

**Summary: Executive Budget Recommendation
for Fiscal Year 2017-18
LICENSING AND REGULATORY AFFAIRS**



Analyst: Marcus Coffin

	FY 2016-17 Year-to-Date as of 2/8/17	FY 2017-18 Executive	Difference: FY 2017-18 Vs. FY 2016-17	
			Amount	%
IDG/IDT	\$46,923,800	\$47,835,100	\$911,300	1.9
Federal	64,441,800	65,020,900	579,100	0.9
Local	251,600	250,000	(1,600)	(0.6)
Private	111,800	111,800	0	0
Restricted	266,872,300	285,341,900	18,469,600	6.9
GF/GP	43,721,100	43,016,600	(704,500)	(1.6)
Gross	\$422,322,400	\$441,576,300	\$19,253,900	4.6
FTEs	2251.8	2379.8	128	5.7

Notes: (1) FY 2016-17 year-to-date figures include mid-year budget adjustments through February 8, 2017. (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 primary regulatory agency for the state. The department oversees regulation across a variety of areas, including: commercial and occupational activities, construction and fire safety, health care and human service, energy and public utilities, and liquor. Agencies within LARA are also responsible for implementing and enforcing workers' compensation requirements, occupational safety and health standards, and labor and wage laws, in addition to providing vocational rehabilitation services for the blind and coordinating employment services for immigrants. Lastly, agencies within LARA conduct and adjudicate administrative hearings, supervise administrative rulemaking, and evaluate regulatory requirements and administrative processes for departments and agencies throughout state government.

Major Budget Changes From FY 2016-17 Year-to-Date (YTD) Appropriations		FY 2016-17 YTD (as of 2/8/17)	Executive Change from YTD
1. Energy Package	FTE	19.0	0
Provides increased authorization to support the Department's responsibilities under Public Acts 341 and 342 of 2016. Public Act 341 made appropriations in FY 2016-17 to the Public Service Commission (PSC), the Michigan Agency for Energy (MAE), and the Michigan Administrative Hearing System (MAHS). \$2.0 million and 13.0 FTEs were appropriated to the PSC, \$260,000 and 2.0 FTEs were appropriated to the MAE, and \$600,000 and 4.0 FTEs were appropriated to MAHS under Public Act 341 of 2016.	Gross	\$2,810,000	\$300,500
	Restricted	\$2,810,000	\$300,500
	GF/GP	\$0	\$0
2. Medical Marihuana Facilities, Licensing, and Tracking Program	FTE	N/A	108.0
Provides funding to support the Department's functions in implementing the regulatory structure required by the Medical Marihuana Facilities Licensing Act (Public Act 281 of 2016). Funding for the appropriation comes from the Marihuana Regulatory Fund, which receives revenues from license application fees and the annual assessment levied on licensed growers, processors, provisioning centers, and secure transporters of marihuana. The appropriation is prorated to reflect that the Department and the Medical Marihuana Licensing Board can begin accepting license applications on December 15, 2017.	Gross	N/A	\$18,651,600
	Restricted	N/A	\$18,651,600
	GF/GP	N/A	0
3. Refined Petroleum Package	Gross	N/A	\$0
Changes the funding mechanism for underground storage tank regulation to the Refined Petroleum Fund, which receives revenues from the one cent per-gallon regulatory fee that is levied on refined petroleum sales. Public Act 467 of 2016 limits the amount that LARA can spend annually from the Refined Petroleum Fund to \$3.0 million.	GF/GP	N/A	\$0

Major Budget Changes From FY 2016-17 Year-to-Date (YTD) Appropriations	FY 2016-17 YTD (as of 2/8/17)		Executive Change from YTD
4. Michigan Indigent Defense Commission Transfer	FTE	N/A	16.0
Includes authorization for funding and FTE positions to reflect the transfer of the Michigan Indigent Defense Commission to LARA from the Judiciary, pursuant to Public Act 439 of 2016. The appropriation will primarily be used to meet staffing costs associated with the commission. Positions associated with the commission include administrative assistants, a grant manager, and regional administrators, among others.	Gross	N/A	\$2,386,800
	GF/GP	N/A	\$2,386,800
5. First Responder Presumed Coverage Fund Administration	Gross	N/A	\$200,000
Provides funding to support the administration of first responder claims pursuant to Public Act 515 of 2014. The authorization is supported by a portion of the revenue that is anticipated to be generated from the Medical Marihuana Excise Fund in FY 2017-18. The Medical Marihuana Excise Fund will receive revenues from the 3% excise tax that is levied upon marihuana provisioning centers. The funding will be used for payroll for one FTE and for contractual services.	Restricted	N/A	\$200,000
	GF/GP	N/A	\$0
6. Increased Attorney General Costs for Unlicensed Activity Enforcement	Gross	N/A	\$439,300
Increases authorization in the Bureau of Professional Licensing line item in order to properly fund the activities that the Attorney General (AG) conducts in enforcement against unlicensed regulatory activity. The AG's office previously handled unlicensed activity cases only for unlicensed builders. Under a new Memorandum of Understanding, the AG's office is now handling unlicensed activity cases for Accountancy and Real Estate Brokers and Salespersons. The AG's office is also handling the criminal investigations for all three of the aforementioned areas of unlicensed activity.	Restricted	N/A	\$439,300
	GF/GP	N/A	\$0
7. Michigan Administrative Hearing Authorization Decrease	Gross	N/A	(\$200,000)
Reflects decreased costs for the services that MAHS provides to the Department of Corrections. There has been a decrease in these services due to a declining population of prisoners in Michigan.	IDG	N/A	(\$200,000)
	GF/GP	N/A	\$0
8. Video Franchise Services Funding Restoration	Gross	N/A	\$300,000
Provides funding to support the Video Franchise Services program using revenues from Public Utility Assessments, pursuant to Public Act 438 of 2016. Public Utility Assessments are replacing the original fund source, the Video Franchise assessment fee, since a sunset occurred on that fee in FY 2015-16.	Restricted	N/A	\$300,000
	GF/GP	N/A	\$0
9. First Responder Presumed Coverage Claims	Gross	N/A	\$1,780,000
Includes funding to cover payment of first responder presumed coverage claims pursuant to Public Act 515 of 2014. The appropriation is supported by revenues expected to be generated from the Medical Marihuana Excise Fund.	Restricted	N/A	\$1,780,000
	GF/GP	N/A	\$0
10. Public Service Commission Natural Gas Pipelines – Federal Compliance	FTE	5.0	0
Provides for an increase in authorization for the Public Service Commission to hire 5.0 FTEs in order to meet the mandated level of required inspection days for natural gas pipelines, which is determined by the Pipeline and Hazardous Materials Safety Administration (PHMSA). The additional 5.0 FTEs and \$770,000 in funds were appropriated in FY 2016-17 by Public Act 340 of 2016.	Gross	\$770,000	\$144,300
	Federal	\$623,700	\$115,100
	Restricted	\$146,300	\$29,200
	GF/GP	N/A	\$0
11. Ethnic Commission Service Expansion	Gross	\$473,000	\$75,000
Provides increased funding of \$25,000 GF/GP each to the Hispanic/Latino commission of Michigan, the Asian Pacific American affairs commission, and the Commission on Middle Eastern American affairs.	GF/GP	\$473,000	\$75,000
12. Childcare Licensing Background Checks	FTE	N/A	4.0
Provides funding to conduct background checks on childcare providers, as required by new federal rules associated with the Federal Child Care and Development Block Grant received by the Michigan Department of Education (MDE).	Gross	N/A	\$800,000
	IDG	N/A	\$800,000
	GF/GP	N/A	\$0
13. Removal of One-Time Funding	Gross	\$4,960,000	(\$4,960,000)
Eliminates \$4.96 million (\$3.4 million GF/GP) in one-time funding that was included in the FY 2016-17 budget. FY 2016-17 one-time appropriations were made for Fire Protection Grant Enhancement and for the Michigan Liquor Control Commission IT project.	Restricted	\$1,560,000	(\$1,560,000)
	GF/GP	\$3,400,000	(\$3,400,000)

<u>Major Budget Changes From FY 2016-17 Year-to-Date (YTD) Appropriations</u>	<u>FY 2016-17 YTD (as of 2/8/17)</u>	<u>Executive Change from YTD</u>
14. Revenue Alignment and Reduction of Overstated Deducts	Gross	N/A (\$2,983,300)
Reduces federal, local, and restricted authorizations for a net decrease of \$3.0 million in order to accurately reflect available funds and to align with revenue estimates. Adjustments include:	Federal	(N/A) (\$83,700)
	Local	(N/A) (\$2,400)
	Restricted	(N/A) (\$2,897,200)
<ul style="list-style-type: none"> • Removal of the EPA Pollution Prevention Grant deduct due to the elimination of the award (\$83,700) • A shift of \$1.0 million in authorization from the Tax Tribunal Fund to Corporation Fees in order to support MAHS due to declining revenues from the fees deposited to the Tax Tribunal Fund • Multiple reductions in overstated deducts of state restricted funds and the local stabilization authority contract 	GF/GP	(N/A) \$0
15. Economics Adjustment	Gross	N/A \$2,319,700
Reflects a net increase in costs for negotiated salary and wage increases (3.0% ongoing after removing the FY 2016-17 one-time 1.5% lump sum), actuarially required retirement contributions, worker's compensation, building occupancy charges, private rent, and food and utilities.	IDG	(N/A) \$311,300
	Federal	(N/A) \$393,700
	Local	(N/A) \$800
	Restricted	(N/A) \$1,380,200
	GF/GP	(N/A) \$233,700

Major Boilerplate Changes From FY 2016-17

Sec. 226. Regulatory Statistical Report – DELETED

Requires LARA to submit an annual report that specifies and summarizes statistical information pertaining to fees, revenues, expenditures, application determinations, timeliness, examinations, complaints, investigations, enforcement actions, administrative hearings, and adjudications for each regulatory product administered by regulatory agencies within LARA.

Sec. 227. Departmental Employee Performance Monitoring Process – DELETED

Stipulates legislative intent that LARA establish a consistent employee performance monitoring process and submit a report pertaining to planned or implemented changes to that process.

Sec. 301. Exploration of Carbon Dioxide Recapture – DELETED

Tasks the Michigan Agency for Energy and the Michigan Public Service Commission with exploring sources of captured carbon dioxide and its use in enhanced oil recovery, the Michigan Agency for Energy is required to share its findings.

Sec. 301. Low-Income Energy Assistance Grants - NEW

Stipulates that funds supporting the grant program administered by the Michigan Agency for Energy on behalf of DHHS for low-income energy assistance are appropriated upon awarding of the grants, and may be expended for grant payments or the administrative expenses for the operation of the program.

Sec. 401. IT Upgrades to Mitigate Licensure Delays – DELETED

Stipulates that funds from the Liquor Purchase Revolving Fund be used to invest in upgrades to mitigate delays in issuing licenses; legislative intent is expressed that the upgrades should utilize free software if it is available.

Sec. 402. Investigation of Direct Shipments of Wine and Report – DELETED

Requires that the LCC should use funds as required under Section 203 of the Michigan Liquor Control Code, 1998 PA 58, to investigate illegal shipments of wine, and to report on these activities to the legislature.

Sec. 505. Homeowner Construction Lien Recovery Fund – REVISED

Appropriates unexpended funds in the Homeowner Construction Lien Recovery Fund for payment of court-ordered construction lien judgments entered prior to the repeal of the Fund on August 23, 2010 and includes a financial reporting requirement. *Revises to eliminate the reporting requirement.*

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

Requires LARA to submit an annual report for the prior fiscal year regarding the Medical Marijuana Program. *Revises to eliminate a description of the specific contents that were required in the report.*

Sec. 515. Regulatory Fees on Child and Adult Care Facilities – REVISED

Stipulates that LARA shall assess and collect fees in the licensing and regulation of child care organizations and adult foster care facilities, in accordance with existing legislation. *Revises to delete a reporting requirement regarding the total amount of fees assessed and collected.*

Major Boilerplate Changes From FY 2016-17

Sec. 516. Sawmill Inspection Method and Report – DELETED

Requires LARA to submit a report to the subcommittees and fiscal agencies detailing several findings from the department's inspections of wood products manufacturing facilities.

Sec. 517. Opioid Overprescribing Report – DELETED

Requires LARA to submit a report to the House and Senate Appropriations Committees detailing departmental action taken for overprescribing, it also requires LARA to provide information to prescribers on where they can obtain the most current federal guidelines on prescribing of opioids.

Sec. 519. Performance Metrics for MAPS IT Upgrades and Staffing Enforcement – DELETED

Requires that LARA improve the functionality of the Michigan Automated Prescription System, to consider releasing data that does not contain patient protected information, and that the department should report on progress made.

Sec. 705. Vocational Rehabilitation Matching Funds – DELETED

Requires the Bureau of Services for Blind Persons (BSBP) to work collaboratively with service organizations and governments to identify match dollars and maximize federal vocational rehabilitation funds.

Sec. 708. First Responder Presumed Coverage Fund Receive and Expend Authorization – NEW

Stipulates that funds received in excess of the appropriation in part 1 for first responder presumed coverage claims from the first responder presumed coverage fund are appropriated in an amount sufficient to pay approved claims due in the current fiscal year.

Sec. 800. Michigan Indigent Defense Commission Receipt of Federal Funding – NEW

Authorizes the Michigan Indigent Defense Commission (MIDC) to receive and expend up to \$250,000 as an interdepartmental grant from the Department of State Police if Byrne formula grant funding is awarded to the MIDC; the commission may receive and expend federal grant funding from the United States Department of Justice in an amount not to exceed \$300,000.

Sec. 801. Michigan Indigent Defense Commission Report on Incremental Costs – NEW

Requires the Michigan Indigent Defense Commission to submit a report on the incremental costs associated with the standard development process, the compliance plan process, and the collection of data from all indigent defense systems and attorneys providing indigent defense.

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

Stipulates that LARA award Medical Marihuana Operation and Oversight Grants to county law enforcement, requires LARA to post a listing of available grant funds, requires reports submitted by both county sheriffs' offices and LARA pertaining to the amounts, recipients, and uses of the grants; permits county sheriffs' offices to distribute discretionary grants to municipal law enforcement agencies. *Revises to include language indicating that Fiscal Year 2017-18 will be the final year for the distribution of medical marihuana enforcement grants, due to the new regulatory structure created by 2016 PA 281.*

Sec. 1001. Performance Metrics for LCC IT Upgrades – DELETED

Requires the Liquor Control Commission to maintain customer service standards and to identify outcomes and performance metrics.

Supplemental Recommendations for FY 2016-17 Appropriations **FY 2016-17 Recommendation**

1. Childcare Background Checks	FTE	8.0
Provides \$7.1 million in interdepartmental grants from the Michigan Department of Education (MDE) to the Bureau of Community and Health Systems to add an additional 8 FTEs to conduct childcare provider background checks. An estimated 85,000 background checks on all currently licensed childcare providers, staff, and individuals with unsupervised access to children in the childcare setting are necessary due to new federal requirements associated with the Federal Child Care and Development Block Grant that is received by the Michigan Department of Education.	Gross	\$7,092,300
	IDG	\$7,092,300
	GF/GP	\$0
2. Unlicensed Regulatory Activities	Gross	\$439,300
Provides \$439,000 to the Bureau of Professional Licensing to support enforcement activities that the Attorney General undertakes in pursuing unlicensed regulatory activities. The Attorney General now conducts unlicensed activity cases for Builders, Accountancy, and Real Estate Brokers and Salespersons. The Attorney General's office also handles the criminal investigations for all three of the aforementioned areas of unlicensed activity.	Restricted	\$439,300
	GF/GP	\$0