

**Summary: Executive Budget Recommendation
for Fiscal Year 2022-23
LICENSING AND REGULATORY AFFAIRS**



Analyst: Marcus Coffin

	FY 2021-22 Year-to-Date as of 2/9/22	FY 2022-23 Executive	Difference: FY 2022-23 vs. FY 2021-22	
			Amount	%
IDG/IDT	\$45,079,800	\$47,026,900	\$1,947,100	4.3
Federal	29,030,900	29,659,200	628,300	2.2
Local	0	0	0	--
Private	0	0	0	--
Restricted	258,929,800	248,065,900	(10,863,900)	(4.2)
GF/GP	184,195,900	188,593,500	4,397,600	2.4
Gross	\$517,236,400	\$513,345,500	(\$3,890,900)	(0.8)
FTEs	1,857.9	1,874.9	17.0	0.9

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 Year-to-Date (YTD) Appropriations	FY 2021-22 YTD (as of 2/9/22)	Executive Change from YTD
1. Marihuana Treatment Research	Gross \$20,000,000	(\$20,000,000)
Removes \$20.0 million of state restricted Marihuana 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 Marihuana Act, 2018 IL 1, required expenditures for this purpose until 2022 or for at least two years. This requirement has been fulfilled.	Restricted 20,000,000	(20,000,000)
	GF/GP \$0	\$0
2. Michigan Saves Green Bank	Gross \$1,500,000	\$3,500,000
Includes an additional \$3.5 million in one-time GF/GP funding for Michigan Saves, a non-profit green bank, bringing total FY 2022-23 one-time funding for this item to \$5.0 million GF/GP. 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.	GF/GP \$1,500,000	\$3,500,000
3. Corporations Online Filing System Modernization	Gross NA	\$2,343,600
Includes \$2.3 million in one-time state restricted Corporations Fees authorization for modernization of 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.	Restricted NA	2,343,600
	GF/GP NA	\$0

Major Budget Changes from FY 2021-22 Year-to-Date (YTD) Appropriations		FY 2021-22 YTD (as of 2/9/22)	Executive Change from YTD
4. Nursing Home State Surveyors – Education and Consultation	FTE	NA	10.0
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.	Gross	NA	\$1,580,000
	GF/GP	NA	\$1,580,000
5. Michigan Task Force on Foreign-Trained Medical Professional Licensing	Gross	NA	\$1,000,000
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.	Restricted	NA	1,000,000
	GF/GP	NA	\$0
6. Urban Search and Rescue	Gross	NA	\$1,000,000
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.	GF/GP	NA	\$1,000,000
7. Marijuana Regulatory Agency Staffing Increase	FTE	34.0	5.0
Includes \$813,700 in state restricted Marijuana 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.	Gross	\$6,482,300	\$813,700
	Restricted	6,482,300	813,700
	GF/GP	\$0	\$0
8. Liquor Control Commission Staffing Increase	FTE	116.0	0.0
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.	Gross	\$16,492,000	\$600,000
	Restricted	16,492,000	600,000
	GF/GP	\$0	\$0
9. Public Service Commission Community Education and Outreach	FTE	188.0	2.0
Includes \$282,600 in state restricted 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.).	Gross	\$33,215,100	\$282,600
	Federal	2,625,800	0
	Restricted	30,589,300	282,600
	GF/GP	\$0	\$0

Major Budget Changes from FY 2021-22 Year-to-Date (YTD) Appropriations		FY 2021-22 YTD (as of 2/9/22)	Executive Change from YTD
10. Utility Consumer Representation Increase	Gross	\$750,000	\$100,000
Includes an additional \$100,000 in state restricted Utility Consumer Representation Fund authorization 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.	Restricted	750,000	100,000
	GF/GP	\$0	\$0
11. Marijuana Regulatory Agency Alignment	FTE	NA	0.0
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. 			
12. Marijuana Operation and Oversight Grants	Gross	\$3,000,000	\$0
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.	Restricted	3,000,000	0
	GF/GP	0	\$0
13. Removal of FY 2021-22 One-Time Appropriations	Gross	\$2,350,000	(\$2,350,000)
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.	GF/GP	\$2,350,000	(\$2,350,000)

<u>Major Budget Changes from FY 2021-22 Year-to-Date (YTD) Appropriations</u>	<u>FY 2021-22 YTD (as of 2/9/22)</u>	<u>Executive Change from YTD</u>	
14. Technical Adjustments	Gross	NA	\$1,068,400
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	(10,200)
	GF/GP	NA	\$0
<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 Marihuana 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. 			
15. Economic Adjustments	Gross	NA	\$6,170,800
Reflects increased costs of \$6.2 million Gross (\$667,600 GF/GP) for negotiated salary and wage increases (5.0% on October 1, 2022 and 0.5% to annualize the FY 2021-22 1.0% increase that began on April 1, 2022), actuarially required retirement contributions, worker's compensation, building occupancy charges, and other economic adjustments.	IDG/IDT	NA	868,500
	Federal	NA	628,300
	Restricted	NA	4,006,400
	GF/GP	NA	\$667,600

Major Boilerplate Changes from FY 2021-22

Sec. 206. Communication with the Legislature – DELETED

Prohibits LARA from taking disciplinary action against employees for communicating with legislators or their staff, unless the communication is prohibited by law. *(Governor deemed this section unenforceable in FY 2021-22.)*

Sec. 210. Contingency Authorization – REVISED

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. Revised 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.

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

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.

Sec. 217. Work Project Usage – DELETED

Stipulates that appropriations are not to be expended, if possible, until all existing work project authorization for the same purpose is exhausted. *(Governor deemed this section unenforceable in FY 2021-22.)*

Sec. 218. State Administrative Board Transfers – DELETED

Stipulates that the legislature may intertransfer funds via concurrent resolution if the State Administrative Board transfers funds. *(Governor deemed this section unenforceable in FY 2021-22.)*

Sec. 219. Retention of Reports – DELETED

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.

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

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

Major Boilerplate Changes from FY 2021-22

Sec. 221. Severance Pay Reporting – DELETED

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.

Sec. 222. COVID-19 Vaccine Stipulations – DELETED

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.

Sec. 229. Employee Performance Monitoring Process – DELETED

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.

Sec. 232. Pending Litigation – DELETED

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

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

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. Revised 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.

Sec. 510. Masking Requirement Prohibition – DELETED

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. *(Governor deemed this section unenforceable in FY 2021-22.)*

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.

Sec. 803. MIDC Construction Expenses Prohibition – DELETED

Prohibits an MIDC grant from being used by recipient to support construction expenses for new structures. *(Governor deemed this section unenforceable in FY 2021-22.)*

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. Revised 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. 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. Revised to reflect \$5.0 million appropriation amount.

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.

Supplemental Recommendations for FY 2021-22 Appropriations

**FY 2021-22
Recommendation**

1. COVID-19 Survey Activities	Gross	\$625,000
Includes \$625,000 in federal CARES Act funding to offset costs from increased Bureau of Community and Health Systems survey activities related to the COVID-19 pandemic.	Federal	625,000
	GF/GP	\$0
2. Michigan Task Force on Foreign-Trained Medical Professional Licensing	Gross	\$100,000
Includes \$100,000 in one-time state restricted Health Professions Regulatory Fund authorization to cover start-up costs associated with the Michigan Task Force on Foreign-Trained Medical Professional Licensing. 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.	Restricted	100,000
	GF/GP	\$0