

EXECUTIVE REORGANIZATION ORDER

E.R.O. No. 2008-4

445.2025 Transfer of powers and duties of department of agriculture relating to biofuels, biogas, and biomass to department of labor and economic growth; transfer of renewable fuels commission from department of agriculture to department of labor and economic growth; transfer of powers and duties of pollution prevention programs unit and field services unit of environmental science and services division relating to energy policy from department of environmental quality to department of labor and economic growth; transfer of energy advisory committee to department of labor and economic growth by type III transfer; transfer of Michigan broadband development authority and its board of directors to Michigan state housing development authority and certain functions to Michigan public service commission; transfer of Michigan superconductor commission to department of labor and economic growth by type III transfer; transfer of certain functions of broadband development authority to department of information technology by type III transfer; renaming department of labor and economic growth as department of energy, labor, and economic growth; rescission of E.O. 2006-14 and E.O. 2003-8.

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

WHEREAS, Section 2 of Article V of the Michigan Constitution of 1963 empowers the Governor to make changes in the organization of the executive branch of state government or in the assignment of functions among its units that the Governor considers necessary for efficient administration;

WHEREAS, certain authority, powers, duties, functions, and responsibilities of the Department of Labor and Economic Growth were consolidated under Executive Order 2003-18, MCL 445.2011;

WHEREAS, the generation, transmission, distribution, and consumption of energy are critical state issues directly affecting the economy and our national security;

WHEREAS, the design, development, production, and deployment of renewable energy technologies attracts and secures new capital investment, creates jobs, and otherwise benefits Michigan's economy by fostering research and innovation and by accelerating diversification and revitalization of Michigan's industrial, commercial, and agricultural sectors;

WHEREAS, Michigan is uniquely positioned to advance the development and deployment of renewable energy technologies because of its many assets including, but not limited to, its skilled and available workforce; automotive research and development capabilities; tool and die, metal fabrication, and supply chain superiority; research universities and community colleges with advanced energy academic and technical curricula; and available natural resources in wind, water, and biomass;

WHEREAS, developing Michigan's energy economy by creating strategic alliances between business and labor will improve the lives of Michigan's working families and the vitality of Michigan's businesses, while providing an opportunity to transition to low carbon energy technologies;

WHEREAS, Michigan's economic development efforts can benefit from the rapidly evolving renewable energy and energy efficiency business sectors;

WHEREAS, there is a continuing need to reorganize functions amongst state departments to ensure efficient administration and effectiveness of government;

NOW, THEREFORE, I, Jennifer M. Granholm, Governor of the State of Michigan, by virtue of the power and authority vested in the Governor by the Michigan Constitution of 1963 and Michigan law, order the following:

I. DEFINITIONS

As used in this Order:

A. "Biofuel" means any renewable liquid or gas fuel offered for sale as a fuel that is derived from recently living organisms or their metabolic by-products and meets applicable quality standards, including, but not limited to, ethanol, ethanol-blended fuel, biodiesel, and biodiesel blends.

B. "Biogas" means a biofuel that is a gas.

C. "Biomass" means a biofuel that is a solid.

D. "Department of Agriculture" means the principal department of state government created by Section 1 of 1921 PA 13, MCL 285.1, and Section 175 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.275.

E. "Department of Environmental Quality" means the principal department of state government created by

Executive Order 1995-18, MCL 324.99903.

F. "Department of Information Technology" means the principal department of state government created by Executive Order 2001-3, MCL 18.41.

G. "Department of Labor and Economic Growth" or "Department" means the principal department of state government created by Section 225 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.325, and renamed by Executive Order 1996-2, MCL 445.2001, and by Executive Order 2003-18, MCL 445.2011.

H. "Michigan Broadband Development Authority" means the public body corporate and politic created within the Department of Treasury by Section 4 of the Michigan Broadband Development Authority Act, 2002 PA 49, MCL 484.3204, and transferred to the Department of Labor and Economic Growth by Executive Order 2003-18, MCL 445.2011.

I. "Michigan Public Service Commission" means the commission created by Section 1 of 1939 PA 3, MCL 460.1.

J. "Michigan State Housing Development Authority" means the public body corporate and politic created by Section 21 of the State Housing Development Authority Act of 1966, 1966 PA 346, MCL 125.1421.

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

L. "Type II transfer" means that phrase as defined by Section 3 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.103.

M. "Type III transfer" means that phrase as defined by Section 3 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.103.

II. TRANSFERS TO THE DEPARTMENT OF LABOR AND ECONOMIC GROWTH

A. Department of Agriculture

1. The authority, powers, duties, functions, responsibilities, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds, including, but not limited to, the functions of budgeting and procurement, of the Department of Agriculture relating to the development, production, delivery, promotion, and use of biofuels, biogas, and biomass, are transferred by Type II transfer from the Department of Agriculture to the Department of Labor and Economic Growth.

2. The Renewable Fuels Commission established within the Department of Agriculture by Section 3 of the Renewable Fuels Commission Act, 2006 PA 272, MCL 290.583, is transferred by Type II transfer from the Department of Agriculture to the Department of Labor and Economic Growth.

B. Department of Environmental Quality

1. The authority, powers, duties, functions, responsibilities, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds, including, but not limited to, the functions of budgeting and procurement, of the Pollution Prevention Programs Unit and the Field Services Unit of the Environmental Science and Services Division related to energy policy, energy efficiency, alternative energy, green infrastructure, green programs and practices, low-impact design, sustainability, and recycling are transferred by Type II transfer from the Department of Environmental Quality to the Department of Labor and Economic Growth.

C. Energy Advisory Committee

1. The Energy Advisory Committee created by Section 2 of 1982 PA 191, MCL 10.82, is transferred by Type III transfer to the Department of Labor and Economic Growth.

2. The Energy Advisory Committee is abolished.

D. Michigan Broadband Development Authority

1. Except as provided in Section II.D.2 and Section IV, the authority, powers, duties, functions, responsibilities, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds, including, but not limited to, the functions of budgeting and procurement, of the Michigan Broadband Development Authority and the Board of Directors of the Michigan Broadband Development Authority under the Michigan Broadband Development Authority Act, 2002 PA 49, MCL 484.3201 to 484.3225, are transferred to the Michigan State Housing Development Authority.

2. The authority, powers, duties, functions, responsibilities, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds, including, but not limited to, the functions of budgeting and procurement, of the Michigan Broadband Development Authority under Section 7(1)(d) of the Michigan Broadband Development Authority Act, 2002 PA 49, MCL 484.3207(1)(d), are transferred to the Michigan Public Service Commission. The Michigan Public Service Commission shall exercise the authority, powers, duties, functions, and responsibilities transferred under this paragraph independently of the Director of the Department of Labor and Economic Growth.

3. Except for the transfer under Section II.D.1, nothing in this Order shall alter the statutory authority, powers, duties, functions, and responsibilities of the Michigan State Housing Development Authority, which remain with the Authority. All records, property, personnel, monies, and funds of the Authority, including, but not limited to, bonds, notes, reserves, and trust funds, remain under the control of the Authority, subject to any agreements of the Authority with note and bond holders.

4. Upon the completion of the transfer to the Michigan State Housing Development Authority under Section II.D, the Authority shall continue to exercise its legal authority, powers, duties, functions, and responsibilities independently of the Director of the Department of Labor and Economic Growth. The budgeting, procurement, and related management functions of the Authority shall be performed under the direction and supervision of the Director of the Department. When directing and supervising the budgeting, procurement, and related management functions of the Authority, the Director of the Department shall remain cognizant of the rights of the holders of Authority bonds or notes. Certain Authority bond and note contracts may require the Authority to either maintain sufficient personnel or contract for services to plan Authority programs and to supervise enforcement and, where necessary, foreclosure of Authority mortgage agreements.

5. The transfers under Section II.D are subject to any agreement executed prior to the issuance of this Order with note holders, bond holders, or issuers of instruments that are guaranteed.

6. Nothing in this Order shall be construed to affect the status of moneys of the Michigan State Housing Development Authority. Moneys of the Authority are not moneys of this state. State funds appropriated to the Authority lose their identity as state funds upon payment to the Authority and become public funds of the Authority solely under the control of the Authority. Funds established by the Authority are public trust funds administered by the Authority.

7. Nothing in this Order shall be construed to impair the obligation of any bond or note issued by the Michigan State Housing Development Authority. Bonds and notes issued by the Authority are obligations of the Authority and not obligations of this state.

E. Michigan Superconducting Super Collider Commission

1. The Michigan Superconducting Super Collider Commission created under Section 4 of the Michigan Superconducting Super Collider Act, 1987 PA 26, MCL 3.814, is transferred by Type III transfer to the Department of Labor and Economic Growth. The transfer under this paragraph includes, but is not limited to, the transfer of all powers and duties of the Commission under Section 11 of the Michigan Superconducting Super Collider Act, 1987 PA 26, MCL 3.821, as amended by 2006 PA 226.

2. The Michigan Superconducting Super Collider Commission is abolished.

III. IMPLEMENTATION OF TRANSFERS TO DEPARTMENT OF LABOR AND ECONOMIC GROWTH

A. The Director of the Department of Labor and Economic Growth shall provide executive direction and supervision for the implementation of the transfers to the Department of Labor and Economic Growth under this Order and shall make internal organization changes as necessary to effectuate the transfers.

B. The Director of the Department of Labor and Economic Growth shall immediately initiate coordination with principal state departments affected by transfers to the Department of Labor and Economic Growth under this Order to facilitate the transfers and develop a memorandum of record with each affected principal department identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved to implement the transfers to the Department under this Order.

C. The Director of the Department of Labor and Economic Growth and the director of each principal department affected by the transfers to the Department of Labor and Economic Growth under this Order shall jointly identify the program positions and administrative function positions that will be transferred to the Department under this Order. The Director of the Department and the director of each principal department affected by a transfer to the Department under this Order shall make every effort to develop an agreement specifying the positions to be transferred by the effective date of this Order. In the event of a failure to reach an agreement on positions to be transferred under this Order, the Director of the Department shall develop a written recommendation specifying the positions to be transferred and submit the recommendation to the Governor for consideration and approval. All transfers to the Department shall be consistent with this Order and documented by a memorandum of understanding between the director of each principal department affected by a transfer to the Department under this Order and the Director of the Department.

D. The authority, powers, duties, functions, and responsibilities transferred to the Department of Labor and Economic Growth under this Order shall be administered in such ways as to promote efficient administration.

E. The Director of the Department of Labor and Economic Growth may delegate within the Department a duty or power conferred on the Director of the Department by this Order or by other law and the individual to whom the duty or power is delegated may perform the duty or exercise the power at the time and to the extent that the power is delegated by the Director.

F. All records, property, grants, and unexpended balances of appropriations, allocations, and other funds used, held, employed, available, or to be made available for the activities, powers, duties, functions, and responsibilities transferred to the Department of Labor and Economic Growth under this Order are transferred to the Department of Labor and Economic Growth.

G. All records, property, grants, and unexpended balances of appropriations, allocations, and other funds used, held, employed, available, or to be made available to the Michigan Broadband Development Authority for the activities, powers, duties, functions, and responsibilities transferred to the Michigan State Housing Development Authority under this Order are transferred to the Michigan State Housing Development Authority.

H. All records, property, grants, and unexpended balances of appropriations, allocations, and other funds used,

held, employed, available, or to be made available to the Michigan Broadband Development Authority for the activities, powers, duties, functions, and responsibilities transferred to the Michigan Public Service Commission under this Order are transferred to the Michigan Public Service Commission.

IV. TRANSFER TO DEPARTMENT OF INFORMATION TECHNOLOGY

A. The authority, powers, duties, functions, and responsibilities of the Michigan Broadband Development Authority under Section 7(1)(p) of the Michigan Broadband Development Authority Act, 2002 PA 49, MCL 484.3207(1)(p), are transferred by Type III transfer to the Department of Information Technology.

B. The Michigan Broadband Development Authority and the Board of Directors of the Michigan Broadband Development Authority are abolished.

C. The Director of the Department of Information Technology shall provide executive direction and supervision for the implementation of the transfer to the Department of Information Technology under this Order and shall make internal organization changes as necessary to effectuate the transfers.

D. The authority, powers, duties, functions, and responsibilities transferred to the Department of Information Technology under this Order shall be administered in such ways as to promote efficient administration.

E. All records, property, grants, and unexpended balances of appropriations, allocations, and other funds used, held, employed, available, or to be made available for the activities, powers, duties, functions, and responsibilities transferred to the Department of Information Technology under this Order are transferred to the Department of Information Technology.

V. RENAMING THE DEPARTMENT OF LABOR AND ECONOMIC GROWTH

A. The Department of Labor and Economic Growth is renamed the Department of Energy, Labor, and Economic Growth.

B. Any statutory and other references to the Department of Labor and Economic Growth shall be deemed references to the Department of Energy, Labor, and Economic Growth.

VI. CHIEF ENERGY OFFICER FOR THE STATE OF MICHIGAN

A. The Director of the Department of Energy, Labor, and Economic Growth is designated as the Chief Energy Officer for the State of Michigan. As Chief Energy Officer, the Director shall promote the use of renewable energy, the development of advanced energy technologies, and the implementation of energy efficiency measures in this state.

B. The Chief Energy Officer also shall serve as an advisor to the Governor on matters relating to renewable energy, energy efficiency, and other energy matters as requested by the Governor.

VII. RESCISSIONS

A. Executive Order 2006-14 is rescinded in its entirety.

B. Executive Order 2003-8 is rescinded in its entirety.

VIII. MISCELLANEOUS

A. The State Budget Director shall determine and authorize the most efficient manner possible for handling financial transactions and records in the state's financial management system necessary for the implementation of this Order.

B. All rules, orders, contracts, and agreements relating to the transfers under this Order lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended, repealed, or rescinded.

C. This Order shall not abate any suit, action, or other proceeding lawfully commenced by, against, or before any entity affected under this Order. Any suit, action, or other proceeding may be maintained by, against, or before the appropriate successor of any entity affected under this Order.

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

In fulfillment of the requirements under Section 2 of Article V of the Michigan Constitution of 1963, the provisions of this Order are effective December 28, 2008 at 12:01 a.m.

History: 2008, E.R.O. No. 2008-4, Eff. Dec. 28, 2008

Compiler's Notes: For renaming department of energy, labor, and economic growth to department of licensing and regulatory affairs, see E.R.O. No. 2011-4, compiled at MCL 445.2030. For transfer of powers and duties of director of licensing and regulatory affairs created under MCL 10.82 to executive director of Michigan agency for energy, see E.R.O. No. 2015-3, compiled at MCL 460.21.