

FY 2022-23: LICENSING AND REGULATORY AFFAIRS
Summary: As Passed by the House
House Bill 5792 (H-1) as Amended



Analyst: Marcus Coffin

	FY 2021-22 YTD as of 2/9/22	FY 2022-23 Executive	FY 2022-23 House	FY 2022-23 Senate	FY 2022-23 Conference	Difference: House From FY 2021-22 YTD	
						Amount	%
IDG/IDT	\$45,079,800	\$47,026,900	\$47,026,900			\$1,947,100	4.3
Federal	29,030,900	29,659,200	29,659,200			628,300	2.2
Local	0	0	0			0	--
Private	0	0	0			0	--
Restricted	258,929,800	248,065,900	246,058,500			(12,871,300)	(5.0)
GF/GP	184,195,900	188,593,500	214,693,500			30,497,600	16.6
Gross	\$517,236,400	\$513,345,500	\$537,438,100			\$20,201,700	3.9
FTEs	1,857.9	1,874.9	1,857.9			0	0.0

Notes: (1) FY 2021-22 year-to-date figures include mid-year budget adjustments through February 9, 2022. (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 the state's primary regulatory entity. The department oversees regulation across a variety of sectors, including commercial and occupational activities, construction and fire safety, health care and human services, public utilities, liquor control, and marijuana. Units within LARA also conduct and adjudicate administrative hearings, oversee rules promulgation, provide support for the Michigan Indigent Defense Commission and the Unarmed Combat Commission, and administer multiple grant programs, including Michigan Indigent Defense Commission grants.

Major Budget Changes from FY 2021-22 YTD Appropriations

1. Low Carbon Energy Infrastructure Enhancement and Development

House includes \$25.0 million GF/GP for grants to businesses, nonprofit organizations, and local government units for planning, developing, designing, acquiring, or constructing low carbon energy facilities, which could include natural gas facilities, combined heat and power facilities, and electrification programs.

	FY 2021-22 Year-to-Date (as of 2/9/22)	FY 2022-23 House Change
Gross	NA	\$25,000,000
GF/GP	NA	\$25,000,000

2. Marijuana Treatment Research

Executive removes \$20.0 million of state restricted Marijuana Regulation Fund (adult-use) authorization that supported clinical trials researching the efficacy of marijuana for treatment of medical conditions afflicting veterans and for preventing veteran suicide. Clinical trials were approved by the FDA and sponsored by non-profit organizations or researchers within academic institutions. The Michigan Regulation and Taxation of Marijuana Act, 2018 IL 1, required expenditures for this purpose until 2022 or for at least two years. This requirement has been fulfilled. House concurs.

	FY 2021-22 Year-to-Date (as of 2/9/22)	FY 2022-23 House Change
Gross	\$20,000,000	(\$20,000,000)
Restricted	20,000,000	(20,000,000)
GF/GP	\$0	\$0

		FY 2021-22 Year-to-Date (as of 2/9/22)	FY 2022-23 House Change
<u>Major Budget Changes from FY 2021-22 YTD Appropriations</u>			
3. Michigan Saves Green Bank			
<u>Executive</u> includes an additional \$3.5 million in one-time GF/GP funding for Michigan Saves, a non-profit green bank. Funding would be used to offer credit enhancement tools intended to incentivize lending at lower rates and under better terms for renewable energy and energy efficiency improvement loans to commercial, residential, and public entities. Such credit enhancement tools would include a loan loss reserve fund. <u>House</u> includes an additional \$2.0 million GF/GP (one-time) for Michigan Saves.	Gross GF/GP	\$1,500,000 \$1,500,000	\$2,000,000 \$2,000,000
4. Corporations Online Filing System Modernization			
<u>Executive</u> includes \$2.3 million in one-time state restricted funding authorization from Corporation Fees to modernize the Corporations Online Filing System. The modernization project would improve system reliability and security, increase online functionality, and simplify the public portal. The system is used to process and store approximately 2.7 million records, of which 1.0 million are for active entities and 1.6 million are for inactive entities. <u>House</u> concurs.	Gross Restricted GF/GP	NA NA NA	\$2,343,600 2,343,600 \$0
5. Urban Search and Rescue			
<u>Executive</u> includes an additional \$1.0 million in one-time GF/GP for Urban Search and Rescue, which provides grant funding to the Michigan Mutual Aid Alarm System for costs associated with supervisory and essential functions at incidents where technical rescue expertise and equipment are required for effective rescue operations. <u>House</u> includes \$2.0 million in one-time GF/GP for this purpose.	Gross GF/GP	NA NA	\$2,000,000 \$2,000,000
6. Nursing Home State Surveyors – Education and Consultation			
<u>Executive</u> includes \$1.6 million GF/GP and authorization to hire an additional 10.0 state surveyors to increase the department's ability to provide education and consultative services to approximately 450 nursing homes across the state. State surveyors have greater flexibility in interactions that they have with licensed facilities compared to federal surveyors, thus additional state surveyors could take a holistic focus on care and services, allowing the state to have an advisory role. <u>House</u> concurs on the funding but does not include the increased FTE authorization.	FTE Gross GF/GP	NA NA NA	0.0 \$1,580,000 \$1,580,000
7. Bureau of Fire Services			
<u>House</u> includes an additional \$1.1 million GF/GP to support the activities of the Bureau of Fire Services.	FTE Gross Federal Restricted GF/GP	79.0 \$12,455,000 1,397,300 7,080,500 3,977,200	0.0 \$1,100,000 0 0 \$1,100,000
8. Bureau of Fire Services – Smoke Detectors			
<u>House</u> includes \$1.0 million GF/GP (one-time) for the Bureau of Fire Services to purchase and distribute smoke detectors to residents of this state.	Gross GF/GP	NA NA	\$1,000,000 \$1,000,000
9. Michigan Task Force on Foreign Trained Medical Professional Licensing			
<u>Executive</u> includes \$1.0 million in one-time state restricted Health Professions Regulatory Fund authorization to cover costs associated with the Michigan Task Force on Foreign-Trained Medical Professional Licensing and to implement the task force's recommendations. The task force will include a variety of stakeholders focused on proposals to reduce licensure barriers for medical professionals who were trained outside of the United States. <u>House</u> does not include.	Gross Restricted GF/G	NA NA NA	\$0 0 \$0

		FY 2021-22 Year-to-Date (as of 2/9/22)	FY 2022-23 House Change
Major Budget Changes from FY 2021-22 YTD Appropriations			
10. Marijuana Regulatory Agency Staffing Increase	FTE	34.0	0.0
<u>Executive</u> includes \$813,700 in state restricted Marihuana Regulation Fund (adult-use) authorization and authorization to hire 5.0 additional Marijuana Regulatory Agency staff. FTE positions would include 3 Regulation Agents, 1 Financial Analyst, and 1 Departmental Analyst. Additional staff would conduct investigations, monitor financial compliance, and review applications in the expanding adult-use sector. <u>House</u> does not include.	Gross	\$6,482,300	\$0
	Restricted	6,482,300	0
	GF/GP	\$0	\$0
11. Liquor Control Commission Staffing Increase	FTE	116.0	0.0
<u>Executive</u> includes \$600,000 in state restricted authorization (\$282,000 from Liquor License Revenue and \$318,000 from the Liquor Purchase Revolving Fund) to be used for hiring additional Liquor Control Commission (LCC) staff. Four departmental analysts would be hired and would function as licensing staff, reviewing and processing application and renewal materials and preparing commission dockets. Additional staff would assist LCC in processing increased filing volumes, facilitating LCC compliance with statutory requirements for timely processing established in the Liquor Control Code. <u>House</u> does not include.	Gross	\$16,492,000	\$0
	Restricted	16,492,000	0
	GF/GP	\$0	\$0
12. Public Service Commission Community Education and Outreach	FTE	188.0	0.0
<u>Executive</u> includes \$282,600 in state restricted funding authorization for Public Utility Assessments and authorization for 2.0 FTE positions to hire an Outreach and Education Specialist and an Outreach and Education Analyst within the Public Service Commission (PSC). The positions would expand the PSC's interactions with community organizations and customers, raising public awareness about the PSC and opportunities to participate in PSC processes and proceedings, educating consumers about energy programs and utility assistance, and supporting other PSC community activities (town halls, public hearings, etc.). <u>House</u> does not include.	Gross	\$33,215,100	\$0
	Federal	2,625,800	0
	Restricted	30,589,300	0
	GF/GP	\$0	\$0
13. Bureau of Professional Licensing Activity Reduction	FTE	205.0	0.0
<u>House</u> includes a \$250,000 state restricted funding authorization reduction from the Licensing and Regulation fund to reflect a decrease in licensing and regulatory activities for the professions of barbering and cosmetology in the Bureau of Professional Licensing line.	Gross	\$40,564,600	(\$250,000)
	Restricted	30,835,700	(250,000)
	GF/GP	\$728,900	\$0
14. Bureau of Fire Services – Public Assemblies	Gross	NA	\$228,900
<u>House</u> includes \$228,900 GF/GP for the Bureau of Fire Services to conduct additional inspections at places of public assembly.	GF/GP	NA	\$228,900
15. Customer Service and Business Ethics Training	Gross	NA	\$210,000
<u>House</u> includes \$210,000 in state restricted funding authorization from Corporation Fees for the department to conduct customer service and business ethics for every classified and unclassified employee within the department.	Restricted	NA	210,000
	GF/GP	NA	\$0
16. Utility Consumer Representation Increase	Gross	\$750,000	\$100,000
<u>Executive</u> includes an additional \$100,000 in state restricted funding authorization from the Utility Consumer Representation Fund for the Utility Consumer Representation line item, which supports grants administered by the Utility Consumer Participation Board (UCPB) and awarded on an application basis to interest groups for residential consumer advocacy in utility rate cases and other proceedings. In FY 2020-21, the UCPB funded 23 intervenor cases. Additional funding would allow support to be offered for more cases. <u>House</u> concurs.	Restricted	750,000	100,000
	GF/GP	\$0	\$0

		FY 2021-22 Year-to-Date (as of 2/9/22)	FY 2022-23 House Change
<u>Major Budget Changes from FY 2021-22 YTD Appropriations</u>			
17. Marijuana Regulatory Agency Alignment			
	FTE	NA	0.0
<u>Executive</u> includes net to zero adjustments of state restricted funding and FTE position authorization for line items that support Marijuana Regulatory Agency activities. Adjustments are made to reflect changing market trends in the adult-use and medical marijuana sectors. Specific line item changes include:	Gross	NA	\$0
	Restricted	NA	0
	GF/GP	NA	\$0
<ul style="list-style-type: none"> Medical Marijuana Facilities Licensing and Tracking – reduce state restricted Marijuana Regulatory Fund authorization by \$5.3 million and reduce authorization for FTE positions authorization by 49.0. Medical Marijuana Program – reduce state restricted Marijuana Registry Fund authorization by \$200,000. Recreational Marijuana Regulation – increase state restricted Marijuana Regulation Fund authorization by \$5.5 million and increase FTE position authorization by 49.0. 			
<u>House</u> concurs.			
18. Marijuana Operation and Oversight Grants			
	Gross	\$3,000,000	\$0
<u>Executive</u> includes a net to zero fund shift of \$3.0 million in state restricted Marijuana Registry Fund (patient registry cards) to the Marijuana Regulation Fund (adult-use). This shift is necessary due to declining revenues to the Marijuana Registry Fund. The grant funding currently supports grants awarded to counties, on an application basis, for education and outreach under the Michigan Medical Marijuana Act of 2008. Changes included in boilerplate and a technical change to the line item name would allow grants to be used for education and outreach regarding the Michigan Regulation and Taxation of Marijuana Act of 2018, in addition to the Michigan Medical Marijuana Act of 2008. <u>House</u> concurs in part, but retains \$100 in state restricted funding authorization from the Marijuana Registry Fund.	Restricted	3,000,000	0
	GF/GP	\$0	\$0
19. Removal of FY 2021-22 One-Time Appropriations			
	Gross	\$3,850,000	(\$2,350,000)
<u>Executive</u> removes \$2.4 million in one-time GF/GP funding that was included in the FY 2021-22 budget to support nursing facility infection control surveys, a renewable natural gas study, and Urban Search and Rescue equipment upgrades. <u>House</u> concurs.	GF/GP	\$3,850,000	(\$2,350,000)
20. Technical Adjustments			
	Gross	NA	\$1,068,400
<u>Executive</u> includes numerous net to zero state restricted funding authorization adjustments to align funding with revenue estimates and program expenditures. Also includes the following adjustments:	IDG/IDT	NA	1,078,600
	Federal	NA	0
	Restricted	NA	718,700
	GF/GP	NA	(\$728,900)
<ul style="list-style-type: none"> Increases IDG authorization by \$1.1 million for the Michigan Office of Administrative Hearings and Rules line item to reflect anticipated revenues from other departments for administrative hearings. Reduces state restricted Marijuana Regulatory Fund (medical) authorization by \$10,200 for the Health Facilities Regulation line item. Internally transfers \$93,400 of state restricted Division on Deafness Fund authorization from the Bureau of Professional Licensing line item to the Health Facilities Regulation line item to reflect transfer of the Deaf Interpreter Program. Internally shifts \$50,000 of federal funding authorization from the Bureau of Fire Services line item to the Health Facilities Regulation line item to align funding authorization with program expenditures where they are incurred. 			
<u>House</u> concurs, but also replaces the entire \$728,900 GF/GP appropriation in the Bureau of Professional Licensing line with an identical amount of state restricted funding authorization from Corporation Fees.			

	FY 2021-22 Year-to-Date (as of 2/9/22)	FY 2022-23 House Change
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Major Budget Changes from FY 2021-22 YTD Appropriations

21. Economic Adjustments	Gross	NA	\$6,170,800
<u>Executive</u> reflects increased costs of \$6.2 million Gross (\$667,600	IDG/IDT	NA	868,500
GF/GP) for negotiated salary and wage increases (5.0% on October 1,	Federal	NA	628,300
2022 and 0.5% to annualize the FY 2021-22 1.0% increase that began	Restricted	NA	4,006,400
on April 1, 2022), actuarially required retirement contributions, worker's	GF/GP	NA	\$667,600
compensation, building occupancy charges, and other economic			
adjustments. <u>House</u> concurs.			

Major Boilerplate Changes from FY 2021-22

Sec. 206. Communication with the Legislature – RETAINED

Prohibits LARA from taking disciplinary action against employees for communicating with legislators or their staff, unless the communication is prohibited by law. Executive deletes. House retains.

Sec. 210. Contingency Authorization – RETAINED

Appropriates up to \$1.0 million in federal, \$1.5 million in state restricted, \$200,000 in local, and \$100,000 in private contingency authorization; authorizes expenditure of funds after legislative transfer to specific line items. Executive revises to appropriate \$10.0 million in federal, \$25.0 million in state restricted, \$1.0 million in local, and \$500,000 in private contingency authorization. House retains.

Sec. 216. FTE Vacancies and Remote Work Reports – RETAINED

Requires LARA to submit quarterly reports containing FTE volumes and a comparison of actual and authorized FTE position counts; requires an annual report on the number of employees engaged in remote work in 2021, number of employees authorized to work remotely and the actual number working remotely, and estimated net cost savings and reduced use of office space achieved by remote work. Executive deletes. House retains with updated year reference.

Sec. 217. Work Project Usage – RETAINED

Stipulates that appropriations are not to be expended, if possible, until all existing work project authorization for the same purpose is exhausted. Executive deletes. House retains.

Sec. 218. State Administrative Board Transfers – RETAINED

Stipulates that the legislature may intertransfer funds via concurrent resolution if the State Administrative Board transfers funds. Executive deletes. House retains.

Sec. 219. Retention of Reports – RETAINED

Requires LARA to receive and retain copies of all reports funded by the department's budget, while complying with federal and state guidelines for records retention. Executive deletes. House retains.

Sec. 220. Report on Policy Changes for Public Act Implementation – RETAINED

Requires LARA to report on policy changes made to implement public acts that took effect during the prior calendar year. Executive deletes. House retains.

Sec. 221. Severance Pay Reporting – RETAINED

Requires LARA to report any severance pay for a director or other high-ranking official not later than 14 days after a severance agreement is signed; requires LARA to maintain an internet site posting any severance pay in excess of 6 weeks of wages; requires report on total amount of severance pay remitted and number of LARA employees receiving severance pay in FY 2020-21. Executive deletes. House retains with updated fiscal year references.

Sec. 222. COVID-19 Vaccine Stipulations – RETAINED

Prohibits requiring proof of having received a COVID-19 vaccine as a condition of accessing any facility or services, except as required by federal law; prohibits producing, developing, issuing, or requiring a COVID-19 vaccine passport; prohibits developing a database or making an existing database publicly available to access an individual's COVID-19 vaccine status; prohibits requiring proof of having received a COVID-19 vaccine as a condition of employment, with exceptions for hospitals and medical facilities; prohibits adverse employment consequences due to an individual's COVID-19 vaccination status; requires that exemptions be created for individuals who medically cannot receive the vaccine or who have religious or consistently held objections to vaccination if a federal mandate requires establishment of a COVID-19 vaccine policy. Executive deletes. House retains.

Major Boilerplate Changes from FY 2021-22

Sec. 223. Remote Work Prohibition – NEW

Prohibits LARA from permitting employees to work remotely unless they were working remotely before February 28, 2020. Executive does not include. House includes new language.

Sec. 230. Employee Performance Monitoring Process – REVISED

Expresses legislative intent that LARA establish a consistent employee performance monitoring process and requires a report on planned or implemented changes to that process and the number of evaluations performed. Executive deletes. House revises to quarterly reporting frequency.

Sec. 233. Pending Litigation – RETAINED

Stipulates that pending litigation related to a licensee must not delay LARA investigations and licensing actions, unless prohibited by law. Executive deletes. House retains.

Sec. 401. Investigation of Direct Shipments of Wine and Report – RETAINED

Requires MLCC to use funds appropriated from Direct Shipper Enforcement Fund, as required under Section 203(11) of the Michigan Liquor Control Code, 1998 PA 58, to investigate illegal direct shipments of wine; requires notice to be sent to entities found to have illegally shipped wine into the state; requires MLCC to submit report detailing activities to investigate illegal shipping of wine. Executive revises to delete language prioritizing enforcement on unlicensed out of state retailers and third-party marketers, to delete requirement for referral of unlicensed out of state retailers and third-party marketers to the attorney general, to delete items in the report, and to delete language requiring notice to out of state entities that illegally shipped wine into Michigan. House retains.

Sec. 510. Masking Requirement Prohibition – RETAINED

Prohibits LARA from enforcing masking requirements for children under 5 years of age and from taking any licensing or administrative action against licensees for not enforcing such a requirement. Executive deletes. House retains.

Sec. 512. Homeowner Construction Lien Recovery Fund – NEW

Appropriates unexpended funds in the Homeowner Construction Lien Recovery Fund for payments of court-ordered construction lien judgments entered prior to the repeal of the fund on August 23, 2010. Executive includes new language. House includes new language.

Sec. 513. Hemp Regulation Report – NEW

Requires LARA to submit a report on all programs administered by the cannabis regulatory agency related to hemp, which must include information on licensure volumes, revenues, expenditures, and other topics. Executive does not include. House includes new language.

Sec. 514. Bureau of Professional Licensing Activity Reduction – NEW

Requires the BPL to reduce licensing and regulatory activities for barbering and cosmetology professions, in accordance with the funding reduction in part 1; prohibits the department from utilizing another fund source to support these activities. Executive does not include. House includes new language.

Sec. 515. Bureau of Fire Services Inspections – NEW

Requires BFS to allocate \$228,900 to increase the number of inspections it conducts at places of public assembly. Executive does not include. House includes new language.

Sec. 803. MIDC Construction Expenses Prohibition – RETAINED

Prohibits an MIDC grant from being used by recipient to support construction expenses for new structures. Executive deletes. House retains.

Sec. 901. Medical Marijuana Operation and Oversight Grants – REVISED

Requires LARA to award Medical Marijuana Operation and Oversight Grants to counties; requires LARA to post a listing of available grant funds; requires report submission by counties and LARA pertaining to amounts, recipients, and uses of grants. Executive revises to allow grants to be expended for adult-use program education and outreach, in addition to current purposes, and to reflect the new funding source for grants. House revises to allow grants to be expended for adult-use program education and outreach, in addition to current purposes, and to reflect the new funding source for grants.

Sec. 1001. Bureau of Fire Services – Smoke Detectors – NEW

Requires the Bureau of Fire Services to purchase and distribute sealed-battery smoke detectors to Michigan residents; allows for purchase of smoke detectors with additional capabilities for individuals who require an accommodative technology. Executive does not include. House includes new language.

Major Boilerplate Changes from FY 2021-22

Sec. 1002. PSC Renewable Natural Gas Study – DELETED

Requires the PSC to conduct a study into potential for renewable natural gas development; outlines study requirements; requires PSC to engage stakeholders in development of the study; requires a draft report for stakeholder comment by July 30, 2022, and a final report to specified legislative committees by September 30, 2022. Executive deletes. House deletes.

Sec. 1002. Customer Service and Business Ethics Training – NEW

Requires LARA to provide 1 hour of customer service and business ethics training to all classified employees and 2 hours of training to unclassified employees; establishes general requirements for the training and reporting requirements. Executive does not include. House includes new language.

Sec. 1003. Low Carbon Energy Infrastructure Enhancement and Development – NEW

Requires funding to be used only for grants to businesses, nonprofit organizations, and local government units for planning, developing, designing, acquiring, or constructing low carbon energy facilities, which may include natural gas and combined heat and power facilities and electrification programs; requires the Public Service Commission to develop and implement a grant application process within 6 months and establishes prioritization for grant approvals; establishes requirements for grant applicants, including submission of an impact study and proposal with a cost-benefit analysis and emissions details; establishes further requirements for grant applicants for renewable natural gas infrastructure projects; provides for a 45-day review period for affected entities to review and comment on an application and a 15-day period for an applicant to modify their initial proposal; requires the PSC to award grants to applicants who have met the grant criteria; requires grant recipients to report to the PSC on how the money was used within 30 days after a project's completion; designates unexpended funding as a work project appropriation. Executive does not include. House includes new language.

Sec. 1004. Michigan Saves Appropriation Use – REVISED

Allows PSC to award a \$1.5 million grant to a nonprofit green bank to make loans more affordable for families, businesses, and public entities in Michigan; authorizes grant funds to be used for a loan loss reserve fund or similar financial instrument. Executive revises to reflect \$5.0 million appropriation amount. House revises to reflect \$3.5 million appropriation amount and renumbers as section 1004.