

EXECUTIVE REORGANIZATION ORDER (EXCERPT)
E.R.O. No. 2009-4

445.2026 Transfer of powers and duties relating to purity and quality standards for biofuels under MCL 290.641 to MCL 290.650 from department of energy, labor, and economic growth to department of agriculture; transfer of powers and duties of Michigan strategic fund under MCL 208.1460 from Michigan strategic fund to department of energy, labor, and economic growth.

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, under Section 8 of Article V of the Michigan Constitution of 1963, the Governor is responsible to take care that the laws be faithfully executed;

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, Executive Order 2008-20 created the Department of Energy, Labor, and Economic Growth and transferred, among other things, authority over the development, production, delivery, promotion, and use of biofuels from the Department of Agriculture to the Department of Energy, Labor, and Economic Growth;

WHEREAS, after Executive Order 2008-20 was issued, but before the Order took effect, 2008 PA 313 was enacted, requiring the Director of the Department of Agriculture to, among other things, establish purity and quality standards for biodiesel or biodiesel blend fuels sold or offered for sale in this state;

WHEREAS, consistency with the intent of Executive Order 2008-20 requires that the authority to establish purity and quality standards for biodiesel or biodiesel blend fuels be transferred from the Department of Energy, Labor, and Economic Growth to the Department of Agriculture;

WHEREAS, Section 460 of the Michigan Business Act, 2007 PA 36, MCL 208.1460, as added by 2008 PA 335, authorizes the Michigan Strategic Fund to reduce or terminate a credit claimed by a taxpayer for the installation of delivery systems to provide E85 fuel or qualified biodiesel blends, notwithstanding that the Department of Energy, Labor, and Economic Growth administers the state's grant program for the installation of these delivery systems, and is authorized by Section 460 to certify the credits to be claimed by a taxpayer for the installation of these delivery systems;

WHEREAS, consistency with the intent of Executive Order 2008-20 requires that the authority to reduce or terminate a credit claimed by a taxpayer for the installation of delivery systems to provide E85 fuel or qualified biodiesel blends be transferred from the Michigan Strategic Fund to the Department of Energy, Labor, and Economic Growth;

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. "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.

C. "Department of Energy, Labor and Economic Growth" 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, by Executive Order 2003-18, MCL 445.2011, and by Executive Order 2008-20.

D. "Michigan Strategic Fund" means the public body corporate and politic created under Section 5 of the Michigan Strategic Fund Act, 1984 PA 270, MCL 125.2005.

E. "Type II 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 AGRICULTURE

A. 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 Energy, Labor, and Economic Growth related to establishing purity and quality standards for biofuels sold in Michigan under the Motor Fuels Quality Act, 1984 PA 44, MCL 290.641 to MCL 290.650, are transferred by Type II transfer from the Department of Energy, Labor, and Economic Growth to the Department of Agriculture.

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

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

D. The Director of the Department of Agriculture 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.

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 Agriculture under this Order are transferred to the Department of Agriculture.

III. TRANSFERS TO THE DEPARTMENT OF ENERGY, LABOR, AND ECONOMIC GROWTH

A. The authority, powers, duties, functions, and responsibilities of the Michigan Strategic Fund under Section 460 of the Michigan Business Tax Act, 2007 PA 36, MCL 208.1460, as added by 2008 PA 335, are transferred by Type II transfer from the Michigan Strategic Fund to the Department of Energy, Labor, and Economic Growth.

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

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

D. The Director of the Department of Energy, 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.

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 Energy, Labor, and Economic Growth under this Order are transferred to the Department of Energy, Labor, and Economic Growth.

IV. 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 May 3, 2009 at 12:01 a.m.

History: 2009, E.R.O. No. 2009-4, Eff. May 3, 2009.