

California redefines 'temporary' when it comes to fees

By Jim Sanders, Sacramento Bee

Californians have paid tens of millions of dollars the past three years in state fees that had been scheduled to die – but never did.

The Legislature routinely has adopted fees as temporary but quietly extended them as expiration dates neared.

Nearly two of every three state fees scheduled to end between 2010 and 2012 have been kept alive for years to come, according to state records.

Thirteen of 21 fees received extensions, cumulatively raising more than \$70 million annually for programs ranging from a missing persons database to an effort to fight auto insurance fraud.

Unlike general taxes paid by nearly all Californians, fees are targeted assessments to people who participate or benefit from a state program for the purpose of funding that service.

Perhaps the oddest Capitol trail left by a single fee involved five bills over the past decade to raise millions for California courts.

What is now a \$40 court fee tacked onto all criminal convictions, including traffic violations, began as a \$20 charge in 2003. It later was raised to \$30, then to \$40, then expiration dates were eliminated, leaving the charge permanent.

Republican Sen. Jim Nielsen of Gerber said that Democrats who

dominate the Legislature routinely allow fees to go “on and on and on, particularly now when the call is out to fund government by every way that you possibly can.”

“The taxpayers, the citizens, deserve that there be certainty,” Nielsen said. “If fees are to end, they should end.”

But Sen. Mark Leno, a San Francisco Democrat who chairs the Senate Budget Committee, said that placing an expiration date – or “sunset” – on a newly adopted fee does not necessarily mean that legislators intend the charge to die automatically.

“Sunsetting” provides a mechanism for weeding out ineffective programs by creating a deadline for lawmakers to review the impacts of a fee and to keep it alive if they decide the public is getting its money’s worth, he said.

Democratic Assemblyman Bob Blumenfield of Los Angeles, chairman of the Assembly Budget Committee, said the state would be well served by placing sunsets on tax deductions and tax credits, too. Once signed into law, perhaps in a budget compromise, they become virtually impossible to remove, he said.

But Jon Coupal, president of the Howard Jarvis Taxpayers Association, said attaching sunsets to new fees tends to be more of a political gesture – a “legislative two-step” – than a genuine commitment to review.

“Sometimes legislators know that going for a permanent fee right out of the box is not politically palatable, so they say, ‘You know, it’s just temporary.’ And later, ‘Oh, now you’re used to paying it, so let’s make it permanent,’” Coupal said.

Nielsen said that extending a fee should spark substantive discussion but seldom does.

A check by the Bee of written legislative policy committee analyses of the 13 bills that have extended fees the past three years show they typically detail the origin and purpose of a fee, but not how funds have been spent, or drawbacks, or unintended consequences.

Nielsen also complained that it is not unusual for lawmakers to expand permissible uses when extending a fee's life.

The \$40 court fee, for example, began as a charge to support court security but now can be spent on court operations.

A fee on grape growers to fight Pierce's disease and the glassy-winged sharpshooter – a leaf-eating insect – was changed in 2009 to be used against other grape diseases and pests, too.

Programs to protect the Dungeness crab population, oversee certified farmers markets, provide safety training to the food industry and handle consumer auto insurance complaints are among the beneficiaries of fees extended since 2010.

Several of the extensions involved fees that were more than a decade old and have been saved at least once in years past.

A fee on steelhead fishermen to restore and protect that trout population was extended in 2011 for the fourth time since its inception in 1991. The annual fee, initially \$3.15 but now \$7.05, has been given yet another date for expiration: July 2017.

Not included in the tally of extended fees was a law providing state authority for an administrative fee to oversee animal rendering and the transporting of inedible grease. It died, but quickly was revived by lawmakers.

Of the eight fees allowed to die the past three years, at least one is targeted for revival, though in slightly different form: Gov. Jerry Brown's budget proposes a fee of up

to 15 cents per homeowner's insurance policy to help fund the state's Seismic Safety Commission.

Passage of Proposition 26 in 2010 broadened the definition of taxes in a way that now requires a two-thirds vote of the Legislature to extend some assessments that were approved as fees years ago by a simple majority.

Jack Pitney, political science professor at Claremont McKenna College, said state government was mired in budget crisis for years so "it's not surprising that most of the fees remain in place."

Pitney said fees represent a logical way to support state services by targeting only users, not all families.

"Expecting a fee to go away is like expecting a warm day in Seattle – it happens, but it's not the norm," Pitney said.