

**Summary: Executive Budget Recommendation
for Fiscal Years 2012-13 and 2013-14
LICENSING AND REGULATORY AFFAIRS**



Analyst: Paul Holland

	FY 2011-12 Year-to-Date as of 2/9/12	FY 2012-13 Executive	Difference: FY 2012-13 Vs. FY 2011-12		FY 2013-14 Executive	Difference: FY 2013-14 Vs. FY 2012-13	
			Amount	%		Amount	%
IDG/IDT	14,870,100	13,496,900	(1,373,200)	(9.2)	13,773,700	276,800	2.1
Federal	377,515,600	390,840,600	13,325,000	3.5	395,184,100	4,343,500	1.1
Local	7,859,900	7,159,900	(700,000)	(8.9)	7,159,900	0	0.0
Private	4,727,800	5,427,800	700,000	14.8	5,427,800	0	0.0
Restricted	411,820,500	380,017,500	(31,803,000)	(7.7)	382,510,900	2,493,400	0.7
GF/GP	42,024,100	35,570,900	(6,453,200)	(15.4)	35,949,400	378,500	1.1
Gross	858,818,000	832,513,600	(26,304,400)	(3.1)	840,005,800	7,492,200	0.9
FTEs	4,378.3	4,419.8	41.5	0.9	4,419.8	0	0.0

Notes: (1) FY 2011-12 year-to-date figures include mid-year budget adjustments through February 9, 2012, as well as anticipated adjustments for Other Post Employment Benefit prefunding under Senate Bill 683. (2) Appropriation figures for all years include all proposed appropriation amounts, including both standard line items and boilerplate appropriations designated as "one-time." (3) FY 2013-14 figures are projected budget amounts only and would not be legally-binding appropriations. (4) Budget changes described below are based on the "Schedule of Program" sections included in the Executive Budget; amounts listed in those schedules are informational in nature and could be potentially adjusted administratively, without legislative approval, within the larger line items into which programs have been rolled up.

Overview

The Department of Licensing and Regulatory Affairs (LARA) administers the state's primary regulatory and employment security agencies. LARA is organized into four principal units: 1) Licensing and Regulatory, which implements and enforces Michigan laws pertaining to financial, commercial and occupational, construction and fire safety, health profession and facility, public utility, and liquor regulations; 2) the Michigan Administrative Hearing System, a quasi-judicial agency which centralizes and conducts administrative hearings for agencies throughout state government; 3) Employment Security and Workplace Safety, including the administration of unemployment insurance, workers' compensation insurance, occupational safety and health, and rehabilitation programs; and 4) the Office of Regulatory Reinvention, which oversees administrative rule-making and evaluates the state's regulatory infrastructure. The various agencies within LARA are primarily supported by several federal grants and by revenue generated through numerous fees collected from regulated entities.

Major Budget Changes From FY 2011-12 YTD Appropriations		FY 2011-12 YTD (as of 2/9/12)	Executive Changes	
			FY 2011-12 to FY 2012-13	FY 2012-13 to FY 2013-14
1. Bureau of Health Systems—Facilities Inspections	FTE	199.6	0.0	0.0
Increases spending authorization for the Bureau of Health Systems (BHS), to support the inspections of health facilities, from federal Title 18 Medicare funds and Health Systems Fees paid by health facilities regulated by BHS; this is an increase of authorization to spend additional revenues, not an increase in the nominal amount of state fees.	Gross	\$22,907,700	\$1,580,000	\$0
	Federal	16,036,800	740,000	0
	Restricted	1,915,400	840,000	0
	GF/GP	\$4,755,500	\$0	\$0
2. Bureau of Fire Services—Fireworks Regulation	FTE	57.0	6.0	0.0
Increase staff and spending authority for the Bureau of Fire Services (BFS) to administer new consumer fireworks regulations pursuant to 2011 PA 256 funded with revenue from the new Fireworks Safety Fund supported by certification fees and a retail sales tax on the purchase of fireworks.	Gross	\$5,889,300	\$600,000	\$0
	IDG	100,000	0	0
	Federal	788,000	0	0
	Restricted	5,001,300	600,000	0

Major Budget Changes From FY 2011-12 YTD Appropriations		FY 2011-12 YTD (as of 2/9/12)	Executive Changes	
			FY 2011-12 to FY 2012-13	FY 2012-13 to FY 2013-14
3. Bureau of Commercial Services—AG Expenses	FTE	175.0	0.0	0.0
Increases spending authorization for the Bureau of Commercial Services (BCS) from the Real Estate Enforcement Fund to support legal expenses of the Department of Attorney General (AG) pertaining to the investigation of mortgage fraud; these funds are currently transferred to the AG as an, off-budget, revenue reduction.	Gross	\$20,520,800	\$300,000	\$0
	Restricted	20,520,800	300,000	0
4. Bureau of Fire Services—Fire Service Fees	FTE	57.0	0.0	0.0
Assumes an increase of <u>\$585,000</u> in revenue generated from Fire Service Fees for the Bureau of Fire Services (BFS) due to an assumed increase in the nominal amount of fees paid by hospitals and schools to offset the costs of inspections pursuant to the Fire prevention Code (1941 PA 207). In recent fiscal years, Fire Service Fee revenue has not generated the amount appropriated to the BFS; the increase in fee revenue would more accurately reflect past spending authorizations.	Gross	\$5,889,300	\$0	\$0
	IDG	100,000	0	0
	Federal	788,000	0	0
	Restricted	5,001,300	0	0
5. Workers' Compensation Administration—Contingency	FTE	96.6	(1.0)	0.0
Eliminates one vacant clerical support position within the Workers' Compensation Administration (WCA) at a saving in GF/GP.	Gross	\$9,218,000	(\$71,100)	\$0
	Restricted	3,310,600	0	0
	GF/GP	\$5,907,400	(\$71,000)	\$0
7. Michigan Rehabilitative Services—Staffing Adjustment	FTE	513.5	36.5	0.0
Increases authorized FTEs in the Michigan Rehabilitative Services (MRS) to accurately reflect the actual number of MRS staff, this increase in FTEs reflects a reclassification of Michigan Career and Technical Institute (MCTI) staff and not an increase in actual staff employed; previously the staff at the MCTI was not considered as FTEs within MRS.	Gross	\$74,576,300	\$0	\$0
	Federal	64,327,300	0	0
	Private	816,000	0	0
	Restricted	1,492,200	0	0
	GF/GP	\$7,940,800	\$0	\$0
8. Michigan Administrative Hearing System—DEQ Costs	FTE	205.4	0.0	0.0
Reduces the amount paid to the Michigan Administrative Hearing System (MAHS) via IDG from the Department of Environmental Quality (DEQ) to more accurately reflect the costs associated with the DEQ administrative hearing caseload.	Gross	\$31,911,900	(\$80,200)	\$0
	IDG	12,886,100	(80,200)	0
	Federal	7,975,900	0	0
	Restricted	10,985,600	0	0
	GF/GP	\$64,300	\$0	\$0
9. Liquor Control Commission IT Upgrades	Gross	\$100	(\$100)	\$0
Eliminates the Liquor Control Commission (LCC) information technology (IT) placeholder appropriation created by 2011 PA 63 to support the modernization of the LCC with the eventual replacement of its COBOL-based IT system with packaged software IT system.	GF/GP	\$100	(\$100)	\$0
10. Independent Living—Fund Shift	Gross	\$4,908,600	\$0	\$0
Replaces <u>\$1.5 million</u> in federal Social Security Administration (SSA) reimbursements provided to Centers for Independent Living (CILs) through the Michigan Rehabilitative Services (MRS) with \$1.5 million in GF/GP appropriation. This fund shift reflects a decrease in the available amount of SSA funds received by MRS from the federal government.	Federal	4,738,600	(1,500,000)	0
	Private	100,000	0	0
	GF/GP	\$70,000	\$1,500,000	\$0
11. Eliminate Low Income Energy Efficiency Fund	Gross	\$95,000,000	(\$95,000,000)	\$0
Eliminates the Low-Income Energy Efficiency Fund (LIEEF), invalidated by the Court of Appeals in July 2011. The LIEEF program was administered by the Public Service Commission (PSC) which awarded grants, supported by assessments on certain investor-owned utility companies, to the Department of Human Services and nonprofit organizations to support energy assistance for low-income residents and energy efficiency for all Michigan residents.	Restricted	95,000,000	(95,000,000)	0

		Executive Changes			
Major Budget Changes From FY 2011-12 YTD Appropriations		FY 2011-12 YTD (as of 2/9/12)	FY 2011-12 to FY 2012-13	FY 2012-13 to FY 2013-14	
12. Eliminate the Vulnerable Household Warmth Fund		Gross	\$23,000,000	(\$23,000,000)	\$0
Eliminates the Vulnerable Household Warmth Fund (VHWF), which was established by 2011 PA 274 and appropriated for by 2011 PA 275. The VHWF provided funding, through fiscal year 2012, for nonprofit organizations that were awarded grants under the LIEEF program by the PSC in Docket No. U-13129 to support energy assistance for low-income residents.		Restricted	13,000,000	(13,000,000)	0
		GF/GP	\$10,000,000	(\$10,000,000)	\$0
13. Establish Home Heating Assistance for the Vulnerable		Gross	N/A	\$60,000,000	\$0
Establishes the Home Heating Assistance for the Vulnerable (HHAV), a permanent program administered by the PSC and supported by assessments on all utility companies (investor-, cooperative-, and municipal-owned, regardless of size) that would competitively award grants to organizations that provide energy assistance (but not energy efficiency) to low-income households (not exceeding 60% state median income or receives assistance from a state emergency relief program, food stamps, or Medicaid).		Restricted	N/A	60,000,000	0
14. Bureau of Health Professions—OPEB IDG from DTMB		FTE	160.0	0.0	0.0
Implicitly eliminates the IDG from the Department of Technology, Management, and Budget (DTMB) to the Bureau of Health Professions (BHP) that was included in the revision of the supplemental in SB 683 (S-1) for FY 2011-12 supporting the prefunding of Other Post Retirement Benefits (OPEB).		Gross	\$28,648,500	(\$884,000)	\$0
		IDG	884,000	(884,000)	0
		Federal	3,507,000	0	0
		Restricted	24,257,500	0	0
14. Eliminate Past Fee Increase Sunsets		Gross	N/A	\$0	\$0
Assumes the elimination of sunsets on various past fee increases, set to expire on September 30, 2012, on corporate and business filing fees collected under the Bureau of Commercial Services and numerous occupational registration and licensing fees collected under the Bureaus of Commercial Services and Construction Codes and the Office of Financial and Insurance Regulation. Based on LARA estimates, the elimination of fee sunsets will generate approximately <u>\$16.2 million</u> dollars in FY 2012-13.		Restricted	N/A	0	0
15. Various Technical Fund Shifts		Gross	\$12,177,900	\$0	\$0
Includes various technical fund shifts between and within line items and fund sources. These fund shifts all net out to zero gross, although some do shift between the types of fund sources. Some fund shifts reflect changes in the availability and categorization of funds, while others reflect changes to more accurately reflect program administration. The increase in GF/GP is largely the result of replacing an IDG from DHS (which was supported with GF/GP) to the Bureau of Health Professions (BHP) for administering criminal background checks on potential employees of Adult Foster Care and Homes for the Aged facilities.		IDG	1,435,000	(1,435,000)	0
		Federal	3,550,800	(3,100,000)	0
		Local	700,000	(700,000)	0
		Private	0	700,000	0
		Restricted	6,492,100	3,506,900	0
		GF/GP	\$0	\$1,028,100	\$0
16. Economics Adjustments		Gross	N/A	\$25,214,200	\$12,529,000
Reflects increased costs for negotiated salary and wage increases, actuarially-required retirement rate increase, reduced employer health insurance costs due to 20% employee contribution, and other economic adjustments within LARA. Includes \$848,000 in economics adjustments for DTMB staff providing IT services to LARA. Additional increase projected for FY 2013-14 included in the "Active and retiree Insurance and Pension Adjustment" line item.		IDG	N/A	862,500	440,300
		Federal	N/A	14,369,600	7,158,900
		Restricted	N/A	9,069,800	4,373,800
		GF/GP	N/A	\$912,300	\$556,000

<u>Major Budget Changes From FY 2011-12 YTD Appropriations</u>		<u>FY 2011-12 YTD (as of 2/9/12)</u>	<u>Executive Changes</u>	
			<u>FY 2011-12 to FY 2012-13</u>	<u>FY 2012-13 to FY 2013-14</u>
17. One-Time Boilerplate Appropriation	Gross	N/A	\$5,036,800	\$0
Provides one-time funding for lump-sum payments to state employees agreed to in 2011; 1% of salary for employees represented by a union and 2% of salary for employees not exclusively represented.	IDG	N/A	163,500	0
	Federal	N/A	2,815,400	0
	Restricted	N/A	1,880,400	0
	GF/GP	N/A	\$177,500	\$0

Major Boilerplate Changes From FY 2011-12

NOTE: No boilerplate language proposed specific to FY 2013-14.

Sec. 202. Appropriations subject to DMB Act – REVISED

Stipulates that the appropriations in this article are subject to the Management and Budget Act of 1984; MOVED TO ARTICLE 20.

Sec. 208. Internet Reports – REVISED

Directs LARA to use the internet or intranet to fulfill reporting requirements under this article; MOVED TO ARTICLE 20.

Sec. 209. Buy Michigan – DELETED

Directs LARA to purchase goods and services made in America, preferably in Michigan and preferably by veterans, if competitively priced at comparable quality.

Sec. 210. Deprived and Depressed Communities – DELETED

Directs LARA to reasonably ensure that businesses in "deprived and depressed" communities compete for and perform contracts for service and supplies.

Sec. 211. Information Technology Work Projects – DELETED

Permits appropriations for Information Technology to be designated as work projects and carried forward.

Sec. 212. Records Retention – DELETED

Requires LARA to retain all records in accordance with state and federal guidelines.

Sec. 214. Technology User Fees to DTMB – DELETED

Directs LARA to pay user fees to DTMB for IT services and projects subject to interagency agreements.

Sec. 215. State Employees Communication with Legislature– DELETED

Prohibits LARA from making disciplinary action against employees for communicating with the Legislature.

Sec. 216. GF/GP Lapse Report – REVISED

Requires LARA to prepare and transmit a report providing estimates of GF/GP lapses at the close of the fiscal year; MOVED TO ARTICLE 20, REQUIRES SBO TO PREPARE REPORT.

Sec. 217. Out-of-State Travel – DELETED

Provides several limitations and reporting requirements pertaining to out-of-state travel for LARA employees.

Sec. 225. Private Grant Funded Projects – DELETED

Directs LARA to report the receipt of a private grant to the Legislature and SBO.

Sec. 227. Sale of Documents – REVISED

Permits LARA to sell documents at a price not to exceed the cost of production and expend the revenue for costs related to updating and distributing the documents and appropriates funds collected under 1969 PA 306 for the cost of publication and distribution; ELIMINATES THE SALE OF LABOR LAW BOOKS.

Sec. 231. Transparency Website – REVISED

Requires LARA to maintain, either by itself or centrally with the state, a searchable website accessible by the public at no cost, which includes various appropriation, procurement, and staffing information; MOVED TO ARTICLE 20, REQUIRES DTMB TO MAINTAIN THE WEBSITE.

Sec. 232. LARA Television Productions – DELETED

Prohibits LARA from developing or producing any television productions.

Sec. 234. Restricted Funds Report – REVISED

Requires LARA to provide an annual report on state restricted fund estimated balances and projected revenues and expenditures for the fiscal years 2011 and 2012; MOVED TO ARTICLE 20, REQUIRES SBO TO PREPARE REPORT.

Major Boilerplate Changes From FY 2011-12

Sec. 301. Fire Protection Grants – DELETED

Directs LARA to expend funds in accordance with 1977 PA 289 and stipulates that local units of government are eligible for funds if they provide a specified report to LARA.

Sec. 301a. Fire Protection Grant Report – DELETED

Directs local units of government receiving funds in accordance with 1977 PA 289 to submit a report on the expenditures relating to fire protection of state-owned property and directs to provide a standard template for the report and a summary of the reports and transmit to the Legislature and SBO.

Sec. 302. Fire Service Fees – REVISED

Establishes the schedule of fees for inspections of hospital and schools by the Bureau of Fire Services in accordance with Section 2c of 1914 PA 207; INCREASES THE NOMINAL AMOUNTS OF THE FIRE SERVICE FEES (see "Major Budget Changes From FY 2011-12 YTD Appropriations" above).

Sec. 302a. Fire Safe Cigarette Fine Revenue – DELETED

Appropriates funds credited to the Cigarette Fire Safety Standard and Firefighter Protection Act Fund created by 2009 PA 56 for to be expended for purposes provided for in 2009 PA 56.

Sec. 332. UI Computer System Report – DELETED

Requires LARA to provide a quarterly report with specified information on the development of the unemployment insurance agency's integrated IT system project to the Legislature and SBO.

Sec. 333. UI Internet Claims Report – DELETED

Requires LARA to provide a quarterly report the percentage of claimants using the internet MARVIN system to certify and receive benefits and implement improvement to the system to reach a goal of 50% of claimants certifying on the system.

Sec. 340. Workplace Deaths and Injuries Report – DELETED

Requires LARA to provide an annual report on the number of individuals killed or injured on the job for the most recent year data are available to the Legislature and SBO.

Sec. 341. Administrative Rules Restriction – DELETED

Prohibits LARA from promulgating any rule more stringent than an applicable federal standard unless authorized by statute.

Sec. 342. Training Grant to Mining Industry – DELETED

Directs LARA to allocate not less than \$800,000 of MIOSHA CET grants to nonprofit organizations representing the mining industry.

Sec. 361. Low-Income Energy Efficiency Fund Program – DELETED

Requires the PSC to provide a report on the distribution of funds for the LIEEF program and permits LARA to carry forward unexpended funds collected under the LIEEF program to the subsequent fiscal year.

Sec. 368. Regulatory Statistical Report – DELETED

Requires LARA to provide a report containing specified information on the licensing and regulatory activities of the Bureaus of Commercial Services and Construction Codes to the Legislature and SBO.

Sec. 380. Homeowner Construction Lien Recovery Fund – DELETED

Direct LARA to use unexpended funds in the Homeowner Construction Lien Recovery Fund for payment of court-ordered construction lien judgments entered prior to the funds repeal on August 23, 2010 in the order they were entered and accrue interest.

Sec. 390. Tax Tribunal Caseload Report – DELETED

Requires the Tax Tribunal and MAHS to provide a report containing specified information about the caseload, dispositions, and backlog of tax tribunal cases to the Legislature and SBO.

Sec. 603. Local Match Requirements for Facilities Establishment Grants – DELETED

Stipulates that the local match for vocational rehabilitation facilities establishment grants shall not exceed 21.3%.

Sec. 604. Centers for Independent Living – DELETED

Stipulates that all funds appropriated to Independent Living shall be used in support of Centers for Independent Living in underserved areas and the build capacity in compliance with federal regulations and consistence with the State Plan for Independent Living.

Sec. 610. Commission for the Blind Case Services and Carry Forward – REVISED

Stipulates that funds appropriation for the MCB includes case services and may be used for tuition payments and that LARA may carry forward revenue from local sources that is unexpended to the subsequent fiscal year; ELIMINATES PROVISION THAT FUNDS INCLUDE CASE SERVICES AND MAY BE USED FOR TUITION.

Sec. 611. Vocational Rehabilitation Matching Funds – DELETED

Directs the MRS and MCB work collaboratively with service organizations and governments to identify match dollars and maximize federal vocational rehabilitation funds.

Major Boilerplate Changes From FY 2011-12

Sec. 708. Quarterly Staff Reports from Nursing Facilities – DELETED

Requires that nursing facilities' quarterly reports to LARA include the specified information and requires LARA to make the quarterly staff report available to the public.

Sec. 714. Nursing Facility Complaint Investigations Report – DELETED

Requires LARA to report the timeliness of nursing facility complaint investigations and the number of allegations that are substantiated on an annual basis to the Legislature and SBO and requires LARA to make every effort to contact complainants during the investigations.

Sec. 716. Investigations of Health Care Professionals – DELETED

Requires LARA to give priority to investigations of alleged wrongdoing by licensed health care professional that are alleged to have occurred within two years of the initial complaint.

Sec. 718. Nursing Home Complaint Deficiencies – DELETED

Requires LARA to provide a report on frequently cited complaint deficiencies for nursing homes during the prior three fiscal years to the Legislature and SBO.

Sec. 726. Medical Marijuana Program Fees – REVISED

Requires LARA to provide a report of all information pertaining to the revenue and expenditures of the Medical Marijuana Program and other specified information to the Legislature and SBO and permits LARA to raise application and renewal fees if revenue is insufficient to offset expenses of the Program; ELIMINATES REPORTING REQUIREMENTS.

Sec. 727. Outsource Medical Marijuana Program Administration – DELETED

Requires LARA to establish and implement a bid process to identify a public or private contractor to administer the Medical Marijuana Program and requires LARA to transfer administration of the Program to the contractor by January 1st.

Sec. 729. Circulating Nurse Data – DELETED

Permits hospitals and ambulatory surgical centers to report to LARA whether registered nurses serve as circulating nurses during surgical procedures and requires LARA to report on the data it receives to the Legislature.

Sec. 731. Bureau of Health Systems Regulatory Costs and Fee Report – DELETED

Requires BHS to provide a report to the Legislature pertaining to the costs to regulate each of the several types of health facilities, a proposed fee schedule (developed in conjunction with interested stakeholders) to offset BHS' regulatory costs, and recommended statutory and rule changes.

Sec. 1201. FY 2012-13 Appropriation – DELETED

Stipulates that FY 2012-13 appropriations are anticipated to be the same as FY 2011-12 appropriations, except for adjustments for changes in caseloads, federal match rates, economic factors, and available revenue.

Sec. 12-501. State Employee Lump Sum Payment – NEW

Appropriates one-time funding for lump-sum payments to state employees agreed to in 2011; 1% of salary for employees represented by a union and 2% of salary for employees not exclusively represented (see "Major Budget Changes From FY 2011-12 YTD Appropriations" above).

		<u>FY 2011-12 Recommendation</u>
<u>Supplemental Recommendations for FY 2011-12 Appropriations</u>		
1. Bureau of Fire Services—Fireworks Regulation		
Increases spending authority for the Bureau of Fire Services (BFS) to administer new consumer fireworks regulations pursuant to 2011 PA 256 funded with revenue from the new Fireworks Safety Fund supported by certification fees and a retail sales tax on the purchase of fireworks.	FTE	6.0
	Gross	\$470,000
	Restricted	\$470,000
2. Independent Living—GF/GP		
Increases GF/GP appropriation to Centers for Independent Living (CILs) to offset the reduction in federal Social Security Administration (SSA) reimbursements provided to CILs through the Michigan Rehabilitative Services (MRS).	Gross	\$1,500,000
	GF/GP	\$1,500,000