



PLACER COUNTY DEPARTMENT OF AGRICULTURE WEIGHTS AND MEASURES

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MEMORANDUM

TO: Placer County Board of Supervisors

FROM: Josh Huntsinger, Placer County Agricultural Commissioner/Sealer of Weights and Measures

DATE: June 21, 2011

SUBJECT: **Senate Bill 744 (Wyland) Water Sub-Meters**

ACTION REQUESTED

Adopt a Resolution authorizing the Chairman to sign a letter of opposition to Senate Bill 744 (Wyland) relating to water sub-meter testing.

BACKGROUND / SUMMARY

Water sub-meters are commonly used in multi-family residential units, including mobile home parks and apartment complexes, to measure the water use of individual units. The use readings generated by the water sub-meter are used by the owner or manager of the park or complex to generate a bill based on the amount of water used by each tenant during the particular billing cycle. When the sub-meters are placed into service, and installed for use, it is the responsibility of the property owner to make each water sub-meter available to the county sealer for accuracy verification at least once every ten years per state law.

Current state law allows only licensed sealers of weights and measures or licensed service agents to "place into service" commercial weighing, measuring, or counting devices. For purposes of weighing and measuring devices, the term "placed in service" means to permit the use of a device that has been tested and found to be correct, as specified, or to submit a device to a sealer for verification *prior to installation*. Typically, when a new apartment complex is built, the water sub-meter manufacturer will deliver brand new meters to the county sealer, who will then test and seal the meters for their accuracy. When the county sealer has verified the accuracy of each device, they will notify a licensed service agent who will install the sub-meters in accordance with their approved use.

PROPOSED LEGISLATION

As mentioned earlier, water sub-meters are "placed into service" after they have been tested and found correct by a sealer. SB 744 would redefine this requirement by allowing a water sub-meter to be "placed into service" without requiring the county sealer's testing for accuracy prior to installation. Rather, SB 744 in lieu of testing by a licensed county sealer, SB 744 deems any sub-meter "tested by a test bench that is regularly calibrated by a cross-checked measure shall be deemed sealed and approved." Provisions of the bill are temporary and sunset on January 1, 2015.

ANALYSIS

Support and opposition of this bill fall under two fronts: 1) The streamlining of testing and certification procedures to encourage the marketability of water submeters, versus 2) Decreased consumer and business protections. Support for this bill includes multiple residential rental associations, the California Building Industry Association, Utility Conservation Coalition, and Master Meter, the country's largest manufacturer of water submeters. Support for SB 744 cite outdated regulations and policies that discourage producers and suppliers of water submeters from marketing their products to California and property owners are discouraged from submetering their properties. It is anticipated bills like SB 744, will streamline testing and certification procedures for submeters, and will broaden their use and installation.

In opposition to SB 744, the California Agricultural Commissioners and Sealers Association (CACASA), which the Placer County Agricultural Commissioner/Sealer of Weights and Measures is a member of, opposes the bill, arguing that SB 744 "presents an unacceptable risk to the longstanding assurances of integrity, quality, and accuracy that weights and measures laws and regulations provide to the marketplace, protecting consumers and manufacturers, alike." CACASA states the bill does not define "water sub-meter," does not establish standards for a "test bench," and does not give quality or accurate standards for a "cross-check measure."

According to CACASA, the bill removes the requirement that only a licensed sealer can test and place into commercial service a weighing, measuring or counting device. This would remove the impartiality of the sealer, according to CACASA, in testing and sealing the device, since sealers are prohibited by law from having any direct or indirect interest in the sale, adjusting or repairing of any weighing, measuring or counting device. CACASA is also concerned that the bill does not require any notification to the county sealer that a water submeter is placed into service; an existing requirement to monitor the quality and accuracy work to ensure that consumers are protected from faulty installations.

Counties that have stated their opposition to SB 744 include:

Napa, Sonoma, Butte, Merced, Kings, San Diego, Del Norte, Yolo, Solano, San Mateo, Santa Cruz, Kern, Mendocino

Additionally, the California State Association of Counties (CSAC) has taken an opposed position on this bill.

The Placer County Agricultural Commissioner/Sealer of Weights and Measures responsibility is to ensure equity in the marketplace by verifying the accuracy of all weighing, measuring, or counting devices which are used to determine the price of the goods delivered over them. Whether the transaction involves gasoline, propane, fresh produce, gravel, electricity, coffee, water, or innumerable other commodities, our system of commerce and the basis of all consumer confidence rests on the assumption that the quantity of product delivered is equal to what is advertised. SB 744 would create an exemption for water sub-meters afforded to no other class of commercial weighing, measuring, or counting device.

Furthermore, weights and measures activities are funded by device registration fees that are billed on an annual basis to each owner of a commercial weighing or measuring device. SB 744 would not exempt water sub-meters from the registration fees that are currently in place. However, this bill would make it more difficult for the county sealer to collect those fees, by allowing the sub-meters to be installed with no notification to the county sealer. This would create a situation in which the county sealer would have to physically seek out new multi-unit residential complexes and contact them one-by-one to determine if they sub-meter their water deliveries. This would create an added expense to the county in addition to a potential reduction in device registration fee revenue.

RECOMMENDATION

Because SB 744 would remove vital consumer protections currently found in state law, reduce the authority of the county sealer to ensure the accuracy of commercial measuring devices, and negatively impact county revenues which currently total \$7,732.00 per year for water sub-meters, as well as increasing expenditures to the department, the Agricultural Commissioner/Sealer of Weights and Measures recommends that the Board of Supervisors authorize the Chairman to sign a letter of opposition to SB 744.

FISCAL IMPACT

There is no additional fiscal impact General Fund directly related to this action. Should SB 744 be enacted, Agriculture/Weights and Measures Department revenues would decrease while expenses would increase.

Attachments: Resolution
Letter of opposition to SB 744

Before the Board of Supervisors County of Placer, State of California

In the matter of:
A RESOLUTION AUTHORIZING THE
CHAIRMAN OF THE BOARD OF SUPERVISORS
TO SIGN A LETTER OF OPPOSITION TO
SENATE BILL 744 (WYLAND) RELATING TO
WATER SUB-METER TESTING.

Resol. No.: _____

Ord. No.: _____

First Reading: _____

The following _____ RESOLUTION _____ was duly passed by the Board of Supervisors
of the County of Placer at a regular meeting held _____ June 21, 2011,

by the following vote on roll call:

Ayes:

Noes:

Absent:

Signed and approved by me after its passage.

Chair, Board of Supervisors

Attest:
Clerk of said Board

BE IT HEREBY RESOLVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF PLACER,
STATE OF CALIFORNIA, that this Board authorizes and directs the Chairman of the Board of Supervisors to
sign a letter of opposition to Senate Bill 744 (Wyland) which would amend Section 12531 and add Chapter 17
(commencing with Section 13850) of Division 5 of the California Business and Professions Code relating to water
sub-meters.

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County of Placer Board of Supervisors

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District 3

KIRK UHLER
District 4

JENNIFER MONTGOMERY
District 5



June 21, 2011

The Honorable Senator Mark Wyland
State Capitol, Room 4048
Sacramento, CA 95814

RE: OPPOSE - Senate Bill 744 (Wyland); Related to Water Sub-meter Testing

Dear Senator Wyland,

Placer County appreciates the opportunity to review SB 744 regarding testing requirements for water sub-meters.

Current law allows only licensed sealers of weights and measures or licensed service agents to test and place commercial weighing, measuring, or counting devices into service. The law helps protect both the buyer and seller by ensuring the accuracy of each device. Uniform standards of weight and measure are important to ensure that consistency when the price of goods is dependent on the accuracy of these devices.

SB 744 would remove the legal authority of the County Sealer to verify conformance with accuracy requirements prior to the installation of water sub-meters within mobile home parks and apartment complexes. The bill allows for "any water sub-meter tested by a test bench that is regularly calibrated by a cross-check measure shall be deemed to be tested and sealed and approved for commercial use." Allowing water sub-meter manufacturers to self-certify and place into service water sub-meters without any independent third-party verification would create an exemption afforded to no other commercial weighing, measuring, or counting device. Additionally, the bill does not establish any criteria or standards for "bench tests" or "cross-check measures".

Placer County believes that it is not appropriate to remove this consumer protection authority currently exercised by the County Sealer of Weights and Measures.

Sincerely,
COUNTY OF PLACER

Robert M. Weygandt, Chairman
Placer County Board of Supervisors

cc: Placer County Board of Supervisors
Thomas M. Miller, Placer County Executive Officer
Mary Hayashi, Chair, Assembly Business, Professions, and Consumer Protection Committee
County State Legislative Delegation
Peterson Consulting, Inc.
California State Association of Counties
Regional Council of Rural Counties

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