

**COLORADO GENERAL ASSEMBLY
JOINT BUDGET COMMITTEE**



**INTERIM SUPPLEMENTAL REQUEST
FOR FY 2016-17**

**DEPARTMENT OF PUBLIC HEALTH AND
ENVIRONMENT**

**JBC Working Document - Subject to Change
Staff Recommendation Does Not Represent Committee Decision**

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Prioritized Interim Supplemental Requests

INTERIM SUPPLEMENTAL REQUEST, DEPARTMENT PRIORITY #1 RETAIL FOOD CSH FUND SPENDING AUTHORITY

	Request	Recommendation
Total	<u>\$375,645</u>	<u>\$266,975</u>
FTE	3.0	3.0
Cash Funds	375,645	266,975

<p>Does JBC staff believe the request satisfies the interim supplemental criteria of Section 24-75-111, C.R.S.? [The Controller may authorize an overexpenditure of the existing appropriation if it: (1) Is approved in whole or in part by the JBC; (2) Is necessary due to unforeseen circumstances arising while the General Assembly is not in session; (3) Is approved by the Office of State Planning and Budgeting (except for State, Law, Treasury, Judicial, and Legislative Departments); (4) Is approved by the Capital Development Committee, if a capital request; (5) Is consistent with all statutory provisions applicable to the program, function or purpose for which the overexpenditure is made; and (6) Does not exceed the unencumbered balance of the fund from which the overexpenditure is to be made.]</p>	YES
<p>Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]</p>	YES
<p>JBC staff and the Department agree that (1) this request meets the interim supplemental criteria of Section 24-75-111, C.R.S., and (2) this request is the result of an unforeseen contingency.</p>	

Department Request: The Department requests a FY 2016-17 appropriation of \$375,645 cash funds from the Food Protection Cash Fund and 3.0 FTE to assume responsibility for inspections of retail food establishments in Weld County effective July 1, 2016.

Staff Recommendation: Staff recommends that the Committee approve an increase of \$266,975 cash funds and 3.0 FTE. The following table compares the Department request with the staff recommendation.

Summary of Request and Recommendation			
	Request	Recommendation	Difference from Request
Personnel Costs			
Personal Services	\$207,500	\$207,500	\$0
FTE	3.0	3.0	0.0
Centrally Appropriated Costs	27,649	0	(27,649)
Operating Costs			
One-time Operating	13,425	13,425	0
Ongoing Operating	7,650	7,650	0
Travel including lodging and per diem	30,000	30,000	0
Vehicle Costs	8,400	8,400	0
Indirect Costs	81,022	0	(81,022)
Total	<u>\$375,649</u>	<u>\$266,975</u>	<u>(\$108,671)</u>

The rules governing interim supplementals in Section 24-75-111 (5), C.R.S., require the Committee to introduce all interim supplementals that it approves.

Staff Analysis:

Background

Pursuant to Section 25-4-1601, C.R.S., the Department administers the Retail Food Inspection Program which includes the inspection of retail food establishments. Pursuant to Section 25-4-1604 (1) (i), C.R.S., the Department may delegate the collection of licensure fees and the performance of inspections to Local Public Health Agencies. Currently the Department has delegated these responsibilities to 33 of the 54 Local Public Health Agencies, covering 58 of the 64 counties. The City and County of Denver is exempt from the requirements of the State Retail Food Inspection Program. This leaves five counties (Clear Creek, Grand, Jackson, Moffat, and Rio Blanco) where the Department performs the inspections and fee collections directly.

Weld County Decision

Prior to July 1, 2016, the Weld County Department of Public Health and Environment was responsible for retail food inspection responsibilities in Weld County but notified the Department that effective July 1, 2016, it will no longer perform retail food inspections. Weld County's decision is driven by two components of the recently enacted H.B. 16-1401 (Retail Food Establishment Licensure and Inspection):

- Opposition to the new prohibition of letter grades to communicate inspection results in Section 25-4-1607.7 (1), C.R.S.; and
- The county's interpretation of Section 25-4-1607 (13), C.R.S.

Section 25-4-1607 (13) (b), C.R.S. states: "counties may only spend the increased revenue from the increase of retail food establish fees on retail food health-related activities. Supplanting funds for other county programs is prohibited." Weld County is interpreting this language to mean they cannot reduce their local contribution to the retail food inspection program if they wanted to. The Department does not interpret the language this way and they have indicated that is not how they will apply the language. Staff talked with legal services and the language does not prohibit the reduction of local dollars to a retail food inspection program.

However, H.B. 16-1401 was the result of a six month stakeholder process with consensus among all participants at the conclusion. Staff inquired as to whether additional legislation could be run in 2017 to address the concerns of Weld County so that the retail food inspections can remain at the local level. The Department indicated that legislation could be run to address the prohibition of letter grades but that the likelihood such legislation would receive Department and stakeholder support was unlikely.

Weld County, at no time during the stakeholder process or prior to introduction of the bill, indicated to the Department that passage of the bill would result the discontinuance of retail food inspections by the county. It was only late during the legislative process that Weld County

indicated the passage of the bill may result in Weld County discontinuing inspections but nothing official was provided to the Department. Weld County did speak in opposition to the bill in the Senate Business, Labor, and Technology Committee. As a result the Department's fiscal note for H.B.1 6-1401 did not account for the possibility of conducting inspections in Weld County.

Staff inquired about the possibility that Weld County would resume inspections in the future, thus minimizing the need for state FTE. The Department indicated that continuously-changing regulations, standards, and implementation of the retail food inspection program would make it difficult for Weld County to resume the program and still be staffed and trained to efficiently meet contract requirements and state laws in the future. The Department is therefore assuming responsibility for conducting food inspections that will not be contracted to Weld County for the foreseeable future.

Solution

The Department is statutorily required to conduct restaurant inspections if responsibility is not delegated to a local public health agency. Therefore the Department must, starting July 1, 2016, collect the licensure fee and conduct inspections for retail food establishments in Weld County. Currently Weld County has indicated they have nine FTE who conduct approximately 1,700 inspections per year. The Department currently does not have the staff or the revenue to conduct that many inspections. The Department in order to maintain consistency across all counties in which they conduct inspections, determine the number of inspections based on the revenue generated by the licensure fee. This ensures that areas with a large number of restaurants will be inspected at a rate equal to that of areas with fewer restaurants. The following table summarizes the revenue and expenditures from the Food Protection Cash Fund for all retail food inspections and the additional revenue and expenditures associated with the Weld County.

	Food Protection Cash Fund			
	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
	Actual	Estimate	Estimate	Estimate
Beginning Balance	\$1,158,675	\$761,873	\$542,877	\$428,289
Revenue	788,468	1,215,000	1,205,764	1,219,685
Revenue from Weld County	0	0	279,405	327,997
Expenditures				
Existing Inspections	(1,185,270)	(1,433,996)	(1,332,782)	(1,269,032)
Weld County Inspections	0	0	(266,975)	(368,690)
Ending Fund Balance	\$761,873	\$542,877	\$428,289	\$338,249

The Department currently has 1.9 FTE who conduct approximately 600 inspections a year. Based on the revenue that will be generated by the licensure fee from Weld County retail food establishments, the Department will be able to support 3.0 FTE. Assuming each FTE can conduct 300 inspections a year, 900 retail food establishments will be inspected in Weld County. The Department will use their risk-based inspection system to ensure inspections are covering the appropriate establishments. Staff inquired about providing funding sufficient to hire staff to maintain the current inspection rate of 1,700. The Department indicated none of the other counties for which the Department conducts inspections supports staff above the revenue generated by the licensure fee. Therefore staff is recommending the Department's request for 3.0 FTE.

Staff did not include funding for the centrally appropriated personal services (health, life and dental, short term disability, and PERA contributions) because Committee policy is not to include centrally appropriated costs in the first year. Staff also did not include the requested increase in indirect costs because the total department pool of indirect costs is not increasing therefore there is not a need to increase the payment into the total pool. Staff will adjust the indirect cost assessments during figure setting for FY 2017-18.

	FY 2015-16	FY 2016-17	Fiscal Year 2016-17 Interim Supplemental		
	Appropriation	Appropriation	Requested Change	Recommended Change	New Total with Recommendation
DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT					
Executive Director - Dr. Larry Wolk					
Interim Supplemental #1 - Retail Food Cash Fund Spending Authority					
<i>(1) Administration and Support</i>					
<i>(A) Administration</i>					
Vehicle Lease Payments	<u>351,365</u>	<u>412,571</u>	<u>8,400</u>	<u>8,400</u>	<u>420,971</u>
Cash Funds	250,554	310,720	8,400	8,400	319,120
Reappropriated Funds	67,621	68,661	0	0	68,661
Federal Funds	33,190	33,190	0	0	33,190
 <i>(7) Division of Environmental Health and Sustainability</i>					
Environmental Health Programs	2,614,798	2,564,566	286,224	258,575	2,823,141
FTE	<u>22.3</u>	<u>22.3</u>	<u>3.0</u>	<u>3.0</u>	<u>25.3</u>
General Fund	642,859	658,506	0	0	658,506
Cash Funds	1,409,820	1,343,192	286,224	258,575	1,601,767
Reappropriated Funds	109,345	110,094	0	0	110,094
Federal Funds	452,774	452,774	0	0	452,774
 Indirect Cost Assessment					
Cash Funds	<u>491,100</u>	<u>584,000</u>	<u>81,022</u>	<u>0</u>	<u>584,000</u>
Federal Funds	294,100	294,100	0	0	294,100

	FY 2015-16 Appropriation	FY 2016-17 Appropriation	Fiscal Year 2016-17 Interim Supplemental		
			Requested Change	Recommended Change	New Total with Recommendation
Total for Supplemental #1	3,751,363	3,855,237	375,646	266,975	4,122,212
FTE	<u>22.3</u>	<u>22.3</u>	<u>3.0</u>	<u>3.0</u>	<u>25.3</u>
General Fund	642,859	658,506	0	0	658,506
Cash Funds	2,151,474	2,237,912	375,646	266,975	2,504,887
Reappropriated Funds	176,966	178,755	0	0	178,755
Federal Funds	780,064	780,064	0	0	780,064
Totals					
DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT					
TOTALS for ALL Departmental line items	537,711,742	556,505,747	375,646	266,975	556,772,722
FTE	<u>1,288.6</u>	<u>1,311.3</u>	<u>3.0</u>	<u>3.0</u>	<u>1,314.3</u>
General Fund	48,015,287	46,047,983	0	0	46,047,983
Cash Funds	157,897,569	180,597,712	375,646	266,975	180,864,687
Reappropriated Funds	37,645,004	41,167,484	0	0	41,167,484
Federal Funds	294,153,882	288,692,568	0	0	288,692,568