



Item 6, Executive Report:

Bank, Credit Card, and Service Fee Update

Background:

At the 22nd District Agricultural Association (22nd DAA) Board of Directors (Board) meeting on November 12, 2024, the Board requested that staff look for cost-saving opportunities regarding credit card, bank, and service fees and return with more information at a later date.

While further research into potential savings on bank fees is still underway, this report provides an interim update to the Board on the service and credit card fees.

Service Fees:

A portion of the fees reflected in the line item on the Income Statement for Bank and Service Fees reflect the fees paid by the 22nd DAA for the online ticketing platform — SaffireTix — used by the 22nd DAA and procured through a competitive solicitation process.

Credit Card Fee Surcharging:

The 22nd DAA has historically had a practice of providing all-in pricing for all ticket types for the San Diego County Fair as well as parking for non-fair events; a practice that is also consistent across the Network of California Fairs and specifically the largest of the fairs including Orange County Fair, Los Angeles County Fair, Alameda County Fair, and the California State Fair. This means that the admission and parking prices set by the 22nd DAA and paid by the consumer has already factored in the cost of any credit card and service fees. In recent years, the 22nd DAA has also used this all-in pricing method as a selling point in marketing materials to help promote the ticket-buying experience as a straightforward transaction. In addition, the 22nd DAA's Fair operations are cashless, meaning consumers do not have another means to pay for admission to the Fair or for parking, carnival, or concerts.

Recent discussions have led to the question of whether the 22nd DAA would be better served if it added the fees as a pass-through line item in the pricing.

New Legal Requirements:

The “Honest Pricing Law” or “Hidden Fees Statute,” SB 478, went into effect July 1, 2024, requiring most businesses to advertise or list a price for a good or service that **includes all required fees or charges** other than certain government taxes and shipping costs (e.g. sales tax). SB 478 is a price transparency bill.

The California Attorney General’s website promotes the new law by saying it reflects the philosophy that “the price a Californian sees should be the price they pay.”

(Source [SB 478 - Hidden Fees | State of California - Department of Justice - Office of the Attorney General](#))

Importantly, SB 478 does not prevent how much a business can charge for a good or service, including any added charge for credit card transactions. Rather, the law mandates that the posted price include all amounts that the consumer will be required to pay.

SB 1524 carved out an exception for “mandatory fee or charge for individual food or beverage items sold directly to a customer” by, among other entities, restaurants, bars and food concessions. However, under SB 1524, the “mandatory fee or charge” must be “clearly and conspicuously displayed, with an explanation of its purpose, on any advertisement, menu, or other display that contains the price of the food or beverage item.” (See Civil Code, section 1770, subdivision (a)(29)(D).)

As a reminder, the 22nd DAA does not operate concessions — and therefore does not pay credit card fees on food-and-beverage transactions — as it contracts with other businesses to provide such services.

Major industries affected by California’s Surcharge Laws (SB 478 and 1524) include:

- Hotels – mandatory resort fees, parking fees, minibar prices
- Airlines – baggage fees when the initial fare is displayed
- Gyms – membership fees, initiation fees, monthly costs, cancellation fees, etc.
- **Concert, Sport, and Event Ticketing must include all fees in the upfront price of the ticket displayed to the customer**

Recent actions at the Federal level further support California’s efforts to prohibit unfair and deceptive pricing practices, in particular targeting **the live-event tickets** and short-term lodging industries. The Federal Trade Commission’s ruling essentially “requires businesses to display the total price more prominently than most other pricing information. This means that the most prominent price in an ad needs to be the all-in total

price—truthful itemization and breakdowns are fine but should not overshadow what consumers want to know: the real total.”

(Source: [Federal Trade Commission Announces Bipartisan Rule Banning Junk Ticket and Hotel Fees | Federal Trade Commission](#))

Analysis:

Events such as the San Diego County Fair and concerts at The Sound fall under the auspices of “Event Ticketing” and, therefore, are subject to compliance with SB 478. Additionally, the 22nd DAA’s food-and-beverage partner, Premier Food Services, and various food concessionaires are subject to the requirements of SB 1524.

The law sets the “floor” for what the 22nd DAA must disclose to customers. That is, if the 22nd DAA wants to pass along to consumers any relevant service or credit card transaction fees, the 22nd DAA **must list, upfront, the all-in price of the good or service**. This has been the historic practice of the 22nd DAA. However, and in light of the exception created by SB 1524, where the 22nd DAA’s food-and-beverage concessions are selling individual food or beverage items to consumers, the concessionaires could list the price of the food or beverage item, and then list the separate price for the credit card transaction fee, so long as the concessionaire displays the credit card transaction fee in accordance with SB 1524.

In consideration of the 22nd DAA’s draft Policy 6.03 Cashless Fair Operations, which would limit the acceptable form of payment during the San Diego County Fair for admissions, parking, carnival, concerts, and food-and-beverage concessions to credit cards, staff recommends requiring food-and-beverage concessions, including Premier Food Services, Inc, to list the price of each menu item as all-in pricing (excluding sales tax) for a better customer experience.

Below are excerpts from the California Attorney General’s website regarding SB 478 – Hidden Fees

Which businesses need to follow this law?

The law applies to the sale or lease of most goods and services that are for a consumer’s personal use. For example, it applies to event tickets, short-term rentals, hotels, and food delivery platforms, just to name a few prominent industries. The law does not apply to the purchase or lease of goods or services for commercial use, or to certain other specified transactions and industries that are already subject to other laws governing pricing.

Most of these rules do not apply to the sale of individual food or beverage items to a customer by a restaurant, bar, food concession, or grocery store, by a grocery delivery service that is owned by or under contract with a grocery store or food distributor, or pursuant to a banquet or catering services contract or menu.

Does the new law limit what types of fees a business can charge?

No. A business is generally free to charge however much it wants and can then provide a breakdown of the various fees that are included in its listed or advertised price. But the posted price must include the full amount that a consumer must pay for that good or service.

Can a business comply with this law by disclosing additional required fees before a consumer finalizes a transaction?

No. The advertised or listed price must be the full price that the consumer is required to pay.

Mandatory fees charged by restaurants, bars, and other select food vendors are exempted from SB 478's requirements so long as the fee is clearly and conspicuously displayed wherever prices are shown (see SB 1524).

Does a business need to include credit card processing fees in the advertised price?

Generally, no, because a credit card processing fee is not a mandatory fee if the customer can avoid the fee by paying a different way (e.g. cash.) However, if a business only accepts credit cards as a form of payment, then the credit card fee is mandatory and would have to be included in the advertised price.

Considerations:

The central question on whether a separate service or credit card fee can be added to a transaction: Is credit card the only form of payment permitted by the District?

- Yes – then the advertised price MUST include all fees (credit card, service, etc.). This would include San Diego County Fair's current cashless operation.
- No – if the customer can avoid the fee by making payment via cash or check (in other words, it is at the customer's discretion that they choose to pay by credit card), then the 22nd DAA may separately charge credit card and other fees. Examples where credit card payment is not required by the 22nd DAA include payments accepted for contracts, such as sponsorships, commercial vendor booth rents, concessionaire deposits and commissions, and event rental agreements.