

**2003 DRAFTING REQUEST**

**Bill**

Received: **01/14/2003**

Received By: **dkennedy**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget 267-9546**

By/Representing: **Jablonsky**

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

Drafter: **dkennedy**

May Contact:

Addl. Drafters:

Subject: **Health - public health**

Extra Copies: **RLR, RCT**

Submit via email: **YES**

Requester's email:

Carbon copy (CC:) to:

---

**Pre Topic:**

DOA:.....Jablonsky - BB0349,

---

**Topic:**

Transfer milk certification program from DHFS to DATCP; establish fee

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**Instructions:**

See Attached

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**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>
/?				_____			State
/1	dkennedy 01/15/2003	csicilia 01/17/2003	rschluet 01/17/2003	_____	mbarman 01/17/2003		State
/2	dkennedy 01/27/2003	csicilia 01/28/2003	pgreensl 01/28/2003	_____	lemery 01/28/2003		

Vers.      Drafted      Reviewed      Typed      Proofed      Submitted      Jacketed      Required

FE Sent For:

<END>

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/1	dkennedy 01/15/2003	csicilia 01/17/2003	rschluet 01/17/2003	<u>1/28</u>	mbarman 01/17/2003		
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FE Sent For:

1/2 vs 1/28  
03

1/28  
P8

1/28  
P8/gp

<END>

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/?	dkennedy						State

1-17-03

FE Sent For:

<END>

Milk Cert



STATE OF WISCONSIN

Department of Administration  
Division of State Executive Budget & Planning  
101 E. Wilson St., 10th Floor  
P.O. Box 7864  
Madison, WI 53707-7864

DATE: 1/13/03

TO: Steve Miller

FROM: Sue Jablonsky 7-9546

I want to transfer the milk certification program at DNFJ to DATCP + establish a fee for the service. \$ 97.24

20 115(1)(g)(b)

254.89

AM 97-24 (4)(a) + (b)

amt of fee continues to apply?

BB0349



D-NOTE

cjs

DOA:.....Jablonsky - BB0349, Transfer milk certification program from DHFS to DATCP; establish fee

FOR 2003-05 BUDGET — NOT READY FOR INTRODUCTION

SA ✓  
X-ref ✓

DO NOT GO

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

*Analysis by the Legislative Reference Bureau*

**HEALTH AND HUMAN SERVICES**

**PUBLIC HEALTH**

Under current law, DHFS conducts evaluation surveys of grade A dairy operations in order to certify the compliance rating of the operations to the U. S. Food and Drug Administration, out-of-state markets, DATCP, the U. S. Public Health Service, and local health departments. DHFS is authorized to promulgate rules establishing fees that may be charged to dairy plants to fund the surveys.

This bill transfers the certification of grade A dairy operations from DHFS to DATCP. ✓

For further information see the *state* 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

§ SEC. 97.24 (4) (a) Regulation of the production, processing and distribution of milk and fluid milk products under minimum sanitary requirements which are uniform

3

1 throughout this state and the United States is essential for the protection of  
2 consumers and the economic well-being of the dairy industry, and is therefore a  
3 matter of statewide concern; however, nothing in this section shall impair or abridge  
4 the power of any municipality or county to regulate milk or fluid milk products under  
5 sanitary requirements and standards which are in reasonable accord with those  
6 established under this section or the power to impose reasonable license permit and  
7 inspection fees which combined shall not exceed the cost of necessary inspection. A  
8 municipality or county may not impose any fee for its inspection of milk producers,  
9 dairy plant facilities or dairy products which are under the inspection supervision  
10 of another governmental unit within or without the state with a valid certification  
11 rating made or approved by the department of health and family services. No  
12 governmental unit may impose or collect a fee directly from the producer. A license  
13 or permit fee not to exceed \$25 annually may be imposed on milk distributors  
14 licensed under s. 97.22 and on dairy plants under the inspection supervision of  
15 another governmental unit which are engaged in the distribution of milk within a  
16 municipality or county.

History: 1971 c. 125, 156, 228; 1973 c. 333; 1975 c. 39, 199; 1977 c. 29; 1979 c. 221; 1981 c. 390 s. 252; 1983 a. 189 ss. 128, 329 (20); 1987 a. 27, 399; 1989 a. 56 s. 259;  
1993 a. 114; 1995 a. 27 s. 9126 (19).

17 **SECTION 1.** 97.24 (4) (b) of the statutes is amended to read:

18 97.24 (4) (b) No sanitary requirement or standard established under this  
19 section or contained in any ordinance may prohibit the sale of milk or fluid milk  
20 products which are produced and processed under laws or rules of any governmental  
21 unit, within or without this state, which are substantially equivalent to the  
22 requirements of the rules promulgated under this section, and which are enforced  
23 with equal effectiveness, as determined by a milk sanitation rating made or



1 approved by the department of health and family services, under rules promulgated  
2 under this section.

History: 1971 c. 125, 156, 228; 1973 c. 333; 1975 c. 39, 199; 1977 c. 29; 1979 c. 221; 1981 c. 390 s. 252; 1983 a. 189 ss. 128, 329 (20); 1987 a. 27, 399; 1989 a. 56 s. 259; 1993 a. 114; 1995 a. 27 s. 9126 (19).

3 **SECTION 2.** Subchapter VIII (title) of chapter 254 [precedes 254.89] of the  
4 statutes is repealed.

5 **SECTION 3.** 254.89 of the statutes is renumbered 97.24 (5) and amended to read:

6 **97.24 (5) CERTIFICATION OF GRADE A DAIRY OPERATIONS.** The department shall  
7 conduct evaluation surveys of grade A dairy operations in this state to the extent  
8 necessary to certify to the federal food and drug administration, out-of-state  
9 markets, ~~the department of agriculture, trade and consumer protection,~~ the federal  
10 public health service, and local health departments, the compliance rating of the  
11 grade A dairy operations based upon the sanitation and enforcement requirements  
12 of the grade A pasteurized milk ordinance of the federal public health service and its  
13 related documents. The department may promulgate rules establishing fees which  
14 may be charged to dairy plants to fund these activities.

History: 1977 c. 29 s. 1650m (4); 1987 a. 27; 1993 a. 27 s. 374; Stats. 1993 s. 254.89.

15 **SECTION 9124. Nonstatutory provisions; health and family services.**

16 (1) TRANSFER OF GRADE A DAIRY OPERATIONS CERTIFICATION. (a) *Assets and*  
17 *liabilities.* On the effective date of this paragraph, the assets and liabilities of the  
18 department of health and family services primarily related to the certification of  
19 grade A dairy operations, as determined by the secretary of administration, shall  
20 become the assets and liabilities of the department of agriculture, trade and  
21 consumer protection.

22 (b) *Employee transfers.* All *positions and all* incumbent employees holding *those* positions in the  
23 department of health and family services performing duties primarily related to the  
24 certification of grade A dairy operations, as determined by the secretary of

*create auto reb  
"A"*

1 administration, are transferred on the effective date of this paragraph to the  
2 department of agriculture, trade and consumer protection.

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

10 (d) *Tangible personal property.* On the effective date of this paragraph, all  
11 tangible personal property, including records, of the department of health and family  
12 services that is primarily related to the certification of grade A dairy operations, as  
13 determined by the secretary of administration, is transferred to the department of  
14 agriculture, trade and consumer protection.

15 (e) *Contracts.* All contracts entered into by the department of health and family  
16 services in effect on the effective date of this paragraph that are primarily related  
17 to the certification of grade A dairy operations, as determined by the secretary of  
18 administration, remain in effect and are transferred to the department of  
19 agriculture, trade and consumer protection. The department of agriculture, trade  
20 and consumer protection shall carry out any obligations under such a contract until  
21 the contract is modified or rescinded by the department of agriculture, trade and  
22 consumer protection to the extent allowed under the contract.

23 (f) *Pending matters.* Any matter pending with the department of health and  
24 family services that is primarily related to the certification of grade A dairy operations  
25 is transferred to the department of agriculture, trade and consumer protection and

on the effective date  
of this paragraph

use as to reb "A"

✓

✓

e

1 all materials submitted to or actions taken by the department of health and family  
2 services with respect to the pending matter are considered as having been submitted  
3 to or taken by the department of agriculture, trade, and consumer protection.

4 (END)

D-NOTE

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1506/1dn

DAK:/:.....

js

To Sue Jablonsky:

1. As you are probably aware, placement of the grade A dairy operations certification in s. 97.24 automatically makes the appropriation under s. 20.115 (1) (gb) applicable. Note the amendments to s. 97.24 (4) (a) and (b). Note also the amendment to s. 254.89, as renumbered; should DHFS replace DATCP in that language, rather than as I have drafted it? ✓
2. Since your request did not specify a fee, I retained the language that authorizes rules promulgation to establish a fee. Is that what you want? I also searched the Wisconsin Administrative Code, but found no evidence of a DHFS rule that imposes such a fee; if you have information to the contrary, please let me know, since it will then be necessary to have transitional language that permits continued imposition of the fee before DATCP promulgates its own rules. ✓
3. Please review the nonstatutory transitional language. Did you want to transfer all employees, as I have drafted, or did you want to transfer positions but not incumbent employees in the positions? Do you want to transfer particular positions or definite numbers of positions for which the funding source (such as program revenue) will be changed? Note the language in par. (c) of the nonstatutory provisions; this is only appropriate if there is a transfer of at least one classified employee—~~is~~ is that the case here? ✓

Debra A. Kennedy  
Managing Attorney  
Phone: (608) 266-0137  
E-mail: debora.kennedy@legis.state.wi.us

✓

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1506/1dn

DAK:cjs:rs

January 17, 2003

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Debora A. Kennedy  
Managing Attorney  
Phone: (608) 266-0137  
E-mail: debora.kennedy@legis.state.wi.us

**TELEPHONE DRAFTING INSTRUCTIONS**

Drafting instructions received by Debora Kennedy.

DATE:

CONVERSATION  
WITH:

*See Gabelansky*

OF:

TELEPHONE NO:

REGARDING LRB #  
OR DRAFT TOPIC:

*- 1506 / 1*

INSTRUCTIONS:

*Redraft:*

*4.8 GPR? positions go to*

*DATCP (20.115 (1)(gb))*

*\$362,100*



Stans

DOA:.....Jablonsky - BB0349, Transfer milk certification program from DHFS to DATCP; establish fee

FOR 2003-05 BUDGET — NOT READY FOR INTRODUCTION

~~DO NOT~~ Gen

and incumbent employees performing the certification,

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

*Analysis by the Legislative Reference Bureau*

**HEALTH AND HUMAN SERVICES**

**HEALTH**

Under current law, DHFS conducts evaluation surveys of grade A dairy operations in order to certify the compliance rating of the operations to the U.S. Food and Drug Administration, out-of-state markets, DATCP, the U.S. Public Health Service, and local health departments. DHFS is authorized to promulgate rules establishing fees that may be charged to dairy plants to fund the surveys.

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3 97.24 (4) (a) Regulation of the production, processing and distribution of milk

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1 throughout this state and the United States is essential for the protection of  
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4 the power of any municipality or county to regulate milk or fluid milk products under  
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13 or permit fee not to exceed \$25 annually may be imposed on milk distributors  
14 licensed under s. 97.22 and on dairy plants under the inspection supervision of  
15 another governmental unit which are engaged in the distribution of milk within a  
16 municipality or county.

17 **SECTION 2.** 97.24 (4) (b) of the statutes is amended to read:

18 97.24 (4) (b) No sanitary requirement or standard established under this  
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25 under this section.



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2 statutes is repealed.

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11 related documents. The department may promulgate rules establishing fees which  
12 may be charged to dairy plants to fund these activities.

INSERT 3-12

STET: leave as typed

13           **SECTION 9124. Nonstatutory provisions; health and family services.**

14           (1) **TRANSFER OF GRADE A DAIRY OPERATIONS CERTIFICATION.**

15           (a) *Assets and liabilities.* On the effective date of this paragraph, the assets and  
16 liabilities of the department of health and family services primarily related to the  
17 certification of grade A dairy operations, as determined by the secretary of  
18 administration, shall become the assets and liabilities of the department of  
19 agriculture, trade and consumer protection.

20           (b) *Employee transfers.* All positions and all incumbent employees holding  
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22 primarily related to the certification of grade A dairy operations, as determined by  
23 the secretary of administration, are transferred on the effective date of this  
24 paragraph to the department of agriculture, trade and consumer protection.

1           (c) *Employee status.* Employees transferred under paragraph (b) have all the  
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20 consumer protection to the extent allowed under the contract.

21           (f) *Pending matters.* Any matter pending with the department of health and  
22 family services on the effective date of this paragraph that is primarily related to the  
23 certification of grade A dairy operations is transferred to the department of  
24 agriculture, trade and consumer protection and all materials submitted to or actions  
25 taken by the department of health and family services with respect to the pending

1 matter are considered as having been submitted to or taken by the department of  
2 agriculture, trade and consumer protection.

~~1~~  
~~2~~  
~~3~~

(END)

INSERT 5-2

3-12  
INSERT 5-2

1 SECTION 9104. Nonstatutory provisions; agriculture, trade and  
2 consumer protection.

3 ~~§~~ MILK CERTIFICATION. The authorized FTE positions for the department of  
4 agriculture, trade and consumer protection are increased by 4.8 PR positions on ~~July~~  
5 1, 2003, to be funded from the appropriation under section 20.115 (1) (gb) of the  
6 statutes, for the purpose of performing milk certification.

7 SECTION 9124. Nonstatutory provisions; health and family services.

8 ~~§~~ MILK CERTIFICATION. The authorized FTE positions for the department of  
9 health and family services, funded from the appropriation under section 20.435 (1)  
10 (a) of the statutes for the purpose of performing milk certification, are decreased by  
11 4.8 GPR positions on ~~July 1, 2003~~.

INS 5-2

use twice  
the effective date of this subsection



State of Wisconsin  
2003 - 2004 LEGISLATURE

LRB-1506/2

DAK:cjs:pg

DOA:.....Jablonsky – BB0349, Transfer milk certification program from  
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3 matter of statewide concern; however, nothing in this section shall impair or abridge  
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11 related documents. The department may promulgate rules establishing fees which  
12 may be charged to dairy plants to fund these activities.

13           **SECTION 9104. Nonstatutory provisions; agriculture, trade and**  
14 **consumer protection.**

15           (1) **MILK CERTIFICATION.** The authorized FTE positions for the department of  
16 agriculture, trade and consumer protection are increased by 4.8 PR positions on the  
17 effective date of this subsection, to be funded from the appropriation under section  
18 20.115 (1) (gb) of the statutes, for the purpose of performing milk certification.

19           **SECTION 9124. Nonstatutory provisions; health and family services.**

20           (1) **TRANSFER OF GRADE A DAIRY OPERATIONS CERTIFICATION.**

21           (a) *Assets and liabilities.* On the effective date of this paragraph, the assets and  
22 liabilities of the department of health and family services primarily related to the  
23 certification of grade A dairy operations, as determined by the secretary of  
24 administration, shall become the assets and liabilities of the department of  
25 agriculture, trade and consumer protection.

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13           (d) *Tangible personal property.* On the effective date of this paragraph, all  
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