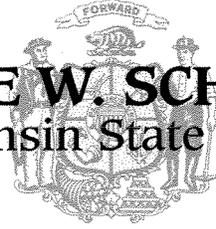


DALE W. SCHULTZ Wisconsin State Senator



SB 455 Talking Points

Current law requires milk contractors to be licensed by the Department of Agriculture, Trade and Consumer Protection (DATCP). A milk contractor is an entity that buys milk from dairy farmers. A licensed milk contractor must file a financial statement with DATCP during each license year. The law requires the financial statement to either be audited by an independent certified public accountant or reviewed by an independent certified public accountant. Many milk contractors are also required to pay into the agricultural producer security fund. The fund makes payments to farmers when a milk contractor, or other agricultural contractor, defaults on payments to farmers.

The principle methods of providing this security are through either the agricultural producer security fund or the financial security methods provided by individual milk contractors. In general, it is the larger and more financially secure milk contractors who contribute to and are in effect insured by the agricultural security fund.

The current licensing requirement requires the contractor to file an annual audited financial statement with the DATCP, which is very costly to the smaller producers who make no payments to the agricultural security fund but rather file security with the DATCP.

Milk contractors who are “**disqualified**” from the fund are required to file individual security with the DATCP, rather than make payments to the agricultural producer security fund. This applies to a contractor who has more than \$1.5 million in annual payments to the producers and who files an annual financial statement that shows negative equity. **The security provided by these “disqualified” contractors is in the form of a surety bond or a certificate of deposit.**

The bill as originally drafted, provided that a milk contractor that is “**disqualified**” from participation in the agricultural producer security fund because it had negative equity when the agricultural producer security fund was established **may instead file an annual compilation of financial information accompanied by a sworn and notarized statement that the financial information is correct.**

-OVER-

DATCP AMENDMENT (LRB a2439/1)

The amendment to Senate Bill 455 was drafted at the request of the DATCP based on their concern that under SB 455 as originally drafted, a disqualified milk contractor could have their security released by filing two consecutive annual financial statements that have merely been compiled rather than reviewed or audited as currently required.

DATCP felt that a compiled financial statement gave no assurance as to the accuracy and validity of the financial statement, and they felt that if they released security based on compiled financial statements it might be exposing producers and the indemnity fund to significant financial risk.

As amended (by LRB a 2439/1), the bill that would require either reviewed or audited financial statements as dictated by s.126.44(5), Stats. in order for security to be released under s.126.47(7)(a)2.

The addition of the following language to SB 455 would address the DATCP's concerns by requiring that; *the milk contractor's annual financial statement under s.126.44 shows positive equity for at least 2 consecutive years, the financial statements are reviewed or audited as required under s.126.44(5), and the milk contractor pays the quarterly fund assessment that would have been required of the milk contractor if the milk contractor had been a contributing milk contractor on the most recent quarterly installment date under s. 126.46 (6).*



WISCONSIN LEGISLATIVE COUNCIL

*Terry C. Anderson, Director
Laura D. Rose, Deputy Director*

TO: SENATOR DALE W. SCHULTZ
FROM: Mark C. Patronsky, Senior Staff Attorney
RE: Bill Draft Regarding Financial Information Provided by Milk Contractors
DATE: July 16, 2003

This memorandum provides a brief explanation of the purpose of a bill that you have drafted. The bill draft is LRB-2769/1, relating to financial information required to be provided by milk contractors. The effect of the bill is to eliminate the requirement for certain milk contractors to provide an annual, audited financial statement to the Department of Agriculture, Trade and Consumer Protection (DATCP).

It should be noted that this memorandum includes only enough background information to provide a context for understanding the bill draft. The agricultural producer security statute is considerably more complicated. (See subch. V of ch. 126, Stats.)

In this memorandum, a "milk producer" is a person who produces milk on a dairy farm. A "milk contractor" is a person who buys milk from a milk producer or who markets such milk as an agent.

The general purpose of the agricultural producer security program is to reimburse milk producers, as well as grain and vegetable producers, for a portion of the losses they may incur when milk contractors, grain dealers, grain warehouse keepers and vegetable contractors default on their obligations to pay for the agricultural commodities. The principal methods of providing this security are through either the agricultural producer security fund or the financial security methods provided by individual milk contractors. In general, it is the larger and the more financially secure milk contractors who contribute to and are in effect insured by the agricultural producer security fund.

The first aspect of the current statutes related to the bill is the licensing requirement. All milk contractors must have a license from DATCP in order to receive producer milk. One of the requirements imposed on milk contractors in order to obtain a license is that the contractor must file an annual financial statement with DATCP. This requirement applies only to milk contractors who make annual payments to milk producers of \$1.5 million or more. If the milk contractor has more than \$6

million in annual payments to milk producers, the annual financial statement must be audited by an independent certified public accountant.

The second aspect of the statutes related to the bill is the distinction between milk contractors who contribute and those who do not contribute to the agricultural producer security fund. Unless a milk contractor is disqualified, the contractor is required to pay assessments into the agricultural producer security fund. The amount of the assessment is determined by a formula set forth in the statute. Milk contractors who are disqualified from the fund are required to file individual security with the DATCP, rather than make payments to the agricultural producer security fund. This applies to a contractor who has more than \$1.5 million in annual payments to producers and who files an annual financial statement that shows negative equity. The security is in a form such as a surety bond or a certificate of deposit.

Under the current statutes, the licensing requirement described above, in which an audited financial statement must be submitted to DATCP by the contractor, applies both to contractors making payments into the agricultural producer security fund and those who file security with DATCP. The bill modifies this statute by creating an exception for the requirement to file an audited financial statement if the milk contractor is disqualified from participation in the agricultural producer security fund as the result of having negative equity at the time that the fund was established. In lieu of the audited financial statement, these contractors are authorized to file an annual compilation of financial information, together with a sworn, notarized statement that the financial information is correct. The purpose of the bill is to reduce the cost to the contractor of submitting financial information to the DATCP, and to eliminate the more stringent auditing requirement, which is primarily designed to protect the agricultural producer security fund, and is not relevant to the contractor who provides security to the department.

If you have any questions, please feel free to contact me directly at the Legislative Council staff offices.

MCP:ksm;wu

Vote Record

Committee on Agriculture, Financial Institutions and Insurance

Date: **March 2nd, 2004**

Moved by: Reddy

Seconded by: Brown

AB _____

SB **455**

Clearinghouse Rule _____

AJR _____

SJR _____

Appointment: _____

AR _____

SR _____

Other _____

S Amdt 1, LRB a2439/1

A/S Amdt _____ to A/S Amdt _____

A/S Sub Amdt _____

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Be recommended for:

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| <input checked="" type="checkbox"/> Introduction | <input type="checkbox"/> Rejection | <input type="checkbox"/> Tabling | <input type="checkbox"/> Nonconcurrence | |

Committee Member

Senator Dale Schultz, Chair

Senator Ronald Brown

Senator Neal Kedzie

Senator David Hansen

Senator Julie Lassa

<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
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Totals: _____

Motion Carried

Motion Failed

Vote Record
Committee on Agriculture, Financial Institutions and Insurance

Date: **March 2nd, 2004**

Moved by: _____ Seconded by: _____

AB _____ SB **455** Clearinghouse Rule _____
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Be recommended for:

- Passage Adoption Confirmation Concurrence Indefinite Postponement
 Introduction Rejection Tabling Nonconcurrence

<u>Committee Member</u>	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Senator Dale Schultz, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Ronald Brown	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Neal Kedzie	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator David Hansen	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Julie Lassa	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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Motion Carried Motion Failed

Vote Record

Committee on Agriculture, Financial Institutions and Insurance

Date: **March 2nd, 2004**

Moved by: _____ Seconded by: _____

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Be recommended for:

Passage as Amended **LRB a2439/1**

- Adoption Confirmation Concurrence Indefinite Postponement
 Introduction Rejection Tabling Nonconcurrence

Committee Member

	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Senator Dale Schultz, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Ronald Brown	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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Senator David Hansen	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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Motion Carried

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