



## Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #141

### **Weights and Measures Program (Agriculture, Trade and Consumer Protection)**

[LFB 2011-13 Budget Summary: Page 60, #18]

#### **CURRENT LAW**

The Department of Agriculture, Trade and Consumer Protection (DATCP) has general regulatory authority over the construction and use of commercial weights and measures in Wisconsin. Chapter 98 of the statutes and administrative rule ATCP 92 specify obligations of owners or operators of certain devices, but in general all weights and measures must be maintained to standards established by the National Institute of Standards and Technology (NIST). Among its duties, DATCP: (a) maintains a metrology lab to verify the accuracy of equipment used by weights and measures services and inspectors; (b) employs field inspectors to provide regular inspections of devices in commercial use throughout the state; and (c) enforces corrections for devices in violation of state standards. Any municipality with a population of more than 5,000 must administer its own weights and measures program, or contract with DATCP to provide such services. DATCP is therefore responsible at a minimum for inspecting weights and measures in low-population municipalities, but the Department for 2010-11 is providing 1,468 days of service under contracts for 108 municipalities. The DATCP weights and measures program in 2010-11 is supported by: (a) \$110,700 GPR with 2.0 positions; (b) \$1,269,600 PR with 13.05 positions; and (c) \$734,200 petroleum inspection fund SEG with 6.0 positions.

#### **GOVERNOR**

Provide \$40,000 PR annually in permanent property primarily for DATCP to enter into master leases for: (a) a prover trailer for inspections of liquefied petroleum (LP) gas meters; and (b) two prover trailers for inspections of vehicle tank meters.

**DISCUSSION POINTS**

1. A prover trailer is a 100-gallon test measure used by weights and measures inspectors to determine whether meters used in commerce correctly deliver and report volumes dispensed or sold. Trailers are hauled to inspection sites empty, and are filled with the test substance as delivered by a commercial device. An inspector can then determine whether the commercial device is within accepted tolerances for the accuracy of its delivery. A common use for an LP gas prover would be to test LP gas services that deliver propane to residential users. The prover trailers would augment, and eventually replace, the Department's existing units. The Department reports the condition of the current trailers is deteriorating with age, and the frequency of repairs to the units may not be cost-effective.

2. Further, the Department reports testing of LP gas meters and vehicle tank meters is expected to increase following provisions of 2009 Act 28 that instituted annual licensing requirements for these devices. DATCP reported prior to Act 28 that the inspection frequency for these meters was once approximately every 29 months. Following the license requirements, and pending available staff, DATCP intends to inspect these devices more frequently in the future, with a goal of at least biennially. These inspection activities would increase the use of the current trailers.

3. The term of the master lease is expected to be five years at up to approximately 6% interest, after which time the Department would have full ownership of the units. Annual payments under such conditions would be expected to be approximately \$37,000. DATCP indicates the remaining \$3,000 could be utilized to replace less costly equipment as needed on an ongoing basis. The bill would allocate \$40,000 weights and measures PR annually on an ongoing basis even after the term of the master lease, unless removed from the 2015-17 budget.

4. Funding for master lease payments has often been provided as one-time funding, which is removed from the base each biennium as a standard budget adjustment. It would, therefore, be incumbent on DATCP to request funding for 2013-15 in its agency budget, rather than requiring the administration or Legislature to track the terms of master leases and delete funding as leases expire. This also allows for expenditures to be reconsidered with the appropriation condition for the next biennium. The table below shows the condition of the weights and measures PR account under the bill. It should be noted that year-end balances could be reduced in 2011-13 due to lapses to the general fund required of most PR appropriations under the bill.

**DATCP Weights and Measures Account Condition**

	Actual <u>2009-10</u>	Estimated <u>2010-11</u>	Bill <u>2011-12</u>	Bill <u>2012-13</u>
Opening Balance	\$508,400	\$343,600	\$256,700	\$210,000
Revenue	1,249,900	1,306,600	1,390,000	1,415,000
Expenditures	-1,290,800	-1,269,600	-1,342,400	-1,343,600
General Fund Transfers	<u>-123,900</u>	<u>-123,900</u>	<u>-94,300</u>	<u>-94,300</u>
Closing Balance	\$343,600	\$256,700	\$210,000	\$187,100

5. Ongoing funding for weights and measures equipment, as the bill would provide,

may be advisable if the Department was anticipating additional high-cost equipment purchases in the future. Although DATCP reports it does plan to replace certain equipment within the next five to six years for field inspectors, including portable electronic scales and prover equipment for testing devices such as gasoline pumps, as well as balances for the state metrology laboratory, it does not plan to purchase additional permanent property through the master lease program.

6. Because the appropriation has a sufficient balance, the Committee could adopt the Governor's recommendation [Alternative 1]. As a modification, the Committee could consider dividing the \$40,000 recommended by the Governor into: (a) \$37,000 each year in one-time funding related to the master lease; and (b) \$3,000 in ongoing funding for permanent property acquisitions [Alternative 2]. Dividing the recommendation would provide an amount for ongoing equipment purchases while specifying amounts for master lease payments as non-continuing. The Committee could also consider deleting \$3,000 from the recommendation and specifying the \$37,000 amount as one-time funding [Alternative 3].

7. Deleting the Governor's recommendation [Alternative 4] would reduce weights and measures PR expenditure authority by \$80,000 over the biennium. If the Department were to pursue the equipment purchases, under this alternative it would be required to use existing expenditure authority.

## ALTERNATIVES

1. Adopt the Governor's recommendation.
2. Adopt the Governor's recommendation, but specify \$37,000 PR each year as one-time funding.
3. Delete \$3,000 PR each year and specify \$37,000 PR each year as one-time funding.

<b>ALT 3</b>	<b>Change to Bill</b>
	Funding
PR	- \$6,000

4. Delete the Governor's recommendation.

<b>ALT 4</b>	<b>Change to Bill</b>
	Funding
PR	- \$80,000

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