

FY 2015-16: DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
Summary: House Subcommittee Reported
House Bill 4106 (H-1) Draft 1



Analyst: Paul B.A. Holland

	FY 2014-15 YTD as of 3/12/15	FY 2015-16 Executive	FY 2015-16 House	FY 2015-16 Senate	FY 2015-16 Enacted	<i>Difference: House From FY 2014-15 YTD</i>	
						<i>Amount</i>	<i>%</i>
IDG/IDT	\$14,509,800	\$15,754,900	\$16,279,900			\$1,770,100	12.2
Federal	200,624,800	200,388,700	200,388,700			(236,100)	(0.1)
Local	656,500	679,000	679,000			22,500	3.4
Private	311,800	311,300	311,300			(500)	(0.2)
Restricted	286,464,000	304,248,600	298,742,500			12,278,500	4.3
GF/GP	39,821,300	24,223,400	22,894,700			(16,926,600)	(42.5)
Gross	\$542,388,200	\$545,605,900	\$539,296,100			(\$3,092,100)	(0.6)
FTEs	2,877.8	2,877.8	2,862.8			(15.0)	(0.5)

Notes: (1) FY 2014-15 adjusted year-to-date figures include mid-year budget adjustments through March 12, 2015 (including Executive Order 2015-5, House Bill 4110, and House Bill 4112). (2) Appropriation figures for all years include all proposed appropriation amounts, including amounts designated as "one-time."

Overview

The Department of Licensing and Regulatory Affairs (LARA) is primarily responsible for business regulatory and employment services programs and is organized according to its four principal functions: 1) Licensing and Regulation, which implements and enforces statutory laws and administrative rules pertaining to commercial and occupational, construction and fire safety, healthcare professional and facility, public utility, and liquor regulation; 2) Employment Security and Workplace Safety, which oversees unemployment and workers' compensation insurance, occupational safety and health standards, labor and wage laws, and vocational rehabilitation services for the blind; 3) the Michigan Administrative Hearing System (MAHS), a quasi-judicial agency which centralizes and conducts administrative hearings for agencies throughout state government; and 4) the Office of Regulatory Reinvention (ORR), which manages administrative rule-making and evaluates the state's regulatory infrastructure. The agencies within LARA are primarily supported by revenue generated through numerous fees collected from regulated entities and various federal grants awards.

Major Budget Changes From FY 2014-15 YTD Appropriations

1. Career & Technology Education & Skilled Trades Initiative

Executive includes spending authorization for various programs intended to enhance career and technology education and skilled trades training; consisting of \$10.0 million for the Skilled Trades Training Program (in addition to an existing \$10.0 million appropriation within the MSF budget), \$2.1 million for an At-Risk Youth Initiative, \$1.8 million for a Michigan Advanced Technical Training Initiative, \$1.5 million to enhance re-employment opportunities for unemployed workers, and \$200,000 to support the re-tooling of credentials received by persons immigrating to Michigan. The Initiative is primarily supported with revenue from the Penalty and Interest Account of the Unemployment Insurance Agency's Contingent Fund and partially with federal unemployment insurance administration grants. House concurs.

	FY 2014-15 Year-to-Date (as of 3/12/15)	FY 2015-16 House Change
Gross	NA	\$15,600,000
Federal	NA	1,500,000
Restricted	NA	14,100,000

<u>Major Budget Changes From FY 2014-15 YTD Appropriations</u>		<u>FY 2014-15 Year-to-Date (as of 3/12/15)</u>	<u>FY 2015-16 House Change</u>
2. Unemployment Insurance Customer Service			
<p><u>Executive</u> transfers spending authorization from one-time to include as ongoing for the maintenance of customer services at the Unemployment Insurance Agency (UIA), supported with revenue from the Penalty and Interest Account of the Contingent Fund (Fund) in which penalties, damages, and interest collected from employers and claimants are deposited. In August of 2012, due to the decline in the state's Insured Unemployment Rate, the federal government reduced the amount of administration grants to the UIA by \$37.2 million, resulting in 402 FTEs being laid-off, and there continues to be uncertainty concerning the amounts of quarterly grant awards. The Legislature approved a contingency transfer authorizing \$5.0 million from the Fund to support the maintenance of UIA operations during both FY 2012-13 and FY 2013-14 and included a one-time appropriation of \$18.0 million for FY 2014-15 (see #6 below). In July 2014, the U.S. Department of Labor has notified the UIA that it is "at risk" of decertification, resulting in loss of federal employer tax credits and administration grants, for failing to satisfy timeliness standards for first benefit payments and determination of appeals. <u>House</u> concurs.</p>	Gross	\$18,000,000	\$0
	Restricted	18,000,000	0
3. Statutory Fee Sunsets			
<p><u>Executive</u> assumes revenues generated by the elimination of sunsets on numerous past statutory fee increases, set to expire on September 30, 2015, for various business and nonprofit filing and securities registration fees collected by the Corporations, Securities, and Commercial Licensing Bureau (CSCLB) and numerous occupational registration and licensure fees collected by the CSCLB and the Bureau of Construction Codes (BCC). LARA estimates that the elimination of these fee sunsets will preserve an annualized average of \$15.5 million in restricted revenue. The Legislature increased these fees in either 2003 or 2008 and most recently extended the sunsets in 2012. <u>House</u> concurs in part, but assumes the extension rather than the elimination of the sunsets.</p>	Gross	\$67,173,200	\$0
	Restricted	67,173,200	0
4. Health Facilities Fees			
<p><u>Executive</u> assumes revenues generated by implementation of increases in application, base rate, and per bed licensure fees levied on acute and psychiatric hospitals, hospice agencies and residences, long term care and freestanding surgical outpatient facilities, and substance use disorder programs, and collected by the Bureau of Health Care Services (BHCS). LARA estimates these fee increases would generated an additional \$1.3 million per year. These fees were last adjusted between 20 and 35 years ago and the increases are substantially similar to those proposed by the BHCS in the annual report required by boilerplate Sec. 509 of 2014 PA 252. It is further assumed that fees would be levied annually while inspections of facilities would be triennial. No increase in spending authorization is required as the Health Systems Fees fund, into which these fees are deposited, is currently over-appropriated. <u>House</u> concurs.</p>	Gross	\$3,702,900	\$0
	Restricted	3,702,900	0

Major Budget Changes From FY 2014-15 YTD Appropriations		FY 2014-15 Year-to-Date (as of 3/12/15)	FY 2015-16 House Change
5. Retail Liquor License Fees			
<u>Executive</u> assumes and increases spending authorization for revenues generated by implementation of increases in annual licensure and ancillary fees levied on various on- and off-premise retailers of beer, wine, and liquor products and collected by the Liquor Control Commission (LCC). These fees would be increased by 50.0% for FY 2015-16 through FY 2018-19; thereafter the increase would be reduced to 25.0% above current levels. LARA estimates these fee increases would generated an additional \$6.3 million per year through FY 2018-19 and \$3.1 million thereafter. Annual licensure fees were last adjusted in 1976. Generally, 55.0% of licensure fee revenue is distributed to local law enforcement agencies for the enforcement of state liquor laws, 41.5% of licensure fee revenue and all ancillary fee revenue is retained by the LCC for implementation and enforcement of state liquor laws, and 3.5% of annual licensure fee revenue and all of the 15.0% surcharge for Sunday P.M. sales is deposited with the Department of Community Health for programs pertaining to alcohol-related illnesses. <u>House</u> rejects (see #15 below).	Gross	\$15,280,000	\$0
	Restricted	15,280,000	0
6. FY 2014-15 One-Time Appropriations			
<u>Executive</u> removes spending authorization for FY 2014-15 one-time appropriations for Delphi Corporation workers' compensation payments (\$15.0 million GF/GP), Liquor Control Commission IT upgrades (\$500,000 Gross), and a disability access pilot project implemented by the Disability Advocates of Kent County (\$100,000 Gross). Also, eliminates \$100,000 GF/GP appropriated by 2014 PA 414 for costs incurred by the Bureau of Employment Relations to receive and upload specified collective bargaining documents. One-time spending authorization for customer services at the Unemployment Insurance Agency customer service (\$18.0 million Gross) is transferred to ongoing authorization (see #2 above). <u>House</u> concurs in part, but also includes reduction of remaining one-time authorization (\$99,700 GF/GP) for implementation of a health professional disciplinary actions website pursuant to Sec. 512 of Article XIII of 2014 PA 252.	Gross	\$15,799,700	(\$15,799,700)
	Restricted	600,000	(600,000)
	GF/GP	\$15,199,700	(\$15,199,700)
7. Michigan Business One Stop Charges			
<u>Executive</u> decreases spending authorization for information technology charges by the Department of Technology, Management, and Budget, resultant from the elimination of the Michigan Business One Stop web portal and call center pursuant to 2014 PA 252. <u>House</u> concurs.	Gross	\$41,795,200	(\$2,147,900)
	Federal	23,446,600	(76,900)
	Restricted	18,283,400	(2,071,000)
	GF/GP	\$65,200	\$0
8. Corporate and Commercial Licensing Databases			
<u>Executive</u> increases spending authorization for information technology costs associated with upgrades to the databases utilized by the Corporation, Securities, and Commercial Licensing Bureau (CSCLB) for regulatory, examination, registration, and licensure activities pursuant to state laws applicable to business and nonprofit entities or various professional occupations. <u>House</u> concurs.	Gross	\$41,795,200	\$1,820,000
	Federal	23,446,600	0
	Restricted	18,283,400	1,820,000
	GF/GP	\$65,200	\$0
9. METRO Authority			
<u>Executive</u> eliminates spending and staff authorization for the Metropolitan Extension Telecommunication Rights-of-Way Oversight (METRO) Authority abolished via 2014 PA 88. This authorization also included LARA's expenses related to compliance with and coordination of and Freedom of Information Act (FOIA) requests. The METRO Authority and LARA's FOIA costs were supported with Public Utility Assessments levied pursuant to 1972 PA 299. <u>House</u> concurs.	FTE	3.0	(3.0)
	Gross	\$383,600	(\$383,600)
	Restricted	383,600	(383,600)

Major Budget Changes From FY 2014-15 YTD Appropriations	FY 2014-15 Year-to-Date (as of 3/12/15)	FY 2015-16 House Change
10. FOIA Coordination and Local Community Stabilization Authority		
<u>Executive</u> increases spending and staff authorization for the expenses related to the powers, duties, functions, and responsibilities of the former METRO Authority transferred to the Local Community Stabilization Authority (LCSA) via 2014 PAs 86 and 88. LARA is currently negotiating a contract with the LCSA which is intended to establish a funding mechanism to support these expenses. This authorization also includes LARA's expenses related to compliance with and coordination of and Freedom of Information Act (FOIA) requests, supported with statutory filing fees levied on business on nonprofit entities. <u>House</u> concurs in part, but includes the spending and staff authorization in two distinct line items.	FTE Gross Local Restricted	NA NA NA NA
		3.0 \$452,900 150,000 302,900
11. Michigan Administrative Hearing System Overhead Costs		
<u>Executive</u> increases spending authorization to support the overhead costs (e.g., property management, information technology, and departmental administration) of the Michigan Administrative Hearing System (MAHS) associated with administrative hearings on decisions made under programs administered by other state departments and agencies. <u>House</u> concurs.	FTE Gross IDG/IDT Federal Restricted GF/GP	215.0 \$38,425,800 14,259,800 9,842,600 12,834,300 \$1,489,100
		0.0 \$1,014,200 1,014,200 0 0 \$0
12. Technical Adjustments		
<u>Executive</u> includes multiple adjustments to spending and staff authorizations for numerous funds affecting various line items to more accurately reflect available and appropriate revenues and align authorization with actual operations; technical adjustments may involve increasing or decreasing spending or staff authorization or shifting authorization between fund sources within a single line item or transferring spending or staff authorization between line items. <u>House</u> concurs in part, but rejects the partial roll-up of federal and restricted fund sources, and includes replacement of GF/GP with IDG revenue for the Office of Reinventing Performance in Michigan, replacement of GF/GP with Corporation Fees revenue for MIOSHA and the Wage & Hour Program, and reduction of FTEs for the PSC and LCC to reflect actual staffing levels.	FTE Gross IDG/IDT Federal Local Restricted GF/GP	20.0 \$8,510,700 707,700 2,375,000 127,500 4,152,200 \$1,149,000
		(15.0) (\$807,000) 818,000 (681,300) (127,500) 332,800 (\$1,149,000)
13. Economic Adjustments		
<u>Executive</u> includes adjustment to reflect net cost reduction for negotiated salary and wage amounts (2.0% base increase), insurance rate increases, reductions in actuarially-determined retirement rates, and other economic adjustments. <u>House</u> concurs.	Gross IDG/IDT Federal Private Restricted GF/GP	NA NA NA NA NA NA
		(\$1,893,800) (62,100) (977,900) (500) (805,400) (47,900)
14. Freestanding Surgical Outpatient Facility Inspections		
<u>House</u> decreases spending authorization, specified in Sec. 510 of Article XIII of 2014 PA 252, for the inspection of freestanding surgical outpatient facilities by the Bureau of Health Care Services (BHCS), which has been included since FY 2012-13 to supplement insufficient revenue generated by statutory licensure fees, however the <u>House</u> does concur with the <u>Executive</u> to assume additional revenues generated by the increase of statutory licensure fees (see #4 above).	FTE Gross Federal Private Restricted GF/GP	200.4 \$28,845,400 19,575,400 200,000 3,317,400 \$5,752,600
		0.0 (\$530,000) 0 0 0 (\$530,000)

<u>Major Budget Changes From FY 2014-15 YTD Appropriations</u>		<u>FY 2014-15 Year-to-Date (as of 3/12/15)</u>	<u>FY 2015-16 House Change</u>
15. Liquor Licensing and Enforcement Fund Shift	FTE	124.0	0.0
<u>House</u> shifts \$1.5 million in spending authorization for the liquor licensing and enforcement activities of the Liquor Control Commission (LCC) from revenue generated by statutory licensure fees levied on liquor retailers to revenue generated from the statutory mark-up on the wholesale sale of liquor products to licensed retailers by the LCC. While revenue generated by retail liquor licensure fees has remained relatively stable over recent years, the LCC's personnel costs significantly rose subsequent to the enactment of 2011 PA 264 which required the prefunding of other postemployment benefits (OPEB) for state employees, resulting in relevant expenditures for licensing and enforcement activities exceeding available revenue generated by retail liquor licensure fees and the estimated exhaustion of the fund balance by early FY 2015-16. The net revenue generated by the LCC's wholesale sale of liquor products lapses into the General Fund at the close of the fiscal year and amounted to \$176.8 million in FY 2013-14.	Gross	\$15,122,600	\$0
	Restricted	15,122,600	0
16. Video Franchise Assessment	Gross	\$417,200	(\$417,200)
<u>House</u> eliminates spending authorization associated with revenue generated by the video franchise assessment levied on video service providers to support the Public Service Commission's (PSC) costs of carrying out its duties under 2006 PA 480. The PSC's statutory authority to levy the assessment is set to expire on 12/31/15 and the <u>Executive</u> did not include an extension or elimination of the sunset in its recommendation for the FY 15-16 budget. Over the previous five fiscal years, actual revenue generated from the assessment has averaged \$246,965 per annum and associated regulatory expenditures have averaged \$254,159 per annum; subsequently, a fund balance of \$117,303 carried-forward into FY 2014-15.	Restricted	417,200	(417,200)

Major Boilerplate Changes From FY 2014-15

Sec. 211. LCC IT Upgrades Work Project – DELETED

Designates the appropriation for Liquor Control Commission (LCC) IT upgrades as a work project, stipulates that the appropriation remain available and shall not lapse, and indicates that the estimated completion date is February 1, 2016. Executive eliminates. House concurs.

Sec. 240. Filled FTE Report – DELETED

Stipulates that the Legislature intends that LARA does not use FTE positions as spending placeholders and requires LARA to provide a report specifying the quarterly number of filled FTE positions by line item and indicating FTEs allocated to economic development activities during the preceding fiscal year. Executive eliminates. House concurs.

Sec. 243. Reinventing Performance in Michigan MOUs – REVISED

Requires LARA to work to establish memorandums of understanding (MOUs) with participating state departments to devise a mechanism to recover costs related to services performed for the Reinventing Performance in Michigan (RPM) initiative, requires an annual report, and stipulates the Legislature's intent that the RPM shall be funded by participating state departments. Executive eliminates. House retains, but removes intent language.

Sec. 245. Healthy Michigan Plan Accounting Structure – REVISED

Requires LARA in conjunction with the Department of Community Health (DCH) to establish accounting structures within MAIN which will facilitate the identification of expenditures associated with the Healthy Michigan Plan and requires LARA to provide the Legislature with relevant accounting scripts and reports. Executive eliminates. House retains, but removes requirement to provide Legislature with relevant scripts and reports.

Sec. 250. OPEB Prefunding – DELETED

Stipulates that the Legislature intends that LARA continues the prefunding of other postemployment benefits (OPEB) pursuant to 2011 PA 264. Executive eliminates. House concurs.

Sec. 506. Nursing Facility Complaint Investigations Report – DELETED

Requires LARA to report the timeliness of nursing facility complaint investigations, the number of allegations that are substantiated on an annual basis, the most frequently cited complaint deficiencies for the prior three years, the causes of the changes in the number of citations, and whether education and training are needed; also requires LARA to make every effort to contact complainants during the investigations. Executive eliminates. House concurs.

Major Boilerplate Changes From FY 2014-15

Sec. 507. Medical Marihuana Program Report and Fees – REVISED

Requires LARA to submit a report pertaining to the revenue, expenditures, application determinations, and timeliness of the Medical Marihuana Program and other specified information; permits LARA to raise application and renewal fees if revenue is insufficient to offset expenses of the Program. Executive eliminates delineated reporting requirements and authorization to increase fees. House concurs in part, but retains delineated reporting requirements.

Sec. 509. Bureau of Health Care Services Regulatory Costs and Fee Report – DELETED

Requires the Bureau of Health Care Services (BHCS) to submit to the Legislature a proposed updated fee schedule to offset BHCS' regulatory costs, including recommended statutory and rule changes. Executive eliminates. House concurs.

Sec. 510. Support for BHCS Inspections of FSOFs – DELETED

Requires that the Bureau of Health Care Services (BHCS) expend at least \$530,000 of the amount appropriated within the Health Systems Regulation line item in Part 1 for the inspection of Freestanding Surgical Outpatient Facilities (FSOFs). Executive eliminates. House concurs.

Sec. 512. Public Availability of BHCS Disciplinary Actions – REVISED

Requires the Bureau of Health Care Services (BHCS), to the extent allowed under applicable laws, to make disciplinary actions taken against health professionals publically available through a license verification website and includes language pertaining to one-time appropriation for website development. Executive eliminates. House concurs in part, but retains website requirement.

Sec. 702. UI Computer System Report – DELETED

Requires quarterly reports on the status of the implementation of and improvements to the Unemployment Insurance Agency's (UIA) integrated IT system project. Executive eliminates. House concurs.

Sec. 703. UI Internet Claims Report – DELETED

Requires LARA to submit quarterly reports pertaining to the percentage of claimants using the internet MiWAM system, or any application developed for that purpose, to certify and receive unemployment insurance benefits and implement improvement to the system to reach a goal of 75.0% of claimants certifying on systems that reduces staff face time and MARVIN telephone system usage. Executive eliminates. House concurs.

Sec. 702. UIA Customer Service Metrics – NEW

Requires LARA to maintain customer service standards within the Unemployment Insurance Agency and identify specific outcomes and performance metrics, including the Unemployment Benefit Fund balance, fiscal integrity, and the timeliness and quality of determinations concerning unemployment insurance. Executive creates. House concurs.

Sec. 703. Career Tech & Skilled Trades Initiative Metrics – NEW

Requires LARA to expand workforce training and re-employment services and identify specific outcomes and performance metrics, including new apprenticeships, jobs created and retained, training completion, employment retention, and hourly wages. Executive creates. House concurs.

Sec. 706. Youth Low-Vision Program Report – NEW (FY 2014-15 Sec. 706 renumbered as Sec. 904 for FY 2015-16)

Requires LARA to submit an annual report to the Legislature pertaining to the operations and expenditures of the Youth Low-Vision Program administered by the Bureau of Services for Blind People (BSBP). House creates.

Sec. 801. Tax Tribunal Caseload Report – DELETED

Requires the Michigan Tax Tribunal to submit a report containing specified information pertaining to the caseload, timeliness, dispositions, and backlog of Tax Tribunal cases. Executive eliminates. House concurs.

Sec. 901. Fire Protection Grants – REVISED

Requires LARA to expend funds in accordance with 1977 PA 289 to local units of government with state-owned facilities within their jurisdictions and stipulates that local units of government are eligible for funds if they provide a specified report to LARA. Executive eliminates reporting requirements for local units of government and LARA. House concurs.

Sec. 902. Medical Marihuana Registry Cards Report and Grants to County Law Enforcement – REVISED

Requires LARA to submit a report pertaining to the number of medical marihuana registry identification cards issued or renewed in each county; stipulates that LARA award Medical Marihuana Operation and Oversight Grants to county law enforcement offices; requires reports submitted by both county law enforcement offices and LARA pertaining to the amounts, recipients, and uses of the grants; and permits county law enforcement offices to distribute discretionary grants to municipal law enforcement agencies. House alters various dates and deadlines.

Sec. 1001. Delphi Corp Workers' Compensation Claims – DELETED

Stipulates how LARA is to expend the \$15.0 million appropriation (\$8.0 million immediately, \$7.0 million over five years) and specifying under what conditions future expenditures may occur, stipulates that unexpended funds shall lapse to the General Fund, requires LARA to annually notify the Legislature of any expenditures, and designates the appropriation as a work project available for expenditure until September 30, 2019. Executive eliminates. House concurs.

Major Boilerplate Changes From FY 2014-15

Sec. 1002. Disability Accessibility Pilot Project – DELETED

Requires LARA to work with a nonprofit group with expertise in disability accessibility evaluations on a pilot project to provide services to municipalities and business to improve accessibility for persons with disabilities and create universal design blueprints that are electronically-available through the Bureau of Construction Codes (BCC). Executive eliminates. House concurs.

Various Sections Deleted by Executive, Retained by House

Executive eliminates Secs. 205, 212, 215, 219, 232, 241(5), 248, 503(d), 505(2), 705, 903(2)(b), & 903(4); House retains.