

SENATE FISCAL AGENCY MEMORANDUM

DATE: August 11, 2020

TO: Members of the Michigan Senate

FROM: Ellyn Ackerman, John Maxwell, Elizabeth Raczkowski, Cory Savino, and Michael Siracuse, Fiscal Analysts; and Jeff Mann, Associate Director

RE: Coronavirus Disease 2019 (COVID-19) Executive Orders 2020-151 through 2020-154, and 2020-156 through 2020-158

Overview

From July 14, 2020, through July 27, 2020, Governor Whitmer issued Executive Orders (EOs) 2020-151 through 2020-154, and 2020-156 through 2020-158 to maintain a state of emergency across the State of Michigan in relation to the outbreak of COVID-19 and to implement various measures in response to COVID-19 in Michigan.¹ These measures affect, among other things, the training of pharmacists, face covering requirements, remote administrative procedures, care facilities, youth work permits, public hearings, and document notarization. The EOs will have an impact on State revenue, local governments, and various State departments, including the Department of Labor and Economic Opportunity (LEO), the Department of Licensing and Regulatory Affairs (LARA), the Department of Technology, Management and Budget (DTMB), the Michigan Employment Relations Commission (MERC), the Unemployment Insurance Agency (UIA), and the Department of Health and Human Services (DHHS).

COVID-19

Coronavirus disease 2019, COVID-19, is a respiratory illness caused by a virus that can spread from person to person. Generally, coronaviruses cause mild, cold-like symptoms; however, severe diseases, such as Severe Acute Respiratory Syndrome (SARS) and Middle East Respiratory Syndrome (MERS) also are examples of diseases caused by other forms of coronavirus. Reported symptoms of COVID-19 have ranged from mild (if any) cold-like symptoms in the majority of individuals, to severe illness or death.

The virus that causes COVID-19 was identified as the cause of an outbreak detected in Wuhan City, China, in November 2019. In late January 2020, the first case of COVID-19 in the United States was confirmed. The Michigan DHHS identified the first two positive cases of COVID-19 in Michigan on March 10, 2020. As of August 11, 2020, the DHHS has reported 87,403 cases and 6,249 deaths attributable to COVID-19.

Authority for Orders

Executive Order 2020-151, which continues the state of emergency and state of disaster in response to the COVID-19 pandemic, cites the Emergency Management Act (EMA) and Public Act (PA) 302 of 1945 (which pertains to the Governor's emergency powers) as authority for its

¹ Executive Order 2020-155 is not COVID-19-related and is not analyzed in this memorandum.

issuance.² Under the EMA, the Governor must declare a state of emergency if he or she finds that an emergency has occurred or that the threat of an emergency exists. In addition, Section 1 of PA 302 of 1945 allows the Governor to proclaim a state of emergency "during times of great public crisis, disaster, rioting, catastrophe, or similar public emergency" within Michigan.

The Governor derives the authority for the orders summarized in the memorandum from those same acts, namely Section 3 of the EMA, which provides (in pertinent part), that the Governor may "issue executive orders, proclamations, and directives having the force and effect of law to implement" the EMA, and Section 1 of PA 302 of 1945.³

A listing of all Executive Orders issued in response to the COVID-19 pandemic through Executive Order 2020-158, including the effective date and the expiration date of each, can be found in the appendix attached to this document.

Summary of Order Contents

Executive Order 2020-151

Effective July 14, 2020, and continuing until August 11, 2020, at 11:59 PM, the Order declares a state of emergency under PA 302 of 1945. The Order rescinds EO 2020-127, which extended the declared state of emergency under EOs 2020-33, 2020-67, 2020-68, and 2020-99. All previous orders that rested on EO 2020-127 rest on EO 2020-151.

The Order specifies that the COVID-19 pandemic constitutes a disaster and emergency throughout the State. The Order also specifies, subject to ongoing litigation and appeals, and to the extent the Governor may declare states of emergency and disaster under the EMA when emergency and disaster conditions exist but the Legislature has not granted an extension request, that the Order constitutes states of emergency and disaster declarations under the EMA.

Executive Order 2020-152

The Order is effective from July 14, 2020, until the end of the declared states of emergency and disaster related to the COVID-19 pandemic. The Order rescinds EO 2020-124. It also permits preceptors to supervise student pharmacists remotely to allow individuals to fulfill eligibility requirements for licensure. It temporarily suspends statutes and regulations that are inconsistent with the Order.

Executive Order 2020-153

Effective July 17, 2020, the Order requires an individual to wear a face covering over his or her nose and mouth if he or she leaves the home and is in an indoor public space, outdoors in a place where six feet of distance cannot be maintained, and while waiting for or riding public

² The Governor's Office has subsequently issued EO 2020-165, which rescinds and replaces EO 2020-151 and maintains the state of emergency citing the same authority.

³ Section 1 of PA 302 of 1945 specifically states that orders may designate specific zones within the area involved in the emergency in which occupancy and use of buildings and ingress and egress of people and vehicles may be prohibited or regulated; control places of amusement and assembly and of individuals on public streets and thoroughfares; establish a curfew; and control the sale, transportation, and use of alcoholic beverages and liquors, among other things.

transportation, a taxi, a ride-sharing vehicle, or any other hired car services. The Order rescinds EO 2020-147, and portions of 2020-110 and 2020-115 pertaining to face coverings.

The requirement to wear a face covering does not apply to children younger than five, those who cannot medically tolerate a face covering, individuals eating and drinking at a food establishment, and those who are exercising, temporarily providing facial identification, communicating with someone who is hearing impaired, actively engaged in a public safety role, are at a polling place for the purpose of voting, officiating a religious service, or giving a speech for broadcast or to an audience.

The Order requires businesses that are open to the public not to provide service to a customer or allow a customer to enter the establishment unless he or she is wearing a face covering. Businesses must post signs instructing customers of their obligation to wear a face covering. The Order allows a department or agency that learns that a licensee is in violation of the face covering requirement to consider temporary suspension of the business's license to operate. A business may accept a customer's verbal representation that an individual is not wearing a face covering because he or she is covered under an exception to the face covering requirement.

The Order specifies that, for the purposes of the Order, child care centers, residential, travel, or troop camps are not public spaces. The Order protects individuals who wear face covering from discrimination under the Elliot-Larsen Civil Rights Act and exempts individuals engaging in religious worship from any penalties.

A willful violation of Order is a misdemeanor, but no term of confinement may be imposed for a violation of the face covering requirement.

Executive Order 2020-154

The Order, effective July 17, 2020, and continuing for 28 days after the declared state of emergency or disaster arising out of the COVID-19 pandemic, rescinds and replaces EOs 2020-12, 2020-132, and 2020-141 with substantively identical language. The Order suspends strict compliance with the Open Meetings Act (OMA), and allows for State business, administrative procedures, and public hearings to be conducted electronically under specific circumstances.

Open Meetings Act Compliance

The Order suspends temporarily strict compliance with Section 3 of the OMA to alleviate any physical-place or physical-presence requirements to the extent that OMA requires a meeting of a public body to be held in a physical space available to the general public or requires the physical presence of one or more members of a public body. (Section 3 of OMA requires all meetings of a public body to be open to the public and, among other things, requires all individuals to be permitted to attend those meetings except as otherwise specified in the Act.)

The Order allows a meeting of a public body to be held electronically, including by telephonic conferencing or video conferencing, in a manner that allows the general public and members of the body to participate electronically.

A meeting held electronically is subject to the following conditions:

- The meeting must be held in a manner that allows two-way communication so that members of the public body can hear and be heard by other members and so that the general public participants can hear members of the public body and be heard by members and other participants during a public comment period.
- Members of the public body and of the general public participating electronically will be considered present and in attendance and may participate as if present at the meeting.
- All individuals must be allowed to participate, except as otherwise provided in OMA.
- If a public body maintains an official internet presence, the body must post advance notice of a meeting held electronically (the notice must contain certain information prescribed in the Order) on a portion of the body's website fully accessible to the public.
- The right of a person to participate in a meeting electronically includes the right to tape-record, to videotape, to broadcast live on radio, and to telecast live on television the proceedings of a public body at a public meeting, consistent with OMA.
- A public body may not require a person to register or otherwise provide his or her name or other information as a condition of participation, other than mechanisms necessary to permit the person to participate in the public comment period of the meeting.
- A person must be permitted to address a meeting under the rules established and recorded by the public body and may not be excluded except for a breach of the peace committed during the meeting.
- Members are urged to take all votes by roll call to avoid questions about how each member votes.
- If the public body directly or indirectly maintains an internet presence, it is encouraged to make an agenda and other materials related to the meeting available to the general public through its website homepage.
- Members of a public body must avoid using email, texting, instant messaging, and other forms of electronic communication to deliberate or make a decision during a meeting, or use "around-the-horn" decision-making in a manner not accessible to the public during a meeting.

If a decision or other action of a public body is in compliance with the Order and the other requirements of OMA, it is in compliance with OMA. If a statute or rule other than OMA requires that public comments be permitted, or a public hearing held, a public body or agency may provide a means for remote public comment or participation to facilitate participation by the general public to the same extent as if the member of the public appeared in person. If not expressly authorized by statute or rule, written comment also is permitted.

The Order suspends temporarily strict compliance with Sections 11a(6), 384(7), and 418a(1) of the Revised School Code, which require school district boards to hold meetings at least once a month.

Nothing in the Order permits a public body to limit or restrict the rights of the press or other news media. Members of public bodies are encouraged to facilitate access by members of the press and other news media both to meetings held electronically and to members of public bodies. The terms "decision", "meeting", and "public body" mean those terms as defined in Section 2 of OMA, except the Order does not apply to State legislative bodies. A provision of the Order prevails over any conflicting provision of a local charter, ordinance, or rule. The Order supersedes Sections 2 and 3 of Executive Directive 2020-2, which pertains to access to meetings of public bodies and agencies subject to OMA.

Tax Abatement Modifications

The Order allows tax abatement hearings to be conducted electronically, either by phone or video-conferencing. The Order also suspends strict compliance with any requirement under a tax abatement statute to provide notice of a public hearing and allows local units of government to provide notice for hearings in the following ways:

- For real property owners, notice must be made by publishing the hearing information in three successive issues of a generally circulated newspaper, or by posting such information in five conspicuous places in the appropriate tax abatement district.
- For assessors and public officials entitled to notice, notice must be made by email.
- For the general public, notice must be made by a posting on the local government's website.

The above notice requirements are offered in addition to the standard statutory requirements, which still may be applied so long as a local unit of government is able to adhere to the Order's requirements. Whether or not the statutory requirements are met, or the electronic methods of notice are used, notices must include the following:

- An explanation as to why the public body is meeting electronically.
- The procedures by which the public can participate electronically.
- The procedures by which individuals can contact members with input or questions.
- The procedures by which individuals with disabilities can participate.

The Order does not change the time requirements for notices under any tax abatement statute. To the extent the Order conflicts with any requirement set by a local governmental unit's charter or ordinances, the Order controls.

Administrative Hearings

Specifically, the MERC and the UIA hearings may be conducted by electronic means, including by video conference. Any hearings required by law, rule, or regulation, as well as any held under the Administrative Procedures Act and the Michigan Administrative Hearings System Administrative Hearing Rules also may be held by telephone or by electronic means. The Order also allows notice and services of process required by the Administrative Procedures Act and the Michigan Administrative Hearings System Administrative Hearing Rules to be provided by mail or electronically. Notices to the MERC, communications and notices pertaining to an impending strike or lockout, and notices to and by the UIA may be provided by mail or electronically.

Under the Order, the DTMB is directed to authorize the use of electronic signatures as required under the Administrative Procedures Act and under the following sections of the Michigan Employment Security Act: 11(b)(4), 32b(3), and 54f. An electronic signature is sufficient to satisfy a requirement for a signature under the law.

Strict compliance with statutes and rules regarding hearings and notices covered under the provisions of the Order is temporarily suspended to the extent necessary to allow for alternative means of communication. However, compliance with the statutes and rules pertaining to the Joint Committee on Administrative Rules is still required. Administrative and emergency rules may be filed with the Secretary of State electronically. The temporary suspensions are in effect for the duration of the Order.

Executive Order 2020-156

Effective July 23, 2020, to August 31, 2020, the Order requires all health care facilities, residential facilities, congregate care facilities, and juvenile justice facilities to prohibit from entering those facilities any visitors who are:

- Not necessary for the provision of medical care, the support of activities of daily living, or the exercise of power of attorney or court-appointed guardianship for an individual under the facility's care.
- Not a parent, foster parent, or guardian of an individual who is 21 years old or younger and who is under the facility's care.
- Not visiting an individual under the facility's care who is in serious or critical condition or in hospice care.
- Not visiting under exigent circumstances or to perform an official governmental function.

Under the Order, "residential care facilities" includes homes for the aged, nursing homes, adult foster care facilities, hospice facilities, substance abuse disorder residential facilities, independent living facilities, and assisted living facilities.

The Order requires all of the facilities listed above to perform a health evaluation of all individuals who are not under the care of the facility each time they seek to enter the facility, and to deny entry to those who do not meet the evaluation criteria. The evaluation criteria must include symptoms of respiratory infection (i.e., fever, cough, shortness of breath, or sore throat), contact in the last 14 days with someone with a confirmed diagnosis of COVID-19, and other criteria specified by the DHHS Director.

In addition, the Order requires all staff members and visitors of a residential care facility, congregate care facility, or juvenile justice facility to wear a covering over their nose and mouth when indoors or within six feet of another person.

The Order also states that while the restrictions are in place, for the facilities covered under the Order, facilities must make best efforts to facilitate visitation with individuals under their care by phone or other electronic communications platforms to the fullest extent possible, consistent with normal visitation policies.

This Order rescinds EO 2020-136. A willful violation of the EO 2020-156 is a misdemeanor.

Executive Order 2020-157

Effective June 27, 2020, and continuing through August 31, 2020, at 11:59 PM, the Order temporarily suspends strict compliance with Section 5 of the Youth Employment Standards Act to the extent it requires a work permit application to be made in person. An issuing officer may accept and examine a work permit application, including any accompanying materials, submitted by alternative means, such as mail, electronic mail, facsimile, or web-based form. The Order rescinds EO 2020-140.

The Order also temporarily suspends strict compliance with Section 6 of the Act such that the color of work permits for minors under 16 years of age does not need to be distinct from that of work permits of minors 16 years of age or over (which the Act requires). Section 6 of the Act

requires work permits to be issued in a form prescribed by the Michigan Department of Education, in cooperation with LEO, in accordance with prescribed instructions.

Executive Order 2020-158

Effective July 27, 2020, and continuing until August 31, 2020, at 11:59 PM, the Order rescinds and replaces EO 2020-131, relaxing strict compliance with the Uniform Electronic Transactions Act (UETA), the Uniform Real Property Electronic Recording Act (URPERA), and the Michigan Law on Notarial Acts (MLNA).

Compliance with UETA and URPERA is temporarily suspended to the extent necessary to permit the use of an electronic signature for a transaction whenever a signature is required under Michigan law, unless a law specifically mandates a physical signature. Section 18 of the UETA grants the DTMB the authority to determine to what extent State departments send and accept electronic records and electronic signatures from other entities based upon several factors, including security, the type of electronic record or signature, preservation, disposition, integrity, confidentiality, and auditability. The Order temporarily suspends strict compliance with Section 18 of the UETA to allow each State department to send and accept electronic records and electronic signatures without the approval of the DTMB.

Compliance with the MLNA is temporarily suspended to the extent that it requires a notary to be physically present when performing notary services under specifically tailored circumstances. The Order specifies that any notarial act that otherwise may require in-person notarial services may be performed by a commissioned notary using two-way real-time audiovisual technology under the following conditions:

- The technology must allow direct interaction between the notary, the person seeking notary services, and any witnesses so each can communicate simultaneously by sight and sound.
- The technology must be capable of creating an audio and visual recording of the complete notarial act and the recording must be retained as a notarial record in accordance with the MLNA.
- The individual seeking notarial services must present satisfactory identification during the video conference in accordance with the MLNA and any other applicable law.
- The individual seeking notarial services must affirmatively represent to the notary that the individual is physically within Michigan or that the documents to be notarized are intended to be filed in Michigan or that such documents involve property within, or substantially connected to, Michigan.
- Electronic signatures for notarial services must be tamper proof.
- The individual seeking notarial services must transmit the entire signed document to the notary on the same day it was signed.

The Order encourages entities and State agencies and officials to use electronic records and electronic signatures to conduct business and to use a remote electronic notary whenever a notarized signature is required. Any requirement under any Michigan law that requires an in-person witness can be satisfied with the use of two-way real-time audiovisual technology under the following conditions:

- The technology must allow for direct contemporaneous interaction by sight and sound between a signatory and a witness.
- The technology must allow for a recording to be preserved of the interaction between the signatory and the witness.

- The signatory must affirmatively represent to the witness that the signatory is physically within Michigan or that the documents to be signed are intended to be filed in Michigan or that the documents involve property within, or substantially connected to, Michigan.
- The signatory must affirmatively state to the witness what document the signatory is signing.
- Each page and signature of the document must be shown to, and observed by, the witness.
- The signatory must transmit the document to the witness within 24 hours after it is executed, and the witness must sign the document as a witness and return it to the signatory within 24 hours after receiving it.

The Order permits the signing of any document in counterparts, barring a prohibition with the document that it may not be signed in counterparts. The Order also allows a guardian, guardian ad litem, or visitor to satisfy any visitation requirement using two-way real-time audiovisual technology that allows for direct, contemporaneous interaction by sight and sound.

While it is in effect, the Order prohibits financial institutions and registers of deeds from refusing to record a copy of an electronic record on the ground that it does not bear an original signature, so long as the notary certifies the copy as an accurate electronic record.

The Order extends the validity of a notarial commission that would have been set to expire between March 1, 2020, and July 31, 2020, until July 31, 2020.

For the purposes of the "verified user agreement" requirement of Section 4 of the URPRA, the Order requires that county recording offices deem all financial institutions and all licensed title insurers as covered by a verified user agreement for the duration of the Order.

Violations of Orders

Executive Orders 2020-153 and 2020-156 specify that, consistent with Section 3 of PA 302 of 1945 (MCL 10.33) and Section 5(3) of the EMA (MCL 30.405(3)), a willful violation of these Orders is a misdemeanor.

Section 3 of PA 302 of 1945 specifies that a violation of an order, rule, or regulations made in conformity with the Act is punishable as a misdemeanor, when it states that a violation constitutes a misdemeanor. Section 5(3) of the EMA states that a person who willfully disobeys or interferes with the implementation of a rule order, or directive issued by the Governor pursuant to Section 5 of EMA is guilty of a misdemeanor. Under Section 504 of the Michigan Penal Code, if a person is convicted of a crime under State law designated as a misdemeanor for which no punishment is prescribed, the violation is punishable by up to 90 days' imprisonment or a maximum fine of \$500, or both.

Fiscal Impact

Overview

The Orders will have a substantial fiscal impact, immediately and in the near future. Some of these impacts will be absorbed by existing appropriations, while others may require additional appropriations in the future. For orders that prescribe a misdemeanor penalty for a violation, each may have a negative fiscal impact on the State and local governments. New misdemeanor arrests and convictions may increase resource demands on law enforcement, court systems, community supervision, and jails. However, it is unknown how many people will be prosecuted for a violation. Any additional revenue from imposed fines will go to local libraries.

Executive Order 2020-151

The declaration of emergency, by itself, will not have a fiscal impact on State or local government. Any fiscal impact from the orders authorized under the declaration of emergency are discussed below.

Executive Order 2020-152

The Order will not have a significant fiscal impact on LARA or any other government entity.

Executive Order 2020-153

The Order will have a minimal fiscal impact on LEO. Since the Order allows LEO to require business to post signs notifying customers of the face covering requirement, the Department is not required to commit a set level of resources and time to oversee businesses. This will contain any enforcement costs to within current appropriations.

The Order may have a minor negative fiscal impact on LARA. The magnitude of any costs will depend upon the number of complaints the Department receives and determines will require an investigation.

Executive Order 2020-154

The Order will have an indeterminate, though likely minor, fiscal impact on State and local government.

The provision to hold meetings remotely is optional; therefore, any costs or savings will depend on the actions of individual departments and public bodies. Public bodies required to reimburse members for the cost of attending meetings may have fewer costs if members do not have to travel to the meetings. However, there may be additional costs related to the upgrade or purchase of the technology required to conduct the meetings. Any additional administrative costs related to notices is expected to be minor and will be handled within existing appropriations.

The DTMB may incur minimal additional costs related to the upgrade or purchase of the technology required to accept electronic signatures. Any additional administrative costs will be minor and handled within existing appropriations. Similarly, the MERC within the LEO and the Michigan Administrative Hearings System within LARA each may incur additional costs associated with needed technology upgrades and increased paper communications. However, it is likely that these costs will be absorbed by existing appropriations for the given time period.

The Order offers an alternative means for local units of government to conduct, and provide notice for, tax abatement hearings that those local units of government otherwise may not be able to conduct under the restrictions of EO 2020-145, the current in EO in effect to safeguard Michigan workers from COVID-19. To the degree that this allows local governments to conduct hearings they otherwise could not, there may be some positive fiscal implications. Some additional expenses also may be incurred related to acquiring and employing the proper technology and using the alternative methods provided to conduct, and provide notice for, such hearings. The relative costs or expenses to local units of government are indeterminate.

Executive Order 2020-156

There are two main requirements listed under the Order. First, a reduction in the types of visitors who are allowed into facilities. Second, for those individuals who meet the enhanced screening criteria, a health evaluation upon entry. These requirements apply to health care facilities, residential care facilities, congregate care facilities, and juvenile justice facilities. When determining the fiscal impact on State and local units of government, it is necessary to ascertain which of these types of facilities, in fact, are operated by the State or local units of government and thus may have realized a direct increase in operating costs.

Currently, the State operates five inpatient psychiatric hospitals: Caro Center, Center for Forensic Psychiatry, Hawthorn Center, Kalamazoo Psychiatric Hospital, and Walter Reuther Psychiatric Hospital. These five facilities are covered under the "health care facility" portion of the Order. The State also operates two juvenile justice facilities: Bay Pines Center and Shawono Center. The University of Michigan Health System operates hospitals that can be considered State-operated health care facilities. Additionally, there are many local units of government, mostly counties, that operate many of these types of facilities, so any cost increase needed to implement this Order will be borne by the facility's local funding entity.

Leaving health care facilities aside, the remainder of the facility types covered under the Order likely already have existing secured entry processes, so any enhanced screening criteria for visitors likely will not increase costs. However, to the extent that State and locally operated facilities require additional medical diagnostic tools to evaluate for fever or other symptoms, there will be a cost to the State and local units of government. For health care facilities, it is possible that the new entrance policy requirements will require new infrastructure or staffing requirements to ensure that visitors comply with them. Outside of health care facilities run by the University of Michigan health system, there will be no direct cost to State government. For health care facilities operated by local units of government, there will be additional costs.

Also, there are numerous non-State managed health care facilities, residential care facilities, congregate care facilities, and juvenile justice facilities that operate under contracts with State and local units of government. As these facilities are not under direct State management, these costs will not be direct costs to the State or local units of government, but to the extent that these costs will be recovered through future contract or service rate increases, there will be an indirect cost to State and local units of government.

Additionally, the Order requires that all staff members and visitors to residential care facilities wear a covering over their nose and mouth when indoors or within six feet of another person. For those staff members who are employed by a residential care facility that is operated by the State or a local unit of government, the governmental entity likely must provide the covering to meet the obligation imposed under the Order. It is uncertain as to the fiscal cost for the provision of these face coverings.

Lastly, the Order requests that facilities make best efforts to facilitate visitation by phone or electronic communication platforms to the fullest extent possible, consistent with normal visitation policies. It is not clear to what extent there is any existing infrastructure for phone or electronic communication platforms in the facilities. To the extent that there is existing infrastructure in the State-managed facilities, such as facility telephones, State-issued cell phones, or State-issued hardware that enables connection to electronic communication platforms, there will be no cost to State government. It is unclear from the text of the Order whether making a best effort requires

the facility to obtain necessary infrastructure to allow for the facilitation of visitation. If the Order requires procurement of goods needed to comply with the Order there will be direct costs to the State and any local units of government that are a fiduciary for a facility covered under the Order.

Executive Order 2020-157

The Order will have an indeterminate, but likely negligible fiscal impact on LEO. The Department will experience savings in the form of reduced administrative and printing costs. Savings may be offset by increased spending from publicizing alternative methods for submitting work permit applications. The overall costs and savings are currently unknown but likely will be minimal and within current appropriations.

Executive Order 2020-158

Executive Order 2020-158 will have an indeterminate, positive fiscal impact on State and local units of government. The Order is designed to encourage the transaction and exchange of signed or notarized business or real property documents with the aid of video conferencing instead of in-person requirements. It should be noted that the three Acts cited in the Order already validate electronic transactions and signatures. The Order only addresses three types of electronic transactions currently prohibited by law; those of the individual State departments (which no longer will need approval from the DTMB to conduct business electronically), those involving county recording offices (who will not need an established, verified user agreement to conduct business with licensed financial institutions or licensed title insurers), and those involving notarized documents, which traditionally require in-person notarial services.

The positive fiscal impact on State and local units of government will come from direct or indirect revenue as a result of the increased flow of business transactions (including Department contracts), deed recordings, and real property transactions. The degree of this impact will depend upon the ability of the State and the business community to adapt to, and employ, the use of electronic video conferencing tools.

Conclusion

The EOs summarized above implement various measures in response to COVID-19 in Michigan. These measures affect, among other things, the training of pharmacists, face covering requirements, remote administrative procedures, care facilities, youth work permits, public hearings, and document notarization. The EOs will have an impact on State revenue, local governments, and various State departments, including LARA, the DHHS, LEO, the UIA, the DTMB, and the MERC.

If you have any questions regarding these Executive Orders, please do not hesitate to contact us.

/mh

Attachment

c: Christopher Harkins, Director

Executive Orders Issued since Declared State of Emergency related to COVID-19				
EO 2020-	Title	Effective Date	Rescinded by	End Date
4	Declaration of State of Emergency	3/10/2020	EO 2020-33	4/1/2020
5	Temporary prohibition on large assemblages and events, temporary school closures	3/13/2020	EO 2020-11	3/16/2020
06	Temporary restrictions on entry into health care facilities, residential care facilities, congregate care facilities, and juvenile justice facilities	3/14/2020	EO 2020-6	3/14/2020
7	Temporary restrictions on entry into health care facilities, residential care facilities, congregate care facilities, and juvenile justice facilities	3/14/2020	EO 2020-37	4/5/2020
8	Enhanced restrictions on price gouging	3/16/2020	EO 2020-18	4/13/2020
9	Temporary restrictions on the use of places of public accommodation	3/16/2020	EO 2020-20	3/22/2020
10	Temporary expansions in unemployment eligibility and cost-sharing	3/16/2020	EO 2020-24	3/25/2020
11	Temporary prohibition on large assemblages and events, temporary school closures	3/16/2020		4/5/2020
12	Enhanced support for deliveries	3/16/2020	EO 2020-44	4/13/2020
13	Temporary enhancements to operational capacity and efficiency of health care facilities	3/17/2020	EO 2020-49	4/14/2020
14	Temporary extension of deadline to redeem property for nonpayment of delinquent property taxes	3/18/2020	EO 2020-106	5/28/2020
15	Temporary authorization of remote participation in public meetings and hearings and temporary relief from monthly meeting requirements for school boards	3/18/2020	EO 2020-48	4/14/2020
16	Expanding child care access during the COVID-19 emergency	3/18/2020	EO 2020-51	4/15/2020
17	Temporary restrictions on non-essential medical and dental procedures	3/20/2020	EO 2020-96	5/28/2020
18	Enhanced restrictions on price gouging	3/20/2020	EO 2020-53	4/17/2020

Executive Orders Issued since Declared State of Emergency related to COVID-19				
EO 2020-	Title	Effective Date	Rescinded by	End Date
19	Temporary prohibition against entry to premises for the purpose of removing or excluding a tenant or mobile home owner from their home	3/20/2020	EO 2020-54	4/17/2020
20	Temporary restrictions on the use of places of public accommodation	3/22/2020	EO 2020-43	4/13/2020
21	Temporary requirement to suspend activities that are not necessary to sustain or protect life	3/24/2020	EO 2020-42	4/9/2020
22	Extension of county canvass deadlines for the March 10, 2020 Presidential Primary Election	3/24/2020		4/30/2020
23	Enhanced authorization of remote means for carrying out state administrative procedures	3/25/2020	EO 2020-45	4/13/2020
24	Temporary expansions in unemployment eligibility and cost-sharing	3/25/2020	EO 2020-57	4/22/2020
25	Temporary enhancements to operational capacity, flexibility, and efficiency of pharmacies	3/25/2020	EO 2020-56	4/21/2020
26	Extension of April 2020 Michigan income tax filing deadlines	3/27/2020		*
27	Conducting elections on May 5, 2020 using absent voter ballots	3/27/2020		5/5/2020
28	Restoring water service to occupied residences during the COVID-19 pandemic	3/28/2020	EO 2020-144	7/8/2020
29	Temporary COVID-19 protocols for entry into Michigan Department of Corrections facilities and transfers to and from Department custody; temporary recommended COVID-19 protocols and enhanced early-release authorization for county jails, local lockups, and juvenile detention centers	3/29/2020	EO 2020-62	4/26/2020
30	Temporary relief from certain restrictions and requirements governing the provision of medical services	3/29/2020	EO 2020-61	4/26/2020
31	Temporary relief from standard vapor pressure restrictions on gasoline sales	3/30/2020	EO 2020-102	5/22/2020

Executive Orders Issued since Declared State of Emergency related to COVID-19				
EO 2020-	Title	Effective Date	Rescinded by	End Date
32	Temporary restrictions on non-essential veterinary services	3/31/2020	EO 2020-34	4/2/2020
33	Expanded emergency and disaster declaration	4/1/2020	EO 2020-66 EO 2020-67	4/30/2020
34	Temporary restrictions on veterinary services	4/2/2020	EO 2020-96	5/28/2020
35	Provision of K-12 education during the remainder of the 2019-2020 school year	4/2/2020	EO 2020-65	4/30/2020
36	Protecting workers who stay home, stay safe when they or their close contacts are sick	4/3/2020		*
37	Temporary restrictions on entry into health care facilities, residential care facilities, congregate care facilities, and juvenile justice facilities	4/5/2020	EO 2020-72	5/3/2020
38	Temporary extensions of certain FOIA deadlines to facilitate COVID-19 emergency response efforts	4/5/2020	EO 2020-112	6/11/2020
39	Temporary relief from certain restrictions and requirements governing the provision of emergency medical services	4/7/2020	EO 2020-112	6/3/2020
40	Temporary relief from certain credentialing requirements for motor carriers transporting essential supplies, equipment, and persons	4/8/2020	EO 2020-73	5/5/2020
41	Encouraging the use of electronic signatures and remote notarization, witnessing, and visitation during the COVID-19 pandemic	4/8/2020	EO 2020-74	5/5/2020
42	Temporary requirement to suspend activities that are not necessary to sustain or protect life	4/9/2020	EO 2020-59	4/24/2020
43	Temporary restrictions on the use of places of public accommodation	4/13/2020	EO 2020-69	4/30/2020
44	Enhanced support for deliveries	4/13/2020	EO 2020-81	5/11/2020
45	Enhanced authorization of remote means for carrying out state administrative procedures	4/13/2020	EO 2020-80	5/11/2020
46	Mitigating the economic harms of the COVID-19 pandemic through the creation of a spirits buyback program for restaurants and bars throughout the state	4/13/2020		*

Executive Orders Issued since Declared State of Emergency related to COVID-19				
EO 2020-	Title	Effective Date	Rescinded by	End Date
47	Temporary extension of validity of driver's licenses, state identification cards and registration	4/13/2020	EO 2020-78	5/8/2020
48	Temporary authorization of remote participation in public meetings and hearings and temporary relief from monthly meeting requirements for school boards	4/14/2020	EO 2020-75	5/6/2020
49	Temporary enhancements to operational capacity and efficiency of health care facilities	4/14/2020	EO 2020-82	5/12/2020
50	Enhanced protections for residents and staff of long-term care facilities during the COVID-19 pandemic	4/15/2020	EO 2020-84	5/13/2020
51	Expanding child care access during the COVID-19 pandemic	4/15/2020	EO 2020-83	5/13/2020
52	Temporary extension of certain pesticide applicator certificates	4/17/2020		*
53	Enhance restrictions on price gouging	4/17/2020	EO 2020-89	5/15/2020
54	Temporary prohibition against entry to premises for the purpose of removing or excluding a tenant or mobile home owner from their home	4/17/2020	EO 2020-85	5/14/2020
55	Michigan Coronavirus Task Force on Racial Disparities	4/20/2020		*
56	Temporary enhancements to operational capacity, flexibility, and efficiency of pharmacies	4/21/2020	EO 2020-93	5/19/2020
57	Temporary expansions in unemployment eligibility and cost-sharing	4/22/2020	EO 2020-76	5/6/2020
58	Temporary suspension of certain timing requirements relating to the commencement of civil and probate actions and proceedings	4/22/2020	EO 2020-122	6/19/2020
59	Temporary requirement to suspend activities that are not necessary to sustain or protect life	4/24/2020	EO 2020-70	5/15/2020
60	Temporary safety measures for food-selling establishments and pharmacies and temporary relief from requirements applicable to the renewal of licenses for the food-service industry	4/24/2020	EO 2020-71	5/1/2020

Executive Orders Issued since Declared State of Emergency related to COVID-19				
EO 2020-	Title	Effective Date	Rescinded by	End Date
61	Temporary relief from certain restrictions and requirements governing the provision of medical services	4/26/2020	EO 2020-150	7/13/2020
62	Temporary COVID-19 protocols for entry into Michigan Department of Corrections facilities and transfers to and from Department custody; temporary recommended COVID-19 protocols and enhanced early-release authorization for county jails, local lockups, and juvenile detention centers.	4/26/2020	EO 2020-119	6/11/2020
63	Temporary suspending the expiration of personal protection orders	4/27/2020		7/21/2020
64	Affirming anti-discrimination policies and requiring certain health care providers to develop equitable access to care protocols	4/29/2020		*
65	Provision of K-12 education during the remainder of the 2019-2020 school year	4/30/2020	EO 2020-142	9/30/2020
66	Termination of the state of emergency and disaster declared under the Emergency Management Act in Executive Order 2020-33	4/30/2020		4/30/2020
67	Declaration of state of emergency under the Emergency Powers of the Governor Act, 1945 PA 302	4/30/2020	EO 2020-99	5/22/2020
68	Declaration of states of emergency and disaster under the Emergency Management Act, 1976 PA 390	4/30/2020	EO 2020-99	5/22/2020
69	Temporary restrictions on the use of places of public accommodation	4/30/2020	EO 2020-110	6/1/2020
70	Temporary requirement to suspend activities that are not necessary to sustain or protect life	5/1/2020	EO 2020-77	5/7/2020
71	Temporary safety measures for food-selling establishments and pharmacies and temporary relief from requirements applicable to the renewal of licenses for the food-service industry	5/1/2020	EO 2020-109	5/29/2020

Executive Orders Issued since Declared State of Emergency related to COVID-19				
EO 2020-	Title	Effective Date	Rescinded by	End Date
72	Temporary restrictions on entry into health care facilities, residential care facilities, congregate care facilities, and juvenile justice facilities	5/3/2020	EO 2020-108	5/29/2020
73	Temporary relief from certain credentialing requirements for motor carriers transporting essential supplies, equipment, and persons	5/5/2020		6/2/2020
74	Encouraging the use of electronic signatures and remote notarization, witnessing, and visitation during the COVID-19 pandemic	5/5/2020	EO 2020-131	6/24/2020
75	Temporary authorization of remote participation in public meetings and hearings and temporary relief from monthly meeting requirements for school boards	5/6/2020	EO 2020-129	6/18/2020
76	Temporary expansions in unemployment eligibility and cost-sharing	5/6/2020		*
77	Temporary requirement to suspend certain activities that are not necessary to sustain or protect life	5/7/2020	EO 2020-92	5/18/2020
78	Temporary extension of the validity of driver licenses, state identification cards, and certain vehicle registrations	5/8/2020		7/31/2020
79	Temporary suspension of youth work permit application requirements	5/11/2020		6/8/2020
80	Enhanced authorization of remote means for carrying out state administrative procedures	5/11/2020	EO 2020-80	6/4/2020
81	Enhanced support for deliveries	5/11/2020		5/25/2020
82	Temporary enhancements to operational capacity and efficiency of health care facilities	5/12/2020	EO 2020-112	6/3/2020
83	Expanding child care access during the COVID-19 pandemic	5/13/2020		6/10/2020
84	Enhanced protections for residents and staff of long-term care facilities during the COVID-19 pandemic	5/13/2020	EO 2020-95 EO 2020-117	5/20/2020 6/9/2020

Executive Orders Issued since Declared State of Emergency related to COVID-19				
EO 2020-	Title	Effective Date	Rescinded by	End Date
85	Temporary prohibition against entry to premises for the purpose of removing or excluding a tenant or mobile home owner from their home	5/14/2020	EO 2020-118	6/11/2020
86	Encouraging the use of telehealth services during the COVID-19 emergency	5/14/2020	EO 2020-138	6/29/2020
87	Temporary Extension of Deadlines for Boards of Review, County Equalization, and Tax Tribunal Jurisdiction	5/14/2020		**
88	COVID-19 Return to School Advisory Council Executive Office of the Governor	5/15/2020		
89	Enhanced restrictions on price gouging	5/15/2020		6/12/2020
90	Resumption of laboratory research activities	5/15/2020	EO 2020-92	5/18/2020
91	Safeguards to protect Michigan's workers from COVID-19	5/18/2020	EO 2020-97	
92	Temporary requirement to suspend certain activities that are not necessary to sustain or protect life	5/18/2020	EO 2020-96	5/21/2020
93	Temporary enhancements to operational capacity, flexibility, and efficiency of pharmacies	5/19/2020	EO 2020-124	6/16/2020
94***	Declaration of State of Emergency [Midland]	5/19/2020		6/16/2020
95	Enhanced protections for residents and staff of long-term care facilities during the COVID-19 pandemic	5/20/2020	EO 2020-123	6/15/2020
96	Temporary requirement to suspend certain activities that are not necessary to sustain or protect life	5/21/2020	EO 2020-110	6/1/2020
97	Safeguards to protect Michigan's workers from COVID-19	5/21/2020		
98***	Declaration of State of Emergency [Midland, Arenac, Gladwin, Saginaw]	5/22/2020		6/16/2020
99	Declaration of state of emergency and state of disaster related to the COVID-19 pandemic	5/22/2020	EO 2020-127	6/18/2020
100	Amending certain previously issued executive orders to clarify their duration	5/22/2020		

Executive Orders Issued since Declared State of Emergency related to COVID-19				
EO 2020-	Title	Effective Date	Rescinded by	End Date
101	Extending the expiration date for watercraft registration	5/22/2020		7/31/2020
102	Temporary Relief from Standard Vapor Pressure Restrictions on Gasoline Sales	5/22/2020		6/30/2020
103	Providing alternative notice of public hearing under Michigan's tax abatement statutes	5/22/2020	EO 2020-141	6/30/2020
104	Increasing COVID-19 testing by expanding the scope of practice for certain professionals and encouraging the establishment of community testing locations	5/26/2020		*
105***	Declaration of State of Emergency [losco]	5/26/2020		6/16/2020
106	Establishing deadline to redeem property for nonpayment of delinquent property taxes	5/28/2020		6/29/2020
107***	Department of Labor and Economic Opportunity Michigan Workforce Development Board	5/29/2020		
108	Temporary restrictions on entry into health care facilities, residential care facilities, congregate care facilities, and juvenile justice facilities	5/29/2020	EO 2020-136	6/26/2020
109	Temporary safety measures for food-selling establishments and pharmacies and temporary relief from requirements applicable to the renewal of licenses for the food-service industry	5/29/2020	EO 2020-126	6/17/2020
110	Temporary restrictions on certain events, gatherings, and businesses	6/1/2020		*
111	Protecting the Food Supply and Migrant and Seasonal Agricultural Workers from the effects of COVID-19	6/1/2020	EO 2020-137	6/29/2020
112	Rescission of certain executive orders	6/3/2020		*
113	Enhanced authorization of remote means for carrying out state administrative procedures	6/4/2020	EO 2020-132	6/25/2020
114	Safeguards to protect Michigan's workers from COVID-19	6/5/2020	EO 2020-145	7/8/2020

Executive Orders Issued since Declared State of Emergency related to COVID-19				
EO 2020-	Title	Effective Date	Rescinded by	End Date
115	Temporary restrictions on certain events, gatherings, and businesses	6/5/2020		*
116	Temporary suspension of youth work permit application requirements	6/5/2020	EO 2020-140	6/30/2020
117	Expanding child care access during the COVID-19 pandemic	6/9/2020		7/7/2020
118	Temporary prohibition against entry to premises for the purpose of removing or excluding a tenant or mobile home owner from their home	6/11/2020	EO 2020-134	7/15/2020
119	Temporary COVID-19 protocols for entry into Michigan Department of Corrections facilities and transfers to and from Department custody; temporary recommended COVID-19 protocols and enhanced early-release authorization for county jails, local lockups, and juvenile detention centers	6/11/2020	EO 2020-146	7/9/2020
120	Returning overnight camps to operation	6/12/2020		
121***	Department of State Police Michigan Commission on Law Enforcement Standards Executive Reorganization	8/12/2020		
122	Ending the extension of case-initiation deadlines	6/12/2020		
123	Enhanced protections for residents and staff of long-term care facilities during the COVID-19 pandemic	6/15/2020	EO 2020-148	7/13/2020
124	Temporary enhancements to operational capacity, flexibility, and efficiency of pharmacies	6/16/2020	EO 2020-152	7/14/2020
125	Clarifying WDCA Eligibility for Workplace Exposure to COVID-19	6/17/2020	EO 2020-128	6/18/2020
126	Temporary safety measures for food-selling establishments and pharmacies and temporary relief from requirements applicable to the renewal of licenses for the food-service industry	6/17/2020	EO 2020-149	7/13/2020

Executive Orders Issued since Declared State of Emergency related to COVID-19				
EO 2020-	Title	Effective Date	Rescinded by	End Date
127	Declaration of state of emergency and state of disaster related to the COVID-19 pandemic	6/18/2020	EO 2020-151	7/14/2020
128	Clarifying WDCA Eligibility for Workplace Exposure to COVID-19	6/18/2020		*
129	Temporary authorization of remote participation in public meetings and hearings and temporary relief from monthly meeting requirements for school boards	6/18/2020	EO 2020-154	7/17/2020
130***	Executive Office of the Governor Michigan Statewide Independent Living Council Rescission of Executive Order 2016-11	7/15/2020		
131	Encouraging the use of electronic signatures and remote notarization, witnessing, and visitation during the COVID-19 pandemic	6/24/2020	EO 2020-158	7/27/2020
132	Enhanced authorization of remote means for carrying out state administrative procedures	6/25/2020	EO 2020-154	7/17/2020
133	Restarting professional sports	6/25/2020		*
134	Eviction diversion program for COVID-19-related debtors	6/26/2020		*
135	Creation of Michigan Nursing Homes COVID-19 Preparedness Task Force Department of Health and Human Services	6/26/2020		6/26/2022
136	Temporary restrictions on entry into health care facilities, residential care facilities, congregate care facilities, and juvenile justice facilities	6/26/2020	EO 2020-156	7/23/2020
137	Protecting the Food Supply and Migrant and Seasonal Agricultural Workers from the effects of COVID-19	6/29/2020		11/1/2020
138	Encouraging the use of telehealth services during the COVID-19 emergency	6/29/2020		*
139***	Naming the "Elliott-Larsen Building"	6/30/2020		permanent

Executive Orders Issued since Declared State of Emergency related to COVID-19				
EO 2020-	Title	Effective Date	Rescinded by	End Date
140	Temporary suspension of youth work permit application requirements	6/30/2020	EO 2020-157	7/27/2020
141	Providing alternative notice of public hearings under Michigan's tax abatement statutes	6/30/2020	EO 2020-154	7/17/2020
142	Provision of preK-12 education for the 2020-2021 school year	6/30/2020		*
143	Closing indoor service at bars	7/1/2020		*
144	Restoring water service to occupied residences during the COVID-19 pandemic	7/8/2020		12/31/2020
145	Safeguards to protect Michigan's workers from COVID-19	7/9/2020		*
146	Temporary COVID-19 protocols for entry into Michigan Department of Corrections facilities and transfers to and from Department custody; temporary recommended COVID-19 protocols and enhanced early-release authorization for county jails, local lockups, and juvenile detention centers	7/9/2020		8/6/2020
147	Masks	7/10/2020	EO 2020-153	7/17/2020
148	Enhanced protections for residents and staff of long-term care facilities during the COVID-19 pandemic	7/13/2020		8/10/2020
149	Temporary safety measures for food-selling establishments and pharmacies and temporary relief from requirements applicable to the renewal of licenses for the food-service industry	7/13/2020		8/10/2020
150	Temporary and limited relief from certain licensing and certification requirements applicable to COVID-19 response	7/13/2020		*
151	Declaration of state of emergency and state of disaster related to the COVID-19 pandemic	7/14/2020		8/11/2020
152	Training of pharmacists	7/14/2020		*
153	Masks	7/17/2020		*
154	Alternative means to conduct government business during the COVID-19 pandemic	7/17/2020		*

Executive Orders Issued since Declared State of Emergency related to COVID-19				
EO 2020-	Title	Effective Date	Rescinded by	End Date
155***	Implementation of expenditure reductions under Section 20 of Article 5 of the Michigan Constitution of 1963	7/22/2020		
156	Temporary restrictions on entry into health care facilities, residential care facilities, congregate care facilities, and juvenile justice facilities	7/23/2020		8/31/2020
157	Temporary suspension of youth work permit application requirements	7/27/2020		8/31/2020
158	Encouraging the use of electronic signatures and remote notarization, witnessing, and visitation during the COVID-19 pandemic	7/27/2020		8/31/2020
*The end date for these marked items will be the end of the declared state of emergency or a date reasonably related to the end of the declared state of emergency.				
**Affecting the 2020 tax year, only.				
***These indicate non-COVID-19 related Executive Orders.				