

County of Santa Clara

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DATE: March 12, 2021

TO: Honorable Board of Supervisors

FROM: Joe Deviney, Agricultural Commissioner/Sealer of Weights and Measures
Consumer and Environmental Protection Agency (CEPA)

DS
JD

SUBJECT: Response to March 9, 2021 Board Request Regarding Weights and Measures Fees

This report responds to Supervisor Chavez's request at the March 9, 2021 Board of Supervisors meeting discussion on Agenda Item 18 regarding impact of waiving Weights and Measures (W&M) device registration fees for small businesses affected by COVID-19. The business categories identified for possible fee relief are set forth in the Board's February 9, 2021 referral on Agenda Item 10 includes restaurants, personal care services, gyms or fitness facilities, grocers, and retailers.

W&M administers two ordinances requiring device registrations and inspections. The purpose of these ordinances is to ensure accuracy in pricing, prevent customers from being overcharged, and create an even playing field across businesses.

First, as required by State law (California Business and Professions Code Section 12210) and pursuant to County Ordinance Code Division B30, Chapter 1, W&M tests all weighing and measuring devices that are used in commercial transactions in Santa Clara County for example, check out scales, , jewelry and prescription scales, gas pump meters and other commercial weighing and measuring devices. The County imposes an annual registration fee on all weighing and measuring devices in the County for which testing is required to offset the costs of inspections and tests. These registration fees are set forth in Section B30-1 of the County Ordinance Code and consist of a \$100 business location fee, a device fee, and a small State of California Department of Food and Agriculture ("CDFA") Administrative Fee imposed by the County and remitted to CDFA. Device fees vary by device type, but are most commonly \$20 per device.

Second, County Ordinance Code Division B30, Chapter II requires that all businesses using price verification systems (commonly referred to as "scanners") obtain a registration certificate from

W&M, which must be renewed annually. Scanners are used by most but not all retailers; some small retailers may input the price of items directly into the cash register by hand. Scanner annual registration fees are set by Board resolution and vary by the number of scanners per business location: \$200 for 3 or fewer scanners, \$300 for four to nine, and \$495 for ten or more. Most restaurants do not use scanner pricing systems and therefore do not pay these fees.

The total revenue received for FY20 from weight and measures device and scanner registrations in the County is approximately \$1.5 million. For FY21 to date, W&M has received \$1.4 million. Revenues collected from device and scanner registrations are used to help offset W&M costs of providing regulatory services like inspections and testing; the fees do not, however, cover all regulatory service costs.

W&M sends out device registration invoices to businesses annually in May. Large grocery stores, like Safeway having more than nine scanners plus numerous scales, receive, on average, a bill for \$900 per store. Small grocery stores with fewer scanners and scales can pay \$320.

In Santa Clara County, we have approximately 2,000 retail businesses total (including grocers) that operate scanner pricing systems and use various weighing and measuring devices. Small businesses, defined as those with two or fewer locations, are estimated to number about 1,000. W&M tracks only the number and type of devices used at each business location; W&M does not have data on the number of employees per business location or the number of customers frequenting the business.

If the County were to provide relief to these 1,000 small businesses for 2021 fees, staff estimates the cost to the General Fund would be approximately \$500,000.

cc: Chief Board Aides
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