

2001 DRAFTING REQUEST

Bill

Received: **01/19/2001**

Received By: **nelsorp1**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget 7-0370**

By/Representing: **Statz**

This file may be shown to any legislator: **NO**

Drafter: **nelsorp1**

May Contact:

Alt. Drafters:

Subject: **Justice - civil**

Extra Copies:

Pre Topic:

DOA:.....Statz -

Topic:

Transfer of DOJ consumer protection positions

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	nelsorp1 01/20/2001	wjackson 01/22/2001	rschluet 01/23/2001	_____	gretskl 01/23/2001		S&L
/2	nelsorp1 01/25/2001	wjackson 01/25/2001	pgreensl 01/26/2001	_____	lrb_docadmin 01/26/2001		S&L
/3	nelsorp1 02/06/2001	wjackson 02/06/2001	kfollet 02/07/2001	_____	gretskl 02/07/2001		S&L
/4	nelsorp1 02/07/2001	wjackson 02/07/2001	martykr 02/07/2001	_____	lrb_docadmin 02/07/2001		S&L

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1/4 WJ 2/7
Jm 3/7
PC
Dm 2/7
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1/3 2/6 WLJ

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/2 1/25 WLj

1/26
pgz

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26
pg/hmh

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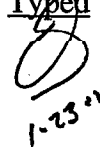
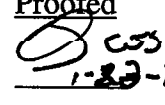
Topic:

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Instructions:

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/?	nelsorp1	1 WLJ 1/22	 1-23-01	 1-23-01			

FE Sent For:

<END>



**WISCONSIN DEPARTMENT OF
ADMINISTRATION**

TOMMY G. THOMPSON
GOVERNOR

GEORGE LIGHTBOURN
SECRETARY

Division of Executive Budget and Finance
Post Office Box 7864
Madison, WI 53707-7864
Voice (608) 266-1736
Fax (608) 267-0372
TTY (608) 267-9629

Date: January 18, 2001
To: Steve Miller, LRB
From: Andrew J. Statz, DOA *AS*
Subject: Budget draft request relating to consumer protection positions

I am requesting statutory language be drafted for inclusion with the 2001-03 biennial budget bill. The draft will transfer consumer protection positions from the Department of Justice (DOJ) to the Department of Agriculture, Trade, and Consumer Protection (DATCP).

A total of 9.30 FTE consumer protection positions, their incumbents, and related GPR funding will be transferred from DOJ's Division of Legal Services to DATCP. Positions to be transferred include 4.80 FTE *attorney* positions, 2.0 FTE *consumer protection investigator* 3 positions, 0.50 FTE *legal assistant-objective* position, 1.0 FTE *legal secretary-objective* position, and 1.0 FTE *paralegal-objective* position.

All DOJ assets, liabilities, and tangible personal property including records, pending matters, and contracts primarily related to its consumer protection investigations and enforcement functions will become the assets and liabilities of DATCP on the effective date of the budget bill. The positions transferring to DATCP will retain all state employment rights and the same status as they enjoyed immediately before the transfer. No transferred employee who has attained permanent status in class will be required to serve a probationary period.

Please contact me at 267-0370 or andrew.statz@doa.state.wi.us if you have any questions. Thank you.



300a C(20)
State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-2156/1

RPN.../.....

WJ

LPG: Please fix request sheet.

DOA:.....Statz - Transfer of DOJ consumer protection positions

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

LPG:
Inserts
are out
of order.

DO NOT GEN

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

STATE GOVERNMENT ✓

OTHER STATE GOVERNMENT ✓

Currently, DOJ is required to provide legal services to DATCP for enforcement of the laws related to consumer protection. Currently, DOJ may commence an action to restrain the violation of marketing and trade practices, including fraudulent representations, negative sales of telecommunication services, or unfair retailing of merchandise. This bill removes the authority of DOJ to enforce the laws relating to consumer protection and places that authority with DATCP or the district attorney.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

by temporary or permanent injunction

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2 SECTION 1. 20.455 (1) (gh) of the statutes is amended to read:

3 20.455 (1) (gh) *Investigation and prosecution.* The amounts in the schedule for
4 the expenses of investigation and prosecution of violations, including attorney fees,

1 under ss. 49.49 (6), ~~100.263~~[✓], 133.16, 281.98, 283.91 (5), 289.96 (3), 292.99, 293.87 (4),
 2 295.19 (3) (b) and 299.97. Ten percent of all moneys received under ss. 49.49 (6),
 3 ~~100.263~~², 133.16, 281.98, 283.91 (5), 289.96 (3), 292.99, 293.87 (4), 295.19 (3) (b) and
 4 299.97, for the expenses of investigation and prosecution of violations, including
 5 attorney fees, shall be credited to this appropriation account.

History: 1971 c. 125; 1973 c. 90, 336; 1975 c. 39 s. 732 (1); 1975 c. 224; 1977 c. 29, 418; 1979 c. 34 ss. 286m, 290, 523 to 526; 1979 c. 189, 219, 355; 1981 c. 20, 169; 1983 a. 27 ss. 427 to 430, 1800; 1983 a. 199, 523; 1985 a. 29, 120; 1987 a. 27, 326, 399; 1989 a. 31, 122, 336; 1991 a. 11, 39, 269; 1993 a. 16, 98, 193, 460, 496; 1995 a. 27 ss. 1014h to 1029, 9126 (19), 9130 (4); 1995 a. 227; 1997 a. 27, 237; 1999 a. 5, 9, 186.

6 **SECTION 2.** 20.455 (1) (hm) of the statutes is amended to read:

7 20.455 (1) (hm) *Restitution.* All moneys received by the department to provide
 8 restitution to victims when ordered by the court as the result of prosecutions under
 9 s. 49.49 and chs. 100, 133, 281 to 285[✓] and 289 to 299 and under a federal antitrust
 10 law for the purpose of providing restitution to victims of the violation when ordered
 11 by the court.

History: 1971 c. 125; 1973 c. 90, 336; 1975 c. 39 s. 732 (1); 1975 c. 224; 1977 c. 29, 418; 1979 c. 34 ss. 286m, 290, 523 to 526; 1979 c. 189, 219, 355; 1981 c. 20, 169; 1983 a. 27 ss. 427 to 430, 1800; 1983 a. 199, 523; 1985 a. 29, 120; 1987 a. 27, 326, 399; 1989 a. 31, 122, 336; 1991 a. 11, 39, 269; 1993 a. 16, 98, 193, 460, 496; 1995 a. 27 ss. 1014h to 1029, 9126 (19), 9130 (4); 1995 a. 227; 1997 a. 27, 237; 1999 a. 5, 9, 186.

12 **SECTION 3.** 100.18 (11) (d) of the statutes is amended to read:

13 100.18 (11) (d) The department ~~or the department of justice, after consulting~~
 14 ~~with the department,~~ or any district attorney, upon informing the department, may
 15 commence an action in circuit court in the name of the state to restrain by temporary
 16 or permanent injunction any violation of this section. The court may in its discretion,
 17 prior to entry of final judgment, make such orders or judgments as may be necessary
 18 to restore to any person any pecuniary loss suffered because of the acts or practices
 19 involved in the action, provided proof thereof is submitted to the satisfaction of the
 20 court. The department ~~and the department of justice~~ may subpoena persons and
 21 require the production of books and other documents, ~~and the department of justice~~

1 ~~may request the department to exercise its authority under par. (e) to aid in the~~
2 ~~investigation of alleged violations of this section.~~

History: 1977 c. 29 s. 1650m (4); 1979 c. 89, 327, 350; 1981 c. 351; 1983 a. 215; 1985 a. 284, 332; 1989 a. 31; 1991 a. 278; 1993 a. 158, 492; 1995 a. 27, 179; 1997 a. 111, 201.

3 SECTION 4. 100.18 (11) (e) of the statutes is amended to read:

4 100.18 (11) (e) In lieu of instituting or continuing an action pursuant to this
5 section, the department ~~or the department of justice~~ may accept a written assurance
6 of discontinuance of any act or practice alleged to be a violation of this section from
7 the person who has engaged in such act or practice. The acceptance of such assurance
8 by either the department ^{plain space} ~~or the department of justice~~ shall be deemed acceptance by
9 the other state officials enumerated in par. (d) if the terms of the assurance so
10 provide. An assurance entered into pursuant to this section shall not be considered
11 evidence of a violation of this section, provided that violation of such an assurance
12 shall be treated as a violation of this section, and shall be subjected to all the
13 penalties and remedies provided therefor.

History: 1977 c. 29 s. 1650m (4); 1979 c. 89, 327, 350; 1981 c. 351; 1983 a. 215; 1985 a. 284, 332; 1989 a. 31; 1991 a. 278; 1993 a. 158, 492; 1995 a. 27, 179; 1997 a. 111, 201.

14 SECTION 5. 100.20 (4) of the statutes is amended to read:

15 100.20 (4) The ~~department of justice~~ district attorney may file a written
16 complaint with the department alleging that the person named is employing unfair
17 methods of competition in business or unfair trade practices in business or both.
18 Whenever such a complaint is filed it shall be the duty of the department to proceed,
19 after proper notice and in accordance with its rules, to the hearing and adjudication
20 of the matters alleged, and a representative of the ~~department of justice~~ district attorney
21 ~~by the attorney general~~ district attorney may appear before the department in such
22 proceedings. The ~~department of justice~~ district attorney shall be entitled to judicial
23 review of the decisions and orders of the department under ch. 227.

History: 1975 c. 308; 1985 a. 284; 1993 a. 158, 496; 1997 a. 229.

1 **SECTION 6.** 100.207 (6) (b) 1. of the statutes is amended to read:

2 100.207 (6) (b) 1. ~~The department of justice, after consulting with the~~
3 ~~department of agriculture, trade and consumer protection, or any~~ Any district
4 attorney upon informing the department of agriculture, trade and consumer
5 protection, may commence an action in circuit court in the name of the state to
6 restrain by temporary or permanent injunction any violation of this section.
7 Injunctive relief may include an order directing telecommunications providers, as
8 defined in s. 196.01 (8p), to discontinue telecommunications service provided to a
9 person violating this section or ch. 196. Before entry of final judgment, the court may
10 make such orders or judgments as may be necessary to restore to any person any
11 pecuniary loss suffered because of the acts or practices involved in the action if proof
12 of these acts or practices is submitted to the satisfaction of the court.

History: 1993 a. 496; 1995 a. 27.

13 **SECTION 7.** 100.207 (6) (b) 2. of the statutes is amended to read:

14 100.207 (6) (b) 2. The department may exercise its authority under ss. 93.14
15 to 93.16 and 100.18 (11) (c) to administer this section. The department ~~and the~~
16 ~~department of justice~~ may subpoena persons and require the production of books and
17 other documents, ~~and the department of justice may request the department of~~
18 ~~agriculture, trade and consumer protection to exercise its authority to aid in the~~
19 ~~investigation of alleged violations of this section.~~

History: 1993 a. 496; 1995 a. 27.

20 **SECTION 8.** 100.207 (6) (c) of the statutes is amended to read:

21 100.207 (6) (c) Any person who violates subs. (2) to (4) shall be required to
22 forfeit not less than \$25 nor more than \$5,000 for each offense. Forfeitures under this
23 paragraph shall be enforced by the ~~department of justice, after consulting with the~~

1 department of agriculture, trade and consumer protection, or, upon informing the
2 department, by the district attorney of the county where the violation occurs.

3 History: 1993 a. 496; 1995 a. 27.

3 **SECTION 9.** 100.207 (6) (em) 1. of the statutes is amended to read:

4 100.207 (6) (em) 1. Before preparing any proposed rule under this section, the
5 department shall form an advisory group to suggest recommendations regarding the
6 content and scope of the proposed rule. The advisory group shall consist of one or
7 more persons who may be affected by the proposed rule, ~~a representative from the~~
8 ~~department of justice~~ ^{plain} and a representative from the public service commission.

9 History: 1993 a. 496; 1995 a. 27.

9 **SECTION 10.** 100.24 of the statutes is amended to read:

10 **100.24 Revocation of corporate authority.** Any corporation, or limited
11 liability company, foreign or domestic, ~~which~~ ^{that} violates any order issued under s.
12 100.20 may be enjoined from doing business in this state and its certificate of
13 authority, incorporation, or organization may be canceled or revoked. The district
14 attorney general may bring an action for this purpose in the name of the state. In
15 any such action judgment for injunction, cancellation, or revocation may be rendered
16 by the court, upon such terms as it deems just and in the public interest, but only
17 upon proof of a substantial and ~~wilful~~ ^{willful} violation.

18 History: 1981 c. 124; 1993 a. 112.

18 **SECTION 11.** 100.26 (6) of the statutes is amended to read:

19 100.26 (6) The department, ~~the department of justice, after consulting with the~~
20 ~~department,~~ or any district attorney may commence an action in the name of the
21 state to recover a civil forfeiture to the state of not less than \$100 nor more than
22 \$10,000 for each violation of an injunction issued under s. 100.18, 100.182, or 100.20
23 (6). The department of agriculture, trade and consumer protection or any district
24 attorney may commence an action in the name of the state to recover a civil forfeiture

1 to the state of not less than \$100 nor more than \$10,000 for each violation of an order
2 issued under s. 100.20.

History: 1975 c. 39; 1979 c. 327; 1981 c. 90; 1981 c. 124 s. ^b; 1983 a. 500; 1985 a. 288; 1989 a. 31; 1993 a. 414; 1995 a. 27; 1997 a. 55, 111, 201, 253, 283; 1999 a. 32.

3 **SECTION 12. 100.263** of the statutes is amended to read:

4 **100.263 Recovery.** In addition to other remedies available under this chapter,
5 the court may award the department the reasonable and necessary costs of
6 investigation and an amount reasonably necessary to remedy the harmful effects of
7 the violation and the court may award the department of justice the reasonable and
8 necessary expenses of prosecution, including attorney fees, from any person who
9 violates this chapter. The department ~~and the department of justice~~ shall deposit in
10 the state treasury for deposit in the general fund all moneys that the court awards
11 to the department, ~~the department of justice~~ or the state under this section. Ten
12 percent of the money deposited in the general fund that was awarded under this
13 section for the costs of investigation and the expenses of prosecution, including
14 attorney fees, shall be credited to the appropriation account under s. 20.455 (1) (gh).

History: 1995 a. 27; 1997 a. 36.

15 **SECTION 13. 165.25 (4) (ar)** of the statutes is repealed.

16 **SECTION 14. 704.90 (10) (c)** of the statutes is amended to read:

17 704.90 (10) (c) Forfeitures under par. (a) shall be enforced by action on behalf
18 of the state by the department of justice or by the district attorney of the county
19 where the violation occurs.

History: 1987 a. 23; 1991 a. 39; 1995 a. 27.

20 **SECTION 9131. Nonstatutory provisions; justice.**

21 (1) TRANSFER OF DEPARTMENT OF JUSTICE CONSUMER PROTECTION LEGAL SERVICES
22 TO THE DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION.

23 (END)

Insert NS

Insert NS

1 determining the presence or quantity of alcohol, controlled substances, controlled
2 substance analogs or any combination of alcohol, controlled substances and
3 controlled substance analogs is immune from any civil or criminal liability for the
4 act, except for civil liability for negligence in the performance of the act.

5 SECTION 450. 951.01 (4) of the statutes is amended to read:

6 951.01 (4) "Law enforcement officer" has the meaning assigned under s. 967.02
7 (5), but does not include a conservation warden appointed under s. 23.10 or a state
8 park ranger.

9 SECTION 9137. Nonstatutory provisions; natural resources.

10 (1) TRANSFER OF THE DIVISION OF FORESTRY AND THE BUREAUS OF PARKS AND
11 RECREATION AND SOUTHERN FORESTS TO THE DEPARTMENT OF FORESTRY AND STATE PARKS.

12 (a) *Assets and liabilities.* On the effective date of this paragraph, the assets and
13 liabilities of the department of ~~natural resources~~ ^{justice} that are primarily related to the
14 ~~functions of the division of forestry and the bureaus of parks and recreation and~~
15 ~~southern forests,~~ ^{division of consumer protection legal services} as determined by the secretary of administration, shall become the
16 assets and liabilities of the department of ~~forestry and state parks~~ ^{agriculture, trade and consumer protection}.

INSERT A-1 →, THEN INSERT A-2 →

17 (b) *Employee transfers.*

18 1. All incumbent employees holding positions in the department of ~~natural~~
19 ~~resources~~ relating primarily to the ~~functions of the division of forestry and the~~
20 ~~bureaus of parks and recreation and southern forests,~~ as determined by the secretary
21 of administration, are transferred to the department of ~~forestry and state parks~~.

22 2. The secretary of administration shall determine which incumbent
23 employees holding positions in the department of ~~natural resources~~, that relate
24 primarily to general administration and program support will be transferred to the
25 department of ~~forestry and state parks~~. Upon determination of these employees, the

attorney general
~~secretary of natural resources and the secretary of forestry and state parks shall, by the date that is established for submittal of requests for consideration at the 4th quarterly meeting for 2002 of the joint committee on finance under section 13.10 of the statutes, request the joint committee on finance to transfer moneys between the general purpose revenue appropriations for the department of natural resources and the department of forestry and state parks, between the program revenue appropriations for the department of natural resources and the department of forestry and state parks, between the program revenue-service appropriations for the department of natural resources and the department of forestry and state parks, between the appropriations of a given segregated fund for the department of natural resources and the department of forestry and state parks and between the federal revenue appropriations for the department of natural resources and the department of forestry and state parks, if necessary to adjust previously allocated costs in accordance with the transfer of personnel.~~

*Insert
A2
to NS*

→ ^d *CV*
 (c) *Employee status.* Employees transferred under paragraph (b) shall have the same rights and status under subchapter V of chapter 111 and chapter 230 of the statutes in the department of *agriculture, trade and consumer protection* ~~forestry and state parks~~ that they enjoyed in the department of *justice* ~~natural resources~~ immediately before the transfer. Notwithstanding section 230.28 (4) of the statutes, no employee so transferred who has attained permanent status in class is required to serve a probationary period.

^e
 (d) *Tangible personal property.* On the effective date of this paragraph, all tangible personal property, including records, of the department of *justice* ~~natural resources~~ that is primarily related to the *provision of consumer protection legal services* ~~functions of the division of forestry and the bureaus of parks and recreation and southern forests~~, as determined by the secretary of administration, shall be transferred to the department of ~~forestry and state parks~~.

agriculture, trade and consumer protection

Justice

1 (f) *Contracts.* All contracts entered into by the department of ~~natural resources~~
 2 in effect on the effective date of this paragraph that are primarily related to the
 3 ~~functions of the division of forestry and the bureaus of parks and recreation and~~
 4 ~~southern forests~~ *provision of consumer protection legal services* as determined by the secretary of administration, remain in effect
 5 and are transferred to the department of ~~forestry and state parks~~. The department
 6 of ~~forestry and state parks~~ shall carry out any such contractual obligations unless
 7 modified or rescinded by the department of ~~forestry and state parks~~ to the extent
 8 allowed under the contract.

9 (g) *Rules and orders.* All rules promulgated by the department of ~~natural~~
 10 ~~resources~~ *Justice* that are primarily related to the ~~functions of the division of forestry and~~ *provision of consumer protection legal services*
 11 ~~the bureaus of parks and recreation and southern forests~~, as determined by the
 12 secretary of administration, and that are in effect on the effective date of this
 13 paragraph remain in effect until their specified expiration dates or until amended
 14 or repealed by the department of ~~forestry and state parks~~. All orders issued by the
 15 department of ~~natural resources~~ *Justice* that are primarily related to the ~~functions of the~~ *provision of consumer protection legal services*
 16 ~~division of forestry and the bureaus of parks and recreation and southern forests~~, as
 17 determined by the secretary of administration, and that are in effect on the effective
 18 date of this paragraph remain in effect until their specified expiration dates or until
 19 modified or rescinded by the department of ~~forestry and state parks~~.

20 (h) *Pending matters.* Any matter pending with the department of ~~natural~~
 21 ~~resources~~ *Justice* on the effective date of this paragraph that is primarily related to the
 22 ~~functions of the division of forestry and the bureaus of parks and recreation and~~ *provision of consumer protection legal services*
 23 ~~southern forests~~, as determined by the secretary of administration, is transferred to
 24 the department of ~~forestry and state parks~~ and all materials submitted to or actions
 25 taken by the department of ~~natural resources~~ *Justice* with respect to the pending matter are

1 considered as having been submitted to or taken by the department of ~~forestry and~~
2 ~~state parks~~ *agriculture, trade and consumer*

3 *END OF INSERT*

protection

3 **SECTION 9151. Nonstatutory provisions; tourism.**

4 (1) KICKAPOO VALLEY RESERVE.

5 (a) *Assets and liabilities.* On the effective date of this paragraph, all assets and
6 liabilities of the department of tourism primarily related to the Kickapoo valley
7 reserve or the functions of the Kickapoo reserve management board, as determined
8 by the secretary of administration, shall become the assets and liabilities of the
9 department of forestry and state parks.

10 (b) *Employee transfers.* On the effective date of this paragraph, all incumbent
11 employees holding positions in the department of tourism that are primarily related
12 to the Kickapoo valley reserve or the functions of the Kickapoo reserve management
13 board, as determined by the secretary of administration, are transferred to the
14 department of forestry and state parks.

15 (c) *Employee status.* Employees transferred under paragraph (b) have all the
16 rights and the same status under subchapter V of chapter 111 and chapter 230 of the
17 statutes in the department of forestry and state parks that they enjoyed in the
18 department of tourism immediately before the transfer. Notwithstanding section
19 230.28 (4) of the statutes, no employee so transferred who has attained permanent
20 status in class is required to serve a probationary period.

21 (d) *Tangible personal property.* On the effective date of this paragraph, all
22 tangible personal property, including records, of the department of tourism primarily
23 related to the Kickapoo valley reserve or the functions of the Kickapoo reserve
24 management board, as determined by the secretary of administration, is transferred
25 to the department of forestry and state parks.

approaches to addressing water quality problems threatening drinking water and overall water quality problems of the St. Croix, Namekagon and Yellow rivers and for engineering design and feasibility activities related to construction of wastewater and drinking water treatment facilities. The town and the band shall submit a report describing the findings of the study to the department of natural resources and the department of administration no later than January 1, 2001.

(4x) LAND RECYCLING LOAN FOR THE CITY OF KENOSHA.

(a) Except as provided in paragraph (b), the department of natural resources and the department of administration shall provide a loan bearing no interest under section 281.60 of the statutes to the city of Kenosha in the amount of \$3,000,000. Section 281.60 (2r) to (11) of the statutes, as affected by this act, does not apply to the loan under this paragraph. The department of natural resources, the department of administration and the city of Kenosha shall enter into a financial assistance agreement that specifies the use of the loan, the terms of repayment of the loan and a schedule for the dispersal of funds and for completion of the activities to be funded by the loan.

(b) Paragraph (a) does not apply if the department of natural resources, the department of administration and the city of Kenosha do not enter into the financial assistance agreement before July 1, 2000.

(5) RADIO SERVICES.

(a) ~~Position increases.~~ The authorized FTE positions for the department of natural resources are decreased by 20-SEC positions, funded from the appropriation under section 20.370 (8) (mu) of the statutes, for the performance of duties primarily related to radio services.

(b) ~~Employe transfers.~~ There are transferred from the department of natural resources to the department of transportation 7.6 FTE incumbent employes holding positions in the department of natural resources performing duties primarily related to radio services.

(c) ~~Employe status.~~ Employees transferred under paragraph (b) have all the rights and the same status under subchapter V of chapter 111 and chapter 230 of the statutes in the department of transportation that they enjoyed in the department of natural resources immediately before the transfer. Notwithstanding section 230.28 (4) of the statutes, no employe so transferred who has

(mt) of the statutes, as affected by 20.370 (8) (mu) of the statutes or quarter of fiscal years 1999-2000 that the department of natural resources first payment in fiscal year 1999-2000 or 10 days after the effective date of whichever occurs later.

(6) DATABASE OF PROPERTIES WHERE STANDARD ARE EXCEEDED. under section 227.24 of the statutes the department of natural resources may promulgate a rule under section 292.57 (2) of the statutes, as created before the effective date of the act, but not to exceed the period and 227.24 (1) (c) and (2) of the statutes section 227.24 (1) (a), (2) (b) and the department is not required to provide a rule under this subsection if the rule is necessary for the preservation of health, safety or welfare and is not a finding of emergency for a rule promulgated under this subsection.

(6g) LOCAL GOVERNMENTAL UNIT COST RECOVERY PROCESS. No later than the department of natural resources legislature, in the manner provided in section 292.35 (2) of the statutes, proposed legislation for local governmental unit cost recovery under section 292.35 of the statutes shall be efficient and clear. The department shall promulgate a rule that includes provisions that do all of the following:

- (a) Provide a more efficient notice to all parties.
- (b) Clarify the liability provisions of responsible parties.
- (c) Clarify the provisions related to the method of dealing with information negotiation and cost recovery process.
- (d) Require responsible parties to settle their objection to a local government before seeking designation of experts.

Vetoed In Part

INSERT (A) to NS



9.30 GPR

Consumer protection legal

agriculture trade and consumer protection 9.30

justice



5064
1/25

DOA:.....Statz - Transfer of DOJ consumer protection positions
FOR 2001-03 BUDGET - NOT READY FOR INTRODUCTION

NOT
The bill does give
DATCP the authority
to request DOJ to
provide legal services
to DATCP relating to
consumer protection.

DO NOT GEN

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

STATE GOVERNMENT

OTHER STATE GOVERNMENT

Currently, DOJ is required to provide legal services to DATCP for enforcement of the laws related to consumer protection. Currently, DOJ may commence an action to restrain by temporary or permanent injunction the violation of marketing and trade practices, including fraudulent representations, negative sales of telecommunication services, or unfair retailing of merchandise. This bill removes the authority of DOJ to enforce the laws relating to consumer protection and places that authority with DATCP or the district attorney.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 2 SECTION 1. 20.455 (1) (gh) of the statutes is amended to read:
- 3 20.455 (1) (gh) *Investigation and prosecution.* The amounts in the schedule for
- 4 the expenses of investigation and prosecution of violations, including attorney fees,

1 under ss. 49.49 (6), ~~100.263~~, 133.16, 281.98, 283.91 (5), 289.96 (3), 292.99, 293.87 (4),
2 295.19 (3) (b), and 299.97. Ten percent of all moneys received under ss. 49.49 (6),
3 ~~100.263~~, 133.16, 281.98, 283.91 (5), 289.96 (3), 292.99, 293.87 (4), 295.19 (3) (b), and
4 299.97, for the expenses of investigation and prosecution of violations, including
5 attorney fees, shall be credited to this appropriation account.

6 **SECTION 2.** 20.455 (1) (hm) of the statutes is amended to read:

7 20.455 (1) (hm) *Restitution.* All moneys received by the department to provide
8 restitution to victims when ordered by the court as the result of prosecutions under
9 s. 49.49 and chs. ~~100~~, 133, 281 to 285, and 289 to 299 and under a federal antitrust
10 law for the purpose of providing restitution to victims of the violation when ordered
11 by the court.

12 **SECTION 3.** 100.18 (11) (d) of the statutes is amended to read:

13 100.18 (11) (d) ~~The department or the department of justice, after consulting~~
14 ~~with the department,~~ or any district attorney, upon informing the department, may
15 commence an action in circuit court in the name of the state to restrain by temporary
16 or permanent injunction any violation of this section. The court may in its discretion,
17 prior to entry of final judgment, make such orders or judgments as may be necessary
18 to restore to any person any pecuniary loss suffered because of the acts or practices
19 involved in the action, provided proof thereof is submitted to the satisfaction of the
20 court. ~~The department and the department of justice may subpoena persons and~~
21 ~~require the production of books and other documents, and the department of justice~~
22 ~~may request the department to exercise its authority under par. (c) to aid in the~~
23 ~~investigation of alleged violations of this section.~~

24 **SECTION 4.** 100.18 (11) (e) of the statutes is amended to read:

1 100.18 (11) (e) In lieu of instituting or continuing an action pursuant to this
2 section, the department ~~or the department of justice~~ may accept a written assurance
3 of discontinuance of any act or practice alleged to be a violation of this section from
4 the person who has engaged in such act or practice. The acceptance of such assurance
5 by ~~either the department or the department of justice~~ shall be deemed acceptance by
6 the other state officials enumerated in par. (d) if the terms of the assurance so
7 provide. An assurance entered into pursuant to this section shall not be considered
8 evidence of a violation of this section, provided that violation of such an assurance
9 shall be treated as a violation of this section, and shall be subjected to all the
10 penalties and remedies provided therefor.

11 **SECTION 5.** 100.20 (4) of the statutes is amended to read:

12 100.20 (4) ~~The department of justice~~ district attorney may file a written
13 complaint with the department alleging that the person named is employing unfair
14 methods of competition in business or unfair trade practices in business or both.
15 Whenever such a complaint is filed it shall be the duty of the department to proceed,
16 after proper notice and in accordance with its rules, to the hearing and adjudication
17 of the matters alleged, and a representative of the ~~department of justice~~ designated
18 ~~by the attorney general~~ district attorney may appear before the department in such
19 proceedings. The ~~department of justice~~ district attorney shall be entitled to judicial
20 review of the decisions and orders of the department under ch. 227.

21 **SECTION 6.** 100.207 (6) (b) 1. of the statutes is amended to read:

22 100.207 (6) (b) 1. ~~The department of justice, after consulting with the~~
23 ~~department of agriculture, trade and consumer protection, or any~~ Any district
24 attorney upon informing the department of agriculture, trade and consumer
25 protection, may commence an action in circuit court in the name of the state to

plain text

1 restrain by temporary or permanent injunction any violation of this section.
2 Injunctive relief may include an order directing telecommunications providers, as
3 defined in s. 196.01 (8p), to discontinue telecommunications service provided to a
4 person violating this section or ch. 196. Before entry of final judgment, the court may
5 make such orders or judgments as may be necessary to restore to any person any
6 pecuniary loss suffered because of the acts or practices involved in the action if proof
7 of these acts or practices is submitted to the satisfaction of the court.

8 **SECTION 7.** 100.207 (6) (b) 2. of the statutes is amended to read:

9 100.207 (6) (b) 2. The department may exercise its authority under ss. 93.14
10 to 93.16 and 100.18 (11) (c) to administer this section. The department ~~and the~~
11 ~~department of justice~~ may subpoena persons and require the production of books and
12 other documents, ~~and the department of justice may request the department of~~
13 ~~agriculture, trade and consumer protection to exercise its authority to aid in the~~
14 ~~investigation of alleged violations of this section.~~

15 **SECTION 8.** 100.207 (6) (c) of the statutes is amended to read:

16 100.207 (6) (c) Any person who violates subs. (2) to (4) shall be required to
17 forfeit not less than \$25 nor more than \$5,000 for each offense. Forfeitures under this
18 paragraph shall be enforced by the ~~department of justice, after consulting with the~~
19 department of agriculture, trade and consumer protection, or, upon informing the
20 department, by the district attorney of the county where the violation occurs.

21 **SECTION 9.** 100.207 (6) (em) 1. of the statutes is amended to read:

22 100.207 (6) (em) 1. Before preparing any proposed rule under this section, the
23 department shall form an advisory group to suggest recommendations regarding the
24 content and scope of the proposed rule. The advisory group shall consist of one or

1 more persons who may be affected by the proposed rule, ~~a representative from the~~
2 ~~department of justice~~ and a representative from the public service commission.

3 **SECTION 10.** 100.24 of the statutes is amended to read:

4 **100.24 Revocation of corporate authority.** Any corporation, or limited
5 liability company, foreign or domestic, ~~which that~~ violates any order issued under s.
6 100.20 may be enjoined from doing business in this state and its certificate of
7 authority, incorporation, or organization may be canceled or revoked. The ~~district~~
8 ~~attorney general~~ ^{Department} may bring an action for this purpose in the name of the state. In
9 any such action judgment for injunction, cancellation, or revocation may be rendered
10 by the court, upon such terms as it deems just and in the public interest, but only
11 upon proof of a substantial and ~~wilful~~ willful violation.

12 **SECTION 11.** 100.26 (6) of the statutes is amended to read:

13 100.26 (6) The department, ~~the department of justice, after consulting with the~~
14 ~~department,~~ or any district attorney may commence an action in the name of the
15 state to recover a civil forfeiture to the state of not less than \$100 nor more than
16 \$10,000 for each violation of an injunction issued under s. 100.18, 100.182, or 100.20
17 (6). The department of agriculture, trade and consumer protection or any district
18 attorney may commence an action in the name of the state to recover a civil forfeiture
19 to the state of not less than \$100 nor more than \$10,000 for each violation of an order
20 issued under s. 100.20.

21 **SECTION 12.** 100.263 of the statutes is amended to read:

22 **100.263 Recovery.** In addition to other remedies available under this chapter,
23 the court may award the department the reasonable and necessary costs of
24 investigation and an amount reasonably necessary to remedy the harmful effects of
25 the violation, and the court may award the department ~~of justice~~ the reasonable and

1 necessary expenses of prosecution, including attorney fees, from any person who
 2 violates this chapter. The department ~~and the department of justice~~ shall deposit in
 3 the state treasury for deposit in the general fund all moneys that the court awards
 4 to the department, ~~the department of justice~~ or the state under this section. Ten
 5 percent of the money deposited in the general fund ~~that was awarded under this~~
 6 ~~section for the costs of investigation and the expenses of prosecution, including~~
 7 ~~attorney fees, shall be credited to the appropriation account under s. 20.455 (1) (gh).~~

8 *insert 6-8* ✓ ~~SECTION 13. 165.25 (4) (ar) of the statutes is repealed.~~
 9 SECTION 14. 704.90 (10) (c) of the statutes is amended to read:

10 704.90 (10) (c) Forfeitures under par. (a) shall be enforced by action on behalf
 11 of the state by the *plain text* ~~department of justice~~ *agriculture, Trade and Consumer*
 12 ~~or by the~~ *protection* district attorney of the county *plain text*
 where the violation occurs.

13 **SECTION 9131. Nonstatutory provisions; justice.**

14 (1) TRANSFER OF DEPARTMENT OF JUSTICE CONSUMER PROTECTION LEGAL SERVICES
 15 TO THE DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION.

16 (a) *Assets and liabilities.* On the effective date of this paragraph, the assets and
 17 liabilities of the department of justice that are primarily related to the provision of
 18 consumer protection legal services, as determined by the secretary of
 19 administration, shall become the assets and liabilities of the department of
 20 agriculture, trade and consumer protection.

21 (b) *Position increases.* The authorized FTE positions for the department of
 22 justice are decreased by 9.30 GPR positions, funded from the appropriation under
 23 section 20.455 (1) (a) of the statutes, for the performance of duties primarily related
 24 to consumer protection legal services.

1 (c) *Employee transfers.* There are transferred from the department of justice
2 to the department of agriculture, trade and consumer protection 9.30 FTE
3 incumbent employees holding positions in the department of justice performing
4 duties primarily related to consumer protection legal services.

5 (d) *Employee status.* Employees transferred under paragraph (c) have the
6 same rights and status under subchapter V of chapter 111 and chapter 230 of the
7 statutes in the department of agriculture, trade and consumer protection that they
8 enjoyed in the department of justice immediately before the transfer.
9 Notwithstanding section 230.28 (4) of the statutes, no employee so transferred who
10 has attained permanent status in class is required to serve a probationary period.

11 (e) *Tangible personal property.* On the effective date of this paragraph, all
12 tangible personal property, including records, of the department of justice that is
13 primarily related to the provision of consumer protection legal services, as
14 determined by the secretary of administration, shall be transferred to the
15 department of agriculture, trade and consumer protection.

16 (f) *Contracts.* All contracts entered into by the department of justice in effect
17 on the effective date of this paragraph that are primarily related to the provision of
18 consumer protection legal services, as determined by the secretary of
19 administration, remain in effect and are transferred to the department of
20 agriculture, trade and consumer protection. The department of agriculture, trade
21 and consumer protection shall carry out any such contractual obligations unless
22 modified or rescinded by the department of agriculture, trade and consumer
23 protection to the extent allowed under the contract.

24 (g) *Rules and orders.* All rules promulgated by the department of justice that
25 are primarily related to the provision of consumer protection legal services, as

1 determined by the secretary of administration, and that are in effect on the effective
2 date of this paragraph remain in effect until their specified expiration dates or until
3 amended or repealed by the department of agriculture, trade and consumer
4 protection. All orders issued by the department of justice that are primarily related
5 to the provision of consumer protection legal services, as determined by the secretary
6 of administration, and that are in effect on the effective date of this paragraph
7 remain in effect until their specified expiration dates or until modified or rescinded
8 by the department of agriculture, trade and consumer protection.

9 (h) *Pending matters.* Any matter pending with the department of justice on the
10 effective date of this paragraph that is primarily related to the provision of consumer
11 protection legal services, as determined by the secretary of administration, is
12 transferred to the department of agriculture, trade and consumer protection and all
13 materials submitted to or actions taken by the department of justice with respect to
14 the pending matter are considered as having been submitted to or taken by the
15 department of agriculture, trade and consumer protection.

16 (END)

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2156/2ins
RPN:wlj:rs

insert 6-8:

SECTION ~~4~~ 165.25 (4) (ar) of the statutes is amended to read:

165.25 (4) (ar) ~~The~~ At the request of the department of agriculture, trade and consumer protection, the department of justice shall ~~may~~ furnish all legal services required by to the department of agriculture, trade and consumer protection relating to the enforcement of ss. 100.171, 100.173, 100.174, 100.175, 100.177, 100.18, 100.182, 100.20, 100.205, 100.207, 100.209, 100.21, 100.28, 100.50 and 100.51 and chs. 136, 344, 704, 707 and 779, together with any other services as are necessarily connected to the legal services.

History: 1971 c. 125 s. 522 (1); 1971 c. 215; 1973 c. 333; 1975 c. 81, 199; 1977 c. 29 s. 1656 (27); 1977 c. 187, 260, 273, 344; 1981 c. 20, 62, 96; 1983 a. 27; 1983 a. 36 s. 96 (2), (3), (4); 1983 a. 192; 1985 a. 29, 66; 1987 a. 416; 1989 a. 31, 115, 187, 206, 359; 1991 a. 25, 39, 269; 1993 a. 27, 28, 365; 1995 a. 27 ss. 4453 to 4454m, 9126 (19); 1995 a. 201; 1997 a. 27, 111.

D-Note

DOA:.....Statz - Transfer of DOJ consumer protection positions

FOR 2001-03 BUDGET - NOT READY FOR INTRODUCTION

TODAY

DO NOT GEN

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

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OTHER STATE GOVERNMENT

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For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2 SECTION 1. 20.455 (1) (gh) of the statutes is amended to read:

1 20.455 (1) (gh) *Investigation and prosecution.* The amounts in the schedule for
2 the expenses of investigation and prosecution of violations, including attorney fees,
3 under ss. 49.49 (6), 100.263, 133.16, 281.98, 283.91 (5), 289.96 (3), 292.99, 293.87 (4),
4 295.19 (3) (b), and 299.97. Ten percent of all moneys received under ss. 49.49 (6),
5 100.263, 133.16, 281.98, 283.91 (5), 289.96 (3), 292.99, 293.87 (4), 295.19 (3) (b), and
6 299.97, for the expenses of investigation and prosecution of violations, including
7 attorney fees, shall be credited to this appropriation account.

8 **SECTION 2.** 20.455 (1) (hm) of the statutes is amended to read:

9 20.455 (1) (hm) *Restitution.* All moneys received by the department to provide
10 restitution to victims when ordered by the court as the result of prosecutions under
11 s. 49.49 and chs. 100, 133, 281 to 285, and 289 to 299 and under a federal antitrust
12 law for the purpose of providing restitution to victims of the violation when ordered
13 by the court.

14 **SECTION 3.** 100.18 (11) (d) of the statutes is amended to read:

15 100.18 (11) (d) The department ~~or the department of justice, after consulting~~
16 ~~with the department,~~ or any district attorney, upon informing the department, may
17 commence an action in circuit court in the name of the state to restrain by temporary
18 or permanent injunction any violation of this section. The court may in its discretion,
19 prior to entry of final judgment, make such orders or judgments as may be necessary
20 to restore to any person any pecuniary loss suffered because of the acts or practices
21 involved in the action, provided proof thereof is submitted to the satisfaction of the
22 court. The department ~~and the department of justice~~ may subpoena persons and
23 require the production of books and other documents, ~~and the department of justice~~
24 ~~may request the department to exercise its authority under par. (c) to aid in the~~
25 ~~investigation of alleged violations of this section.~~

1 **SECTION 4.** 100.18 (11) (e) of the statutes is amended to read:

2 100.18 (11) (e) In lieu of instituting or continuing an action pursuant to this
3 section, the department ~~or the department of justice~~ may accept a written assurance
4 of discontinuance of any act or practice alleged to be a violation of this section from
5 the person who has engaged in such act or practice. The acceptance of such assurance
6 by ~~either the department or the department of justice~~ shall be deemed acceptance by
7 the other state officials enumerated in par. (d) if the terms of the assurance so
8 provide. An assurance entered into pursuant to this section shall not be considered
9 evidence of a violation of this section, provided that violation of such an assurance
10 shall be treated as a violation of this section, and shall be subjected to all the
11 penalties and remedies provided therefor.

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13 100.20 (4) ~~The department of justice~~ district attorney may file a written
14 complaint with the department alleging that the person named is employing unfair
15 methods of competition in business or unfair trade practices in business or both.
16 Whenever such a complaint is filed it shall be the duty of the department to proceed,
17 after proper notice and in accordance with its rules, to the hearing and adjudication
18 of the matters alleged, and a representative of the ~~department of justice~~ designated
19 ~~by the attorney general~~ district attorney may appear before the department in such
20 proceedings. ~~The department of justice~~ district attorney shall be entitled to judicial
21 review of the decisions and orders of the department under ch. 227.

22 **SECTION 6.** 100.207 (6) (b) 1. of the statutes is amended to read:

23 100.207 (6) (b) 1. ~~The department of justice, after consulting with the~~
24 ~~department of agriculture, trade and consumer protection,~~ or any district attorney
25 upon informing the department of agriculture, trade and consumer protection, may

1 commence an action in circuit court in the name of the state to restrain by temporary
2 or permanent injunction any violation of this section. Injunctive relief may include
3 an order directing telecommunications providers, as defined in s. 196.01 (8p), to
4 discontinue telecommunications service provided to a person violating this section
5 or ch. 196. Before entry of final judgment, the court may make such orders or
6 judgments as may be necessary to restore to any person any pecuniary loss suffered
7 because of the acts or practices involved in the action if proof of these acts or practices
8 is submitted to the satisfaction of the court.

9 **SECTION 7.** 100.207 (6) (b) 2. of the statutes is amended to read:

10 100.207 (6) (b) 2. The department may exercise its authority under ss. 93.14
11 to 93.16 and 100.18 (11) (c) to administer this section. The department ~~and the~~
12 ~~department of justice~~ may subpoena persons and require the production of books and
13 other documents, ~~and the department of justice may request the department of~~
14 ~~agriculture, trade and consumer protection to exercise its authority to aid in the~~
15 ~~investigation of alleged violations of this section.~~

16 **SECTION 8.** 100.207 (6) (c) of the statutes is amended to read:

17 100.207 (6) (c) Any person who violates subs. (2) to (4) shall be required to
18 forfeit not less than \$25 nor more than \$5,000 for each offense. Forfeitures under this
19 paragraph shall be enforced by the ~~department of justice, after consulting with the~~
20 department of agriculture, trade and consumer protection, or, upon informing the
21 department, by the district attorney of the county where the violation occurs.

22 **SECTION 9.** 100.207 (6) (em) 1. of the statutes is amended to read:

23 100.207 (6) (em) 1. Before preparing any proposed rule under this section, the
24 department shall form an advisory group to suggest recommendations regarding the
25 content and scope of the proposed rule. The advisory group shall consist of one or

1 more persons who may be affected by the proposed rule, ~~a representative from the~~
2 ~~department of justice~~ and a representative from the public service commission.

3 SECTION 10. 100.24 of the statutes is amended to read:

4 **100.24 Revocation of corporate authority.** Any corporation, or limited
5 liability company, foreign or domestic, ~~which that~~ violates any order issued under s.
6 100.20 may be enjoined from doing business in this state and its certificate of
7 authority, incorporation, or organization may be canceled or revoked. The ~~attorney~~
8 ~~general~~ department may bring an action for this purpose in the name of the state.
9 In any such action judgment for injunction, cancellation, or revocation may be
10 rendered by the court, upon such terms as it deems just and in the public interest,
11 but only upon proof of a substantial and ~~wilful~~ willful violation.

12 SECTION 11. 100.26 (6) of the statutes is amended to read:

13 100.26 (6) The department, ~~the department of justice, after consulting with the~~
14 ~~department,~~ or any district attorney may commence an action in the name of the
15 state to recover a civil forfeiture to the state of not less than \$100 nor more than
16 \$10,000 for each violation of an injunction issued under s. 100.18, 100.182, or 100.20
17 (6). The department of agriculture, trade and consumer protection or any district
18 attorney may commence an action in the name of the state to recover a civil forfeiture
19 to the state of not less than \$100 nor more than \$10,000 for each violation of an order
20 issued under s. 100.20.

21 SECTION 12. 100.263 of the statutes is amended to read:

22 **100.263 Recovery.** In addition to other remedies available under this chapter,
23 the court may award the department the reasonable and necessary costs of
24 investigation and an amount reasonably necessary to remedy the harmful effects of
25 the violation, and the court may award the department ~~of justice~~ the reasonable and

1 necessary expenses of prosecution, including attorney fees, from any person who
2 violates this chapter. The department ~~and the department of justice~~ shall deposit in
3 the state treasury for deposit in the general fund all moneys that the court awards
4 to the department, ~~the department of justice~~ or the state under this section. Ten
5 percent of the money deposited in the general fund that was awarded under this
6 section for the costs of investigation and the expenses of prosecution, including
7 attorney fees, shall be credited to the appropriation account under s. 20.455 (1) (gh).

8 SECTION 13. 165.25 (4) (ar) of the statutes is amended to read:

9 165.25 (4) (ar) The At the request of the department of agriculture, trade and
10 consumer protection, the department of justice shall may furnish all legal services
11 required by to the department of agriculture, trade and consumer protection relating
12 to the enforcement of ss. 100.171, 100.173, 100.174, 100.175, 100.177, 100.18,
13 100.182, 100.20, 100.205, 100.207, 100.209, 100.21, 100.28, 100.50, and 100.51 and
14 chs. 136, 344, 704, 707, and 779, together with any other services as are necessarily
15 connected to the legal services.

16 SECTION 14. 704.90 (10) (c) of the statutes is amended to read:

17 704.90 (10) (c) Forfeitures under par. (a) shall be enforced by action on behalf
18 of the state by the department of justice agriculture, trade and consumer protection
19 or by the district attorney of the county where the violation occurs.

20 SECTION 9131. Nonstatutory provisions; justice.

21 (1) TRANSFER OF DEPARTMENT OF JUSTICE CONSUMER PROTECTION LEGAL SERVICES
22 TO THE DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION.

23 (a) *Assets and liabilities.* On the effective date of this paragraph, the assets and
24 liabilities of the department of justice that are primarily related to the provision of
25 consumer protection legal services, as determined by the secretary of

1 administration, shall become the assets and liabilities of the department of
2 agriculture, trade and consumer protection.

3 (b) *Position increases.* The authorized FTE positions for the department of
4 justice are decreased by 9.30 GPR positions, funded from the appropriation under
5 section 20.455 (1) (a) of the statutes, for the performance of duties primarily related
6 to consumer protection legal services.

7 (c) *Employee transfers.* There are transferred from the department of justice
8 to the department of agriculture, trade and consumer protection 9.30 FTE
9 incumbent employees holding positions in the department of justice performing
10 duties primarily related to consumer protection legal services.

11 (d) *Employee status.* Employees transferred under paragraph (c) have the
12 same rights and status under subchapter V of chapter 111 and chapter 230 of the
13 statutes in the department of agriculture, trade and consumer protection that they
14 enjoyed in the department of justice immediately before the transfer.
15 Notwithstanding section 230.28 (4) of the statutes, no employee so transferred who
16 has attained permanent status in class is required to serve a probationary period.

17 (e) *Tangible personal property.* On the effective date of this paragraph, all
18 tangible personal property, including records, of the department of justice that is
19 primarily related to the provision of consumer protection legal services, as
20 determined by the secretary of administration, shall be transferred to the
21 department of agriculture, trade and consumer protection.

22 (f) *Contracts.* All contracts entered into by the department of justice in effect
23 on the effective date of this paragraph that are primarily related to the provision of
24 consumer protection legal services, as determined by the secretary of
25 administration, remain in effect and are transferred to the department of

1 agriculture, trade and consumer protection. The department of agriculture, trade
2 and consumer protection shall carry out any such contractual obligations unless
3 modified or rescinded by the department of agriculture, trade and consumer
4 protection to the extent allowed under the contract.

5 (g) *Rules and orders.* All rules promulgated by the department of justice that
6 are primarily related to the provision of consumer protection legal services, as
7 determined by the secretary of administration, and that are in effect on the effective
8 date of this paragraph remain in effect until their specified expiration dates or until
9 amended or repealed by the department of agriculture, trade and consumer
10 protection. All orders issued by the department of justice that are primarily related
11 to the provision of consumer protection legal services, as determined by the secretary
12 of administration, and that are in effect on the effective date of this paragraph
13 remain in effect until their specified expiration dates or until modified or rescinded
14 by the department of agriculture, trade and consumer protection.

15 (h) *Pending matters.* Any matter pending with the department of justice on the
16 effective date of this paragraph that is primarily related to the provision of consumer
17 protection legal services, as determined by the secretary of administration, is
18 transferred to the department of agriculture, trade and consumer protection and all
19 materials submitted to or actions taken by the department of justice with respect to
20 the pending matter are considered as having been submitted to or taken by the
21 department of agriculture, trade and consumer protection.

22 (END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

2156/3
LRB-1855/2dn

MGD:cjs:km

RPN

2156

0897

This draft reconciles LRB-~~1855/2dn~~ and LRB-~~0897~~ ^{Both} of these drafts should continue to appear in the compiled bill. ~~All of these drafts, except LRB-1855/2dn, should continue to appear in the compiled bill. LRB-0897 should be dropped from the compiled bill.~~

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D-Note

DOA:.....Statz – Transfer of DOJ consumer protection positions

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

DO NOT GEN

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

STATE GOVERNMENT

OTHER STATE GOVERNMENT

Currently, DOJ is required to provide legal services to DATCP for enforcement of the laws related to consumer protection. Currently, DOJ may commence an action to restrain by temporary or permanent injunction the violation of marketing and trade practices, including fraudulent representations, negative sales of telecommunication services, or unfair retailing of merchandise. This bill removes the authority of DOJ to enforce the laws relating to consumer protection and places that authority with DATCP or the district attorney. The bill gives DATCP the authority to request DOJ to provide legal services to DATCP relating to consumer protection.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2 SECTION 1. 20.455 (1) (gh) of the statutes is amended to read:

1 20.455 (1) (gh) *Investigation and prosecution.* The amounts in the schedule for
2 the expenses of investigation and prosecution of violations, including attorney fees,
3 under ss. 49.49 (6), ~~100.263~~, 133.16, 281.98, 283.91 (5), 289.96 (3), 292.99, 293.87 (4),
4 295.19 (3) (b), and 299.97. Ten percent of all moneys received under ss. 49.49 (6),
5 ~~100.263~~, 133.16, 281.98, 283.91 (5), 289.96 (3), 292.99, 293.87 (4), 295.19 (3) (b), and
6 299.97, for the expenses of investigation and prosecution of violations, including
7 attorney fees, shall be credited to this appropriation account.

8 **SECTION 2.** 100.18 (11) (d) of the statutes is amended to read:

9 100.18 (11) (d) The department ~~or the department of justice, after consulting~~
10 ~~with the department,~~ or any district attorney, upon informing the department, may
11 commence an action in circuit court in the name of the state to restrain by temporary
12 or permanent injunction any violation of this section. The court may in its discretion,
13 prior to entry of final judgment, make such orders or judgments as may be necessary
14 to restore to any person any pecuniary loss suffered because of the acts or practices
15 involved in the action, provided proof thereof is submitted to the satisfaction of the
16 court. The department ~~and the department of justice~~ may subpoena persons and
17 require the production of books and other documents, ~~and the department of justice~~
18 ~~may request the department to exercise its authority under par. (c) to aid in the~~
19 ~~investigation of alleged violations of this section.~~

20 **SECTION 3.** 100.18 (11) (e) of the statutes is amended to read:

21 100.18 (11) (e) In lieu of instituting or continuing an action pursuant to this
22 section, the department ~~or the department of justice~~ may accept a written assurance
23 of discontinuance of any act or practice alleged to be a violation of this section from
24 the person who has engaged in such act or practice. The acceptance of such assurance
25 by ~~either the department or the department of justice~~ shall be deemed acceptance by

1 the other state officials enumerated in par. (d) if the terms of the assurance so
2 provide. An assurance entered into pursuant to this section shall not be considered
3 evidence of a violation of this section, provided that violation of such an assurance
4 shall be treated as a violation of this section, and shall be subjected to all the
5 penalties and remedies provided therefor.

6 **SECTION 4.** 100.20 (4) of the statutes is amended to read:

7 100.20 (4) The ~~department of justice~~ district attorney may file a written
8 complaint with the department alleging that the person named is employing unfair
9 methods of competition in business or unfair trade practices in business or both.
10 Whenever such a complaint is filed it shall be the duty of the department to proceed,
11 after proper notice and in accordance with its rules, to the hearing and adjudication
12 of the matters alleged, and a representative of the ~~department of justice~~ designated
13 ~~by the attorney general~~ district attorney may appear before the department in such
14 proceedings. The ~~department of justice~~ district attorney shall be entitled to judicial
15 review of the decisions and orders of the department under ch. 227.

16 **SECTION 5.** 100.207 (6) (b) 1. of the statutes is amended to read:

17 100.207 (6) (b) 1. The ~~department of justice, after consulting with the~~
18 ~~department of agriculture, trade and consumer protection,~~ or any district attorney
19 upon informing the department of agriculture, trade and consumer protection, may
20 commence an action in circuit court in the name of the state to restrain by temporary
21 or permanent injunction any violation of this section. Injunctive relief may include
22 an order directing telecommunications providers, as defined in s. 196.01 (8p), to
23 discontinue telecommunications service provided to a person violating this section
24 or ch. 196. Before entry of final judgment, the court may make such orders or
25 judgments as may be necessary to restore to any person any pecuniary loss suffered

1 because of the acts or practices involved in the action if proof of these acts or practices
2 is submitted to the satisfaction of the court.

3 **SECTION 6.** 100.207 (6) (b) 2. of the statutes is amended to read:

4 100.207 (6) (b) 2. The department may exercise its authority under ss. 93.14
5 to 93.16 and 100.18 (11) (c) to administer this section. The department and the
6 department of justice may subpoena persons and require the production of books and
7 other documents, and the department of justice may request the department of
8 agriculture, trade and consumer protection to exercise its authority to aid in the
9 investigation of alleged violations of this section.

10 **SECTION 7.** 100.207 (6) (c) of the statutes is amended to read:

11 100.207 (6) (c) Any person who violates subs. (2) to (4) shall be required to
12 forfeit not less than \$25 nor more than \$5,000 for each offense. Forfeitures under this
13 paragraph shall be enforced by the department of justice, after consulting with the
14 department of agriculture, trade and consumer protection, or, upon informing the
15 department, by the district attorney of the county where the violation occurs.

16 **SECTION 8.** 100.207 (6) (em) 1. of the statutes is amended to read:

17 100.207 (6) (em) 1. Before preparing any proposed rule under this section, the
18 department shall form an advisory group to suggest recommendations regarding the
19 content and scope of the proposed rule. The advisory group shall consist of one or
20 more persons who may be affected by the proposed rule, a representative from the
21 department of justice and a representative from the public service commission.

22 **SECTION 9.** 100.24 of the statutes is amended to read:

23 **100.24 Revocation of corporate authority.** Any corporation, or limited
24 liability company, foreign or domestic, which that violates any order issued under s.
25 100.20 may be enjoined from doing business in this state and its certificate of

1 authority, incorporation, or organization may be canceled or revoked. The attorney
2 ~~general~~ department may bring an action for this purpose in the name of the state.
3 In any such action judgment for injunction, cancellation, or revocation may be
4 rendered by the court, upon such terms as it deems just and in the public interest,
5 but only upon proof of a substantial and ~~wilful~~ willful violation.

6 **SECTION 10.** 100.26 (6) of the statutes is amended to read:

7 100.26 (6) The department, ~~the department of justice, after consulting with the~~
8 ~~department,~~ or any district attorney may commence an action in the name of the
9 state to recover a civil forfeiture to the state of not less than \$100 nor more than
10 \$10,000 for each violation of an injunction issued under s. 100.18, 100.182, or 100.20
11 (6). The department of agriculture, trade and consumer protection or any district
12 attorney may commence an action in the name of the state to recover a civil forfeiture
13 to the state of not less than \$100 nor more than \$10,000 for each violation of an order
14 issued under s. 100.20.

15 **SECTION 11.** 100.263 of the statutes is amended to read:

16 **100.263 Recovery.** In addition to other remedies available under this chapter,
17 the court may award the department the reasonable and necessary costs of
18 investigation and an amount reasonably necessary to remedy the harmful effects of
19 the violation, and the court may award the department ~~of justice~~ the reasonable and
20 necessary expenses of prosecution, including attorney fees, from any person who
21 violates this chapter. The department ~~and the department of justice~~ shall deposit in
22 the state treasury for deposit in the general fund all moneys that the court awards
23 to the department, ~~the department of justice~~ or the state under this section. ~~Ten~~
24 ~~percent of the money deposited in the general fund that was awarded under this~~

1 ~~section for the costs of investigation and the expenses of prosecution, including~~
 2 ~~attorney fees, shall be credited to the appropriation account under s. 20.455 (1) (gh).~~

3 **SECTION 12.** 165.25 (4) (ar) of the statutes is amended to read:

4 165.25 (4) (ar) The At the request of the department of agriculture, trade and
 5 consumer protection, the department of justice shall may furnish all legal services
 6 required by to the department of agriculture, trade and consumer protection relating
 7 to the enforcement of ss. 100.171, 100.173, 100.174, 100.175, 100.177, 100.18,
 8 100.182, 100.20, 100.205, 100.207, 100.209, ^{100.37, 100.42,} 100.21, 100.28, 100.50, and 100.51 and
 9 chs. 136, 344, 704, 707, and 779, together with any other services as are necessarily
 10 connected to the legal services.

11 **SECTION 13.** 704.90 (10) (c) of the statutes is amended to read:

12 704.90 (10) (c) Forfeitures under par. (a) shall be enforced by action on behalf
 13 of the state by the department of justice agriculture, trade and consumer protection
 14 or by the district attorney of the county where the violation occurs.

15 **SECTION 9131. Nonstatutory provisions; justice.**

16 (1) TRANSFER OF DEPARTMENT OF JUSTICE CONSUMER PROTECTION LEGAL SERVICES
 17 TO THE DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION.

18 (a) *Assets and liabilities.* On the effective date of this paragraph, the assets and
 19 liabilities of the department of justice that are primarily related to the provision of
 20 consumer protection legal services, as determined by the secretary of
 21 administration, shall become the assets and liabilities of the department of
 22 agriculture, trade and consumer protection.

23 (b) *Position increases.* The authorized FTE positions for the department of
 24 justice are decreased by 9.30 GPR positions, funded from the appropriation under

insert
 note
 10 ✓
 11

1 section 20.455 (1) (a) of the statutes, for the performance of duties primarily related
2 to consumer protection legal services.

3 (c) *Employee transfers.* There are transferred from the department of justice
4 to the department of agriculture, trade and consumer protection 9.30 FTE
5 incumbent employees holding positions in the department of justice performing
6 duties primarily related to consumer protection legal services.

7 (d) *Employee status.* Employees transferred under paragraph (c) have the
8 same rights and status under subchapter V of chapter 111 and chapter 230 of the
9 statutes in the department of agriculture, trade and consumer protection that they
10 enjoyed in the department of justice immediately before the transfer.
11 Notwithstanding section 230.28 (4) of the statutes, no employee so transferred who
12 has attained permanent status in class is required to serve a probationary period.

13 (e) *Tangible personal property.* On the effective date of this paragraph, all
14 tangible personal property, including records, of the department of justice that is
15 primarily related to the provision of consumer protection legal services, as
16 determined by the secretary of administration, shall be transferred to the
17 department of agriculture, trade and consumer protection.

18 (f) *Contracts.* All contracts entered into by the department of justice in effect
19 on the effective date of this paragraph that are primarily related to the provision of
20 consumer protection legal services, as determined by the secretary of
21 administration, remain in effect and are transferred to the department of
22 agriculture, trade and consumer protection. The department of agriculture, trade
23 and consumer protection shall carry out any such contractual obligations unless
24 modified or rescinded by the department of agriculture, trade and consumer
25 protection to the extent allowed under the contract.

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

2156/4
LRB-1856/2ins
~~WCB~~:cjs:km

RPN

165.25(4)(ar) ✓

****NOTE: This is reconciled s. 1. This SECTION has been affected by drafts with the following LRB numbers:

↑
LRB-0392, LRB-0406, and LRB-2156 ⊙

Insert
*Note

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2156/3dn
RPN:wjl

February 7, 2001

To: State and Walker

and LRB-0392, LRB-0406, and LRB-2156

This draft reconciles LRB-2156 and LRB-0897. ~~Both~~ ^{ALL} of these drafts should continue to appear in the compiled bill.

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DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2156/4dn
RPN:wlj:km

February 7, 2001

To: Statz and Walker:

This draft reconciles LRB-2156 and LRB-0897, and LRB-0392, LRB-0406, and LRB-2156. All of these drafts should continue to appear in the compiled bill.

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State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-2156/4

RPN:wlj:km

DOA:.....Statz – Transfer of DOJ consumer protection positions

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

STATE GOVERNMENT

OTHER STATE GOVERNMENT

Currently, DOJ is required to provide legal services to DATCP for enforcement of the laws related to consumer protection. Currently, DOJ may commence an action to restrain by temporary or permanent injunction the violation of marketing and trade practices, including fraudulent representations, negative sales of telecommunication services, or unfair retailing of merchandise. This bill removes the authority of DOJ to enforce the laws relating to consumer protection and places that authority with DATCP or the district attorney. The bill gives DATCP the authority to request DOJ to provide legal services to DATCP relating to consumer protection.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2 SECTION 1. 20.455 (1) (gh) of the statutes is amended to read:

1 20.455 (1) (gh) *Investigation and prosecution.* The amounts in the schedule for
2 the expenses of investigation and prosecution of violations, including attorney fees,
3 under ss. 49.49 (6), ~~100.263~~, 133.16, 281.98, 283.91 (5), 289.96 (3), 292.99, 293.87 (4),
4 295.19 (3) (b), and 299.97. Ten percent of all moneys received under ss. 49.49 (6),
5 ~~100.263~~, 133.16, 281.98, 283.91 (5), 289.96 (3), 292.99, 293.87 (4), 295.19 (3) (b), and
6 299.97, for the expenses of investigation and prosecution of violations, including
7 attorney fees, shall be credited to this appropriation account.

8 **SECTION 2.** 100.18 (11) (d) of the statutes is amended to read:

9 100.18 (11) (d) The department ~~or the department of justice, after consulting~~
10 ~~with the department,~~ or any district attorney, upon informing the department, may
11 commence an action in circuit court in the name of the state to restrain by temporary
12 or permanent injunction any violation of this section. The court may in its discretion,
13 prior to entry of final judgment, make such orders or judgments as may be necessary
14 to restore to any person any pecuniary loss suffered because of the acts or practices
15 involved in the action, provided proof thereof is submitted to the satisfaction of the
16 court. The department ~~and the department of justice~~ may subpoena persons and
17 require the production of books and other documents, ~~and the department of justice~~
18 ~~may request the department to exercise its authority under par. (c) to aid in the~~
19 ~~investigation of alleged violations of this section.~~

20 **SECTION 3.** 100.18 (11) (e) of the statutes is amended to read:

21 100.18 (11) (e) In lieu of instituting or continuing an action pursuant to this
22 section, the department ~~or the department of justice~~ may accept a written assurance
23 of discontinuance of any act or practice alleged to be a violation of this section from
24 the person who has engaged in such act or practice. The acceptance of such assurance
25 by either the department ~~or the department of justice~~ shall be deemed acceptance by

1 the other state officials enumerated in par. (d) if the terms of the assurance so
2 provide. An assurance entered into pursuant to this section shall not be considered
3 evidence of a violation of this section, provided that violation of such an assurance
4 shall be treated as a violation of this section, and shall be subjected to all the
5 penalties and remedies provided therefor.

6 **SECTION 4.** 100.20 (4) of the statutes is amended to read:

7 100.20 (4) The ~~department of justice~~ district attorney may file a written
8 complaint with the department alleging that the person named is employing unfair
9 methods of competition in business or unfair trade practices in business or both.
10 Whenever such a complaint is filed it shall be the duty of the department to proceed,
11 after proper notice and in accordance with its rules, to the hearing and adjudication
12 of the matters alleged, and a representative of the ~~department of justice~~ designated
13 ~~by the attorney general~~ district attorney may appear before the department in such
14 proceedings. The ~~department of justice~~ district attorney shall be entitled to judicial
15 review of the decisions and orders of the department under ch. 227.

16 **SECTION 5.** 100.207 (6) (b) 1. of the statutes is amended to read:

17 100.207 (6) (b) 1. The department of justice, ~~after consulting with the~~
18 ~~department of agriculture, trade and consumer protection,~~ or any district attorney
19 upon informing the department of agriculture, trade and consumer protection, may
20 commence an action in circuit court in the name of the state to restrain by temporary
21 or permanent injunction any violation of this section. Injunctive relief may include
22 an order directing telecommunications providers, as defined in s. 196.01 (8p), to
23 discontinue telecommunications service provided to a person violating this section
24 or ch. 196. Before entry of final judgment, the court may make such orders or
25 judgments as may be necessary to restore to any person any pecuniary loss suffered

1 because of the acts or practices involved in the action if proof of these acts or practices
2 is submitted to the satisfaction of the court.

3 **SECTION 6.** 100.207 (6) (b) 2. of the statutes is amended to read:

4 100.207 (6) (b) 2. The department may exercise its authority under ss. 93.14
5 to 93.16 and 100.18 (11) (c) to administer this section. The department ~~and the~~
6 ~~department of justice~~ may subpoena persons and require the production of books and
7 other documents, ~~and the department of justice may request the department of~~
8 ~~agriculture, trade and consumer protection to exercise its authority to aid in the~~
9 ~~investigation of alleged violations of this section.~~

10 **SECTION 7.** 100.207 (6) (c) of the statutes is amended to read:

11 100.207 (6) (c) Any person who violates subs. (2) to (4) shall be required to
12 forfeit not less than \$25 nor more than \$5,000 for each offense. Forfeitures under this
13 paragraph shall be enforced by the ~~department of justice, after consulting with the~~
14 ~~department of agriculture, trade and consumer protection, or, upon informing the~~
15 ~~department, by the district attorney of the county where the violation occurs.~~

16 **SECTION 8.** 100.207 (6) (em) 1. of the statutes is amended to read:

17 100.207 (6) (em) 1. Before preparing any proposed rule under this section, the
18 department shall form an advisory group to suggest recommendations regarding the
19 content and scope of the proposed rule. The advisory group shall consist of one or
20 more persons who may be affected by the proposed rule, ~~a representative from the~~
21 ~~department of justice~~ and a representative from the public service commission.

22 **SECTION 9.** 100.24 of the statutes is amended to read:

23 **100.24 Revocation of corporate authority.** Any corporation, or limited
24 liability company, foreign or domestic, ~~which that~~ violates any order issued under s.
25 100.20 may be enjoined from doing business in this state and its certificate of

1 authority, incorporation, or organization may be canceled or revoked. The attorney
2 ~~general department~~ may bring an action for this purpose in the name of the state.
3 In any such action judgment for injunction, cancellation, or revocation may be
4 rendered by the court, upon such terms as it deems just and in the public interest,
5 but only upon proof of a substantial and ~~wilful~~ willful violation.

6 **SECTION 10.** 100.26 (6) of the statutes is amended to read:

7 100.26 (6) The department, ~~the department of justice, after consulting with the~~
8 ~~department,~~ or any district attorney may commence an action in the name of the
9 state to recover a civil forfeiture to the state of not less than \$100 nor more than
10 \$10,000 for each violation of an injunction issued under s. 100.18, 100.182, or 100.20
11 (6). The department of agriculture, trade and consumer protection or any district
12 attorney may commence an action in the name of the state to recover a civil forfeiture
13 to the state of not less than \$100 nor more than \$10,000 for each violation of an order
14 issued under s. 100.20.

15 **SECTION 11.** 100.263 of the statutes is amended to read:

16 **100.263 Recovery.** In addition to other remedies available under this chapter,
17 the court may award the department the reasonable and necessary costs of
18 investigation and an amount reasonably necessary to remedy the harmful effects of
19 the violation, and the court may award the department ~~of justice~~ the reasonable and
20 necessary expenses of prosecution, including attorney fees, from any person who
21 violates this chapter. The department ~~and the department of justice~~ shall deposit in
22 the state treasury for deposit in the general fund all moneys that the court awards
23 to the department, ~~the department of justice~~ or the state under this section. ~~Ten~~
24 ~~percent of the money deposited in the general fund that was awarded under this~~

1 ~~section for the costs of investigation and the expenses of prosecution, including~~
2 ~~attorney fees, shall be credited to the appropriation account under s. 20.455 (1) (gh).~~

3 **SECTION 12.** 165.25 (4) (ar) of the statutes is amended to read:

4 165.25 (4) (ar) The At the request of the department of agriculture, trade and
5 consumer protection, the department of justice shall may furnish all legal services
6 required by to the department of agriculture, trade and consumer protection relating
7 to the enforcement of ss. 100.171, 100.173, 100.174, 100.175, 100.177, 100.18,
8 100.182, 100.20, 100.205, 100.207, 100.209, 100.21, 100.28, 100.37, 100.42, 100.50,
9 and 100.51 and chs. 136, 344, 704, 707, and 779, together with any other services as
10 are necessarily connected to the legal services.

***NOTE: This is reconciled s. 165.25 (4) (ar). This SECTION has been affected by
drafts with the following LRB numbers: LRB-0392, LRB-0406, and LRB-2156.

11 **SECTION 13.** 704.90 (10) (c) of the statutes is amended to read:

12 704.90 (10) (c) Forfeitures under par. (a) shall be enforced by action on behalf
13 of the state by the department of ~~justice~~ agriculture, trade and consumer protection
14 or by the district attorney of the county where the violation occurs.

15 **SECTION 9131. Nonstatutory provisions; justice.**

16 (1) TRANSFER OF DEPARTMENT OF JUSTICE CONSUMER PROTECTION LEGAL SERVICES
17 TO THE DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION.

18 (a) *Assets and liabilities.* On the effective date of this paragraph, the assets and
19 liabilities of the department of justice that are primarily related to the provision of
20 consumer protection legal services, as determined by the secretary of
21 administration, shall become the assets and liabilities of the department of
22 agriculture, trade and consumer protection.

1 (b) *Position increases.* The authorized FTE positions for the department of
2 justice are decreased by 9.30 GPR positions, funded from the appropriation under
3 section 20.455 (1) (a) of the statutes, for the performance of duties primarily related
4 to consumer protection legal services.

5 (c) *Employee transfers.* There are transferred from the department of justice
6 to the department of agriculture, trade and consumer protection 9.30 FTE
7 incumbent employees holding positions in the department of justice performing
8 duties primarily related to consumer protection legal services.

9 (d) *Employee status.* Employees transferred under paragraph (c) have the
10 same rights and status under subchapter V of chapter 111 and chapter 230 of the
11 statutes in the department of agriculture, trade and consumer protection that they
12 enjoyed in the department of justice immediately before the transfer.
13 Notwithstanding section 230.28 (4) of the statutes, no employee so transferred who
14 has attained permanent status in class is required to serve a probationary period.

15 (e) *Tangible personal property.* On the effective date of this paragraph, all
16 tangible personal property, including records, of the department of justice that is
17 primarily related to the provision of consumer protection legal services, as
18 determined by the secretary of administration, shall be transferred to the
19 department of agriculture, trade and consumer protection.

20 (f) *Contracts.* All contracts entered into by the department of justice in effect
21 on the effective date of this paragraph that are primarily related to the provision of
22 consumer protection legal services, as determined by the secretary of
23 administration, remain in effect and are transferred to the department of
24 agriculture, trade and consumer protection. The department of agriculture, trade
25 and consumer protection shall carry out any such contractual obligations unless

1 modified or rescinded by the department of agriculture, trade and consumer
2 protection to the extent allowed under the contract.

3 (g) *Rules and orders.* All rules promulgated by the department of justice that
4 are primarily related to the provision of consumer protection legal services, as
5 determined by the secretary of administration, and that are in effect on the effective
6 date of this paragraph remain in effect until their specified expiration dates or until
7 amended or repealed by the department of agriculture, trade and consumer
8 protection. All orders issued by the department of justice that are primarily related
9 to the provision of consumer protection legal services, as determined by the secretary
10 of administration, and that are in effect on the effective date of this paragraph
11 remain in effect until their specified expiration dates or until modified or rescinded
12 by the department of agriculture, trade and consumer protection.

13 (h) *Pending matters.* Any matter pending with the department of justice on the
14 effective date of this paragraph that is primarily related to the provision of consumer
15 protection legal services, as determined by the secretary of administration, is
16 transferred to the department of agriculture, trade and consumer protection and all
17 materials submitted to or actions taken by the department of justice with respect to
18 the pending matter are considered as having been submitted to or taken by the
19 department of agriculture, trade and consumer protection.

20 (END)