



## Legislative Fiscal Bureau

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May 3, 2007

Joint Committee on Finance

Paper #143

### **Position and Revenue Adjustments (Agriculture, Trade and Consumer Protection)**

#### *Bill Agency*

[LFB 2007-09 Budget Summary: Page 54, #13]

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#### **CURRENT LAW**

No provision.

#### **GOVERNOR**

Transfer \$120,800 GPR and 1.5 GPR positions as follows: (a) delete \$43,900 and 0.5 position from food safety; (b) delete \$76,900 and 1.0 position from animal health; and (c) provide \$120,800 and 1.5 positions for DATCP's central administrative services.

Further, provide \$106,500 FED and 2.0 FED positions annually and delete \$106,500 PR and 2.0 PR positions annually to reflect anticipated revenues and modified position duties.

#### **DISCUSSION POINTS**

1. Under the Governor's recommendations, annual PR adjustments would be as follows.

	<u>Funding</u>	<u>Positions</u>
Fruit and vegetable inspection	-\$55,900	-1.50
Ozone-depleting refrigerants registration	5,700	0.15
Food regulation	-54,900	-1.05
Weights and measures inspection	13,400	0.35
Plant protection	2,600	0.05
Telephone solicitation	19,100	0.50
Administrative services	<u>-36,500</u>	<u>-0.50</u>
 Total	 -\$106,500	 -2.00

2. The net result of the PR modifications would be to eliminate 2.55 fruit, vegetable and related food safety inspectors and a 0.5 communications specialist position, and provide fractions of position increases, totaling 1.05 positions, to the ozone-depleting refrigerants registration, weights and measures inspection, plant protection and telephone solicitation appropriations, yielding a net reduction of 2.0 PR positions.

3. Annual FED adjustments include providing \$161,800 and 3.0 positions to DATCP's federal indirect cost reimbursement (FICR) appropriation under central administration and deleting \$55,300 and 1.0 position from the food safety appropriation.

4. The cumulative effect of these modifications is to delete 4.05 positions related to food safety and create equal position authority in other appropriations, predominantly for DATCP's central administration (3.5 positions) in the Secretary's office or management services. Table 2 provides an overview of these position transfers and reclassifications.

**TABLE 2**

**Position Transfers Under the Bill**

<u>From</u>	<u>FTE</u>	<u>Position Type</u>	<u>To</u>	<u>FTE</u>	<u>Position Type</u>
Food Inspection (GPR)	0.50	Economist	Secretary's Office (GPR)	0.50	Economist
Food Regulation (PR)	0.05	Food Safety Inspector	Plant Protection (PR)	0.05	Plant Permit & License
Food Regulation (PR)	1.00	Food Safety Inspector	Secretary's Office (FED)	1.00	Legal Secretary
Food Safety (FED)	1.00	Program Assistant	Secretary's Office (FED)	1.00	Executive Staff Assistant
Fruit & Vegetable Inspection (PR)	0.50	Produce Inspector	Telephone No-call (PR)	0.50	Consumer Protection Outreach
Fruit & Vegetable Inspection (PR)	0.50	Produce Inspector	Ozone-Depleting Refrig. (PR)	0.15	Consumer Protection Outreach
			Weights & Measures (PR)	0.35	Consumer Protection Outreach
Fruit & Vegetable Inspection (PR)	0.50	Produce Inspector	Management Services (FED)	0.50	Office Management Specialist
Animal Health (GPR)	1.00	IS Systems Development	Secretary's Office (GPR)	1.00	IS Systems Development
Central Services (PR)	<u>0.50</u>	Communications Specialist	Secretary's Office (FED)	<u>0.50</u>	Communications Specialist
	5.55			5.55	

5. DATCP officials indicate the Department currently transfers the expenditures of reallocated staff to the proper appropriations (which coincide with the recommended transfers in the bill). They argue the funding and position changes in the bill would reflect current practices and would provide the Department with the appropriate levels of funding for all appropriations.

6. However, the modifications in the bill, particularly the reductions to the Division of Food Safety, could raise potential concerns. Specifically, reductions to the Department's food safety staff could be questioned given recent state and national concerns over food safety and the adequacy of government inspection and regulation programs.

7. DATCP's food safety staff are organized in six supervisory areas throughout the state. Food safety duties are assigned to staff geographically, with field staff working out of their homes. Each of DATCP's food safety inspectors is qualified to provide inspection and regulatory services for all of DATCP's food safety responsibilities (aside from Grade A milk certification). While there are no set amount of positions or funding designated for any of the Department's inspection duties, past Department estimates have indicated that perhaps 65% of staff time is devoted to dairy inspection and milk certification, 25% of staff time is devoted to retail food establishment licensing and inspection efforts, and 10% is devoted to food processors and warehouses.

8. Under section 97.41 of the statutes, DATCP may delegate authority for its food safety responsibilities to a local health department, thereby designating it an "agent" of the Department. Under this process, DATCP enters into a contract with a local health department to license and inspect retail food establishments, with the local health department given the authority to set fees in order to cover program costs. For 2006-07, 34 local health departments have been awarded agent status.

9. As shown in Table 2, 5.55 positions would be transferred in some manner, including 4.05 positions that work in DATCP's food safety program (which includes fruit and vegetable inspection). The 1.5 GPR positions that would be transferred include half (0.5 FTE) of an economist position located in the food safety program that would be transferred to the Secretary's office. The other half of this economist position is currently funded under the Secretary's office. Department officials indicate half of the economist position was reclassified as such in the food safety program as a part of the Department's efforts to reallocate 2005 Act 25 reductions. Act 25 eliminated \$139,600 GPR and 2.75 GPR positions from the office of the Secretary and management services (along with other agency reductions including 2.25 food safety and 1.0 animal health GPR positions). DATCP officials indicate that while these reductions were taken from the office of the Secretary and management services appropriation, vacant positions in other appropriations were reclassified and filled to offset the reductions. Under the bill, the half of the economist position currently in food safety would be transferred to the Secretary's office. If the Committee did not want to authorize the reallocation of this food safety position to the Secretary's office, it could consider eliminating this position and associated funding if its food safety duties are no longer needed (Alternative 2a), or maintaining the position in the food safety program (Alternative 2b).

10. The bill would also transfer 1.0 PR food safety inspector and 0.5 PR produce inspector that have been reclassified by the Department as a legal secretary and an office management specialist to federal appropriations in the Secretary's office and management services. The legal secretary was previously a food inspector position funded from PR, but was reclassified and filled in October, 2006, as part of DATCP's efforts to restore Act 25 reductions in the Secretary's office among other programs. The produce inspector became vacant in January, 2005, and was reclassified and filled as an office management specialist in the fall of 2006. If the Committee desired to preserve these positions for use in DATCP's food safety program, the positions could be restored to a 1.0 food safety inspector and a 0.5 produce inspector and placed in the Department's federal food safety inspection appropriation (Alternative 2c).

11. In addition, the bill would transfer 1.0 program assistant in DATCP's federal food safety inspection appropriation to the Secretary's office and reclassify the position as an executive staff assistant (the position would continue to be supported by federal funding). This position became vacant in September of 2000, and was reclassified and filled in the fall of 2006. However, if the Committee wanted to preserve DATCP resources devoted to food safety efforts, it could instead maintain the 1.0 program assistant in DATCP's federal food safety inspection appropriation (Alternative 2d).

12. Finally, the bill would transfer two, one-half time produce inspectors to other programs. These positions are both vacant, and DATCP officials argue produce inspection workload has decreased due to the closing of several produce facilities that were previously inspected by the Department and related to an automated sampling system installed by a food processor, thereby allowing the Department to use the vacant positions for other purposes. DATCP proposes transferring one of the 0.5 positions to the telephone solicitation appropriation (the no-call program) and the other position to be split-funded between weights and measures (0.35 FTE) and ozone depleting refrigerants and products registration (0.15 FTE). Department officials state the positions would be used as two one-half time outreach positions in the consumer protection bureau to the Latino and Hmong communities. DATCP's no-call program collects revenues from fees paid by businesses that solicit customers by telephone. DATCP's weights and measures appropriation collects revenues to fund Department efforts of inspection and testing of weights and measures equipment for fertilizer, feed, retail food establishments, vehicle scales, and petroleum meters. The ozone depleting products appropriation collects revenues related to its administration of the mobile air conditioning and refrigerant recycling program. As a result, some may question whether these appropriations are appropriate funding sources for consumer protection outreach positions. The Committee could consider maintaining the two half-time produce inspectors in food safety (Alternative 2e).

13. DATCP officials indicate that over the last two years, nine local health departments have contracted with the Department to serve as agents that perform retail food inspection duties in their areas, resulting in an approximate 12% reduction in the number of retail food establishments DATCP is responsible for licensing and inspecting. Due to the resulting reduced workload, Department officials indicate they have been able to reallocate certain food safety positions to other programs when vacancies have arisen. Further, DATCP officials indicate an additional four local health departments may assume agent status for retail food inspection in 2007-08 (for a total of 38).

However, while DATCP may have fewer retail food establishments to license and inspect, other food and dairy licensees could object to food safety program staff being reallocated for other purposes since DATCP's food safety inspectors are generalists that handle all of DATCP's food and dairy program licensing and inspection duties (aside from Grade A milk certification).

14. In addition to recent reductions to DATCP's central services, some of which were previously noted, the past two budgets have made a number of reductions to the food safety and dairy programs. In 2003 Act 33, \$128,500 GPR and 2.5 GPR positions were eliminated from DATCP's food safety program, and \$21,300 GPR and 0.5 GPR position was eliminated from DATCP's meat inspection program, as part of base budget reductions. Further, in 2005 Act 25 the Governor recommended, and the Legislature approved, reductions of \$116,000 GPR annually and 2.25 GPR positions from DATCP's food safety program. In addition, under Act 25, \$29,900 GPR annually and 0.5 GPR position and \$85,000 PR annually and 1.5 PR positions were transferred from DATCP's food safety and food regulation appropriations to other appropriations.

15. While the modifications recommended by the Governor may reflect the current duties of the positions, DATCP's organizational structure will ultimately depict fewer staff assigned for the program duties for which the positions were originally provided (primarily food safety), and more assigned to the Department's administration. This could lead to the appearance that DATCP is reallocating administration cuts to programs (such as food safety), by reallocating and reclassifying program positions for central office and administrative purposes.

16. Modifying the funding sources for these positions may more accurately reflect the current duties assigned to the positions by DATCP. On the other hand, it could be argued that reallocating these positions from the appropriation on which they were originally provided is in contradiction to the purpose for which they were provided. Moreover, it could be argued that reclassifying vacant positions in such a manner allows the agency to reallocate position reductions in a manner not intended by the Legislature. Some would argue that food safety resources should be maintained given recent state and federal concerns regarding the food supply.

17. On the other hand, supporters of this reallocation argue the agency's actions were undertaken as part of an effort to reallocate position reductions in a more efficient manner. They argue the Department's actions have allowed DATCP to take program reductions from areas where staffing reductions can best be absorbed.

## **ALTERNATIVES TO BILL**

1. Approve the Governor's recommendations to transfer \$120,800 GPR annually and 1.5 GPR positions as follows: (a) delete \$43,900 and 0.5 position from food safety; (b) delete \$76,900 and 1.0 position from animal health; and (c) provide \$120,800 and 1.5 positions for DATCP's central administrative services. In addition, provide \$106,500 FED and 2.0 FED positions annually and delete \$106,500 PR and 2.0 PR positions annually to reflect anticipated revenues and modified position duties.

ALT 1	Change to Bill		Change to Base	
	Funding	Positions	Funding	Positions
FED	\$0	0.00	\$213,000	2.00
PR	<u>0</u>	<u>0.00</u>	<u>-213,000</u>	<u>-2.00</u>
Total	\$0	0.00	\$0	0.00

2. Adopt the Governor's recommendations, except as follows:

a. delete \$43,900 GPR annually and 0.50 GPR economist position from DATCP's food inspection appropriation (rather than transfer it to the Secretary's office); or,

ALT 2a	Change to Bill		Change to Base	
	Funding	Positions	Funding	Positions
GPR	-\$87,800	-0.50	-\$87,800	-0.50

b. delete the transfer of \$43,900 GPR and 0.50 GPR economist from DATCP's food inspection appropriation to the Secretary's office (this position would remain in DATCP's food safety program);

c. instead of the Governor's recommendation to transfer \$52,300 PR and 1.0 PR position from food regulation to federal indirect cost reimbursement (the Secretary's office) and \$17,700 PR and 0.50 PR position from fruit and vegetable inspection to federal indirect cost reimbursement (management services), transfer these amounts (\$70,000 and 1.5 positions) to DATCP's federal food safety appropriation;

ALT 2a	Change to Bill		Change to Base	
	Funding	Positions	Funding	Positions
FED	\$0	0.00	\$70,000	-1.50
PR	<u>0</u>	<u>0.00</u>	<u>-70,000</u>	<u>-1.50</u>
Total	\$0	0.00	\$0	0.00

d. delete the transfer of \$55,300 FED and 1.0 FED position from DATCP's federal food safety appropriation to the Secretary's office (the amounts would remain in DATCP's federal food safety appropriation);

e. delete the transfer of \$38,200 PR and 1.0 PR position to telephone solicitation (\$19,100 PR and 0.5 PR position), weights and measures (\$13,400 PR and 0.35 PR position), and ozone depleting refrigerants and products registration (\$5,700 PR and 0.15 PR position) (these amounts would remain in fruit and vegetable inspection).

3. Delete provision.

ALT 3	Change to Bill		Change to Base	
	Funding	Positions	Funding	Positions
FED	-\$213,000	- 2.00	\$0	0.00
PR	<u>213,000</u>	<u>2.00</u>	<u>0</u>	<u>0.00</u>
Total	\$0	0.00	\$0	0.00

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