

AMENDED IN ASSEMBLY MAY 8, 2014

AMENDED IN ASSEMBLY APRIL 10, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2451

Introduced by Assembly Member Daly

February 21, 2014

An act to amend Section 12531 of, and to add Sections 12210.3, 12210.7, and 12518 to, the Business and Professions Code, relating to weights and measures.

LEGISLATIVE COUNSEL'S DIGEST

AB 2451, as amended, Daly. Weights and measures: water submeters.

(1) Existing law requires the sealer of a county to inspect and test weighing and measuring devices, as specified, that are used or sold for commercial purposes in the county. Existing law, until January 1, 2016, authorizes the county board of supervisors to charge fees to recover the costs of the county sealer to perform these duties. For marinas, mobilehome parks, recreational vehicle parks, and apartment complexes, where the owner is responsible for the utility meters, existing law prohibits the device fee for water submeters from exceeding \$2 per device per space or apartment.

This bill would require a county sealer who possesses the appropriate equipment ~~to perform~~ *for performing* tests on water submeters to inspect, calibrate, test, and certify *to* the accuracy of a water submeter, upon request of the owner, user, or operator of the water submeter, if *any of* specified conditions exist. By placing additional duties on local officials, this bill would impose a state-mandated local program. The bill would permit the board of supervisors of the county to authorize the sealer to

establish a schedule of fees to cover the costs of performing those services, ~~not to exceed the amount of the device fee for water submeters.~~

This bill would authorize, upon written request of the owner, user, or operator, a water submeter that has been inspected, tested, and sealed by a sealer in one county to be installed in another county if certain conditions are met, including that the sealer of the county in which the water submeter is to be installed does not have reason to believe that the water submeter has been tampered with, damaged, or otherwise rendered inoperable since its inspection, testing, and sealing.

(2) Existing law requires a sealer to seize and condemn, and authorizes the sealer to destroy, incorrect weights and measures and weighing and measuring instruments used for commercial purposes ~~which that~~ are not susceptible of repair. Existing law requires a sealer to mark incorrect devices, ~~which that~~ are susceptible of repair, with a tag or other device with the words “Out of order.” For these purposes, existing law defines “incorrect” as any instrument ~~which that~~ fails to meet prescribed tolerances and specifications and other technical requirements for commercial weighing and measuring.

This bill would require a water submeter that has been tested and found to be incorrect to be marked with the words, “Out of order” and to be returned to a service agent only if certain conditions are met. Because the bill would impose additional duties on county sealers and because a violation of this provision would be a crime, this bill would impose a state-mandated local program.

(3) Existing law regulates the utilization and repair of weighing or measuring devices. Under existing law, 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, and type approved, as provided, or to submit a device to a sealer for verification prior to installation. Under existing law, a device may only be placed in service by a sealer or a service agency.

This bill would limit the term “placed in service” to mean to permit the use of a device that has been tested and found to be correct, as specified, and type approved, as provided.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for specified reasons.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 12210.3 is added to the Business and
2 Professions Code, to read:

3 12210.3. (a) A county sealer who possesses the appropriate
4 equipment to perform tests on water submeters shall inspect,
5 calibrate, test, and certify to the accuracy of a water submeter,
6 within his or her county and upon written request of the owner,
7 user, or operator of the water submeter, if any of the following
8 circumstances exist:

9 (1) The service is requested to be performed in addition to, or
10 according to a schedule different from, any inspection frequency
11 established by regulations adopted pursuant to Section 12212.

12 (2) The requested service pertains to a water submeter not
13 intended to be placed into service in the county within six months.

14 (3) The requested service pertains to a water submeter intended
15 to be placed into service in a different county.

16 (b) Notwithstanding Section 12210.5, the board of supervisors
17 may authorize the sealer to establish, from time to time, a schedule
18 of fees to cover the cost of services provided under subdivision
19 (a) and to charge and collect the fees. The fee schedule shall be
20 limited to the actual cost of performing those services ~~and shall~~
21 ~~not exceed the amount specified for water submeters in Section~~
22 ~~12240.~~

23 SEC. 2. Section 12210.7 is added to the Business and
24 Professions Code, to read:

25 12210.7. A county sealer shall, within his or her county and
26 upon written request of the owner, user, or operator of the water
27 submeter, authorize the installation of a water submeter that has
28 been inspected, tested, and sealed by the county sealer of another
29 county if all of the following conditions are met:

1 (a) The meter bears a seal that represents the most recent seal
2 of the county in which the water submeter was inspected, in
3 accordance with the provisions of Section 12505.

4 (b) The water submeter is installed no later than 12 months after
5 the water submeter was inspected, tested, and sealed.

6 (c) The county sealer does not have reason to believe the water
7 submeter has been tampered with, damaged, or otherwise rendered
8 inoperable since the inspection, testing, and sealing by the other
9 county sealer.

10 SEC. 3. Section 12518 is added to the Business and Professions
11 Code, to read:

12 12518. A water submeter submitted to a sealer by an owner,
13 user, or operator for inspection and testing before its initial
14 installation that is found to be incorrect, as defined in Section
15 12500, shall be marked with the words, "Out of Order," in
16 accordance with Section 12506, and shall be returned to a service
17 agent only if both of the following conditions are met:

18 (a) The water submeter has no signs of intentional tampering
19 by which to facilitate fraud.

20 (b) The water submeter shall not be placed into service in
21 California.

22 SEC. 4. Section 12531 of the Business and Professions Code
23 is amended to read:

24 12531. As used in this chapter, the following definitions are
25 applicable:

26 (a) "Service agency" means a person, as defined in Section
27 12011, that for hire, award, commission, or any other payment of
28 any kind, repairs a commercial device.

29 (b) "Service agent" means a person employed by a service
30 agency to repair a commercial device.

31 (c) "Device" means a weighing or measuring equipment,
32 contrivance, or instrument used, or designed to be used, for
33 determining weight or measure, and includes any tool, appliance,
34 or accessory used in connection therewith, that is used for
35 commercial purposes, as defined in subdivision (e) of Section
36 12500.

37 (d) "Placed in service" means to permit the use of a device that
38 has been tested and found to be correct, as defined in subdivision
39 (c) of Section 12500, and type approved, as provided for in Section
40 12500.5.

1 (e) “Correct” means a device that meets all of the tolerance and
2 specification requirements of Section 12107.

3 (f) “Repair,” in any of its variant forms, means to provide
4 maintenance, or to install, adjust, recondition, or service a device.

5 SEC. 5. No reimbursement is required by this act pursuant to
6 Section 6 of Article XIII B of the California Constitution for certain
7 costs that may be incurred by a local agency or school district
8 because a local agency or school district has the authority to levy
9 service charges, fees, or assessments sufficient to pay for the
10 program or level of service mandated by this act or because costs
11 that may be incurred by a local agency or school district will be
12 incurred because this act creates a new crime or infraction,
13 eliminates a crime or infraction, or changes the penalty for a crime
14 or infraction, within the meaning of Section 17556 of the
15 Government Code, or changes the definition of a crime within the
16 meaning of Section 6 of Article XIII B of the California
17 Constitution.

18 However, if the Commission on State Mandates determines that
19 this act contains other costs mandated by the state, reimbursement
20 to local agencies and school districts for those costs shall be made
21 pursuant to Part 7 (commencing with Section 17500) of Division
22 4 of Title 2 of the Government Code.