

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS  
ACTION AGENDA SUMMARY

DEPT: Agricultural Commissioner *Willie*

BOARD AGENDA # \*B-2

Urgent

Routine

*mt*

AGENDA DATE June 7, 2011

CEO Concurs with Recommendation YES  NO

(Information Attached)

4/5 Vote Required YES  NO

SUBJECT:

Approval and Authorization for the Chairman of the Board to Send a Letter Opposing SB 744 (Wyland), a Measure Which will Remove the Testing of Water Submeters from Weights and Measures Jurisdiction

STAFF RECOMMENDATIONS:

Approve and authorize the Chairman of the Board to send a letter opposing SB 744 (Wyland), a measure which will remove the testing of water submeters from Weights and Measures jurisdiction.

FISCAL IMPACT:

There is no fiscal impact associated with this item.

BOARD ACTION AS FOLLOWS:

No. 2011-331

On motion of Supervisor Chiesa, Seconded by Supervisor Withrow  
and approved by the following vote,  
Ayes: Supervisors: O'Brien, Chiesa, Withrow, DeMartini, and Chairman Monteith  
Noes: Supervisors: None  
Excused or Absent: Supervisors: None  
Abstaining: Supervisor: None

- 1)  Approved as recommended
- 2)  Denied
- 3)  Approved as amended
- 4)  Other:

MOTION:

*Christine Ferraro*

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.

Approval and Authorization for the Chairman of the Board to Send a Letter Opposing SB 744 (Wyland), a Measure which will Remove the Testing of Water Submeters from Weights and Measures Jurisdiction

**DISCUSSION:**

Water, electric and vapor utility meters are commonly found at residences and commercial establishments. These meters are considered commercial devices and are used for billing customers for utility services and fall under the jurisdiction and authority of the Public Utility Commission. There are a number of utility meters that fall under the jurisdiction of the local sealer of weights and measures. These meters are referred to as submeters and are typically placed at a residence in such locations as mobile home parks and marinas where the particular utility (water, electric or vapor) passes through a single meter called a master-meter before it is measured by the submeter for billing purposes. Also, submeters are used to measure liquefied petroleum gas (LPG) at residences that receive LPG from a tank that has been placed on the property by a LPG company.

Current California law requires that submeters be inspected by a county sealer prior to installation and a minimum of once every ten years thereafter. There are 2,548 water submeters in Stanislaus County and approximately 250 are tested annually by the County Sealer. Senate Bill 744 (Wyland) (Attachment A) proposes to remove the requirement that a county sealer inspect a water submeter prior to its installation. Instead this bill would allow "that any water submeter tested by a test bench that is regularly calibrated by a cross-check measure shall be deemed to be sealed and approved for commercial use."

The Stanislaus County Agricultural Commissioner and Sealer of Weights and Measures and the California Agricultural Commissioners and Sealers Association (CACASA) have a number of concerns with SB 744.

- 1) The bill does not establish standards for a "test bench."
- 2) The bill does not define nor establish standards for a "cross-check measure."
- 3) The bill removes the impartial third party aspect from the installation of water submeters.
- 4) The bill does not require that a county sealer be informed when a water submeter is installed.

As opposed to current law wherein a county sealer is prohibited from having direct or indirect interest in the sale, adjustment, or repair of any commercial device, SB 744 would allow a water meter manufacturer to certify the accuracy of the devices that they sell. Other types of utility submeters would still be required to pass a weights and measures inspection prior to installation thus creating inconsistency and inequity in the marketplace. Weights and measures officials meet regularly with industry on the local, state, regional, national and international level in an effort to promote equity and uniformity in weights and measures laws and procedures. Senate Bill 744 is in direct opposition to this long standing unified effort.

The Agricultural Commissioner and Sealer of Weights and Measures recommends that the Board of Supervisors approve the opposition letter (Attachment B) to SB 744 and authorize the Chairman of the Board to sign and send the letter on behalf of the Board.

Approval and Authorization for the Chairman of the Board to Send a Letter Opposing SB 744 (Wyland), a Measure which will Remove the Testing of Water Submeters from Weights and Measures Jurisdiction

**POLICY ISSUES:**

Approval of this item supports the Board priority of A Strong Local Economy by opposing legislation that threatens equity and uniformity in the marketplace and that removes an element of consumer protection now afforded to County residences.

**STAFFING IMPACTS:**

There is no staffing impact associated with this item.

**CONTACT INFORMATION:**

Gary Caseri, Agricultural Commissioner, 525-4730

AMENDED IN SENATE MAY 3, 2011  
AMENDED IN SENATE MARCH 21, 2011

**SENATE BILL**

**No. 744**

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**Introduced by Senator Wyland**

February 18, 2011

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An act to amend Section 12531 of, and to add *and repeal* Chapter 17 (commencing with Section 13850) ~~to~~ of Division 5 of, the Business and Professions Code, relating to water submeters.

LEGISLATIVE COUNSEL'S DIGEST

SB 744, as amended, Wyland. Water submeters: testing.

(1) Existing law requires that a person who uses, or intends to use, any weight or measure, or weighing or measuring instrument for commercial purposes, to cause them to be sealed by a sealer before using the same, unless they have been sealed before sale, in which case existing law allows the purchaser to use them for the remainder of the period authorized by regulations adopted by the Secretary of Food and Agriculture. There is within the Department of Food and Agriculture the Division of Measurement Standards, which is designed to ensure the accuracy of commercial weighing and measuring devices.

This bill would provide that any water submeter tested by a test bench that is regularly calibrated by a cross-check measure shall be deemed to be sealed and approved for commercial use, as specified, provided that the submeter satisfies certain criteria, including that the submeter is otherwise a type approved by the Division of Management Standards.

(2) 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 provide that for the purposes of any applicable law or regulation relating to the placing of a water submeter in service, including, but not limited to, the above provisions, no water submeter shall be considered to have been put into service prior to its installation if the water submeter is to be used in a multiunit residential structure. The bill would also make related conforming changes.

*This bill would make the above provisions operative until January 1, 2015, and would state that the repeal of these provisions renders the provisions subject to review by the appropriate policy committees of the Legislature.*

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

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

- 1 SECTION 1. Section 12531 of the Business and Professions
- 2 Code is amended to read:
- 3 12531. As used in this chapter, the following definitions are
- 4 applicable:
- 5 (a) "Service agency" means any person, as defined in Section
- 6 12011, that for hire, award, commission, or any other payment of
- 7 any kind, repairs a commercial device.
- 8 (b) "Service agent" means any person employed by a service
- 9 agency to repair a commercial device.
- 10 (c) "Device" means any weighing or measuring equipment,
- 11 contrivance, or instrument used, or designed to be used, for
- 12 determining weight or measure, and includes any tool, appliance,
- 13 or accessory used in connection therewith, that is used for
- 14 commercial purposes as defined in subdivision (e) of Section
- 15 12500.
- 16 (d) "Placed in service" means, except as described in Section
- 17 13855, to permit the use of a device that has been tested and found
- 18 to be correct, as defined in subdivision (c) of Section 12500, and
- 19 type approved, as provided for in Section 12500.5, or to submit a
- 20 device to a sealer for verification prior to installation.
- 21 (e) "Correct" means any device that meets all of the tolerance
- 22 and specification requirements of Section 12107.

1 (f) "Repair," in any of its variant forms, means to provide  
2 maintenance, or to install, adjust, recondition, or service a device.

3 SEC. 2. Chapter 17 (commencing with Section 13850) is added  
4 to Division 5 of the Business and Professions Code, to read:

5  
6 CHAPTER 17. WATER SUBMETERS  
7

8 13850. (a) Any water submeter tested by a test bench that is  
9 regularly calibrated by a cross-check measure shall be deemed to  
10 be tested and sealed and approved for commercial use pursuant to  
11 any regulations related to the testing and oversight of submeters  
12 by the Division of Measurement Standards, including, but not  
13 limited to, Sections 12501.1 and 12502, provided that all the  
14 following conditions are met:

15 (1) The submeter complies with the accuracy tolerance for  
16 submeters as published in the National Institute of Technology  
17 Standards Handbook 44.

18 (2) The submeter is otherwise a type approved by the Division  
19 of Measurement Standards.

20 (3) The test results are attached to the submeter.

21 (b) Nothing in this section shall be construed to limit or alter  
22 any additional regulations relating to testing and oversight of  
23 submeters by the Division of Measurement Standards. Nothing in  
24 this section shall be construed to affect any regulations promulgated  
25 by any city, county, city and county, utility, water district, or  
26 similar entity.

27 13855. For purposes of any applicable law or regulation relating  
28 to the placing of a water submeter in service, including, but not  
29 limited to, subdivision (d) of Section 12531 and Section 4085 of  
30 Title 4 of the California Code of Regulations, no water submeter  
31 shall be considered to have been put into service prior to its  
32 installation if the water submeter is to be used in a multiunit  
33 residential structure.

34 *13859. (a) This chapter shall remain in effect only until*  
35 *January 1, 2015, and as of that date is repealed, unless a later*  
36 *enacted statute, that is enacted before January 1, 2015, deletes or*  
37 *extends that date.*

1     *(b) Notwithstanding any other provision of law, the repeal of*  
2     *this chapter renders the chapter subject to review by the*  
3     *appropriate policy committees of the Legislature.*

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**BOARD OF SUPERVISORS**

**William O'Brien, 1<sup>st</sup> District**  
**Vito Chiesa, 2<sup>nd</sup> District**  
**Terry Withrow, 3<sup>rd</sup> District**  
**Dick Monteith, 4<sup>th</sup> District**  
**Jim DeMartini, 5<sup>th</sup> District**

1010 10th Street, Suite 6500  
Modesto, CA 95354  
Phone: 209.525.4494 Fax: 209.525.4410

June 7, 2011

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

**SB 744 (Wyland) - OPPOSE**

Dear Senator Wyland:

Stanislaus County opposes SB 744, your measure dealing with water submeters and their testing requirements.

County Sealers, acting under the supervision and direction of the California Secretary of Food and Agriculture, are charged with inspecting and certifying the accuracy of all instruments or mechanical devices used for commercial purposes. Water submeters fall within the definition of a commercial device.

Consumers must rely on weights and measures officials to ensure the accuracy of submeters that are being used to charge them for water as they have no means of determining the accuracy for themselves.

While County Sealers are prohibited by law from having direct or indirect interest in the sale, adjustment, or repair of any commercial device, SB 744 would allow manufacturers to self-certify their devices, removing an important safeguard in the process of consumer protection.

Weights and Measures acts as the impartial third party in transactions, ensuring that fairness and equity prevail in the marketplace. Stanislaus County opposes SB 744 because the measure would remove this important function and safeguard from those consumers who are billed for their water through a submeter.

Thank you for your consideration of this important matter.

Respectfully,

Dick Monteith, Chairman






This Agreement has been signed by the parties or their duly authorized representatives to become effective as of the date referenced on the first page.

IN WITNESS WHEREOF, the parties have executed this Agreement in duplicate on the day and year first hereinabove written.

**COUNTY OF STANISLAUS**

**CENTRAL VALLEY  
OPPORTUNITY CENTER, INC.**

By:   
DONNA RILEY FOR Keith D. Boggs

By: 

**ERNIE FLORES  
EXECUTIVE DIRECTOR**

Title: Deputy Executive Officer  
GSA Director/Purchasing Agent

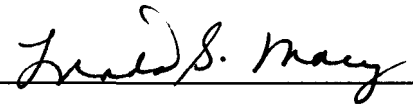
Title: \_\_\_\_\_

Dated: 10/11/11

Dated: 10/5/11

**APPROVED AS TO FORM:  
COUNTY COUNSEL  
JOHN P. DOERING**

**APPROVED AS TO CONTENT:  
STANISLAUS COUNTY  
COMMUNITY SERVICES AGENCY**

By: 

By:   
Christine C. Applegate

Title: Deputy County Counsel

Title: Director

Dated: 9-23-11

Dated: 10-7-11

**COUNTY OF STANISLAUS**

Approved per BOS Item #: 2011-337

Dated: June 7, 2011

**CENTRAL VALLEY OPPORTUNITY CENTER, INC.  
AGREEMENT TO PROVIDE  
JOB PLACEMENT AND RETENTION SERVICES FOR  
LIMITED OR NON-ENGLISH SPEAKING STANWORKS PARTICIPANTS  
JULY 1, 2011 THROUGH JUNE 30, 2012  
AGREEMENT BUDGET**

<u>BUDGET CATEGORY</u>	<u>TOTAL</u>
Personal Services	
Salaries	\$ 62,400
Fringe Benefits (35%-45%) (Invoice actual employer paid only)	26,200
Total Personal	\$ 88,600
Operating Expenses	\$ 34,400
Indirect (13.83%)	\$ 17,000
<b>Total Costs</b>	<b><u>\$140,000</u></b>