

## February 2019 Legislative Update

### The EGLE Has Landed

The beleaguered Department of Environmental Quality (DEQ) has been scrapped and replaced with the new Department of Environment, Great Lakes and Energy (EGLE.)

Governor Gretchen Whitmer signed two executive orders (EOs) and one executive directive this week making that change while at the same time beefing up the state's PFAS Action Response Team and linking Michigan to 19 other states that have pledged to enforce the U.S. Climate Alliance. The announcement played well with environmental groups.

Michigan League of Conservation Voters (LCV) called it a “step toward” cleaning up drinking water and addressing climate change. The Ecology Center said she was showing “true leadership on protecting our air and water.” The Michigan Environmental Council (MEC) said it was “great to see” Whitmer making good on her campaign promise and “making a concerted effort” to protect residents’ health and the environment. The Michigan Chamber of Commerce, on the other hand, was unhappy with those executive orders. “Some major disappointment from us on the elimination of the DEQ oversight boards. We just don’t understand why the governor would want to silence stakeholders in having a voice in the rule-making process and for allowing people to have an independent review for permits,” the Chamber’s Jason Geer said. He noted the environmental rules board was a recommending body only and that the governor made the final decision on rules. He also questioned whether Whitmer had the authority to abolish boards created by the Legislature through statute. He said a judge may eventually have to settle the question. Tiffany Brown, spokesperson for Whitmer, contended she does have the power. “The Governor has broad powers under Section 2 of Article 5 of the Michigan Constitution of 1963 to reorganize government, subject to a 60-day legislative veto, including the power to support the action she took today in EO 2019-2. These powers have been upheld by the courts and used by previous governors,” Brown said. “This is about streamlining the regulatory process in state government. The department already has a robust stakeholder engagement program on their permits and rules and will continue to work to ensure that all stakeholders have a voice in that process.” Chamber President Rich Studley calls on the Legislature to “seriously consider exercising its constitutional authority (Article 5, Sec. 2) to disapprove this EO. Rick Studley, Chamber President commented, “The DEQ historically has been a dysfunctional agency. I think every one knows that. Every administration that I can remember has had challenges with that agency, so expanding its authority and giving more power, I think that is a concern for us. An agency that hasn't really proven to be super reliable on stakeholder engagement and that kind of stuff, that's probably not going to turn out well for our members,”

Whitmer unveiled the EOs in a press conference EO 2019-2 restructures the DEQ as EGLE. It also creates new offices within the department, including the Office of the Clean Water Public Advocate, the Office of the Environmental Justice Public Advocate, and the Interagency Environmental Justice Response Team. EO 2019-3 strengthens the Michigan PFAS Action Response Team (MPART) as an effort to inform the public about perfluoroalkyl and polyfluoroalkyl substances (PFAS). Executive Directive 2019-12 enters Michigan into the U.S.

Climate Alliance, a bipartisan coalition of governors from 19 other states that have committed to reducing greenhouse gas emissions consistent with the goals of the Paris Agreement.

“This is about finding real solutions to clean up our drinking water so every Michigander can bathe their kids and give them a glass of water at the dinner table safely,” said Whitmer. “We have a chance to build a system that really works so we can protect our water and improve public health. We’ve also got to take action to protect our state from the effects of climate change. The science is in, and it’s time we get to work to mitigate the impact of climate change for the sake of our kids and future generations in Michigan.”

The governor described the clean water advocate as "a full-time guardian of the Great Lakes." The governor asserted that she will fight all efforts to divert water from the state's five lakes including a possible move by Wisconsin to divert those waters to the new FoxConn project. And she will move to hike the fees that Nestle pays, currently \$200, for siphoning off the ground water for its bottled water plant near Evart.

Liesel Clark, former DEQ director, will run EGLE.

Environmental groups gave the EOs rave reviews.

“With attacks on clean air and water coming from every direction at the federal level, action on climate change at the state level is paramount to protecting public health,” said Mara Herman, health policy outreach coordinator for the Ecology Center. “She understands that all Michigan citizens, regardless of race, income or zip code, should have clean air to breathe and safe water to drink. We applaud Gov. Whitmer for taking these critical steps that will help clean up Michigan’s air and water and protect the health of our communities,” Williams said. James Clift, of the MEC, said he was glad the oversight panels had been eliminated. “We commend Gov. Whitmer for eliminating these undemocratic rule and permit panels,” said Clift. “The removal of these committees puts the control of Michigan’s environmental protections back where it should have been all along, into the hands of elected officials who can be held accountable by voters.” “This reorganization will benefit people and wildlife—and signals that Michigan is ready to be a leader in efforts to protect our drinking water and Great Lakes, while confronting the biggest conservation threat of our time, climate change,” Shriberg said. Sen. Rosemary Bayer (D-Beverly Hills) also applauded the move. Rep. Gary Howell (R-North Branch) was more reserved in his judgment, noting he had not had time to read the actual executive orders. “All governors like to put their stamp on the bureaucracy and tend to reorganize departments. Prior governors have done the same sort of thing. This is certainly a change. Whether it is an improvement, who knows until we see how it functions. It certainly gives a broad range of programs within the DEQ,” Howell said. “. . . Like with so many things, it all depends on whom she appoints to take on those positions and what they take their charge to be.”

This week the House Natural Resources & Outdoor Recreation Committee held an organizational meeting while the Senate Natural Resources Committee did not meet. Neither the Senate nor House Transportation Committees met. No political fundraisers were attended this week, although many were scheduled. I held a lunch meeting with Rep. Markkman and staff, Rep. LaFave and staff, a committee clerk and staff to Rep. O’ Malley so far. Next week I have

two fundraisers on my schedule which are great opportunities to network, meet and greet and to talk issues, be a political activist.