



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873
Email: fiscal.bureau@legis.wisconsin.gov • Website: <http://legis.wisconsin.gov/lfb>

May 19, 2015

Joint Committee on Finance

Paper #576

Transfer Veterinary Examining Board to the Department of Agriculture, Trade, and Consumer Protection (Safety and Professional Services -- Program Transfers)

[LFB 2015-17 Budget Summary: Page 395, #3]

CURRENT LAW

Department of Safety and Professional Services. The Department of Safety and Professional Services (DSPS) and its boards, examining boards, and affiliated credentialing boards regulate certain professions and businesses identified in statute. The goal of the Department and the boards is to ensure, through the issuance of credentials, that the public's health, safety, and welfare are adequately protected. As a part of its regulatory responsibilities, the Department is responsible for issuing professional credentials to qualified applicants based on standards established by the relevant professional board.

Veterinary Examining Board. The Veterinary Examining Board (VEB), currently under the oversight of DSPS, is responsible for regulating veterinarians and veterinary technicians by promulgating and enforcing rules and regulations for credential holders. The VEB is authorized to deny, revoke, suspend, or limit a veterinarian or veterinary technician's certificate or permit for engaging in unprofessional conduct, being adjudicated mentally incompetent by a court, or being found guilty of an offense, the circumstances of which substantially relate to the practice of veterinary medicine.

In state fiscal years 2012-13 and 2013-14, there were 329 initial and 3,220 renewal veterinary medicine license applications, and 416 initial and 1,623 renewal veterinary technician license applications. The initial and renewal fees for these credentials were set at \$75 and \$160, respectively. In March, 2015, the Joint Committee on Finance approved a DSPS fee proposal for the 2015-17 biennium that included maintaining these current initial and renewal fees.

GOVERNOR

Transfer the VEB from DSPS to the Department of Agriculture, Trade, and Consumer Protection (DATCP). Authorize DATCP to promulgate rules regarding the fee levels for initial and renewal licenses for veterinarians and veterinary technicians based on administrative and enforcement costs of regulating these professions. Create a PR appropriation in DATCP for the licensing, rule-making, and regulatory functions of the VEB, funded from revenue from these fees. Authorize DATCP to expend all moneys credited to the appropriation for these purposes. Transfer any unencumbered balance in the DSPS general program operations appropriation that is primarily related to the operations of the VEB, as determined by the Secretary of the Department of Administration (DOA), to the new DATCP appropriation on the bill's general effective date.

Authorize DATCP to conduct investigations, hold hearings, and make findings as to whether a person has engaged in a practice or used a title without a required credential. Authorize DATCP to issue a special order enjoining a person from continuing the practice or use of the title if, after holding a public hearing, DATCP determines that a person has engaged in a practice or used a title without a credential required under Chapter 89. In lieu of holding a public hearing, permit DATCP to petition the circuit court for a temporary restraining order or an injunction under Chapter 813 of the statutes. Provide that any person who violates a special order for engaging in a practice without a required credential would be subject to a forfeiture of no more than \$10,000 for each offense, with each day of continued violation constituting a separate offense. Provide that the Attorney General or any district attorney could commence an action in the name of the state to recover a forfeiture. Provide that any individual who violates a temporary restraining order or an injunction issued by a court upon a petition may be fined not less than \$25 and no more than \$5,000 or imprisoned for not more than one year in a county jail, or both.

Provide that, on the bill's general effective date, all assets and liabilities, tangible personal property, contracts, and pending matters relating primarily to the functions of the VEB, as determined by the Secretary of DOA, are transferred to DATCP. Renumber current provisions related to the operation of the VEB from Chapter 453 to Chapter 89 of the statutes.

DISCUSSION POINTS

1. DSPS currently provides administrative, legal, investigative, and credentialing services to the VEB. These services include receiving credential applications, sending renewals, processing applications and fees, conducting background checks for all initial and renewal applications for licensure, investigating complaints against regulated credential holders, providing legal services in investigations, and providing advisors during any rulemaking processes. DSPS estimates that DSPS staff spend approximately 2,630 hours (approximately 1.26 FTE positions) staffing the VEB, including staff from the Policy Development, Credentialing, and Legal Services Divisions.

2. Under current law, DATCP has responsibilities related to disease control and animal health. In particular, DATCP has a Division of Animal Health, whose responsibilities include

enforcing state laws for inter- and intrastate movements of livestock and other animals, monitoring state animal herds for suspected disease outbreaks, certifying rabies control programs, training and certifying local humane officers, and licensing animal shelters, dog breeders, and dog dealers. Additionally, DATCP works with the Wisconsin Veterinary Diagnostic Laboratory, which provides testing and diagnostic services for all types of animals, participates in research and the provision of field services, and participates in consultation and education services as are determined to be appropriate by the veterinary diagnostic laboratory board.

3. Under this provision, the VEB would be transferred from DSPS to DATCP, and DATCP would be responsible for staffing and providing administrative support to the VEB and veterinary professionals.

4. No positions would be transferred to DATCP related to the transfer, although DATCP would be authorized to expend all monies generated from revenue from fees paid by veterinarians and veterinary technicians on the regulatory costs of these professions. If DATCP were to determine that it needs additional position authority associated with regulatory activities related to the VEB, the Department could request additional positions through a 14-day passive review process under s. 16.515/16.505(2) of the statutes.

5. The bill would create an appropriation, to which fee revenue from veterinary professionals would be deposited, and from which fee revenue could be spent by DATCP for regulatory purposes associated with these professions. Based on the number of initial and renewal licenses DSPS issued in fiscal year 2012-13 and 2013-14 and the current fees for these licenses, it is estimated that this provision would reduce program revenue to DSPS by approximately \$830,800 in the 2015-17 biennium, and increase program revenue to DATCP by a corresponding amount.

6. Under current law, DSPS sets fees for professionals, including veterinarians and veterinary technicians, through a biennial fee setting process subject to passive review by the Joint Committee on Finance. Under the proposed transfer, these fees would no longer be subject to the DSPS biennial fee setting process. Rather, DATCP would be authorized to promulgate rules establishing fee levels for professions regulated by the VEB based on estimated administrative and enforcement costs associated with these professionals. However, no change in fee levels is specified in the bill.

7. Beyond changes to the fee-setting process and potential changes to the fee levels at the discretion of DATCP, the only other change to the regulation of professions overseen by the VEB relates to alleged cases of elder abuse. Under current law, an elder-adult-at-risk agency is authorized to refer a case involving financial exploitation, neglect, self-neglect, or abuse involving an individual credentialed by DSPS to the Department. Under the bill, this provision is not included in the transfer of the VEB. This provision was not included because it was believed that professionals licensed under the VEB primarily work with animals, rather than humans.

8. It may be argued that the VEB and veterinary professionals should be overseen by DATCP, rather than DSPS, in that veterinary professionals primarily work with DATCP under current law. In keeping with this reasoning, the transfer of the VEB was recommended in the 2014 "Study on Consolidation of the Department of Agriculture, Trade, and Consumer Protection with

the Department of Safety and Professional Services" conducted by DOA. In this report, DOA indicates that this transfer should occur due to the historic relationship between the VEB, veterinary professionals, and DATCP. Additionally, the Wisconsin Veterinary Medical Association has expressed support for the transfer. Therefore, the Committee may wish to approve the Governor's recommendation to transfer the VEB to DATCP (Alternative 1).

9. Some may argue that language related to elder abuse referrals to the regulating agency should be included in the proposed transfer of the VEB because veterinarians and veterinary technicians also work with pet owners, which could result in cases of financial exploitation or abuse for which the authority of the elder-adult-at-risk agency to refer such concerns to DATCP may be necessary. Therefore, the Committee could adopt the Governor's recommendation to transfer the VEB to DATCP, and add statutory language permitting the elder-adult-at-risk agency to refer allegations of abuse by veterinary credential holders to the regulating department, as under current law (Alternative 2).

10. On the other hand, if the Committee has concerns related to changes in the current fee setting process, potential changes to fee levels for veterinarians and veterinary technicians, or if the Committee generally wishes to maintain the regulation of professionals under DSPS, it could delete the Governor's recommendation (Alternative 3).

ALTERNATIVES

1. Adopt the Governor's recommendation to transfer the VEB from DSPS to DATCP.
2. Adopt the Governor's recommendation to transfer the VEB from DSPS to DATCP. In addition, include in ss. 46.90(5m)(br)5. and 55.043(4)(b)5. of the statutes a reference to veterinarians and veterinary technicians licensed by DATCP under chapter 89 of the statutes. This provision would maintain the current authority of the elder-adult-at-risk agency to refer alleged cases of abuse by veterinary professionals to the regulating department.
3. Delete provision.

Prepared by: Stephanie Mabrey