

**SENATE FISCAL AGENCY
 MEMORANDUM**

DATE: January 18, 2018
TO: Members of the Michigan Senate
FROM: Michael Siracuse, Fiscal Analyst
RE: Executive Order 2018-1

Executive Order 2018-1

On January 8, 2018, Governor Snyder issued Executive Order (E.O.) 2018-1, which would transfer to the Public Service Commission (PSC) from the Michigan Agency for Energy (MAE) the powers, duties, and functions related to property for the PSC. The E.O. also would transfer the Administrative Services Division, the Customer Assistance Division, and the Energy Markets Section from the MAE to the PSC. This would have the effect of reversing portions of E.O. 2015-10, which created the MAE within the Department of Licensing and Regulatory Affairs (LARA), moved the PSC from LARA to the MAE, and transferred some specified powers of the PSC to the MAE.

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. 2018-1 is March, 9, 2018.

The Public Service Commission and the Agency for Energy

Executive Order 2015-10 created the Michigan Agency for Energy within LARA and took effect on May 17, 2015. The E.O. also moved the PSC intact from LARA to the MAE as a Type I transfer (as described in the following section of this memorandum). The PSC is the entity responsible for the regulation of and rate-setting for public utilities in Michigan. As structured in E.O. 2015-10, the MAE was formed to make recommendations to the Governor on programs and policies relating to energy as well as the elimination of duplication on existing State energy programs, directly administer specified energy programs, act as the coordinating office for all agencies of the executive branch responsible for energy programs, and provide information and assistance to all departments and act as a clearinghouse for information related to energy.

In addition to transferring the PSC to the MAE, E.O. 2015-10 specifically moved the powers, duties, and functions related to property from the PSC to the MAE. It also moved the budgeting and procurement powers of the customer service division and the Energy Markets and Energy Data and Security sections (including personnel) from the PSC to the MAE. Executive Order 2018-1 would reverse these transfers. Total FTEs moving from the MAE to the PSC would be 31.0.

Executive Order 2018-1 would transfer to the MAE powers, duties, and functions related to property for the PSC (office space leased under an agreement with the Department of Technology, Management, and Budget). In addition, E.O. 2018-1 would move the duties and functions of the Administrative Services Division, the Customer Assistance Division, and the Energy Markets section back to the PSC from the MAE. The transfer would include all personnel associated with those divisions or section, with the exception of one position that the MAE would retain to represent it at State and Federal forums on energy.

The Administrative Services Division provides technical support, human resources, property, and miscellaneous administrative services to the PSC and the MAE. The Customer Assistance Division performs Compliance and Investigation duties for the PSC and the MAE, and also oversees Energy Assistance programs. The staff of the Energy Markets section provide support for PSC and MAE leadership and participate in State and Federal stakeholder processes.

Types 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 2018-1 does not specify whether the transfers of the Administrative Services and Customer Assistance Divisions and the Energy Markets section to the PSC are a Type I, II, or III transfer, but they appear by definition to be a Type I transfer.

Fiscal Impact

No fiscal impact on the State or local units of government is expected as a result of E.O. 2018-1. The E.O. does not include a transfer of duties or FTEs between departments, as both the PSC and the MAE are housed within a single department, LARA. The E.O. would not eliminate or create any programs or agencies.

Summary

Executive Order 2018-1 would transfer to the Public Service Commission from the Michigan Agency for Energy the powers, duties, and functions related to property for the PSC. The E.O. also would transfer the Administrative Services Division, the Customer Assistance Division, and the Energy Markets section from the MAE to the PSC.

Executive Order 2018-1 will take effect on March 9, 2018, unless the Legislature rejects it by that date.

If you have any questions on E.O. 2018-1, please do not hesitate to contact me.

/hkv

c: Ellen Jeffries, Director
Bill Bowerman, Associate Director