

# State Notes

## TOPICS OF LEGISLATIVE INTEREST

July/August 2005



### **Fire Service Fees**

**By Elizabeth Pratt, Fiscal Analyst, and Maria Tyszkiewicz, Fiscal Analyst**

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In response to the multiple requests for information regarding the funding for programs administered by the Office of Fire Safety in the Department of Labor and Economic Growth, this article is intended to provide an overview of the issue.

### **Background**

The Office of Fire Safety is part of the Bureau of Construction Codes in the Department of Labor and Economic Growth (DLEG). The Office of Fire Safety has responsibility for programs, including review of plans and construction inspections for adult and child care facilities homes, adult foster care, correctional facilities, critical medical care facilities, dormitories, hospitals, nursing homes, schools, and similar facilities. The Office also performs annual inspections of hospitals, homes for the aged, nursing homes, adult foster care homes, and alternative intermediate service facilities for the mentally retarded and related institutions.

These programs were previously located in the Fire Marshal Division of the Department of State Police. They were transferred to DLEG in two executive orders. The first transfer was pursuant to Executive Order 1997-2, which moved the following programs out of the Department of State Police to the Office of Fire Safety in the former Department of Consumer and Industry Services:

- Plan review and fire safety inspection functions
- Fire inspector certification and training
- Fire alarm and fire suppression system installation, documentation, and certification
- Fire extinguisher compound use approval
- Hazardous chemicals in the workplace
- The State Fire Safety Board

The second transfer was pursuant to Executive Order 2003-18. This order created the Department of Labor and Economic Growth and included a variety of provisions that consolidated like functions around the State under various departments. This Executive Order included the transfer of the following programs from the Department of State Police, Fire Marshal Division, to the Department of Labor and Economic Growth, Bureau of Construction Codes and Fire Safety:

- Juvenile Fire Setter Intervention Program
- Public Fire Education Program
- Fire Fighters Training Council

The total appropriation for the Fire Safety Programs for FY 2004-05 is \$5,965,500. The Governor's FY 2005-06 recommendation for this line includes a slight economic increase of \$125,300, which would bring the total recommended appropriation to \$6,183,800. The allocation for the specific programs within this office is shown in Table 1.



**Table 1**

<b>Office of Fire Safety Program Allocations</b>		
<b>Program</b>	<b>FY 2004-05 Appropriation Allocation</b>	<b>FY 2005-06 Governor's Recommendation</b>
Fire Fighting Training Council	\$1,602,600	\$1,680,600
Fire Marshal Program	\$404,500	427,600
Fire Safety Program	3,958,400	4,075,600
<b>Total</b>	<b>\$5,965,500</b>	<b>\$6,183,800</b>

**Source:** Department of Labor and Economic Growth

### **Funding History**

The Fire Marshal Division in the Department of State Police primarily was funded with General Fund/General Purpose revenue until fiscal year (FY) 1995-96, when fees were approved for the first time to provide partial funding for the unit. Public Act 147 of 1996 established fees for plan review and construction inspections for hospitals and schools and an annual operation and maintenance inspection fee for hospitals. These fees initially were established in statute (MCL 29.2c) for the second half of FY 1995-96 only, with direction that subsequently they should be set annually in the appropriations act. General Fund/General Purpose (GF/GP) appropriations continued to support plan review and construction inspections for other institutions such as child and adult care centers, adult foster homes, and penal institutions. Remaining operations, including the Fire Fighter Training Council, also were supported by General Fund appropriations at that time.

The fees for plan review and construction inspections for schools and hospitals were changed several times since FY 1995-96. The annual operation and maintenance inspection fee for hospitals originally was established in FY 1995-96 at \$10 per bed, but was reduced to \$8 per bed in FY 1999-2000 and has remained at that level.

Plan review and construction inspection fees are assessed based on the cost of the construction project. The minimum plan review and inspection fee of \$100 was charged for projects with a cost of \$85,000 or less. For more extensive projects, fees were assessed based on a dollar amount for each \$1,000 of project cost. Beginning in FY 1997-98, a maximum fee of \$50,000 was established. These fees were increased in FY 1999-2000 and most recently in FY 2001-02. The plan review and construction inspection fees for hospitals and schools are summarized in Table 2.



**Table 2**

<b>Plan Review and Construction Inspection Fees For Hospitals and Schools FY 1995-96 Through FY 2004-05</b>					
<b>Project Cost Range</b>	<b>FY 1995-96 and FY 1996-97</b>	<b>FY 1997-98 and FY 1998-99</b>	<b>Project Cost Range</b>	<b>FY 1999-2000 and FY 2000-01</b>	<b>FY 2001-02 through FY 2004-05</b>
\$85,000 or less (Minimum fee)	\$100.00	\$100.00	\$101,000 or less (Minimum fee)	\$125.00	\$155.00
	(fee per \$1,000 of project cost)	(fee per \$1,000 of project cost)		(fee per \$1,000 of project cost)	(fee per \$1,000 of project cost)
\$85,001 to \$1,500,000	\$1.18	\$1.18	\$101,001 to \$1,500,000	\$1.24	\$1.60
\$1,500,001 to \$10,000,000	\$0.80	\$0.80	\$1,500,001 to \$10,000,000	\$0.90	\$1.30
\$10,000,001 or more	\$0.50	\$0.50	\$10,000,001 or more	\$0.70	\$1.10
Maximum Fee	None	\$50,000	Maximum Fee	\$50,000	\$60,000

In FY 2002-03, combined General Fund support for the Office of Fire Safety as expended in both the Department of Consumer and Industry Services and the Department of State Police budgets totaled \$2,572,829. Due to budgetary pressures on the General Fund, the GF/GP funding was steadily reduced starting in FY 2002-03, leading to its eventual elimination as a source of revenue to support this program by FY 2004-05. Restricted funds have been used to replace some of the GF/GP support, particularly through increased spending from the Fire Service Fee Fund and from the Construction Code Fund. Staff from DLEG provided data for the following three-year summary of funding for the Office of Fire Safety shown in [Table 3](#), which illustrates the fund shift that has taken place from GF/GP to restricted fund sources, in particular the shift from GF/GP to Construction Code Fund in FY 2003-04 and FY 2004-05. Additionally, in [Table 4](#) a list of the various GF/GP reductions is included to show the steady reductions that have resulted in the total reliance on restricted fund sources.

**Table 3**

<b>Office of Fire Safety Fund Shift GF/GP to Restricted FY 2002-03 to FY 2004-05</b>			
	<b>FY 2002-03<sup>a)</sup></b>	<b>FY 2003-04<sup>a)</sup></b>	<b>FY 2004-05<sup>b)</sup></b>
Federal	\$609,072	\$866,874	\$1,107,300
Inter-Departmental Grant	76,209	80,963	111,100
Fire Alarm Fees	91,600	0 <sup>c)</sup>	0
Fire Service Fees Fund	2,800,000	2,100,000	2,100,000
Construction Code Fund	0	866,549	2,647,100
General Fund/General Purpose	2,572,829	1,698,100	0
<b>Total</b>	<b>\$6,140,710</b>	<b>\$5,612,486</b>	<b>\$5,965,500</b>

<sup>a)</sup> Actual expenditures.  
<sup>b)</sup> Appropriated amounts.  
<sup>c)</sup> Fire alarm fees were combined in the Construction Code Fund for FY 2003-04.

**Source:** Department of Labor and Economic Growth



**Table 4**

<b>Office of Fire Safety Major GF/GP Reductions FY 2002-03 Through FY 2004-05</b>		
<b>GF/GP Reductions</b>	<b>Amount</b>	<b>Alternative Source of Funding</b>
Executive Order 2003-3	\$(665,200)	Fire Service Fees
FY 2002-03 Early Retirement Savings	(63,700)	None
FY 2002-03 Budgetary Savings	(13,000)	None
FY 2003-04 Governor's Rec.	(856,600)	Construction Code Fund
FY 2004-05 Employee Related Savings	(2,600)	None
FY 2004-05 Governor's Recommendation	(1,590,000)	Construction Code Fund
FY 2004-05 Payroll Adjustment	(18,100)	None
Executive Order 2005-7	(95,100)	None
<b>Total</b>	<b>\$(3,304,300)</b>	

**Current Shortfall**

The expenditures from the Fire Service Fee Fund have exceeded revenue collections in recent years. Revenue for this Fund is dependent on the level of construction activity at schools and hospitals and the level of fees. According to the Department, one reason for the shortfall is fluctuation in construction activity, which was high in the early part of the decade. In addition, fees were increased in FY 2001-02. More recent years have seen less construction activity among the fee-payers (hospitals and schools) and high demands for the revenue due to the lack of GF/GP revenue to cover services to entities that receive services but do not pay fees, such as adult and child care centers, adult foster care homes, nursing homes, and homes for the aged. Table 5 shows the fire service fee revenue and expenditures in recent years.

**Table 5**

<b>Fire Service Fee Fund Revenue and Expenditures</b>		
	<b>Revenue</b>	<b>Expenditures</b>
FY 2002-03	\$2,437,300	\$2,858,500
FY 2003-04	1,483,300	2,151,900 <sup>a)</sup>
FY 2004-05	1,994,800	2,395,700
FY 2005-06 Est.	1,600,000	2,467,600

<sup>a)</sup> Adjusted to correct accounting error.

**Source:** Department of Labor and Economic Growth

The Construction Code Fund has had similarly high demand for its resources. In recent years, expenditures from this Fund have exceeded collections. Revenue for this Fund peaks every third year when contractor license fees are due. The next peak year is FY 2006-07 as shown in Table 6.



**Table 6**

<b>Construction Code Fund Revenue and Expenditures</b>		
	<b>Revenue</b>	<b>Expenditures</b>
FY 2002-03	\$8,004,200	\$10,729,500
FY 2003-04	12,642,200	13,965,300
FY 2004-05 Est.	9,619,300	14,560,400
FY 2005-06 Est.	9,075,000	14,997,200
FY 2006-07 Est.	12,500,000	N/A

**Source:** Department of Labor and Economic Growth

These high rates of expenditures have been possible due to carry-forward balances that were available in the Funds. These balances are no longer available and the Department has indicated that due to the continuing imbalance between revenue and expenditures, both the Construction Code Fund and the Fire Service Fee Fund will be in deficit in FY 2005-06 in the absence of budget reductions or a fee increase. Estimates provided by the Department as of August 25, 2005, indicate a deficit in FY 2005-06 of \$0.6 million in the Construction Code Fund and \$0.8 million in the Fire Service Fee Fund. These figures are shown in Table 7.

**Table 7**

<b>FY 2005-06 Estimated Fund Balances</b>		
	<b>Construction Code Fund (in millions)</b>	<b>Fire Service Fee Fund (in millions)</b>
Estimated Opening Balance	\$5.3	\$0.1
Estimated Revenue	9.1	1.6
Estimated Funds Available	14.4	1.7
Estimated Expenditures	15.0	2.5
Estimated Closing Balance	\$(0.6)	\$(0.8)

**Source:** Department of Labor and Economic Growth

A longstanding issue with the fire safety programs involves the imbalance between institutions that pay fees for services and those that receive services but pay no fees. As shown in Table 8, inspection and maintenance fees are charged only to hospitals and certain health care facilities, while inspections are conducted at a range of facilities. The same is true for the plan review and construction inspection fees, as shown in Table 9. The revenue that is generated comes from two types of institutions, health care facilities and schools, while these reviews and inspections are provided to many other types of institutions.

**State Notes**  
TOPICS OF LEGISLATIVE INTEREST  
 July/August 2005



**Table 8**

<b>Fire Inspection and Maintenance Fees</b>	
<b>Fee Assessed</b>	<b>No Fee Assessed</b>
Hospitals	Adult Foster Care
Ambulatory Surgical Center	Child Care Centers
County Medical Care Facility	Child Care Institutions
Freestanding Outpatient Facility/Ambulatory Surgical Center	Adult and Children's Camps
Hospital Long Term Care Unit	Child Care Residential Group Homes
Hospice	Corrections
Intermediate Care Facility for the Mentally Retarded	Child Care Centers, Nurseries, Head Start
Nursing Home (Medicaid)	Alternative Intermediate Services – Mentally Retarded
Nursing Home (Medicare)	Dormitories
Nursing Home (Medicaid and Medicare)	Homes for the Aged
	Psychiatric Hospitals
	Freestanding Surgical Outpatient Facility (Licensed Only)
	Nursing Home (Licensed Only)
	Juvenile Residential Group Homes
	Michigan State Police Facility
	State-Owned and Leased Buildings
	School
	College
	Charter School
	Non-Instructional School
	Schools, Other (e.g. Church Schools)
	Universities

**Source:** Department of Labor and Economic Growth

**Table 9**

<b>Fire Service</b>	
<b>Plan Review and Construction Inspection Fees</b>	
<b>Fees Assessed</b>	<b>No Fee Assessed</b>
Hospitals	Adult Foster Care
Ambulatory Surgical Center	Child Care Institutions
Dormitories	Adult and Children's Camps
Freestanding Surgical Outpatient Facility (Licensed Only)	Child Care Centers, Nurseries, Head Start Programs
Freestanding Surgical Outpatient Facility/Ambulatory Surgical Center	Alternative Intermediate Services – Mentally Retarded
Psychiatric Hospitals	Corrections
Non-Instructional School	Child Care Residential Group Homes
School Other (e.g. Church Schools)	County Medical Care Facility
School, Relocatable	Homes for the Aged
Charter Colleges	Hospital Long Term Care Unit
Charter School	Hospice
College	Nursing Homes
Schools	Juvenile Residential Group Home
Universities	Michigan State Police Facility
	State Leased and Owned
	Intermediate Care Facility for the Mentally Retarded

**Source:** Department of Labor and Economic Growth



Finally, the Department also has stated that the consolidation of the Office of Fire Safety into the Bureau of Construction Codes was intended to increase efficiencies. This has not been done to the level that was originally estimated, creating additional pressure on the Fire Service Fee Fund and decreasing the carry-forward balance.

**Executive Recommendation**

The Governor's recommendation for the FY 2005-06 DLEG budget included a fire service fee increase in Section 310 of the budget bill. The per-bed fee charge to hospitals for operation and maintenance inspections would be increased from \$8 to \$10. In addition, the plan review and construction inspection fees were expanded to apply to more types of institutions: adult foster care homes, homes for the aged, nursing homes, and penal institutions. The project cost ranges would be revised and fees would be revised. Inspections not requiring plan review would be charged at \$50 per hour. It is estimated that these increases would generate an additional \$1.8 million in revenue for the program. The fire service fee structure in effect in FY 2004-05 and the Governor's recommendation for FY 2005-06 are summarized in Table 10. The Department has indicated that the fee increase would be used to fund fire safety programs at the current level and reduce the reliance on the Construction Code Fund. The most recent estimates indicate that the fee increase would not entirely eliminate the deficit; however, the Department has stated that expenditure reductions could be made to avoid a deficit in the Construction Code Fund in FY 2005-06.

**Table 10**

<b>Current Fire Service Fees And the Executive Recommendation</b>			
<b>FY 2004-05 P.A. 354 of 2004 - Section 310</b>		<b>FY 2005-06 Executive Recommendation</b>	
<b>Project Cost Range</b>	<b>Fee</b>	<b>Project Cost Range</b>	<b>Fee</b>
\$101,000 or less (Minimum fee)	\$155.00	\$10,000 or less (Minimum fee)	\$155.00
\$101,001 to \$1,500,000	\$1.60 per \$1,000	\$10,001 to \$100,000	\$1.55 plus \$4.00 per \$1,000 over \$10,000
\$1,500,001 to \$10,000,000	\$1.30 per \$1,000	\$100,001 or more	\$515 plus \$2.00 per \$1,000 over \$100,000
\$10,000,001 or more	\$1.10 per \$1,000		
Maximum Fee	\$60,000	Maximum fee	\$60,000
		Fee for inspections where no plan review is required	\$50 per hour

**Senate Action**

The Senate concurred with the Governor's recommended appropriation amount for the Office of Fire Safety. However, the Senate did not include the fire service fee increase proposed by the Governor. Instead, the Senate maintained the current-year fee structure. Based on the Department's current revenue estimates, there is insufficient revenue in the Fire Service Fee

**State Notes**  
TOPICS OF LEGISLATIVE INTEREST  
July/August 2005



Fund and the Construction Code Fund to support the appropriations included in the Senate-passed bill, creating a \$1.4 million revenue shortfall in FY 2005-06.

**House Action**

The House concurred with both the Senate and the Governor in the level of the appropriation; however, it adopted different funding sources. The House did not include the increase in the fire service fees. It reduced the amount of fire service fee revenue supporting that line by \$1,642,800 from \$2,167,300 to \$524,500 and instead replaced that funding with \$1,642,800 of GF/GP revenue. The GF/GP revenue was made available from cuts to the Postsecondary Education line and the Michigan Community Service Commission. Since the House action, the Department has indicated that the GF/GP reductions in those programs will result in additional cuts in Federal funds that require a State match.

**Conclusion**

As it stands now, Senate Bill 276, the FY 2005-06 appropriation bill for the Department of Labor and Economic Growth, has been put in Conference. The Appropriation Committee chairs are awaiting recommendations from Senate and House leadership on budget decisions before scheduling any conference committee meetings. This issue will be addressed in those meetings.