be less than eight years."

Finally, reference is made to Sec. 16 of the Schedule and Temporary Provisions of the Michigan Constitution of 1963, which provides in part as follows:

"* * * If the revised constitution so submitted receives more votes in its favor than were cast against it, it shall be the supreme law of the state on and after the first day of January of the year following its adoption."

Constitutional provisions relating to the same subject matter must be construed with reference to each other. *Dullam v. Willson*, 53 Mich. 392 (1884).

In the construction of constitutional provisions the intent of the people is ascertained and given effect. *School District of Pontiac v. City of Pontiac*, 262 Mich. 338 (1933).

From a reading of the Constitution, the intent of the people in adopting the Michigan Constitution of 1963, as it relates to the effective date of the controlling boards of Eastern Michigan University, Central Michigan University, Northern Michigan University and Western Michigan University, is clear.

In accordance with implementing legislation adopted by the legislature at its Second Extra Session in 1963, as provided in Sec. 10 of the Schedule and Temporary Provisions of the Michigan Constitution, the people have mandated that a separate board of control consisting of 8 members appointed by the governor by and with the advice and consent of the Senate, shall govern each of the four state universities granting baccalaureate degrees which are named Eastern Michigan University, Central Michigan University, Northern Michigan University and Western Michigan University.

While the people have entrusted leadership and general supervision over all public education, including adult education and instructional programs in state institutions in the State Board of Education through Article VIII, Sec. 3, they have expressly reserved authority over the institutions of higher education granting baccalaureate degrees to the controlling boards of institutions of higher education provided in this constitution.

Therefore, it is the opinion of the Attorney General that under the Michigan Constitution of 1963, effective January 1, 1964, a separate board of control is provided by the people as the governing body of each of the four state universities previously under the jurisdiction of the State Board of Education. Thus, Eastern Michigan University, Central Michigan University, Northern Michigan University and Western Michigan University shall be governed by its own board of control to be composed of 8 members appointed by the governor by and with the advice and consent of the senate. Appointments to the separate boards of control are to be made by the governor in accordance with the provisions of House Enrolled Bill No. 54¹ passed by the Michigan 72nd Legislature, Second Extra Session of 1963.

Since the 1964 Michigan Legislature is not scheduled to reconvene until January 8, 1964, in accordance with the mandate of the people contained in Article IV, Sec. 13 of the Michigan Constitution of 1963, the members of the respective boards of control appointed by the governor prior to that time may assume the duties of their office upon the taking of their oath of office in accordance with Article XI, Sec. 1 of the Michigan Constitution of 1963.

FRANK J. KELLEY,
Attorney General.

¹ It is assumed that the Enrolled House Bill No. 54 will be approved by the Governor when it is submitted to him for his approval.