



## Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #155

### **Do-not Call List Revenues (Agriculture, Trade & Consumer Protection)**

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#### **CURRENT LAW**

The Department of Agriculture, Trade and Consumer Protection's (DATCP) telephone solicitation (no-call) program, which was created in 2001 Act 16, requires most telemarketers who sell property, goods or services to register with DATCP and prohibits them from calling, for the purpose of solicitation, consumers who register their phone number on the no-call list maintained by the Department. Businesses are required to purchase this no-call list from DATCP and are not allowed to solicit the phone numbers on the list. This program is administered by DATCP under administrative rule ATCP 127.

#### **GOVERNOR**

[This function and related funding would be transferred to the Department of Justice as part of the consumer protection transfer under the bill.]

#### **DISCUSSION POINTS**

1. 2001 Act 16 provided DATCP with 5.5 staff and a new, program revenue (PR) continuing appropriation for administration of the telemarketer no-call program. During rule promulgation, DATCP indicated costs for the program would total about \$550,000 for 2002-03, \$492,200 in 2003-04 and \$582,600 in 2004-05 (costs are higher in the year residential renewals are required and lower in the non-renewal year).

2. Funding for the no-call program comes from fees paid by businesses that solicit consumers via telephone, and are listed in ATCP 127. This rule specifies that telemarketers pay an initial registration fee of \$700, with \$500 annual renewal fees thereafter, plus additional fees of \$75 per phone line over three used for telemarketing. Total annual fees are capped at \$20,000 per

registrant. Upon registration, the business is sent the no-call list. Under ATCP 127, the Department collects these fees from telephone solicitors in quarterly installments. If the program is producing revenue in excess of 15% above the amount needed to fund the program in a fiscal year, the quarterly solicitor fees may be uniformly reduced or suspended by DATCP until needed to again fund the program. The revenues are deposited in a program revenue continuing appropriation for administration of the program. The first quarterly installment was due on December 1, 2002, or on the date of initial registration of the telemarketer. The third quarterly installment will be due on June 1, 2003.

3. The most recent no-call list was published on April 1, 2003, and contained over 1.1 million residential telephone numbers. The list will be updated and published quarterly by DATCP, with consumers required to renew their listing every two years, with no cost to consumers for registration or renewal.

4. Revenues under administrative rule ATCP 127 were initially estimated at approximately \$470,000 in 2002-03 and \$550,000 annually thereafter. To date, 601 telemarketers have registered with DATCP and paid \$1.3 million in fees. DATCP officials indicate one reason revenues are higher than expected is due to telemarketers making their payment for the entire year (rather than making quarterly payments). Another source of the higher than expected revenue comes from the number of phone lines used for solicitation by registered telemarketers. Original estimates assumed only four telemarketers would use more than 100 lines for telemarketing, while DATCP has already registered about 65 telemarketers that use more than 100 lines. The Department estimates the fees will generate about \$1.8 million by October, 2003 (the first full-year of collection) if the fee level is not adjusted.

5. The Department has not yet invoked its option to reduce or suspend fees. Therefore, the appropriation account is expected to have a June 30, 2003, balance in excess of \$600,000. Agency and industry officials indicate the fees were collected for operation costs of the program and that any balance should be used to reduce or suspend registrations fees. However, the Committee could consider lapsing the balance to the general fund on the effective date of the bill. DATCP could still significantly reduce telephone solicitation fees in the 2003-05 biennium to fund its ongoing program costs averaging \$537,000 annually.

6. Further, the bill provides expenditure authority of \$283,500 annually for the program. The appropriation could be increased by \$208,700 in 2003-04 and \$299,100 in 2004-05 to reflect anticipated expenditures (\$492,200 in 2003-04 and \$582,600 in 2004-05). However, since the appropriation is continuing, all monies received may be expended by the agency with the approval of DOA (2002-03 expenditures are estimated at \$600,000 or more). The appropriation amounts reflect the best estimates of expenditures. Since the account has generated significant surpluses to date, converting the appropriation to annual could be considered. Under an annual appropriation the agency may only expend the amount appropriated. Any increase in expenditure authority would have to be approved through legislation, or by the Joint Committee on Finance under s. 16.515 of the statutes (14-day passive review procedure).

**ALTERNATIVES**

1. Specify that \$600,000 from the DATCP telephone solicitation program revenue account lapse to the general fund on the effective date of the act.

<b><u>Alternative 1</u></b>	<b><u>GPR</u></b>
<b>2003-05 REVENUE</b> (Change to Bill)	\$600,000

2. Specify that \$300,000 from the DATCP telephone solicitation program revenue account lapse to the general fund on the effective date of the act.

<b><u>Alternative 2</u></b>	<b><u>GPR</u></b>
<b>2003-05 REVENUE</b> (Change to Bill)	\$300,000

3. In addition to, or in lieu of, alternative #1 or 2, provide an additional \$208,700 PR in 2003-04 and \$299,100 PR in 2004-05 to reflect estimated expenditures for the no-call program. Further, convert the continuing appropriation to annual.

<b><u>Alternative 3</u></b>	<b><u>PR</u></b>
<b>2003-05 FUNDING</b> (Change to Bill)	\$507,800

4. Take no action.

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