



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #141

Food, Lodging and Recreation Continuing Appropriation Authority (Agriculture, Trade and Consumer Protection)

[LFB 2019-21 Budget Summary: Page 46, #22]

CURRENT LAW

The Department of Agriculture, Trade and Consumer Protection (DATCP) is responsible for licensing and ensuring compliance with health and sanitary standards for establishments engaged in food production, food processing, lodging, or offering certain public recreational activities. These facilities include dairy farms, food warehouses, restaurants, grocery stores, public swimming pools, hotels, and campgrounds. DATCP funds collects multiple licensing fees from regulated establishments. The Department also oversees local agent programs that may implement licensing and inspection programs for regulated establishments.

GOVERNOR

Convert the annual PR appropriation for food, lodging, and recreational establishment regulation to a continuing appropriation. A continuing appropriation would allow DATCP to expend all monies received, including available cash balances, for the program's purposes.

DISCUSSION POINTS

1. Prior to 2015 Wisconsin Act 55, DATCP held only regulatory authority for such operations as dairy farms, milk haulers, food warehouses, food processors, and retail food establishments. Act 55 consolidated state programs for food and recreational licensing and regulation in DATCP by transferring from the Department of Health Services a number of regulatory programs for restaurants, lodging establishments and other operations. Act 55 also folded the DHS program revenues into the existing DATCP appropriation [s. 20.115 (1)(gb) of the statutes]. Although the

consolidated programs share one statutory appropriation, DATCP tracks and budgets the account for previous DHS programs separately from DATCP's historical food regulation account.

2. Table 1 shows the condition of the account under s. 20.115 (1)(gb) for DATCP's customary food regulation programs, while Table 2 shows the condition of the food, lodging and recreation facility account previously administered by DHS. According to DATCP estimates in its agency request documents, the food, lodging and recreational program account has a structural imbalance that would result in an estimated shortfall of \$2.9 million by June 30, 2021, assuming current base revenues and allocated expenditures under the bill. The account for food regulation programs historically administered by DATCP is expected to have a balance of \$9.4 million on July 1, 2019, and \$9.9 million on June 30, 2021.

TABLE 1

DATCP Food Regulation Account Condition

	<u>Actual</u> <u>2017-18</u>	<u>Estimated</u> <u>2018-19</u>	<u>Bill</u> <u>2019-20</u>	<u>Bill</u> <u>2020-21</u>
Opening Balance	\$7,561,800	\$8,436,200	\$9,352,800	\$9,652,700
Revenues	6,756,700	6,800,000	6,800,000	6,800,000
Expenditures/Transfers	<u>5,882,300</u>	<u>5,883,400</u>	<u>6,500,100</u>	<u>6,504,900</u>
Closing Balance	\$8,436,200	\$9,352,800	\$9,652,700	\$9,947,800

TABLE 2

DATCP Food, Lodging, and Recreation Regulation Account Condition

	<u>Actual</u> <u>2017-18</u>	<u>Estimated</u> <u>2018-19</u>	<u>Bill</u> <u>2019-20</u>	<u>Bill</u> <u>2020-21</u>
Opening Balance	\$1,448,400	\$387,800	-\$590,800	-\$1,751,100
Revenues	2,466,600	2,400,000	2,400,000	2,400,000
Expenditures	<u>3,527,200</u>	<u>3,378,600</u>	<u>3,560,300</u>	<u>3,560,300</u>
Closing Balance	\$387,800	-\$590,800	-\$1,751,100	-\$2,911,400

3. Maintaining two accounts allows the agency to charge program expenses to the fees from payers for that class or industry. However, because the appropriations exist in a single statutory appropriation, DATCP has authority to expend funds up to the maximum provided by the Legislature, and DATCP occasionally reallocates expenditure authority between the accounts. Further, because both programs already commingle fees from many disparate types of businesses and operations, it could be considered that fidelity of funding is less of a concern. DATCP indicates it has begun reviewing fee structures under each account with the expectation of rebalancing revenues to eliminate or minimize one account subsidizing the program activities of the other.

4. In addition to a structural imbalance in the food, lodging and recreation account, the Department indicates the food regulation programs have necessary supplies and services costs that

have typically exceeded the agency's ability to meet them with existing authority. The costs cover such expenses as: (a) travel, primarily by field inspection staff; (b) laboratory analysis of samples gathered during regulatory activities; and (c) information technology services. DATCP sought the conversion of the appropriation in its 2019-21 agency budget request and argues the provision would allow the agency to use its available cash balances to meet such expenses. DATCP reports costs in each category have generally increased in recent years but obligations may be difficult to accurately forecast for budgeting purposes.

5. Table 3 shows the differences in 2017-18 between what each account was allocated for expenditures and what amounts were expended. Overall, DATCP used the appropriation's entire expenditure authority in 2017-18, as well as \$147,600 in compensation reserves.

TABLE 3

2017-18 Account Allocations versus Expenses

	<u>Retail Food and Processing</u>	<u>Restaurants, Lodging, and Recreation</u>
Allocated	\$5,883,300	\$3,378,600
Expended	<u>5,882,300</u>	<u>3,527,200</u>
Difference	\$1,000	-\$148,600

6. The Department indicates it has attempted to control expenditures by maintaining vacancies and reallocating associated salary funds to supplies costs or limited-term employees. However, DATCP will likely continue to expend the full amount authorized under s. 20.115(1)(gb). DATCP staff estimate the agency may require \$600,000 in additional annual expenditure authority in the 2019-21 biennium to accommodate likely program supplies and services expenses. The appropriation has base allocations of \$2.2 million each year for supplies and services. The bill would provide minimal increases as a standard budget adjustment for increased facilities rent costs.

7. A continuing appropriation would allow DATCP to expend all monies received, including available cash balances, generally at the Department's discretion. In contrast, the current annual appropriation structure restricts expenditures to the amounts specified by the Legislature in the appropriations schedule. Under both appropriation types, monies collected by the program remain in the appropriation at the close of each fiscal year, but an agency has significantly more discretion over expenditure amounts from a continuing appropriation.

8. The Committee could consider adopting the Governor's recommendation to convert the appropriation to continuing (Alternative 1). Some may argue that allowing DATCP to use additional resources is necessary to promote the effective and efficient function of programs for food safety and the sanitary operation of food, lodging and recreational establishments, and available balances are sufficient to cover these costs in the near term. On the other hand, multiple program revenue appropriations across state agencies use the annual appropriations structure to minimize the overuse of fee revenues collected from regulated entities. Further, increased expenditures may eventually require fee increases on these entities.

9. The Committee could also consider retaining the annual appropriation, but provide additional expenditure authority each year in DATCP's retail food and food processing accounts to accommodate additional travel, laboratory and other supplies costs. The Committee could provide amounts of \$150,000, consistent with supplements the agency required in 2017-18 (Alternative 2), or \$600,000 (Alternative 3) as the agency has indicated would cover possible program cost increases in the 2019-21 biennium. Either alternative would provide DATCP with additional budgetary authority to cover possible program expenses in the 2019-21 biennium but maintain expenditure limits that otherwise would be removed under a continuing appropriation.

10. The Committee could also take no action (Alternative 4). DATCP would be required to manage expenses within the amounts established in the final appropriations schedule under the bill. DATCP could request additional expenditure authority under s. 16.515 of the statutes if budget authority were insufficient in either fiscal year, at which time the Committee could further evaluate actual program conditions.

ALTERNATIVES

1. Adopt the Governor's recommendation to convert the DATCP appropriation for food, lodging and recreation establishment regulation from annual to continuing.

2. Provide \$150,000 PR annually for DATCP food, lodging and recreational establishment regulation.

ALT 2	Change to	
	Base	Bill
PR	\$300,000	\$300,000

3. Provide \$600,000 PR annually for food, lodging and recreational establishment regulation.

ALT 3	Change to	
	Base	Bill
PR	\$1,200,000	\$1,200,000

4. Take no action.

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