

**SENATE FISCAL AGENCY
 MEMORANDUM**

DATE: November 23, 2016
TO: Members of the Michigan Senate
FROM: Joe Carrasco, Fiscal Analyst
RE: Executive Order 2016-22

On November 3, 2016, Governor Snyder issued Executive Order (E.O.) 2016-22, which proposes to transfer specific functions of the Office of the State Employer within the Department of Technology, Management, and Budget (DTMB) to the Michigan Civil Service Commission, also within the DTMB. Article V, Section 2 of the Michigan Constitution gives the Legislature 60 calendar days of a regular session to disapprove an Executive Order. This means that E.O. 2016-22 will take effect on the 61st calendar day of the 2017-2018 session unless it is disapproved by a majority of the members of each house of the Legislature during the first 60 days of the new session.

The E.O. would transfer all statutory authority, powers, duties, functions, and responsibilities of the Office of the State Employer related to administration of the State employee long-term disability plan and the employee service program to the Michigan Civil Service Commission within the DTMB. According to the E.O, the long-term disability plan and the employee service program could be more effectively and efficiently administered within the Civil Service Commission, which administers all other benefit programs for employees in the State classified service. The Office of the State Employer would be required to continue to exercise all other authority, powers, duties, functions, and responsibilities of the Office not transferred by this E.O.

The E.O. would direct the State Personnel Director to work in cooperation with the Director of the Office of the State Employer to provide executive direction and supervision for implementing the transfer. In addition, the State Budget Director would have to determine and authorize the most efficient manner for handling financial transactions and records in the State's financial management system.

The E.O. further states that all records, personnel, property, and funds of the long-term disability plan and employee service program used, held, employed, available to, or to be made available to the Office of the State Employer also would be transferred to the Michigan Civil Service Commission. Finally, all rules, orders, contracts, and agreements relating to the functions transferred under this Executive Order lawfully adopted before its effective date would continue to be effective until revised, amended, repealed, or rescinded.

Article V, Section 2 of the State Constitution gives the Governor the authority to reorganize the executive branch of government by Executive Order. Three types of reorganizations or transfers are outlined in the Executive Organization Act. Executive Order 2016-22 uses only a Type II transfer.

Type I Transfer. Under a Type I transfer, an existing department, board, commission, or agency is transferred intact to another principal department. The entity will be administered under the supervision of the new principal department director; however, the prescribed statutory powers, duties, and functions of rule making and other regulatory activities of the transferred entity will be exercised by the entity, which remains relatively autonomous. This type of transfer is not included in E.O. 2016-22.

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. The transfer of the functions of the Office of the State Employer related to administration of the State employee long-term disability plan and the employee service program to the Michigan Civil Service Commission is a transfer of this type, according to the E.O.

Type III Transfer. A Type III transfer means the abolishment of an existing entity. The statutory authority, powers, duties, functions, records, personnel, and funding are not abolished, but instead are transferred to the principal department. This type of transfer is not included in E.O. 2016-22.

The E.O. should have no fiscal impact on either the Office of the State Employer or the Michigan Civil Service Commission, particularly since the transfer would occur within a single State department. The annual appropriations for both the Office of the State Employer and the Michigan Civil Service Commission should be sufficient to cover any added expenses that could occur due to this transfer of functions.

As noted above, once the 2017-2018 legislative session begins, the Legislature will have 60 calendar days to disapprove E.O. 2016-22. If Legislature does not disapprove the E.O. within that time frame, it then will take effect.

Please contact me at 373-2768 with questions or for additional information.

/mh

c: Ellen Jeffries, Director
Bill Bowerman, Associate Director