

EXECUTIVE REORGANIZATION ORDER

E.R.O. No. 1997-2

29.451 Transfer of certain inspection and administrative functions of the fire marshal division of the department of state police to department of consumer and industry services by type II transfer; transfer of state fire safety board from department of state police to department of consumer and industry services by type I transfer; transfer of certain functions related to the above ground storage tank program and the inspection of dry cleaning establishments from the department of state police to the department of environmental quality by type II transfer.

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

WHEREAS, Article V, Section 2 of the Constitution of the State of Michigan of 1963 empowers the Governor to make changes in the organization of the Executive Branch or in the assignment of functions among its units which he considers necessary for efficient administration; and

WHEREAS, the Fire Marshal Division of the Michigan Department of State Police performs certain inspection functions which are duplicative of or similar to those performed by the Department of Consumer and Industry Services and the Department of Environmental Quality; and

WHEREAS, the Department of Consumer and Industry Services is the primary state department with inspection and licensing responsibilities; and

WHEREAS, in Executive Orders 1995-18 and 1996-1 the Michigan Department of Environmental Quality assumed certain responsibilities for dry cleaning programs and underground storage tanks; and

WHEREAS, certain functions, duties and responsibilities assigned to the Fire Marshal Division of the Michigan Department of State Police can be more effectively organized and carried out under the supervision and direction of the Michigan Department of Consumer & Industry Services and Michigan Department of Environmental Quality; and

WHEREAS, it is in the best interest of Michigan citizens to have the Department of State Police concentrate its efforts and functions on its primary role of criminal investigations, arson investigations, and arson-related training activities; and

WHEREAS, by relieving the Fire Marshal Division of certain inspection and administrative functions, state police resources will be made available to perform core functions of the Department of State Police; and

WHEREAS, it is necessary in the interests of efficient administration and effectiveness of government to effect changes in the organization of the Executive Branch of government.

NOW, THEREFORE, I, John Engler, Governor of the State of Michigan, pursuant to the powers vested in me by the Constitution of the State of Michigan of 1963 and the laws of the State of Michigan, do hereby order the following:

A. Department of Consumer and Industry Services.

1. All of the authority, powers, duties, functions and responsibilities, including but not limited to the functions of budgeting, procurement and management related functions of the following Fire Marshal Division programs:

a) Fire safety inspections of adult foster care (MCL §400.711), correctional (MCL §791.762), and health care facilities (MCL §§330.1138 and 333.20156); and

b) Plan review and construction inspections of schools, colleges, universities, school dormitories (MCL §388.853), as well as adult foster care (MCL §400.711), correctional (MCL §791.762), and health care facilities (MCL §§330.1138 and 333.21056); and

c) Coordination of fire inspector training programs, including State Certified Fire Inspector School (SCFIS) and the biennial recertification of fire inspectors (MCL §29.2b); and

d) Fire alarm and fire suppression system installation, documentation and certification (MCL 29.26 - 33); and

e) Federally required fire inspections of certain health and mental care facilities, and

f) Inspection and certification of places of public assemblage (MCL 29.21c and 29.21d); and

g) Federal inspection requirements pursuant to the Hotel/Motel Fire Safety Act of 1990 (PL 101-391 of 1990); and

h) Fire drills in schools, colleges, universities and school dormitories (MCL §29.19); and

i) Fire extinguishing compound use approval (MCL §29.21b(b)); and

j) Hazardous chemicals in the workplace (MCL §29.29p),
are hereby transferred from the Department of State Police to the Department of Consumer & Industry Services by a Type II transfer as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

2. All the statutory authority, powers, duties, functions and responsibilities granted to the Director of the State Police in Section 2 of Act No. 207 of the Public Acts of 1941, as amended, being Sections 29.2 of the Michigan Compiled Laws, which are related to the functions transferred by this Order, are hereby transferred from the Director of the Michigan Department of State Police to the Director of the Department of Consumer and Industry Services by a Type II transfer as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

3. All of the statutory authority, powers, duties, functions and responsibilities of the State Fire Safety Board, including but not limited to those set forth in Act No. 207 of the Public Acts of 1941, as amended, being Section 29.1 et. seq. of the Michigan Compiled Laws, are hereby transferred from the Department of State Police to the Department of Consumer and Industry Services by a Type I transfer as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

4. The Director of the Department of Consumer & Industry Services shall provide executive direction and supervision for the implementation of the transfers. The assigned functions shall be administered under the direction and supervision of the Director of the Department of Consumer & Industry Services and all prescribed functions of rule making, licensing and registration, including the prescription of rules, regulations, standards and adjudications, shall be transferred to the Director of the Department of Consumer & Industry Services.

5. All records, personnel, property and unexpended balances of appropriations, allocations and other funds used, held, employed, available or to be made available to the Fire Marshal Division and State Fire Safety Board for the activities transferred to the Department of Consumer & Industry Services by this Order are hereby transferred to the Department of Consumer & Industry Services.

6. The Director of the Department of Consumer & Industry Services shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

7. The Director of the Department of State Police and the Director of the Department of Consumer & Industry Services shall immediately initiate coordination to facilitate the transfer and develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and State laws and regulations, or other obligations to be resolved by the Fire Marshal Division.

8. The Department of Management and Budget shall determine and authorize the most efficient manner possible for handling financial transactions and records in the states financial management system for the remainder of the fiscal year.

9. All rules, orders, contracts and agreements relating to the assigned functions lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended or repealed.

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

B. Department of Environmental Quality.

1. All of the statutory authority, powers, duties, functions and responsibilities, including but not limited to the functions of budgeting, procurement and related management functions of the following Fire Marshal Division programs:

a. The Above Ground Storage Tank Program (MCL §29.5c); and

b. The inspection of dry cleaning establishments (MCL §29.5i),

are hereby transferred from the Department of State Police to the Department of Environmental Quality by a Type II transfer as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

2. The Director of the Michigan Department of Environmental Quality shall provide executive direction and supervision for the implementation of the transfers. The assigned functions shall be administered under the direction and supervision of the Director of the Michigan Department of Environmental Quality, and all related prescribed functions of rule-making, licensing and registration, including the prescription of rules, regulations, standards and adjudications, are transferred to the Director of the Michigan Department of Environmental Quality.

3. The Director of the Department of Environmental Quality shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

4. All records, personnel, property and unexpended balances of appropriations, allocations and other funds used, held, employed, available to or to be made available to the activities, powers, duties, functions and responsibilities transferred to the Michigan Department of Environmental Quality by this Order are transferred to the Michigan Department of Environmental Quality.

5. The Director of the Michigan Department of Environmental Quality shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

6. The Director of the Michigan Department of State Police and the Director of the Michigan Department of Environmental Quality shall immediately initiate coordination to facilitate the transfers and develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the Michigan Department of Environmental Quality.

7. The Department of Management and Budget shall determine and authorize the most efficient manner possible for handling financial transactions and records in the states financial management system for the remainder of the fiscal year

8. All rules, orders, contracts and agreements relating to the assigned functions lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended or repealed.

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

In fulfillment of the requirement of Article V, Section 2, of the Constitution of the State of Michigan of 1963, the provisions of this Order shall become effective September 30, 1997.

History: 1997, E.R.O. No. 1997-2, Eff. Sept. 30, 1997

Compiler's Notes: For transfer of certain authority, powers, functions, and responsibilities of the state fire marshal and the fire marshal division of the department of state police to the director of the department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of authority of fire safety board to designate 1 of its members as chairperson to the governor, see E.R.O. No. 2003-1, compiled at MCL 445.2011. For transfer of powers and duties of department of environmental quality to department of natural resources and environment, and abolishment of the department of environmental quality, see E.R.O. No. 2009-31, compiled at MCL 324.99919.

Admin Rule: R 29.2801 et seq. of the Michigan Administrative Code.