



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #381

Transfer of Regulation of Food, Lodging and Recreational Establishments to DATCP (Health Services -- Public Health and Other Programs)

[LFB 2015-17 Budget Summary: Page 239, #3 and Page 56, #6]

CURRENT LAW

The Department of Health Services (DHS) currently regulates and inspects restaurants, lodging establishments, and other recreational establishments (such as campgrounds and pools). The DHS Division of Public Health is responsible these functions, and designates local health departments in certain counties to perform inspections of establishments.

The Department of Agriculture, Trade, and Consumer Protection (DATCP) inspects and licenses several categories of food-related establishments, including food processing plants, food warehouses, and retail establishments such as grocery stores. DATCP designates certain local health departments as agents for conducting inspection and licensing of retail food establishments. DATCP also has regulatory authority for dairy farms, milk haulers and dairy processors, and inspects certain facilities that slaughter and process meat and poultry.

GOVERNOR

Transfer regulatory responsibility for restaurants, lodging establishments and certain recreational establishments from DHS to DATCP, effective July 1, 2016. Reduce DHS funding by \$3,400,900 PR in 2016-17, and delete 35.0 PR positions, beginning in 2016-17. Provide DATCP \$3,432,500 PR in 2016-17 and 35.0 PR positions, beginning in 2016-17.

Transfer Authority to DATCP. Transfer provisions relating to DHS authority to regulate hotels, tourist rooming houses, bed and breakfast establishments, vending machine commissaries, campgrounds, camping resorts, recreational and educational camps, and public swimming pools to DATCP and codify these provisions under Chapter 93. Repeal references to "restaurant" and "temporary restaurant" from the current law provisions in Chapter 254, and instead include those types of establishments in the definition of "retail food establishments"

currently regulated by DATCP. The bill would not make substantive changes to the regulation of these entities.

Repeal references to these entities in the DHS program revenue appropriation that funds current regulation activities from fees collected, and create corresponding references in the DATCP program revenue appropriation for its current food regulation activities.

Establish, for campgrounds, camping resorts, recreational and educational camps, and public swimming pools, a forfeiture of \$50 per day for failure to comply with an order under Chapter 97 (in addition to potential revocation of the relevant license). Those establishments are currently subject to a forfeiture of \$10 per day for noncompliance with a DHS order.

For those establishments, impose on a person the following fines for a violation of the chapter: (a) for the first offense, not less than \$100 nor more than \$1,000, or imprisonment of not more than six months; and (b) for each subsequent offense, not less than \$500 nor more than \$5,000, or imprisonment of not less than 30 days and not more than one year in the county jail (or both). Currently, the corresponding fine for violation is not less than \$25 and not more than \$250.

DOA Secretary Transfer Authority. Transfer to DATCP all incumbent DHS employees performing duties that the Secretary of the Department of Administration (DOA) determines to be primarily related to food, lodging, and recreation oversight, and the full-time equivalent positions held by those employees, on July 1, 2016. Specify that the transferred employees would have the same rights and status under state employment relations statutes that they had prior to the transfer, and that no transferred employee who had attained permanent status would serve a probationary period.

Transfer from DHS to DATCP all assets and liabilities, tangible personal property (including records), contracts in effect, and pending matters that the DOA Secretary determines are primarily related to food, lodging, and recreation oversight, on July 1, 2016. Require DATCP to carry out any contractual obligation unless modified or rescinded to the extent allowed under the contract. Specify that all materials submitted to, or actions taken by DHS with respect to a pending matter would be considered as having been submitted to or taken by DATCP.

Provide that all rules promulgated under Chapters 172, 175, 178, 192, 195, 196, 196 appendix, 197 and 198 of the Administrative Code, and all other rules promulgated and orders issued by DHS that the DOA Secretary determines are primarily related to food, lodging, and recreation oversight, that are in effect on July 1, 2016, would remain in effect until their specified expiration dates or until amended or repealed by DATCP.

Cross-References and Minor Statutory Changes. The bill would make multiple changes to cross-references to reflect renumbered statutory provisions, change current references from "permits" to "licenses," as they relate to the regulation of establishments by DATCP, and make minor changes to current statutory provisions.

Transfer of Position Authority within DHS. Transfer \$37,800 PR annually and 0.50 PR position, beginning in 2015-16, within the current PR-funded appropriation that is currently

budgeted for food, lodging, and recreation oversight activities to instead support other regulatory activities and the state vital records program.

MODIFICATION

Reduce DHS funding by \$3,900 PR in 2016-17.

Explanation: The bill would transfer, from DHS to DATCP, regulatory authority for restaurants, hotels, tourist rooming houses, bed and breakfasts establishments, vending machine commissaries, campgrounds, camping resorts, recreational and educational camps, and public swimming pools. The administration recommends this transfer, as proposed by a joint DHS-DATCP workgroup, to consolidate all food safety inspection activities in one state agency.

The administration intended to delete all funding from the DHS PR appropriation that supports these regulatory activities. If the Committee approves the Governor's recommendation to transfer regulatory authority to DATCP, it should reduce the DHS budget by an additional \$3,900 PR in 2016-17 to fully delete funding from this appropriation.

Change to Bill	
PR	- \$3,900

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