

**SENATE FISCAL AGENCY
 MEMORANDUM**

DATE: August 13, 2024

TO: Members of the Michigan Senate

FROM: Ellyn Ackerman, Associate Director; Robert Canell, Fiscal Analyst/Economist; Nathan Leaman, Fiscal Analyst; Elizabeth Raczkowski, Fiscal Analyst; Dr. Cory Savino, Senior Fiscal Analyst; Michael Siracuse, Senior Fiscal Analyst

RE: Executive Order 2024-5

Executive Order 2024-5

On July 18, 2024, Governor Whitmer issued Executive Order (E.O.) 2024-5, which would amend the structure of 26 separate executive branch boards, committees, and advisory groups. Some of these changes are minor, such as modifying the requirements for membership. Other changes include reducing the number of members in a particular board or committee. The E.O. would abolish seven boards. Executive orders often create, abolish or impact state boards or commissions; however, an E.O. that impacts so many boards and commissions is less common.¹

As noted in the E.O., Michigan has over 250 boards and commission, with over 2,300 appointees. The power and influence of boards and commissions in Michigan vary widely; for example, some boards are created via E.O. as advisory bodies, only, while others are created via statute with the power to draft administrative rules, discipline regulated professions, and even determine statewide policy. Each of the boards and commissions impacted by the E.O. are described below, including the manner in which each was established, any powers each possesses, and the specific effect of the E.O. on each one.

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 or any portion of it; the last day for the Legislature to reject E.O. 2024-5 is September 16, 2024.

Department of Agriculture and Rural Development (MDARD)

Large Carnivore Breeding Advisory Committee (LCBAC)

The LCBAC was established in March 2019 under Public Act 610 of 2018. That act gave the LCBAC the power to approve or deny license applications to breed large carnivores in zoos. The E.O. would abolish the LCBAC, leaving the power to approve or deny license applications in sole possession of the MDARD.

Department of Health and Human Services (DHHS)

¹ See [E.O. 2017-11](#), which impacted over 20 boards and commissions.

Child Lead Exposure Elimination Commission (CLEEC)

The CLEEC was established under E.O. 2017-2. That order assigned the CLEEC the responsibility to advise the Governor on lead exposure to children and to issue an annual report to the Governor. The E.O. would resize the CLEEC from 15 members to 13 members, eliminating gubernatorial appointees representing 1) the general public on December 14, 2025, and 2) organizations focused on lead exposure advocacy on December 14, 2026. The initial structure of the CLEEC established under E.O. 2017-2 included 2 gubernatorial appointees representing the general public and 2 gubernatorial appointees representing organizations focused on lead exposure advocacy.

Department of Labor and Economic Opportunity (LEO)

Growing Michigan Together Council (GMTC)

The GMTC was established under E.O. 2023-4. That order required the GMTC to issue a final report to the Governor on December 1, 2023. The E.O. would abolish the GMTC.

Asian Pacific American Affairs Commission (APAAC)

The APAAC in its current form was established under E.O. 2009-21 and housed in the Department of Energy, Labor, and Economic Growth. It subsequently was transferred several times and currently resides in the LEO. The APAAC is required to advise, and provide an annual report to, the Governor. The E.O. would resize the APAAC from 21 members to 15.

Black Leadership Advisory Council (BLAC)

The BLAC in its current form was established under E.O. 2020-163 and housed in the LEO. The BLAC is required to advise, and provide an annual report to, the Governor. The E.O. would resize the BLAC from 16 members to 15 [not including the LEO Director or his or her designee].

Michigan Arts and Culture Council (MACC)

The MACC has been in existence in some form since 1966. It has 15 members appointed by the Governor. The members do not receive compensation but may be reimbursed for expenses. The current duties of the MACC include advising the Governor, disbursing grants to public and private arts entities, and developing and implementing long-term plans for arts and cultural investment in Michigan. It was more recently placed within the Michigan Strategic Fund in the LEO by E.O. 2019-3 and renamed to its current title by E.O. 2022-1. The current E.O. simply states that the MACC will exercise its authority and perform its duties independently of the Michigan Strategic Fund. The E.O. also requires budgeting, procurement, and related management functions for the MACC be performed under the direction of the Michigan Strategic Fund.

State Historic Preservation Office (SHPO)

The SHPO, established in the late 1960s, has nine members and is responsible for assisting local governments and property owners identify and classify historic properties. It receives an annual Historic Preservation Fund grant from the National Park Service. The E.O. would clarify that the SHPO exercise its authority and perform its duties independently of the Michigan Strategic Fund.

It also would require budgeting, procurement, and related management functions to be performed under the direction of the Michigan Strategic Fund.

Statewide Housing Partnership (SHP)

The SHP was established under E.O. 2022-10, has 23 members, and is responsible for advising the Governor and developing a Statewide Housing Plan. The SHP is set to expire September 6, 2024. The E.O. would extend the lifetime of the SHP to September 30, 2027.

Department of Environment, Great Lakes, and Energy (EGLE)

Environmental Permit Review Commission (EPRC)

The EPRC was established by Public Act 268 of 2018 and serves as an appeals process when the EGLE denies a permit application under the Natural Resources and Environmental Protection Act (NREPA), Act 451 of 1994. The E.O. would abolish the EPRC and send all pending and future permit appeals to the EGLE Chief Deputy Director, restoring the EGLE's full autonomy regarding permitting under the NREPA.

Environmental Rules Review Committee (ERRC)

The ERRC was established by Public Act 267 of 2018 and oversees all rule-making functions of the EGLE. The ERRC has 12 members. The E.O. would abolish the ERRC and transfer rule-making authority to the Director of EGLE.

Department of Licensing and Regulatory Affairs (LARA)

Barrier Free Design Board (BFDB)

The BFDB was established by Public Act 190 of 1974. It reviews, and may provide exceptions to, the State Construction Code Act (PA 230 of 1972). It has nine members, four of which, under Act 190, must be physically limited: one limited by wheelchair, one severely limited, one limited by sight, and one limited by hearing. The E.O. would replace the above requirements for the four members that are physically limited, more simply requiring that four of the nine members be physically limited with at least one of those members limited by wheelchair.

Board of Barber Examiners (BBE)

The BBE was established by Public Act 299 of 1980 and is responsible for promulgating rules for licensed barbers. It has nine members, one of which is a "journeyman" barber (unlicensed). The E.O. would remove the requirement that one of the members of BBE be a journeyman barber.

Board of Boiler Rules (BBR)

The BBR was established by Public Act 290 of 1965. It has 20 members and is responsible for working with the LARA to promulgate rules. The E.O. would abolish the BBR.

Board of Mechanical Rules (BMR)

The BMR was established by Public Act 192 of 1984. It has 14 members and is responsible for recommending rules to the LARA. The E.O. would reconstitute the board to have 11 members beginning after the effective date of this order, September 17, 2024.

Electrical Administrative Board (EAB)

The EAB was established by Public Act 217 of 1956 and has 10 members. The EAB is chiefly responsible for reviewing license applications. The E.O. would reconstitute the board from 10 members to nine.

Manufactured Housing Commission (MHC)

The MHC was established by Public Act 96 of 1987 with 11 members. It was reconstituted to have nine members via E.O. 2010-9. The purpose of the MHC is to recommend rules to the LARA and set mobile home policy. The E.O. would redefine the qualifications of the MHC members.

Michigan Board of Acupuncture (MBA)

The MBA was established by Public Act 30 of 2006 with 13 members. The purpose of the MBA is to consult with the department for rule promulgation and to approve continuing education courses for license renewal. The E.O. would reconstitute the board from 13 members to 11 as of June 30, 2025.

Michigan Board of Optometry (MBO)

The MBO was established by Public Act 368 of 1978. It has nine members pursuant to MCL 333.17421: five licensed optometrists and four members of the public. The purpose of the MBO is to promulgate rules licensing. The E.O. would change the makeup of the board to require six licensed optometrists and three members of the public.

Michigan Board of Speech-Language Pathology (MBSLP)

The MBSLP was established by Public Act 524 of 2008 and has 11 members. The purpose of the MBSLP is to consult with the LARA to promulgate rules for licensure. The E.O. would resize the board of the MBSLP to nine members.

Residential Builders' and Maintenance and Alteration Contractors' Board (RBMACB)

The RBMACB was established by Public Act 299 of 1980 and has nine members. The main purpose of the RBMACB is to review license suspensions. The E.O. would change the qualifications of the current makeup of the board over a four-year period.

Ski Area Safety Board (SASB)

The SASB was established by Public Act 199 of 1962 and currently has seven voting members and two ex officio members. The SASB is responsible for promulgating rules for ski safety and ski lifts. The E.O. would remove the two ex officio members from the board, those being the director of the LARA, or his or her designee, and an officer of the Michigan Tourist Council.

State Plumbing Board (SPB)

The SPB was established by Public Act 733 of 2002 and makes rules recommendations to the State Construction Code Commission for the safe design, construction, and inspection of plumbing. The SPB has five members appointed by the Governor, four of which must, under statute, have 10 years' relevant experience. The SPB also has three ex officio, voting, members: the Director of the LARA, or his or her authorized representative, the Director of the Department of Environmental Quality (DEQ), or his or her authorized representative, and a DEQ employee of the Drinking Water and Radiologic Protection Division. The E.O. would remove the requirement that certain board members have 10 years' experience and abolish the three ex officio positions.

State Survey and Remonumentation Commission (SSRC)

The SSRC was established by Public Act 345 of 1990. The SSRC consults with the LARA to promulgate rules and to approve county monumentation and remonumentation plans. The SSRC has seven members. The E.O. would abolish the SSRC.

Department of Technology, Management, and Budget (DTMB)

Michigan Public School Employees' Retirement Board (MPSERB)

The MPSERB was established by Public Act 300 of 1980. The MPSERB is responsible for promulgating rules to implement the Public School Employees' Retirement Act. The MPSERB has 12 members, one of which must be an employee or retirant from a school district of the first class. The E.O. would change this requirement to an employee or a retirant from the largest school district in the state.

Department of Transportation (MDOT)

Unmanned Aircraft Systems Task Force (UASTF)

The UASTF was established by Public Act 436 of 2016. The UASTF is responsible for making recommendations on the use of unmanned aircraft and submitting a report to the Governor. The UASTF has 27 members. The E.O. would abolish the UASTF.

Department of Treasury (Treasury)

Michigan Education Trust Board of Directors (METBD)

The METBD was established by Public Act 316 of 1986. The METBD administers the Michigan Education Trust and has nine members, including the State Treasurer. As per MCL 390.1430, the other eight members are appointed by the Governor. Six of those members serve for three-year terms; the remaining two are designated as the President and Chief Executive Officer of the METBD and the Vice President of the METBD. Both of these positions serve "at the pleasure of the Governor", and do not currently have fixed-year terms that expire. The E.O. would change these two positions so that they would expire every three years, similar to the other six Governor-appointed positions that already do so. As per the E.O., the current term of the president of the METBD would expire on December 31, 2025, and the current term of the vice president of the METBD would expire on December 31, 2026.

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."

The E.O. would abolish the Large Carnivore Breeding Advisory Committee in MDARD, the Growing Michigan Together Council in LEO, the Environmental Permit Review Commission and the Environmental Rules Review Committee in EGLE, the Board of Boiler Rules and the State Survey and Remonumentation Commission in LARA, and the Unmanned Aircraft Systems Task Force in MDOT. As such, the E.O. would transfer all of the authority, functions, personnel, and funding of the above-referenced committees to their respective departments. All of these transfers are Type III transfers.

The E.O. would include one Type II transfer of the Ski Area Safety Board to the LARA. This Board had previously been transferred, by Type II transfer, from the Department of Licensing and Regulation to the Department of Commerce. (See Executive Reorganization Order #1991-2).

The E.O. would not include any Type I transfers.

Legislative Power of Disapproval

The E.O. cites Article V, Section 2 of the Michigan Constitution in reference to the Governor's power to organize the Executive Branch. That section of the Michigan Constitution indicates that when changes in the organization of the executive "require the force of law", the legislature has 60 days of a regular session to disapprove an executive order in a concurrent resolution by a majority of members of each house. The E.O. acknowledges this power, indicating that the E.O. is effective September 17, 2024. Not all of the changes to boards and commissions proposed by the E.O. require the force of law. Table 1, below, shows which changes are subject to legislative disapproval by concurrent resolution.

The E.O. is also severable, as per the general provision 1(b) on page two of the E.O. This means should the legislature resolve to disapprove a portion of the E.O., the remaining portions would still go into effect on September 17, 2024.

Table 1

Department	Committee/Board Name	Date Established	Established By	Transfer Type	EO effect on Committee/Board	Power of Committee/Board	Subject to Legislative Disapproval (Y/N)
MDARD	Large Carnivore Breeding Advisory Committee	2019	PA 610 of 2018	III	Abolished	Power to approve/deny license applications	Yes
DHHS	Child Lead Exposure Elimination Commission	2017	EO 2017-2	No transfer	Resize Commission Membership from 15 to 13	Advise Governor and issue annual report to Governor	No
LEO	Growing Michigan Together Council	6/1/2023	EO 2023-4	III	Abolished	Final report to Governor on December 1, 2023	No
LEO	Asian Pacific American Affairs Commission	2009	EO 2009-21	No transfer	Resize Commission Membership from 21 to 15	Advisor to Governor/Annual report to Governor	No
LEO	Black Leadership Advisory Council	2020	EO 2020-163	No transfer	Resize Council Membership from 17 to 15	Advisor to Governor/ Annual report to Governor	No
LEO	Michigan Arts and Culture Council	1966	EO 1991-18	No transfer	Clarify independence from MSF	Advise Governor and issue arts grants	No
LEO	State Historic Preservation Office	1960	EO 2007-53	No transfer	Clarify independence from MSF	Identify and aid in historic site preservation	No
LEO	Statewide Housing Partnership	9/7/2022	EO 2022-10	No transfer	Move expiration date ahead 3 years	Advise Governor and develop statewide housing plan	No
EGLE	Environmental Permit Review Commission	2018	PA 268 of 2018	III	Abolish the Commission	Overrule environmental permit denials of Department	Yes
EGLE	Environmental Rules Review Committee	2018	PA 267 of 2018	III	Abolish the Committee	Oversee all Department. rules	Yes
LARA	Barrier Free Design Board	1974	PA 190 of 1974 ²	No transfer	Change Board member requirements	Provide exceptions to barrier free design plans	Yes
LARA	Board of Barber Examiners	1980	PA 299 of 1980	No transfer	Change Board member requirements	Promulgate rules for barbers	Yes
LARA	Board of Boiler Rules	1965	PA 290 of 1965	III	Abolished	Promulgate rules with Department	Yes

² Some Public Acts establishing boards/commissions have since been repealed or replaced. In those instances, the provided link will take you to the current, active, statutory language governing the board/commission.

Table 1

Department	Committee/Board Name	Date Established	Established By	Transfer Type	EO effect on Committee/Board	Power of Committee/Board	Subject to Legislative Disapproval (Y/N)
LARA	Board of Mechanical Rules	1984	PA 192 of 1984	No transfer	Changed board member number and requirements.	Recommend rule to Department	Yes
LARA	Electrical Administrative Board	1956	PA 217 of 1956	No transfer	Resize board from 10 to 9 members	Review license applications	Yes
LARA	Manufactured Housing Commission	1987	PA 96 of 1987	No transfer	Resize board from 11 to 9 members	Recommend rules to Department and establish policy for mobile home business	Yes
LARA	Michigan Board of Acupuncture	2006	PA 30 of 2006	No transfer	Resize board from 13 to 11 members	Consult with Department to make rules and approve continuing education courses	Yes
LARA	Michigan Board of Optometry	1978	PA 368 of 1978	No transfer	Change board member types	Promulgate rules for license renewal	Yes
LARA	Michigan Board of Speech-Language Pathology	2008	PA 524 of 2008	No transfer	Resize board from 11 to 9 members	Consult with Department to make rules	Yes
LARA	Residential Builders' and Maintenance and Alteration Contractors' Board	1980	PA 299 of 1980	No transfer	Change Board member requirements	Review license suspensions	Yes
LARA	Ski Area Safety Board	1962	PA 199 of 1962	II	Remove nonvoting members, 2	Promulgate rules for ski lifts/safety	Yes
LARA	State Plumbing Board	2002	PA 733 of 2002	No transfer	Change board member qualifications/ remove ex officio members	Make rule recommendations	Yes
LARA	State Survey and Remonumentation Commission	1991	PA 345 of 1990	III	Abolish the Commission	Consult with the Department on rules and approval of remonumentation plans	Yes
DTMB	Michigan Public School Employees' Retirement Board	1980	PA 300 of 1980	No transfer	Change the qualifications for one member	Promulgate rules to implement the Public School Employees' Retirement Act	Yes
MDOT	Unmanned Aircraft Systems Task Force	2017	PA 436 of 2016	III	Abolish the Task Force	Make recommendations and report to Governor	Yes
Treasury	Michigan Education Trust Board of Directors	1986	PA 316 of 1986	No transfer	Set expiration terms for the current president and VP of the Board	Administer the Michigan Education Trust	Yes

Fiscal Impact

Department of Agriculture and Rural Development

The proposed abolishment of the LCBAC would have no fiscal impact on the MDARD. There are no additional existing costs associated with the LCBAC, and, following its proposed abolishment, the MDARD would continue fulfilling its regulatory requirements under the Large Carnivore Act, PA 274 of 2000, including breeding licensing.

Department of Health and Human Services

The E.O. would have no fiscal impact on the State or local units of government. The reduction in the CLEEC membership would have a negligible effect on necessary staff time for administration and record-keeping. Additionally, the reduction in the CLEEC membership would be unlikely to reduce costs related to mileage reimbursement for members as all meetings scheduled in the current calendar year have allowed an option for virtual attendance.

Department of Labor and Economic Opportunity

The LEO would experience minimal savings from the E.O.. The abolishment of the GMTC would result in the most savings. The LEO does not receive an individual appropriation for the GMTC, and the support staff and associated administrative costs are taken from existing appropriations. The abolishment of the GMTC would free up staff and administrative costs for the LEO; the exact amount is unknown, but is likely between 1.0 and 2.0 FTE positions and between \$150,000 and \$300,000. The reduction in the membership for APAAC and BLAC would result in minimal savings as those members receive a minimal reimbursement from attending meetings.

Department of Environment, Great Lakes, and Energy

The E.O. would abolish the existing EPRC as well as the ERRC. The members of both committees currently serve without compensation but may be reimbursed for expenses incurred in performing their duties. This would have a minimal, positive fiscal impact on the EGLE as there would be no more requirement to pay reimbursements or cover expenses for members of either committee. The E.O. would give the Director of the EGLE expanded authority to make decisions that would otherwise be made by the abolished committees. Such decisions could have additional fiscal implications.

Department of Licensing and Regulatory Affairs

The E.O. would have no fiscal impact on the LARA. Many boards would see a reduction in membership, including the BMR, the EAB, the MBA, the MBSLP, the SASB, and the SPB, but this would have a minimal, positive impact on the Department. While the BBR and the SSRC would be abolished, the administrative functions and responsibilities of those bodies would still be performed by the LARA through the Bureau of Construction Codes.

Department of Technology, Management, and Budget

The E.O. would have no fiscal impact on the DTMB. The per diem compensation and schedule of expense reimbursement for MPSEB is determined by the Legislature and would not be affected by the change in qualifications for a single Board member included in the E.O.

Department of Transportation

The E.O. would have little to no fiscal impact on the MDOT. The functions of the UASTF would be rolled into the Aeronautics Commission.

Department of Treasury

The E.O. would have no fiscal impact on the Department. All members of the METBD serve without compensation but receive reasonable reimbursement for actual and necessary expenses. These expenditures would not be meaningfully affected by term limitations.

Summary

The E.O. would impact 26 separate boards and commissions currently housed in eight separate executive departments. Many changes required by the E.O. would be minor, impacting board membership or member qualifications; other changes would be more impactful, including the abolishment of seven boards and commissions. The totality of the E.O. would have a positive, minor fiscal impact on the state, as the E.O. will reduce membership of many boards and abolish others, cutting departmental expenses.

Executive Order 2024-5 will take effect on September 17, 2024, unless the Legislature rejects it in part or in whole before that date.

If you have any questions on E.O. 2024-5, please do not hesitate to contact us.

/mrw

c: Kathryn R. Summers, Director
Joe Carrasco, Associate Director