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JAN 06 2011

January 5, 2011

To: All Senators

From: Senator Robert M. Tomlinson

Subject: Co-Sponsorship Memo #3 – Elimination of Certified Weights and Measures Program

Please join me in co-sponsoring legislation that would eliminate the Certified Weights and Measures Program within the Department of Agriculture.

The Consolidated Weights and Measures Act (CWMA) was enacted in Act 155 of 1996. Prior to this, the practice of weights and measures was governed by 19 separate statutes. Enforcement of the CWMA falls under the Pennsylvania Department of Agriculture's Bureau of Rides and Measurement Standards' Weights and Measures Division or the county or city of jurisdiction. By law, their inspectors are required to inspect and certify the accuracy of scales and measuring devices.

The scope of the work and subsequently the enforcement of the Division have been subject to repeat criticism. Since 1984, the Legislative Budget and Finance Committee authored four reports on the Division's operation. With each report, the Committee found numerous operational, administrative and compliance problems within the Division. The 1995 report led to the 1996 consolidation effort as well as additional changes to the law. A follow-up report issued in 1998 continued to identify the challenges that Act 155 brought to an already inefficient program.

A decade later, Auditor General Jack Wagner authored a special performance audit on the Division's inspection of retail gas pumps indicating that numerous deficiencies continued due to inadequate staffing, untimely inspections and missing documentation. These findings have been made worse by the fact that the Division now oversees 49 county operations without a corresponding increase of staff or financial assistance.

In order to address their staffing issues, the Division has incorporated a provision in the law that allows for the creation of a certified examiner of weights and measures program. This previously-never used provision enables companies to use private or self-inspection and certification of their own weight and measuring equipment. In its few months of operation, the Division's Director has already issued a warning to these newly certified examiners alerting them to numerous deficiencies that have been encountered in their work.

Please join me in cosponsoring consumer protection legislation that eliminates the ability for companies to "police" themselves on the accuracy of their equipment. These inspections should continue to be performed by the Commonwealth, county or city in an independent, unbiased third party program.

While the law may have originally allowed for this type of program, the Division of Weights and Measures does not currently have adequate resources or oversight capabilities necessary to incorporate and monitor this program along with their other weights and measures enforcement duties. Given the history of lax enforcement on the part of retail gas pumps and other reported deficiencies within the Division, there are concerns as to whether this practice is adequately protecting Pennsylvania consumers.

The information below indicates the prior session's bill number and co-sponsors.
SB 1484 by Senators TOMLINSON , GORDNER , RAFFERTY , BAKER and KASUNIC

If you are interested in co-sponsoring this legislation, please contact Mary Walmer at 787-5072 or mwalmer@pasen.gov.

RMT/bzm