

**SENATE FISCAL AGENCY
 MEMORANDUM**

DATE: August 12, 2009

TO: Members of the Michigan Senate

FROM: Elizabeth Pratt, Fiscal Analyst
 Maria Tyszkiewicz, Fiscal Analyst

RE: Executive Order 2009-36, Elimination of the Department of History, Arts, and Libraries

In Executive Order (E.O.) 2009-36, the Governor exercised her executive reorganization authority under the Constitution and the Executive Organization Act of 1965 to transfer many of the functions of the Department of History, Arts, and Libraries to other State departments and to abolish the Department of History, Arts, and Libraries. The Executive Order also would create the Michigan Center for Innovation and Reinvention Board to advise the Governor on the use of the State Library and Museum building as well as the library and historical resources. The executive order was issued on July 13, 2009. Unless it is disapproved by a vote of both houses of the Legislature within 60 days of its issuance (by September 10, 2009) the Executive Order will take effect on October 1, 2009. The contents of the Executive Order are described further below.

Background

The Department of History, Arts and Libraries (HAL) was created by Public Acts 61-79 of 2001 and includes programs transferred from the Michigan Legislature, the Department of State, the former Department of Consumer and Industry Services, the Department of Natural Resources, and the Michigan Strategic Fund.

Section 2 of Article V of the State Constitution authorizes the Governor to organize the executive branch of government by executive order. There are three types of reorganization or transfers that are outlined in the Executive Reorganization Act (P.A. 380 of 1965).

The three types include:

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 director; however, the prescribed statutory powers, duties, and functions are exercised by the entity as a relatively autonomous entity. The only Type I transfer included in Executive Order 2009-36 is of the Mackinac Island State Park Commission, which would be relocated to the Department of Natural Resources.

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 the appropriations and other funds associated with an entity, and the entity itself are transferred to and placed under the authority of the principal department. Most of the transfers affected by this E.O. 2009-36 are Type II transfers.

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. A Type III transfer is used in E.O. 2009-36 to move to the Department of Natural Resources any powers or duties of the Department of History, Arts, and Libraries not specifically transferred to other departments or entities. This Type III transfer would abolish the Department of History, Arts, and Libraries.

Executive Order 2009-36

All of the programs currently administered by HAL would be divided among several State departments, including some where the programs were housed before the creation of HAL. The departments to which HAL programs would be transferred are the Department of Education (DOE), the Department of Energy, Labor, and Economic Growth (DELEG), the Department of Natural Resources (DNR), the Department of Information Technology (DIT), the Department of Management and Budget (DMB), and the Michigan Strategic Fund (MSF), as shown below in Table 1.

Table 1

Program Distribution under Executive Order 2009-36		
Receiving Department	Programs Transferred	Type of Transfer
Department of Education	Library of Michigan, including Collections	Type II
	State Librarian, including MeLCAT	Type II
	State Aid to Libraries	Type II
Department of Energy, Labor, and Economic Growth, Michigan Commission for the Blind	Library Services for the Blind and Physically Handicapped, including Subregional State Aid	No Type Specified
Department of Energy, Labor, and Economic Growth, Michigan State Housing Development Authority	State Historic Preservation Office and Review Board, including the State Archeologist	Type II
Department of Information Technology	State Census Program and State Demographer	Type II
Department of Management and Budget	State Records Center	Type II
Department of Natural Resources	State Archives	Type II
	State Historical Programs	Type II
	State Museums and Museum Stores	Type II
	Thunder Bay National Marine Sanctuary	Type II
	Historical Marker Program	Type II
	Great Lakes Bottomlands Preserve	Type II
	Underwater Preserve Fund	Type II
	Mackinac Island State Park Commission	Type I
	Michigan Heritage Water Trail Program	No Type Specified
Michigan Freedom Trail Commission	Type II	
Michigan Strategic Fund	The Michigan Council for Arts and Cultural Affairs	No Type Specified

This E.O. includes language requiring various cost saving measures and possible elimination of certain services. Additional descriptions are provided below. On July 31, 2009, the Governor issued a revised budget recommendation for FY 2009-10 which provided more detail regarding the

program transfers included in this E.O. and aligned the Governor's FY 2009-10 budget recommendation with E.O. 2009-36.

Budget Impact in FY 2009-10

The Governor has recommended the budgetary changes shown in Table 2 to implement the elimination of HAL and the transfer of programs in FY 2009-10.

Table 2

Funds and Positions Transferred from the Department of History, Arts, and Libraries to Receiving Departments			
	FTEs	Gross	GF/GP
Department of Education ¹⁾	61.0	\$22,604,800	\$17,047,400
Department of Energy, Labor, and Economic Growth	34.0	4,214,700	3,013,700
Department of Information Technology	2.0	224,000	0
Department of Management and Budget	13.0	1,674,000	1,300,400
Department of Natural Resources	101.0	10,991,200	7,847,900
Michigan Strategic Fund	5.0	2,331,900	1,481,900
Total	216.0	\$42,040,600	\$30,691,300

¹⁾ Department of Education budget will include funding for Census Program and State Demographer.

The Governor's recommendation for FY 2009-10 showed that HAL has an adjusted base year level of authorized FTEs of 238.0. A comparison of this figure to the total of positions transferred shows a decrease of 22.0 FTEs. This reduction primarily reflects elimination of the management services unit. The changes would result in savings of approximately \$1,659,700 in FY 2009-10. There also is a reduction of 2.0 funded unclassified positions; however, the additional savings that would be realized in FY 2009-10 from the elimination of the unclassified positions are limited to \$31,800 because the HAL Director position would be vacant since December 2008 and the State Librarian position would be retained as a classified position. In total, the savings from the elimination of the Department of History, Arts, and Libraries are approximately \$1,691,500.

Department of Education

The Library of Michigan and the duties of the State Librarian would be transferred from HAL to the Department of Education by a Type II transfer. The Executive Order eliminates the unclassified position for the State Librarian. Under the Governor's FY 2009-10 budget recommendation, the State Librarian position would be included as a classified status in the Department of Education. Under current law, the State Librarian is appointed by the Governor with the advice and consent of the Senate.

The E.O. would transfer to the DOE all services provided by the Library with the exception of the Services for the Blind and Physically Handicapped, which would be transferred to the Michigan Commission for the Blind located in DELEG, and the Census and Demographer services, which would be transferred to DIT. Library programs transferred include the Board of Trustees of the Library of Michigan (on which the Superintendent of Public Instruction would take the seat formerly held by the HAL Director), administration of State Aid to Libraries, oversight of local libraries, and retention of certain records such as birth and death records.

Executive Order 2009-36 would task the Superintendent of Public Instruction with administering the programs under the Library of Michigan in order to find administrative efficiencies and cost saving measures. The E.O. would require the Superintendent of Public Instruction to make several specific reductions, unless they were determined to be impractical. The program reductions to be considered would include the elimination of circulation of specific collections including the Main, Dewey, General Reference, Michigan, Michigan Documents, and the Rare Book collections. Other cost saving measures could include eliminating circulation or delivery of the law collection; eliminating participation as a lending library for interlibrary loans through the Michigan electronic Library Catalog or MeLCAT; transferring Federal documents maintained at the Library to another Federal Depository in the State or returning the documents and the circulation to the Federal government; and eliminating or transferring the non-Michigan genealogy collection.

According to HAL staff, it is expected that the reference in the E.O. regarding MeLCAT would only have ramifications on the Library of Michigan as a participating lending library under MeLCAT. Individuals looking for a book on the system would no longer see the Library of Michigan's catalog of collections as an eligible lender; however, other libraries' catalog collections would still be available on MeLCAT and the Library of Michigan would continue to administer the catalog for local libraries. In addition, the Library of Michigan would continue to subscribe to the database collections and would continue to provide access to the subscription databases such as newspaper archives, journals, and other fee-for-use databases.

Although the E.O. calls for the suspension or elimination of the circulation of some collections, it is expected that services would continue to be provided after October 1, 2009, and that any changes would occur during the fiscal year after decisions regarding relocation or elimination had been made. The collections, if circulation were to terminate, would need to be transferred to a suitable institution. This is particularly true for the Federal documents that are required to be held in a Federal Depository. Ten partial Federal Depositories exist in Michigan and they might choose to add to their collections. The State would need to put out a request for such a transfer from in-State institutions; if after 90 days no agreement were reached with an accredited institution, then the documents would be returned to the Federal Printing Office in Washington, D.C.

Department of Energy, Labor, and Economic Growth

Programs that would be transferred into DELEG include the library services for the blind and physically handicapped, the State Historic Preservation Office, Lighthouse Preservation Grants, and the Idlewild Centennial Commission.

Library services for the blind and physically handicapped would be transferred to the Michigan Commission for the Blind (MCB). This transfer would include the State funding for the 11 subregional libraries and the Library of Michigan for the services they provide to the blind and physically handicapped population and the subregional libraries. Funding for these services in FY 2008-09 was \$484,800. The services include mailing cassette recordings or printed Braille books to eligible individuals. Currently, the Library of Michigan contains a section dedicated to these materials.

The State Historic Preservation Office would be transferred to the Michigan State Housing Development Authority (MSHDA) within DELEG. Included in this transfer would be the State Archeologist, and all the responsibilities of preserving historical sites including historic certification and tax credits. The transfer also would include the environmental review program required by the

National Historic Preservation Act. Under this Act, the State receives Federal funding to perform a review and issue an opinion on the cultural and historic impact of all structures built with Federal funds or requiring Federal licenses. Examples of these include cell phone towers, many transportation projects, historic redevelopments, and housing developments funded by the U.S. Department of Housing and Urban Development.

In addition, the E.O. would transfer the Idlewild Centennial Commission created by E.O. 2007-50 and charged with planning the centennial celebration of this historic site in 2012. Idlewild, founded in 1912 in Lake County, was a resort whose patrons were primarily African Americans who had been barred from other resort communities. Idlewild has been designated a historic district by the National Park Service. The Commission will complete work by December 31, 2012.

Department of Information Technology

The E.O. would transfer, by a Type II transfer, the Census and Data Center and the State Demographer to the Department of Information Technology. The Data Center serves as the State's liaison to the U.S. Bureau of the Census and maintains the State's census information. The State Demographer generates population estimates and analysis. This Executive Order would rescind E.O. 2002-17, which transferred the Data Center from DIT to HAL and moved the Demographer from the DMB to HAL.

Department of Management and Budget

The State Records Center would be transferred to the Department of Management and Budget by a Type II transfer. The records center develops the requirements for managing, retaining and appropriate disposal of State records, and provides microfilm and digital document services. These functions were transferred from the DMB to HAL under E.O. 2002-17, which would be rescinded by this Executive Order.

Michigan Strategic Fund

Under the Executive Order, the Michigan Council for Arts and Cultural Affairs (MCACA) would be transferred to the Michigan Strategic Fund, an autonomous agency within the Department of Treasury. The E.O. does not specify a type of transfer used for the Council and the affiliated grants program.

Under the Governor's FY 2009-10 MSF budget recommendation, the current Arts and Cultural Grants program would be eliminated while the Council would remain intact. The Governor's budget recommendation included \$1,822,000 to fund the proposed Arts and Cultural Institution Planning Grant program, which would offer funding for planning grants to counties, cities, villages, townships, community foundations and non-profit organizations, operating arts and cultural institutions. After review of the planning grant proposal, the MCACA would make recommendations to the State Budget Director regarding projects for final planning and construction. Projects would be included in the next budget recommendation. Projects would be funded through the sale of bonds, whose debt service would be paid through annual appropriations. Both the House and Senate have passed appropriation bills for the Department of History, Arts, and Libraries for FY 2009-10 and included the current Arts and Cultural Grants program, at a reduced funding level from FY 2008-09.

Department of Natural Resources

Almost all of the State historic programs would be transferred to the DNR; the exceptions are the State Historic Preservation Office and the State Archeologist. The programs that would be transferred are listed below:

- Archives of Michigan
- Michigan History magazine
- Maintenance of State historical sites and the State Historic Site Fund (Historic Markers)
- State Historical Museums
- Museum stores
- Underwater preserves
- Aboriginal Records and Antiquities
- Great Lakes Bottomlands Preserve
- Underwater Preserve Fund
- Thunder Bay National Marine Sanctuary and Underwater Preserve
- Mackinac Island State Park and Commission (Type I transfer)
- Michigan Heritage Water Trail Program

A number of Commissions and Advisory Boards also would be transferred by Type II transfers to the DNR. They include:

- State Historical Commission
- State Historical Records Advisory Board
- Underwater Salvage and Preserve Committee
- Michigan Freedom Trail Commission
- Michigan Commission on the Commemoration of the Bicentennial of the War of 1812
- Michigan Iron Industry Museum Advisory Board

The Director of the Department of Natural Resources would be authorized to implement the E.O. and organize the functions in order to realize cost savings and generate revenue. The E.O. would require the Director to implement specific cost saving measures, unless it was determined to be impractical. Possible changes identified in the E.O. include:

- Charging admission fees to the museum and exhibits
- Contracting with a nonprofit organization, foundation, or society for:
 - Publication of the Michigan History magazine and other journals
 - Operation of the Museum Store and/or development of an online store for selling merchandise related to the State archives or the Museum
 - Operation of the Historic Marker Program

All revenue generated from these enterprises would be deposited into the General Fund.

In addition, various memoranda of understanding between the DNR and the other receiving departments would be needed to facilitate the administration of some of these programs, as some historical programs, such as the State Historic Preservation Office and the State Archeologist who would be located in separate departments.

Michigan Center for Innovation and Reinvention

The Executive Order also would create the Michigan Center for Innovation and Reinvention Board. This board would consist of the following nine members: the Director of the Department of Natural Resources, the Superintendent of Public Instruction, three members appointed by the Governor, three members appointed by the Governor based on recommendations from Michigan State University, and one member appointed by the Governor based on a recommendation from the Mayor of the City of Lansing. The Board would be advisory and would make a recommendation regarding the creation of the Michigan Center for Innovation and Reinvention. The Center would be a partnership between the City of Lansing, Michigan State University, and other public or private institutions. The purpose of the Center would be to use all or a portion of the current State Library and Historical Center building for an educational center for children or adults, providing instruction in the subjects of science, technology, engineering, and mathematics. The Board also would identify alternative funding sources for these purposes. A report to the Governor on the review and any recommendations would be due on June 1, 2010. Staffing for the Board would be provided by the Department of Natural Resources. Board members would not be compensated; however, they could be reimbursed for necessary travel and expenses.

If there are any additional questions or comments regarding this issue, please contact us at 373-2768.

/kjh

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