

FY 2012-13: LICENSING AND REGULATORY AFFAIRS
Summary: House Passed
House Bill 5365 (H-2), Article 12



Analyst: Paul Holland

	FY 2011-12 YTD as of 2/9/12	FY 2012-13 Revised Executive	FY 2012-13 House	FY 2012-13 Senate	FY 2012-13 Enacted	Difference: House From FY 2011-12 YTD	
						Amount	%
IDG/IDT	14,870,100	13,496,900	13,496,900			(1,373,200)	(9.2)
Federal	377,515,600	390,840,600	250,710,900			(126,804,700)	(33.6)
Local	7,859,900	7,159,900	0			(7,859,900)	(100.0)
Private	4,727,800	5,427,800	1,900,000			(2,827,800)	(59.8)
Restricted	411,820,500	380,017,500	324,030,800			(87,789,700)	(21.3)
GF/GP	\$42,024,100	\$35,570,900	\$10,957,600			(\$31,066,500)	(73.9)
Gross	\$858,818,000	\$832,513,600	\$601,096,200			(\$257,721,800)	(30.0)
FTEs	4,378.3	4,419.8	3,638.3			(740.0)	(17.1)

Notes: (1) FY 2011-12 year-to-date (YTD) figures include mid-year budget adjustments through February 9, 2012, as well as 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 appropriations designated as one-time. (3) Major reductions in LARA appropriations are the effect of the budgetary implementation of E.O. 2012-2, see item 19.

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 Year-to-Date (as of 2/9/12)	FY 2012-13 House Change
1. Bureau of Health Systems—Facilities Inspections	FTE	199.6	0.0
<u>Executive</u> proposes increases in 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. <u>House</u> concurs.	Gross	\$22,907,700	\$1,580,000
	Federal	16,036,800	740,000
	Restricted	1,915,400	840,000
	GF/GP	\$4,755,500	\$0
2. Bureau of Fire Services—Fireworks Regulation	FTE	57.5	6.0
<u>Executive</u> proposes increases in 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. <u>House</u> concurs.	Gross	\$5,889,300	\$600,000
	IDG	100,000	0
	Federal	788,000	0
	Restricted	5,001,300	600,000
3. Bureau of Commercial Services—AG Expenses	FTE	175.0	0.0
<u>Executive</u> proposes increases in 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. <u>House</u> concurs.	Gross	\$20,520,800	\$300,000
	Restricted	20,520,800	300,000

Major Budget Changes From FY 2011-12 YTD Appropriations		FY 2011-12 Year-to-Date (as of 2/9/12)	FY 2012-13 House Change
4. Bureau of Fire Services—Fire Service Fees	FTE	57.0	0.0
<u>Executive</u> assumes an increase of \$585,000 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. <u>House</u> concurs.	Gross	\$5,889,300	\$0
	IDG	100,000	0
	Federal	788,000	0
	Restricted	5,001,300	0
5. Workers' Compensation Administration—Contingency	FTE	96.6	(1.0)
<u>Executive</u> proposes the elimination of one vacant clerical support position within the Workers' Compensation Administration (WCA) at a saving in GF/GP. <u>House</u> concurs.	Gross	\$9,218,000	(\$71,100)
	Restricted	3,310,600	0
	GF/GP	\$5,907,400	(\$71,000)
6. Michigan Rehabilitative Services—Staffing Adjustment	FTE	513.5	36.5
<u>Executive</u> proposes increases in 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. <u>House</u> concurs.	Gross	\$74,576,300	\$0
	Federal	64,327,300	0
	Private	816,000	0
	Restricted	1,492,200	0
	GF/GP	\$7,940,800	\$0
7. Michigan Administrative Hearing System—DEQ Costs	FTE	205.4	0
<u>Executive</u> proposes reduction in 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. <u>House</u> concurs.	Gross	\$74,576,300	(\$80,200)
	IDG	12,886,100	(80,200)
	Federal	7,975,900	0
	Restricted	10,985,600	0
	GF/GP	\$64,300	\$0
8. Liquor Control Commission IT Upgrades	Gross	\$100	\$4,999,900
<u>Executive</u> proposes the elimination of 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. <u>House</u> appropriates for the replacement of the COBOL-based IT system currently used by the Liquor Control Commission with modern software from the Liquor Purchase Revolving Fund, estimated to take three years to complete and will require further appropriation in future budget bills.	Restricted	100	4,999,900
9. Independent Living—Fund Shift	Gross	\$4,908,600	\$0
<u>Executive</u> proposes replacing \$1.5 million 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. <u>House</u> concurs.	Federal	4,738,600	(1,500,000)
	Private	100,000	0
	GF/GP	\$70,000	\$1,500,000
10. Eliminate Low Income Energy Efficiency Fund	Gross	\$95,000,000	(\$95,000,000)
<u>Executive</u> proposes the elimination of 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. <u>House</u> concurs.	Restricted	95,000,000	(95,000,000)
11. Eliminate the Vulnerable Household Warmth Fund	Gross	\$23,000,000	(\$23,000,000)
<u>Executive</u> proposes the elimination of 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. <u>House</u> concurs.	Restricted	13,000,000	(13,000,000)
	GF/GP	\$10,000,000	(\$10,000,000)

Major Budget Changes From FY 2011-12 YTD Appropriations		FY 2011-12 Year-to-Date (as of 2/9/12)	FY 2012-13 House Change
12. Establish Home Heating Assistance for the Vulnerable			
<u>Executive</u> proposes the establishment of 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). <u>House</u> removes appropriation for the HHAV which would have been supported by assessments on all gas and electric utilities; heating assistance is to be solely administered by the Department of Human Services under the current LIHEAP programs with federal revenues (there is sufficient federal funding for at least two years).	Gross Restricted	NA NA	NA NA
13. Bureau of Health Professions—OPEB IDG from DTMB			
<u>Executive</u> 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). <u>House</u> concurs.	FTE Gross IDG Federal Restricted	160.0 \$28,648,500 884,000 3,507,000 24,257,500	0.0 (\$884,000) (884,000) 0 0
14. Eliminate Past Fee Increase Sunsets			
<u>Executive</u> 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 \$16.2 million dollars in FY 2012-13. <u>House</u> assumes the extension rather than the elimination of fee sunsets.	Gross Restricted	NA NA	\$0 0
15. FTE True-Up			
<u>House</u> adjusts the number of appropriated FTEs throughout agencies within LARA to more accurately reflect the actual staffing practices of LARA.	FTE Gross	4,378.3 NA	(128.4) NA
16. Increase Support for FSOF Inspections			
<u>House</u> appropriates additional GF/GP and FTEs within the Bureau of Health Systems (BHS) to support the inspection and licensing of Freestanding Surgical Outpatient Facilities as required under the Public Health Code.	FTE Gross GF/GP	199.6 \$22,907,700 \$4,755,500	3.9 \$530,000 \$530,000
17. Remove LPRF from Fire Protection Grant			
<u>House</u> removes the Liquor Purchase Revolving Fund (which lapses into the General Fund at close of fiscal year) appropriation from fire protection grants. These grants are now solely supported by a statutorily defined amount of Driver Responsibility Fees established by 2003 PA 165.	Gross Restricted	\$9,273,900 9,273,900	(\$773,900) (773,900)
18. Reduce Private Grant Programs			
<u>House</u> reduces spending authorization for private grants received by LARA.	Gross Private	\$3,000,000 3,000,000	(\$1,500,000) (1,500,000)
19. Implement E.O. 2012-2 Transfers			
<u>House</u> adjusts FY 2012-13 appropriations for the transfer of the Michigan Rehabilitative Services and the Commission for the Blind, attendant grants, and administrative funds to the Department of Human Services by Executive Order 2012-2.	FTE Gross Federal Private Local Restricted GF/GP	657.0 \$174,673,500 140,305,700 2,027,800 7,159,900 3,108,500 \$22,071,600	(657.0) (\$174,673,500) (140,305,700) (2,027,800) (7,159,900) (3,108,500) (\$22,071,600)

Major Budget Changes From FY 2011-12 YTD Appropriations	FY 2011-12 Year-to-Date (as of 2/9/12)	FY 2012-13 House Change
20. Various Fund Shifts	Gross	\$0
Includes various technical fund shifts between and within line items and fund sources recommended by the <u>Executive</u> and others made by the <u>House</u> . 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 changes in GF/GP are largely the result of multiple replacements of GF/GP with appropriations from state restricted funds throughout the budget and 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)
	Federal	(2,924,000)
	Local	(700,000)
	Private	700,000
	Restricted	6,402,600
	GF/GP	(2,043,600)
	Gross	\$17,527,500
21. Economics Adjustments	Gross	NA
<u>Executive</u> proposes increases for 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. <u>House</u> concurs.	IDG	862,500
	Federal	14,369,600
	Restricted	9,069,800
	GF/GP	\$912,300
	Gross	NA
22. One-Time Appropriations	Gross	\$5,036,800
<u>Executive</u> proposes \$177,500 GF/GP designated as a one-time appropriation (in boilerplate section 501). <u>House</u> concurs but appropriates in separate line item unit (section 112).	IDG	163,500
	Federal	2,815,400
	Restricted	1,880,400
	GF/GP	\$177,500
	Gross	NA
23. Anticipated FY 2013-14 Budget Changes	Gross	\$12,529,000
<u>Executive</u> proposes anticipated increases from FY 2012-13 budget of \$12.5 million Gross (\$556,000 GF/GP) for economic adjustments in FY 2013-14. (Boilerplate intent language only; would not be binding appropriation.) <u>House</u> concurs.	IDG	440,300
	Federal	7,158,900
	Restricted	4,373,800
	GF/GP	\$556,000

Major Boilerplate Changes From FY 2011-12

Sec. 203. Definitions – REVISED

Defines various terms used in the act. Executive deleted most of the definitions. House concurs.

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. Executive deleted. House concurs.

Sec. 211. Information Technology Work Projects – REVISED

Permits appropriations for Information Technology to be designated as work projects and carried forward. Executive deleted. House revises for LCC IT work project.

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

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

Sec. 218. Out-of-State Travel – NEW

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

Sec. 219. Office Space Consolidation Plan – NEW

States that the Legislature intends to cooperate with the office space consolidation plan implemented by DTMB. House creates

Sec. 230. Principal Measurable Outcomes – NEW

Directs LARA to identify and rank 10 measurable outcomes by October 31, 2012 and provide biennial updates on efforts and improvements in those outcomes by April 1. House creates.

Sec. 301. Fire Protection Grants – REVISED

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. Executive deleted. House revises by adding new reporting requirements.

Major Boilerplate Changes From FY 2011-12

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. Executive deleted. House concurs.

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 Executive increases the amount of the Fire Service Fees. House concurs. (See #4 in "Major Budget Changes From FY 2011-12 YTD Appropriations" above).

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. Executive deleted. House concurs.

Sec. 341. Administrative Rules Restriction – DELETED

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

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. Executive deleted. House concurs.

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. Executive deleted. House concurs.

Sec. 390. Tax Tribunal Caseload Report – REVISED

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. Executive deleted. House revises by adding new reporting requirements.

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%. Executive deleted. House concurs.

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. Executive deleted. House concurs.

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

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. Executive eliminated provision that funds include case services and may be used for tuition. House deletes.

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. Executive deleted. House concurs.

Sec. 613. Local Support for Subregional Library Services – DELETED

Stipulates a maintenance of effort requirement for subregional libraries to receive state grants for expenditures for library services directly serving the blind and persons with disabilities. Executive retained. House deletes.

Sec. 615. Library Services for the Blind and Physically Handicapped – DELETED

Permits LARA to provide support and services to organizations and agencies and charge fees for these services. Executive retained. House deletes.

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. Executive deleted. House concurs.

Sec. 714. Nursing Facility Complaint Investigations Report – REVISED

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. Executive deleted. House revises by adding the reporting requirements from Sec. 718.

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. Executive deleted. House concurs.

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. Executive deleted. House concurs.

Sec. 726. Medical Marihuana Program Fees – REVISED

Requires LARA to provide a report of all information pertaining to the revenue and expenditures of the Medical Marihuana 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. Executive removed reporting requirements. House revises by removing and adding reporting requirements.

Sec. 727. Outsource Medical Marihuana Program Administration – DELETED

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

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. Executive deleted. House concurs.

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. Executive deleted. House concurs.

Sec. 732. Support for BHS Inspections of FSOFs – NEW

Stipulates that the Bureau of Health Systems expend at least \$530,000 on the inspections of Freestanding Surgical Outpatient facilities. House creates. (See #16 in "Major Budget Changes From FY 2011-12 YTD Appropriations" above).

Sec. 1201. Anticipated FY 2013-14 Appropriations – REVISED

States legislative intent to provide appropriations for FY 2013-14, adjusting FY 2012-13 amounts based on economic and other factors. (See item 23 under Major Budget Changes for specific anticipated appropriation adjustments.) Executive revised. House concurs.