

FY 2021-22: LICENSING AND REGULATORY AFFAIRS
Summary: As Passed by the House
House Bill 4404 (H-1) as Amended



Analyst: Marcus Coffin

	FY 2020-21 YTD as of 2/11/21	FY 2021-22 Executive	FY 2021-22 House	FY 2021-22 Senate	FY 2021-22 Conference	Difference: House From FY 2020-21 YTD	
						Amount	%
IDG/IDT	\$46,664,600	\$45,079,800	\$11,269,900			(\$35,394,700)	(75.8)
Federal	28,823,700	29,030,900	7,533,000			(21,290,700)	(73.9)
Local	0	0	0			0	--
Private	0	0	0			0	--
Restricted	259,295,700	259,429,800	64,630,300			(194,665,400)	(75.1)
GF/GP	149,605,600	185,945,900	7,130,500			(142,475,100)	(95.2)
Gross	\$484,389,600	\$519,486,400	\$90,563,700			(\$393,825,900)	(81.3)
FTEs	1,857.9	1,857.9	1,836.9			(21.0)	(1.1)

Notes: (1) FY 2020-21 year-to-date figures include mid-year budget adjustments through February 11, 2021. (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 2020-21 YTD Appropriations

**FY 2020-21
Year-to-Date
(as of 2/11/21)**

**FY 2021-22
House
Change**

Generally, the House Subcommittee Recommendation appropriates the equivalent of one quarter of the anticipated annual appropriation, except in the Urban Search and Rescue line, which incorporates the full annual appropriation. For major budget changes listed below the quartered appropriations are annualized for comparison purposes.

1. Michigan Indigent Defense Commission

Executive includes an additional \$31.4 million GF/GP and \$100,000 in restricted funding for Michigan Indigent Defense Commission grants, to fund the state's projected share of indigent defense costs in FY 2021-22. House transfers the Michigan Indigent Defense Commission line item and the Michigan Indigent Defense Commission Grants line item (and all applicable funding) to the Judiciary budget.

FTE	16.0	(16.0)
Gross	\$120,181,400	(\$120,181,400)
Restricted	200,000	(200,000)
GF/GP	\$119,981,400	(\$119,981,400)

2. Michigan Saves Green Bank (One-Time)

Executive increases the current one-time appropriation for Michigan Saves by \$4.0 million GF/GP, to bring total FY 2021-22 one-time funding for Michigan Saves to \$5.0 million GF/GP. The funding would provide \$5.0 million for a Public Service Commission grant award to Michigan Saves (a non-profit green bank) 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 include a loan loss reserve fund. House eliminates all funding for the Michigan Saves line item.

Gross	\$1,000,000	(\$1,000,000)
GF/GP	\$1,000,000	(\$1,000,000)

Major Budget Changes from FY 2020-21 YTD Appropriations		FY 2020-21 Year-to-Date (as of 2/11/21)	FY 2021-22 House Change
3. Nursing Home Infection Control Surveys		Gross	NA
<u>Executive</u> includes \$1.1 million GF/GP (one-time) to continue infection control surveys of skilled nursing facilities through FY 2021-22. The funding would support the state licensing group, which conducts infection control surveys for facilities applying to DHHS to become a COVID Care and Recovery Center or a COVID Relief Facility, for state licensed providers that aren't federally certified, and as requested by providers, DHHS, local health departments, and the federal government. Specifically, the funding would be used to cover costs associated with 8 current staff and to hire additional limited-term health care surveyors and support staff, to continue infection control survey activities through September 2022. <u>House</u> includes \$1.1 million in federal Coronavirus State Fiscal Recovery Funds for this purpose.	Federal	NA	\$1,100,000
	GF/GP	NA	1,100,000
			\$0
4. Marijuana Regulatory Agency Inspection Activities		FTE	34.0
<u>Executive</u> includes \$648,000 in restricted authorization from the Marihuana Regulation Fund (adult-use) to support costs associated with hiring 6 additional inspectors (including 2 fire inspectors) to regulate licensees in the adult-use industry. The funding would be used to support costs incurred for additional staff, including salaries, fringe benefits, and IT. Hiring 6 additional inspectors would increase the total number of active inspectors in the sector from 16 to 22. <u>House</u> concurs.	Gross	\$6,736,200	\$648,000
	Restricted	6,736,200	648,000
	GF/GP	\$0	\$0
5. Marijuana Social Equity Program		Gross	NA
<u>Executive</u> includes \$500,000 in restricted authorization from the Marihuana Regulation Fund (adult-use) which would be used to increase access to capital to address social equity issues in the adult-use marijuana market. The funding would be utilized to provide low-interest and no-interest loans and grants to individuals and entities seeking to enter or expand in the adult-use marijuana industry. <u>House</u> does not include.	Restricted	NA	0
	GF/GP	NA	\$0
6. Underground Natural Gas Storage Safety Program		Gross	NA
<u>Executive</u> includes \$352,500 in federal authorization from the Department of Transportation, to reflect a grant that the state is receiving to operate the Underground Natural Gas Storage Inspection Program, which inspects, evaluates, and monitors the code compliance status of underground natural gas storage operators in the state. There are 6 intrastate operators that would be regulated under the program and these operators have approximately 31 facilities and 1,230 wells. Regulation would include complete storage program inspections and annual inspections of ongoing construction, maintenance, and other field activities. <u>House</u> concurs.	Federal	NA	\$352,500
	GF/GP	NA	352,500
			\$0

Major Budget Changes from FY 2020-21 YTD Appropriations		FY 2020-21 Year-to-Date (as of 2/11/21)	FY 2021-22 House Change
7. Technical Adjustments		Gross	NA (\$1,398,400)
<u>Executive</u> includes numerous adjustments to state restricted authorizations and federal and IDG/IDT funding, to align fund sources with projected revenues and expenditures. Also includes the following:	IDG/IDT	NA	(1,376,100)
	Federal	NA	25,500
	Restricted	NA	1,211,400
	GF/GP	NA	(\$1,259,200)
- Internal net-zero adjustment to designate \$1.0 million GF/GP for Urban Search and Rescue as one-time funding (the funding is currently classified as ongoing). - Internal net-zero transfer to allocate \$9.3 million Gross from the Bureau of Community and Health Systems Administration line item to the Adult Foster Care and Camps Licensing and Regulation, Health Facilities Regulation, and Nurse Aide Program line items.			
<u>House</u> concurs in part, but retains Urban Search and Rescue as an ongoing line item and also includes the following adjustments:			
- Shifts \$1.3 million GF/GP in the Information Technology Services and Projects line item to state restricted funding from Corporation Fees. - Internal net zero transfer to move \$1.7 million IDG/IDT from the Bureau of Community and Health Systems Administration line item to the Childcare Licensing and Regulation line item.			
8. Economic Adjustments		Gross	NA (\$1,585,100)
Reflects decreased costs of \$1.6 million Gross (\$109,700 GF/GP) for negotiated salary and wage increases (2.0% on October 1, 2021 and 1.0% on April 1, 2022), overtime increases, increased longevity, higher actuarially required retirement contributions, increases in building occupancy charges, decreases in other employee retirement costs, decreases in worker's compensation, and other economic adjustments.	IDG/IDT	NA	(208,700)
	Federal	NA	(170,800)
	Restricted	NA	(1,075,500)
	GF/GP	NA	(\$130,100)
<u>House</u> concurs but does not include adjustments for the Michigan Indigent Defense Commission line item or the Property Management line item.			
9. Urban Search and Rescue		Gross	\$1,000,000 (\$400,000)
<u>House</u> reduces the appropriation for the Urban Search and Rescue line item by \$400,000 GF/GP, allocating a total of \$600,000 GF/GP for the program.		GF/GP	\$1,000,000 (\$400,000)
10. Bureau of Fire Services		FTE	79.0 0.0
<u>House</u> includes an additional \$100,000 GF/GP for the Bureau of Fire Services line item.	Gross	\$12,552,700	\$100,000
	Federal	1,442,400	0
	Restricted	7,108,800	0
	GF/GP	\$4,001,500	\$100,000
11. Unclassified Salaries		FTE	30.0 (5.0)
<u>House</u> reduces funding for Unclassified Salaries by \$750,000 Gross (\$9,300 GF/GP) and eliminates authorization for 5.0 unclassified FTE positions.	Gross	\$2,572,400	(\$750,000)
	Federal	16,000	0
	Restricted	2,524,500	(740,700)
	GF/GP	\$31,900	(\$9,300)
12. Property Management		Gross	\$8,218,600 (\$821,900)
<u>House</u> reduces funding for the Property Management line item by \$821,900 Gross (\$203,600 GF/GP), which equates to a 10% Gross reduction.	Federal	420,100	0
	Restricted	7,594,900	(618,300)
	GF/GP	\$203,600	(\$203,600)

Major Boilerplate Changes from FY 2020-21

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.

Major Boilerplate Changes from FY 2020-21

Sec. 207. Out-of-State Travel – RETAINED

Stipulates conditions when LARA may send employees on out-of-state travel; limits expenditure of state funds on out-of-state professional development conferences; requires detailed report on all out-of-state travel. Executive revises to strike sections delineating conditions under which out-of-state travel is permissible and to modify requirements for information to be contained in the report. House retains.

Sec. 210. Contingency Funding – 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 funds; authorizes expenditure of funds after legislative transfer to specific line items. Executive revises to adjust appropriation amounts to \$10.0 million in federal, \$25.0 million in state restricted, \$1.0 million in local, and \$500,000 in private contingency funds. House retains.

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

Requires LARA to submit a quarterly report on FTE staffing and a semiannual report on remote work and associated metrics. Executive deletes. House retains.

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 Report – NEW

Requires LARA to report the name and any amount of severance pay given to any high-ranking department official; requires LARA to maintain an internet site that posts any severance pay in excess of 6 weeks of wages for a former employee of any rank; requires LARA to report on the total amount of severance pay remitted to former employees during the prior fiscal year and the number of those employees; defines "severance pay". Executive does not include. House includes new language.

Sec. 222. Prohibition on COVID-19 Vaccine Status Verifications – NEW

Prohibits state entities receiving funding from part 1 from requiring proof of COVID-19 vaccination as a condition of accessing any state services or facilities, producing COVID-19 vaccine passports, and providing information to other parties for inclusion in a COVID-19 vaccine passport. Executive does not include. House includes new language.

Sec. 229. Employee Performance Monitoring Process – RETAINED

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 retains.

Sec. 232. Departmental Activity During Pending Litigation – NEW

Stipulates that pending litigation must not delay investigations and licensing actions taken by LARA. Executive does not include. House includes new language.

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 Michigan Liquor Control Code, 1998 PA 58 – to investigate illegal direct shipments of wine and that notice 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 eliminate requirement that the MLCC refer identified unlicensed entities to the Attorney General, modify report requirements, and to eliminate notification requirements. House retains.

Sec. 504. Homeowner Construction Lien Recovery Fund – DELETED

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 deletes. House deletes.

Major Boilerplate Changes from FY 2020-21

Sec. 510. Urban Search and Rescue – NEW

Requires that funds for Urban Search and Rescue be distributed by the Bureau of Fire Services to support the activities of the Michigan Task Force 1. Executive does not include. House includes new language.

Sec. 511. Adequacy of Federal and State Guidelines Report – NEW

Requires LARA to submit biannual reports featuring inspector feedback on the adequacy of federal and state guidelines pertaining to entities regulated by the Bureau of Community and Health Systems. Executive does not include. House includes new language.

Sec. 512. Marijuana Social Equity Program – NEW

Requires LARA to offer individuals without a criminal history who are seeking licensure in the adult-use marijuana industry the same or greater percentage reductions on fees and fines under the Marijuana Social Equity Program that it offers to individuals with a criminal history. Executive does not include. House includes new language.

Sec. 801. Michigan Indigent Defense Commission Receipt of Federal Funding – DELETED

Authorizes MIDC to receive and expend up to \$250,000 in federal Byrne grant funding and up to \$300,000 in other federal grant funding, if made available from U.S. Department of Justice. Executive retains. House deletes.

Sec. 802. Michigan Indigent Defense Commission Report on Incremental Costs – DELETED

Requires MIDC to submit report on incremental costs associated with standard development process, compliance plan process, and collection of data from all indigent defense systems and attorneys providing indigent defense. Executive retains. House deletes.

Sec. 1001. Michigan Saves Appropriation – DELETED

Allows PSC to award a \$1.0 million grant to a nonprofit green bank to make loans more affordable for families, businesses, and public entities in Michigan; stipulates grant funds may be used for a loan loss reserve fund or similar financial instrument. Executive revises to reflect new appropriation amounts. House deletes.