

Date of Hearing: March 17, 2015

ASSEMBLY COMMITTEE ON PRIVACY AND CONSUMER PROTECTION

Gatto, Chair

AB 296 (Dodd) – As Introduced February 12, 2015

SUBJECT: Weights and measures: inspection: fees

SUMMARY: Extends the authority of the board of supervisors of a county and the state Department of Food and Agriculture (Department) to charge fees to recover the costs of the County Sealer related to the inspection and testing of weighing and measuring devices, from January 1, 2016, to January 1, 2019.

EXISTING LAW:

- 1) Requires the sealer of a county to inspect and test weighing and measuring devices, as specified, that are used or sold in the county. (Business and Professions Code (BPC) Section 12210)
- 2) Requires the sealer of a county to weigh or measure packages to determine whether they contain the amount represented, as provided. (BPC 12211)
- 3) Authorizes, until January 1, 2016, the board of supervisors of a county, by ordinance, to charge fees, not to exceed the county's total cost of actually inspecting or testing weighing and measuring devices required of the county sealer, to recover the costs of the county sealer to perform these duties. (BPC 12240)
- 4) Requires, until January 1, 2016, the Department Secretary to establish by regulation an annual administrative fee to recover reasonable administrative and enforcement costs incurred by the Department for exercising supervision over and performing investigations in connection with the activities performed by sealers described above, and requires the administrative fee to be collected for every device registered with each county office of weights and measures and paid annually to the Department of Food and Agriculture Fund. (BPC 12241)

FISCAL EFFECT: Unknown

COMMENTS:

- 1) Purpose of this bill. This bill would extend by three years the fee authorization for counties and the state Department of Food and Agriculture to recoup their costs for the inspection and testing of weighing and measuring devices by county sealers, a program that has been ongoing since 1982. The measure is sponsored by the California Agricultural Commissioners and Sealers Association.
- 2) Author's statement. According to the author's office, "This bill would extend a statutory sunset date of AB 1623 (Yamada, 2012) which is set to expire on January 1, 2016. AB 296 extends the sunset through to January 1, 2019. This will allow local governments to continue to recover costs associated with the administration of the annual device registration program. Accurate measurements are vital to protecting consumers from fraudulent and inadvertent errors. Precise

scales allow consumers to make informed decisions about their purchases while maintaining a level and competitive marketplace for businesses."

- 3) County Sealers. The inspection and testing of weighing and measuring devices is overseen by a County Sealer of Weights and Measures. Historically, these Sealers have been responsible for ensuring that 'equity prevails' in the marketplace and that consumers reliably get precisely what they paid for. As such, these Sealers and their offices enforce the laws and regulations of the state under the general direction and oversight of the Department Secretary. In practice, this oversight involves the inspection and testing of packaged commodities and all commercially-used weighing and measuring devices.

In order to help pay for the cost of the inspection and testing program, legislation was passed in 1982 to authorize county boards of supervisors to establish fees for business locations to partially fund local weights and measures enforcement programs. That program and the related fee authorization have been amended many times since then to add new devices to the registration program and adjust the schedule of maximum fees in statute. The program now applies to virtually all weighing and measuring devices used commercially (such as gas pumps, water meters, grocery scales, taxi meters, etc.), with the exception of farm milk tanks and grocery store check-out scanners. In 2012-13, the device registration program had expenditures of \$23.1 million statewide.

These fees are the single largest source of revenue for the county program outside of the County General Fund, and the authorization has been extended by statute nine separate times since 1985, mostly recently by AB 1623 (Yamada) in 2012. It is important to note that this same authorization also permits the Department to establish by regulation an administrative fee to recover costs incurred for supervision and investigation of the same program. However, this bill does not change any of the "fee caps" for location fees, specific device fees, and total registration fees, which are usually negotiated between the counties and the businesses affected and then codified in statute. The fee authorization statute is currently set to expire on January 1, 2016.

- 4) Arguments in support. According to the Rural County Representatives of California (RCRC), "County Agriculture Commissioners and Sealers perform valuable services for county residents and those within the local agriculture industry. For example, one of those roles is ensuring that actual weights and sizes are accurate. Weighing and measuring devices must be inspected in a timely manner so that consumers are protected against unscrupulous business operators.

"In order to perform the much-needed services, County Agriculture Commissioners must recover their costs. Thus, we believe it appropriate that Boards of Supervisors continue to be able to adopt fee schedules so that a county's costs can be recovered, while at the same time balancing the needs of industry with the protections of consumers."

- 5) Previous legislation. AB 1623 (Yamada), Chapter 234, Statutes of 2012, extended the sunset date on the county board of supervisor's authority to charge fees to recover the costs of the County Sealer to perform specified inspections until January 1, 2016, and established or revised certain device fee caps.

AB 2361 (Ruskin), Chapter 260, Statutes of 2010, extended the sunset date on the authority

of the board of supervisors of a county to charge fees to recover the costs of the county sealer to perform specified duties until January 1, 2013.

AB 889 (Ruskin), Chapter 529, Statutes of 2005, extended the sunset date to January 1, 2011, and established a gradual increase in the fees that may be adopted by a board of supervisors in order to more fully fund the local weights and measure device inspection program. The bill also established a two-tiered fee schedule that provided both a location fee and a device fee to more effectively capture the cost of the initial device inspection.

AB 1810 (Wiggins), Chapter 512, Statutes of 2000, extended the sunset dates on the civil penalty authority and on device registration fees to January 1, 2006.

SB 189 (Kelley), Chapter 476, Statutes of 1997, extended the sunset date of the fee authorization to January 1, 2001.

AB 1728 (Murray), Chapter 47, Statutes of 1995, extended the sunset date of the fee authorization to January 1, 1998.

SB 1644 (Kelley), Chapter 592, Statutes of 1994, established the current administrative fine provisions for weights and measures.

REGISTERED SUPPORT / OPPOSITION:

Support

California Agricultural Commissioners and Sealers Association (Sponsor)
California State Association of Counties
Rural County Representatives of California

Opposition

None received.

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