EXECUTIVE REORGANIZATION ORDER
E.R.O. No. 2015-3

460.21 Creation of Michigan agency for energy within department of licensing and regulatory affairs; transfer of powers and duties of public service commission under motor carrier act, carriers by water act, and motor carrier safety act to Michigan state police; transfer of powers and duties of department of environmental quality under retired engineers technical assistance program to Michigan agency for energy; transfer of powers and duties of air policy director of department of environmental quality to Michigan agency for energy; transfer of powers and duties of Michigan energy office from Michigan economic development corporation and Michigan strategic fund to department of licensing and regulatory affairs; transfer of powers and duties of Michigan energy office from department of licensing and regulatory affairs to Michigan agency for energy; transfer of public service commission from department of licensing and regulatory affairs to Michigan agency for energy.

WHEREAS, Section 1 of Article V of the Michigan Constitution of 1963 vests the executive power of the state of Michigan in the Governor; and

WHEREAS, Section 2 of Article V of the Michigan Constitution of 1963 empowers the Governor to make changes in the organization of the Executive Branch or in the assignment of functions among its units that he considers necessary for efficient administration; and

WHEREAS, there is a continued need to increase collaboration, optimize service delivery, and ensure efficient administration; and

WHEREAS, Michigan's energy future requires making long-term decisions that are adaptable, affordable, reliable, and environmentally protective; and

WHEREAS, such decision-making will be best informed if experts in each area are working closely together and ensuring their efforts are efficient and effective;

NOW, THEREFORE, I, Richard D. Snyder, Governor of the state of Michigan, by virtue of the powers and authority vested in the Governor by the Michigan Constitution of 1963 and Michigan law, order the following:

I. DEFINITIONS

As used in this Order:

A. "Agency" means the Michigan Agency for Energy created under Section II of this order.

B. "Department of Environmental Quality" means the principal department of state government created under Executive Order 2011-1.

C. "Department of Licensing and Regulatory Affairs" means the principal department of state government created as the Department of Commerce under Section 225 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.325, renamed the Department of Consumer and Industry Services under Executive Order 1996-2, MCL 445.2001, renamed the Department of Labor and Economic Growth under Executive Order 2003-18, MCL 445.2011, renamed the Department of Energy, Labor, and Economic Growth under Executive Order 2008-20, MCL 445.2025, and renamed the Department of Licensing and Regulatory Affairs under Executive Order 2011-4, MCL 445.2030.

D. "Department of State Police" means the principal department of state government created under Section 150 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.250.

E. "Executive Director" means the executive director of the Agency.

F. "Michigan Economic Development Corporation" means the public body corporate created under the Urban Cooperation Act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, by a contractual interlocal agreement effective April 5, 1999, as amended, between the Michigan Strategic Fund and local participating economic development corporations formed under the Economic Development Corporations Act, 1974 PA 338, MCL 125.1601 to 125.1636.

G. "Michigan Strategic Fund" means the public body corporate and politic created under Section 5 of 1984 PA 270, MCL 125.2005.

H. "Public Service Commission" means the public body corporate created under the Michigan Public Service Commission Act of 1939, PA 3, MCL 460.1 et seq., as amended, located within the Department of Licensing and Regulatory Affairs.

I. "State Budget Director" means the individual appointed by the Governor pursuant to Section 321 of the Management and Budget Act, 1984 PA 431, MCL 18.1321.

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II. CREATION OF THE MICHIGAN AGENCY FOR ENERGY

A. The Michigan Agency for Energy is created as an agency within the Department of Licensing and Regulatory Affairs. The Agency shall exercise its prescribed powers, duties, and functions independently of the Director of the Department of Licensing and Regulatory Affairs.

B. The Agency shall be headed by an Executive Director who shall be appointed by the Governor and serve at the pleasure of the Governor. The Executive Director shall serve as a member of the Governor's Cabinet.

C. The Executive Director shall be the chief advisor to the Governor and the directors of state departments regarding the development of energy policies and programs.

III. FUNCTIONS OF THE AGENCY

A. The Agency shall perform the following functions:

i. Analyze and make recommendations to the Governor on proposed programs and policies relating to energy, and on the elimination of duplication in existing state programs in these areas;

ii. Directly administer certain programs related to energy, and serve as the coordinating office for all agencies of the executive branch of government that are responsible for programs related to energy;

iii. Provide information and assistance to all departments and agencies of the executive branch of government related to energy, both directly and by functioning as a clearinghouse for information received from such agencies, other branches of government, other states, and the federal government.

B. The Agency may make and execute contracts and other instruments necessary or convenient to the proper exercise of its functions.

IV. TRANSFER OF MOTOR CARRIER AUTHORITIES

A. Any authority, powers, duties, functions, records, personnel, property, unexpended balances of appropriations, allocations or other funds, including the functions of budgeting and procurement, of the Public Service Commission, Department of Licensing and Regulatory Affairs, under the following acts are transferred from the Public Service Commission, Department of Licensing and Regulatory Affairs, to the Michigan State Police:

a. Motor Carrier Act, P.A. 254 (1933), as amended, being Michigan Compiled Laws, MCL 475.1 to 479.49;

b. Carriers by Water Act, P.A. 246 (1921), as amended, being Michigan Complied Laws, MCL 460.201 to 460.206; and

c. Motor Carrier Safety Act, P.A. 181 (1963), as amended, being Michigan Compiled Laws, MCL 480.11 to 480.25.

B. Any authority, powers, duties, functions, records, personnel, property, unexpended balances of appropriations, allocations or other funds, including the functions of budgeting and procurement, used, held, employed, available, or to be made available to the Public Service Commission, Department of Licensing and Regulatory Affairs for the activities, powers, duties, functions, and responsibilities transferred by this Order are transferred to the Michigan State Police.

C. The Director of the Michigan State Police, after consultation with the Public Service Commissioners and the Director of the Department of Licensing and Regulatory Affairs, shall provide executive direction and supervision for the implementation of the transfers. The assigned functions shall be administered under the direction and supervision of the Director of the Michigan State Police.

D. Any authority, powers, duties, and functions relative to the final agency decisions for cases arising under the authorities transferred under this section of this Order are transferred from the Public Service Commission, Department of Licensing and Regulatory Affairs, to the Director of the State Police.

V. TRANSFER OF RETIRED ENGINEERS TECHNICAL ASSISTANCE PROGRAM AND AIR POLICY PROGRAM

A. Any authority, powers, duties, functions, records, personnel, property, unexpended balances of appropriations, allocations or other funds, including the functions of budgeting and procurement, of the Department of Environmental Quality under the Retired Engineers Technical Assistance Program, created under MCL 324.14511 and 324.14512, as amended, are transferred from the Department of Environmental Quality to the Michigan Agency for Energy, Department of Licensing and Regulatory Affairs.

B. Any authority, powers, duties, functions, records, personnel, property, unexpended balances of appropriations, allocations or other funds, including the functions of budgeting and procurement, of the Air Policy Director of the Department of Environmental Quality, are transferred from the Department of Environmental Quality to the Michigan Agency for Energy, Department of Licensing and Regulatory Affairs.

C. The Executive Director, after consultation with the Director of the Department of Environmental Quality and the Director of the Department of Licensing and Regulatory Affairs, shall provide executive

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direction and supervision for the implementation of the transfers. The assigned functions shall be administered under the direction and supervision of the Executive Director.

VI. TRANSFER OF THE MICHIGAN ENERGY OFFICE

A. Any authority, powers, duties, functions, records, personnel, property, unexpended balances of appropriations, allocations or other funds, including the functions of budgeting and procurement, of the Michigan Energy Office, are transferred from the Michigan Economic Development Corporation and the Michigan Strategic Fund to the Department of Licensing and Regulatory Affairs. Such funds shall include the Energy Efficiency and Renewable Energy Revolving Loan Fund, MCL 460.911 to 460.913, as amended.

B. Any authority, powers, duties, functions, records, personnel, property, unexpended balances of appropriations, allocations or other funds, including the functions of budgeting and procurement, of the Michigan Energy Office, are transferred from the Department of Licensing and Regulatory Affairs to the Michigan Agency for Energy, Department of Licensing and Regulatory Affairs.

C. The Executive Director, after consultation with the Chief Executive Officer of the Michigan Economic Development Corporation and the President of the Michigan Strategic Fund, shall provide executive direction and supervision for the implementation of the transfers. The assigned functions shall be administered under the direction and supervision of the Executive Director.

VII. RELATIONSHIP OF AGENCY AND MICHIGAN PUBLIC SERVICE COMMISSION, AND TRANSFER OF CERTAIN FUNCTIONS

A. The Public Service Commission shall be transferred intact from the Department of Licensing and Regulatory Affairs to the Michigan Agency for Energy.

B. The Public Service Commission shall exercise its functions as an autonomous entity independently from the Director of the Department of Licensing and Regulatory Affairs and the Executive Director of the Agency, as further described in this Order. Unless expressly stated otherwise in this Order, the Public Service Commission shall retain all of its statutory authority, powers, duties, functions, and responsibilities, including records, personnel, budgeting, procurement, and unexpended balances of appropriations. The powers, duties, and functions related to property are transferred to the Agency. The Public Service Commission shall retain control of all monies and funds, including but not limited to grants, bonds, notes, and reserves, subject to any agreements related to such grants, bonds, notes or reserves. Nothing in this Order shall be interpreted to infringe on the plenary powers of the Public Service Commission to regulate all rates, fares, fees, charges, services, rules, conditions of service, and all other matters pertaining to the formation, operation, or direction of public utilities, common carriers, or similar entities. The Commission shall retain the sole power and jurisdiction to hear and pass upon all matters pertaining to, necessary, or incidental to the regulation of public utilities, common carriers, or similar entities. It shall also retain all power to retain engineers, experts, and related personnel, and fix their compensation to assist it in such duties as provided under current law.

C. The legislative liaison and communications specialist of the Public Service Commission shall be transferred to the Agency. However, the Commission may request the services of either individual to advise the Public Service Commission regarding legislative matters and to communicate with the public regarding its plenary authorities, and the Executive Director shall ensure such personnel will provide the requested services to the Commission. When performing duties requested by the Commission, such individuals shall be considered Commission staff and supervision of those tasks shall be by the Commission.

D. Any authority, powers, duties, functions, records, personnel, property, unexpended balances of appropriations, allocations or other funds, including the functions of budgeting and procurement, of the customer service division, and the Energy Markets and Energy Data & Security sections of the Public Service Commission shall be transferred to the Michigan Agency for Energy, Department of Licensing and Regulatory Affairs. Additionally, one position supporting human resource functions and any positions dedicated to property functions in the administration section shall be transferred from the Public Service Commission to the Agency. Notwithstanding any of the above, those priorities, powers, duties, and functions that are within the plenary powers described in Section VII.B. of this Order shall remain with the Public Service Commission and shall not be subject to transfer. When undertaking activities necessary to carry out plenary powers, individuals shall be considered Commission staff and supervision of those tasks shall be by the Commission.

E. The Executive Director, after consultation with the Chair of the Public Service Commission and the Director of the Department of Licensing and Regulatory Affairs, shall provide executive direction and supervision for the implementation of the transfers. The assigned functions shall be administered under the direction and supervision of the Executive Director.

VIII. TRANSFER OF ENERGY ADVISORY COMMITTEE AUTHORITIES

A. Any authority, powers duties, functions, records, personnel, property, unexpended balances of

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appropriations, allocations or other funds, including the functions of budgeting and procurement related to the duties of the Director of Licensing and Regulatory Affairs created under MCL 10.82, and now residing in the Director of the Department of Licensing and Regulatory Affairs under Executive Orders 2008-20 and 2011-4, shall be transferred to the Executive Director of the Agency.

B. The Executive Director, after consultation with Director of the Department of Licensing and Regulatory Affairs, shall provide executive direction and supervision for the implementation of the transfers. The assigned functions shall be administered under the direction and supervision of the Executive Director.

IX. IMPLEMENTATION OF TRANSFERS

A. The Executive Director shall provide executive direction and supervision for the implementation of all transfers of authority under this Order in consultation with the Director of the Department of Licensing and Regulatory Affairs.

B. The Executive Director shall establish the internal organization of the Agency and allocate and reallocate duties and functions to promote economic and efficient administration and operation of the Agency. The Executive Director shall be responsible for the day-to-day operations of the Agency.

X. MISCELLANEOUS

A. All records, personnel, and property used, held, employed, or to be made available to the Department of Licensing and Regulatory Affairs, the Michigan Economic Development Corporation, the Michigan Strategic Fund, and the Department of Environmental Quality for the activities, powers, duties, functions, and responsibilities transferred by this Order to the Agency are hereby transferred to the Agency.

B. All records, personnel, and property used, held, employed, or to be made available to the Public Service Commission for the activities, powers, duties, functions, and responsibilities transferred by this Order to the Michigan State Police are hereby transferred to the Michigan State Police.

C. The State Budget Director shall determine and authorize the most efficient manner possible for the handling of financial transactions and records in the state's financial management system for the remainder of the current state fiscal year for transfers made under this Order.

D. All rules, orders, contracts, plans, and agreements relating to the functions transferred to the Agency by this Order lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended, or rescinded.

E. Any suit, action, or other proceeding lawfully commenced by, against, or before any entity transferred by this Order shall not abate by reason of the taking effect of this Order. Any lawfully commenced suit, action, or other proceeding may be maintained by, against, or before the appropriate successor of any entity affected by this Order.

F. The invalidity of any portion of this Order shall not affect the validity of the remainder of the Order, which may be given effect without any invalid portion. Any portion of this Order found invalid by a court or other entity with proper jurisdiction shall be severable from the remaining portions of this Order.

In fulfillment of the requirements of Section 2 of Article V of the Michigan Constitution of 1963, this Order shall be effective 60 days after the filing of this Order.

History: 2015, E.R.O. No. 2015-3, Eff. May 18, 2015.

Compiler's note: Executive Reorganization Order No. 2015-3 was promulgated March 18, 2015 as Executive Order No. 2015-10, Eff. May 18, 2015.

For transfer of powers and duties relating to property and administrative services division and customer service division transferred by MCL 460.21 to Michigan agency for energy back to public service commission, see E.R.O. No. 2018-1, compiled at MCL 460.22.

For transfer of energy markets section from Michigan agency for energy to public service commission, see E.R.O. No. 2018-1, compiled at MCL 460.22.

For the transfer of certain powers and duties of the Michigan agency for energy to the office of climate and energy within department of environment, Great Lakes, and energy, and abolishment of the Michigan agency for energy and the position of executive director of the Michigan agency for energy, see E.R.O. 2019-1, compiled at MCL 324.99923.

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