

**SENATE FISCAL AGENCY
 MEMORANDUM**

DATE: October 12, 2017
TO: Members of the Michigan Senate
FROM: Ellyn Ackerman, Fiscal Analyst
 Bruce Baker, Fiscal Analyst
 Josh Sefton, Fiscal Analyst
 Michael Siracuse, Fiscal Analyst
RE: Executive Order 2017-7

Executive Order 2017-7

On October 5, 2017, Governor Snyder issued Executive Order (E.O.) 2017-7, which would transfer the Migrant Labor Housing Program from the Department of Health and Human Services (DHHS) to the Michigan Department of Agriculture and Rural Development (MDARD). The E.O. also would transfer the Michigan Dry Cleaning Program, the Michigan Indoor Radon Program, and the Radioactive Materials Program from the DHHS to the Department of Environmental Quality (DEQ). In addition, the E.O. would transfer licensing and regulatory authority under Part 209 (Emergency Medical Services) of the Public Health Code from the Department of Licensing and Regulatory Affairs (LARA) to the DHHS. Executive Order 2017-7 would reverse the impact of Public Act 155 of 2015 on these programs. By amending definitions of "department" in the Public Health Code, the Act inadvertently transferred the programs from the departments where they had been housed. Table 1 summarizes the transferred programs.

Table 1		
SUMMARY OF PROGRAMS TRANSFERRED BY EXECUTIVE ORDER 2017-7		
Program	From	To
Migrant Labor Housing Program.....	DHHS	MDARD
Michigan Dry Cleaning Program.....	DHHS	DEQ
Michigan Indoor Radon Program.....	DHHS	DEQ
Radioactive Materials Program.....	DHHS	DEQ
Part 209 of the Michigan Public Health Code (emergency medical services licensing and registration functions).....	LARA	DHHS

Article V, Section 2 of the Michigan Constitution states that the Legislature has 60 calendar days following the issuance of an Executive Order to disapprove it; the last day for the Legislature to reject E.O. 2017-7 is December 4, 2017.

Programs Transferred from DHHS to MDARD

Executive Order 2017-7 would correct the impact of Public Act 155 of 2015 by transferring responsibility for the State's Migrant Labor Housing Program from the DHHS to the MDARD. The Migrant Labor Housing Program ensures the safety of housing occupied by five or more migrant agricultural workers at approximately 900 licensed housing sites across the Lower Peninsula, including 4,500 living units with a capacity for 25,000 people. Public Act 155 of 2015 inadvertently removed the

MDARD from being responsible for the Migrant Labor Housing Program, a responsibility that the MDARD has assumed continuously for several decades.

For fiscal year (FY) 2017-18, MDARD has 9.0 FTE positions and \$1,206,900 Gross appropriated for administration of the program, which includes licensing and inspections of migrant labor housing in the State.

Programs Transferred from DHHS to DEQ

The E.O. would transfer three programs to the DEQ from the DHHS in order to correct the impact of Public Act 155 of 2015, which removed the DEQ as the overseeing agency for the Michigan Dry Cleaning Program, the Michigan Indoor Radon Program, and the Radioactive Materials Program.

The Michigan Dry Cleaning Program licenses, inspects, and regulates Type I, II, III, or IV establishments annually to prevent overexposure to dry cleaning solvents. Oversight of Type IV establishments was first transferred to the DEQ by Executive Order 1995-18, while the remaining three types of establishments were moved to the purview of the DEQ by Executive Orders 1997-2 and 1998-2. The Michigan Dry Cleaning Program is one of the programs funded in the DEQ budget through the Air Quality Programs line item, which has an FY 2017-18 appropriation of 188.0 FTE positions and \$27,132,400 Gross.

The DEQ was officially designated as the lead State agency to administer the Michigan Indoor Radon Program in June 1989. The Michigan Indoor Radon Program is a nonregulatory program created to increase awareness of health risks associated with exposure to elevated levels of radon. Additionally, the program encourages residents to test their homes for radon and take action to reduce exposure to elevated radon levels once discovered.

The final program being transferred, the Radioactive Materials Program, is responsible for naturally occurring radioactive materials found in the oil, gas, brine, chemical, and water treatment industries subject to State control under the authority of Part 135 of the Public Health Code. Both the Michigan Indoor Radon Program and the Radioactive Materials Program are funded in the DEQ budget through the Radiological Protection Program line item, which has an appropriation in FY 2017-18 of 12.0 FTE positions and \$1,977,200 Gross.

Programs Transferred from LARA to DHHS

The E.O. would transfer licensing and regulatory authorities under Part 209 (Emergency Medical Services) of the Public Health Code from LARA to the DHHS in order to correct the impact of Public Act 155 of 2015, which removed the DHHS as the overseeing agency. This would reflect the intent shown in E.O. 2014-2 that responsibility for initial and renewal licensure of medical first responders, life support agencies, and life support vehicles be housed within the DHHS. Additionally, DHHS staff authorize local medical control authorities responsible for the pre-hospital emergency care oversight for one or more counties. Licensing and regulatory authorities under Part 209 of the Public Health Code are funded through the Emergency Medical Services Program line item in the DHHS budget. The FY 2017-18 enacted budget has an appropriation level of \$6,591,600 Gross for this line item and includes funding for 23.0 FTE positions.

Type of Transfers

Article V, Section 2 of the State Constitution authorizes the Governor to organize the Executive branch of government by Executive Order. Three types of reorganizations are identified in the Executive Organization Act:

Type I Transfer. Under a Type I transfer, an existing department, board, commission, or agency is transferred intact to another principal department. The entity is administered under the supervision of the new principal department; however, the prescribed statutory powers, duties, and functions are exercised by the entity as a relatively autonomous entity.

Type II Transfer. Under a Type II transfer, all of the statutory authority, powers, duties, and functions, as well as records, personnel, property, unspent balances of appropriations and other funds associated with an entity, and the entity itself, are transferred to and placed under the authority of the principal department.

Type III Transfer. A Type III transfer abolishes an existing entity. The statutory authority, powers, duties, functions, records, personnel, and funding are not abolished, but are transferred to a principal department."

Executive Order 2017-7 does not specify whether the transfers of programs between the DHHS, MDARD, LARA, and DEQ are Type I, II, or III transfers, but they appear to be Type II transfers, moving programs and their oversight among departments.

Fiscal Impact

In total, E.O. 2017-7 would have no fiscal impact on the State, and no fiscal impact on local units of government. As indicated in the previous sections, E.O. 2017-7 would make a technical correction and the appropriations supporting the affected programs are already located in the departments listed as being the receiving departments. Since there would be no change to the responsibilities or scope of these programs, and no funds would be transferred between departmental appropriations, the Senate Fiscal Agency anticipates that there would be no increase or decrease in costs to the State.

Summary

Executive Order 2017-7 would transfer the Migrant Labor Housing Program from the DHHS to MDARD, transfer the Michigan Dry Cleaning Program, the Michigan Indoor Radon Program, and the Radioactive Materials Program from the DHHS to the DEQ, and transfer licensing and regulatory authorities under Part 209 of the Public Health Code from LARA to the DHHS. Executive Order 2017-7 will take effect on December 5, 2017, unless the Legislature rejects it before that date.

If you have any questions on E.O. 2017-7, please do not hesitate to contact us.

/hkv

c: Ellen Jeffries, Director
Steve Angelotti, Associate Director
Bill Bowerman, Associate Director