

ASSEMBLY, No. 2216

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED FEBRUARY 11, 2010

Sponsored by:

Assemblyman JOHN F. MCKEON

District 27 (Essex)

SYNOPSIS

Permits water supply service and sewerage service sub-metering in multi-family dwellings to promote water conservation.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the sub-metering of water consumption in
2 multiple dwellings, and supplementing Title 55 of the Revised
3 Statutes.

4

5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7

8 1. This act shall be known and may be cited as the "Water
9 Conservation and Metering Act."

10

11 2. The Legislature finds and declares that the conservation of
12 water resources is vitally important to the future of our State.

13 The Legislature further finds and declares that in order to
14 enhance the conservation of water resources, it is necessary to grant
15 specific authority to apartment owners for the sub-metering of water
16 supply service and sewerage service provided to tenants of multi-
17 family dwellings throughout the State.

18 The Legislature therefore determines that it is appropriate for the
19 Department of Community Affairs, which has extensive regulatory
20 authority over multi-family housing, to adopt, in consultation with
21 the Department of Environmental Protection, rules and regulations
22 governing the installation and use of sub-metering as a water
23 conservation method.

24

25 3. As used in this act:

26 "Dwelling unit" means an individual residential unit in a multi-
27 family dwelling.

28 "Local government unit" means (1) a State authority, district
29 water supply commission, county, municipality, municipal, county
30 or regional utilities authority, municipal water district, joint meeting
31 or any other political subdivision of the State authorized pursuant to
32 law to operate or maintain a public water supply system or to
33 construct, rehabilitate, operate or maintain water supply facilities or
34 otherwise provide water for human consumption, or (2) a State
35 authority, county, municipality, municipal, county or regional
36 sewerage or utility authority, municipal sewerage district, joint
37 meeting, improvement authority, or any other political subdivision
38 of the State authorized to construct, operate and maintain a
39 wastewater treatment system.

40 "Multi-family dwelling" means any building or structure or
41 complex of buildings or structures in which three or more dwelling
42 units are rented or leased or offered for rental or lease for
43 residential purposes except hotels, motels or other guesthouses
44 serving transient or seasonal guests as those terms are defined in
45 section 3 of the "Hotel and Multiple Dwelling Law," P.L.1967, c.76
46 (C.55:13A-3).

47 "Owner" means the legal titleholder of a multi-family dwelling,
48 including any individual, corporation, company, partnership, firm,

1 association or other business concern that purports to be the
2 landlord of tenants in the multi-family dwelling.

3 "Sub-metering" means the use of a metering device or metering
4 devices by an owner that receives water supply service or sewerage
5 service from a local government unit or water purveyor, which metering
6 device measures water supplied to a tenant for the purpose of
7 measuring the tenant's actual consumption and the charging of the
8 tenant of a dwelling unit separately for water supply service and
9 sewerage service.

10 "Tenant" means a person or persons who is entitled to occupy a
11 dwelling unit to the exclusion of others and who is obligated to pay for
12 the occupancy under a written or oral rental agreement.

13 "Water purveyor" means any investor-owned water company or
14 small water company that owns or operates a public water system.

15

16 4. a. Any owner may provide for sub-metering of each
17 dwelling unit measuring the total or partial quantity of water
18 consumed by the tenants. Tenants may be billed for water supply
19 service or sewerage service, or both, provided that the sub-meter or
20 sub-meters installed for each dwelling unit shall measure the total
21 or partial use of the water consumed in the dwelling unit, which
22 amount shall be multiplied by the applicable water supply service
23 charges or sewerage service charges, or a calculation based on those
24 rates, as charged by the local government unit or water purveyor, as
25 appropriate, servicing the multi-family dwelling. In no event shall
26 the tenants be charged more in total than the owner's total water
27 supply service charges or sewerage service charges by the local
28 government unit or water purveyor, as appropriate.

29 In no event shall a tenant be charged more in total than that
30 tenant's measured total water supply service or sewerage service, or
31 both, as appropriate, to the dwelling unit as measured by the
32 metering device or devices in that tenant's dwelling unit.

33 b. Any multi-family dwelling owner utilizing the authority
34 conferred in subsection a. of this section shall disclose in a clear
35 and conspicuous manner in the lease such sub-metering to each
36 tenant, and shall include a description in plain language of the
37 billing method used.

38 c. All sub-meters installed pursuant to this section shall meet
39 accuracy and testing standards of the American Society of
40 Mechanical Engineers, the American National Standards Institute,
41 the American Water Works Association, the National Institute of
42 Standards and Technology, or the International Association of
43 Plumbing and Mechanical Officials, as defined in rules and
44 regulations adopted by the Department of Community Affairs
45 pursuant to section 6 of this act.

46 d. Bills sent to tenants shall include the following items:

- 47 (1) opening and closing measurements;
48 (2) description of charges and billing method; and

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1 (3) identification of the billing company, including a toll-free
2 number and website for tenants to use for questions regarding the
3 bill.

4 e. The cost of the installation of the sub-meter shall not be
5 passed on to the tenant.

6 f. Water supply service charges or sewerage service charges
7 relating to sub-metering shall be exempted from any local rent
8 control ordinance governing allowable increases.

9 g. An owner shall respond to any tenant's report of a leak in a
10 plumbing line or fixture on the tenant's side of the sub-meter in a
11 dwelling unit within 24 hours after the tenant reporting, verbally
12 and in writing, the suspected leak to the owner. If the owner does
13 not respond as required pursuant to this subsection, and does not
14 substantially complete the necessary repair work within one week,
15 the tenant shall receive a credit from the owner in an amount that is
16 calculated as follows: the bill for water supply service or sewerage
17 service, or both, as appropriate, in the monthly billing cycle when
18 the leak was identified less the lowest water bill from the three prior
19 months.

20 h. A dispute regarding the amount of water supply service
21 charges or sewerage service charges or billing method relating to
22 sub-metering shall be resolved as follows:

23 (1) The tenant shall notify the billing company of the nature and
24 reason for the dispute by calling the toll-free number shown on the
25 bill, or in writing to the billing company, within 30 days after
26 receiving the bill. The tenant shall have a good faith basis for any
27 such dispute;

28 (2) Within 15 days after receiving notice of a billing dispute, the
29 billing company shall contact the tenant to discuss the dispute, and
30 the billing company and the tenant shall determine the amount of
31 disputed and undisputed charges. The tenant shall pay all
32 undisputed charges within 30 days after reaching agreement with
33 the billing company regarding the amount;

34 (3) The billing company shall investigate the matter and report
35 the results of investigation to the owner of the multi-family
36 dwelling and the tenant in writing, within 30 days following
37 completion of the investigation;

38 (4) If a resolution is not reached following the investigation and
39 report by the billing company, the tenant and the billing company
40 shall continue to discuss in good faith any remaining disputed
41 amount and attempt to reach an agreement on the amount due, if
42 any, within 60 days after the billing company's receipt of notice of
43 a billing dispute; and

44 (5) At the conclusion of the 60-day extended billing dispute
45 period pursuant to paragraph (4) of this subsection, the billing
46 company shall itemize, in writing, any total charges outstanding,
47 and provide the tenant with 30 additional days to pay the remaining
48 charges. At the conclusion of this 30-day period, if the remaining

1 charges have not been paid, the billing company shall forward the
2 itemized list of charges to the owner of the multi-family dwelling.
3 After receipt of the list from the billing company, the owner may
4 choose to exercise available legal remedies to collect the amount
5 due, provided however, that nothing in this subsection shall be
6 construed to limit a tenant's right to present any legal or equitable
7 defense, and for the court to consider such a defense before issuing
8 a judgment.

9 i. If a tenant requests that the sub-meter or sub-meters installed
10 in the dwelling unit be checked for accuracy, the tenant shall be
11 entitled to one meter test, free of charge, every two years.
12 Following this free meter test, the tenant shall be charged no more
13 than the actual cost incurred by the billing company for any
14 additional tests requested. The billing company shall furnish both
15 the owner of the multi-family dwelling and the tenant with a written
16 report of the meter test results.

17 Each sub-meter must read within the tolerances allowed under
18 the accuracy standards set forth in subsection c. of this section, or
19 the sub-meter shall be replaced free of charge, and the tenant shall
20 receive a credit in an amount that is calculated as follows: the bill
21 for water supply service or sewerage service, or both, as
22 appropriate, for the monthly billing cycle in which the sub-meter
23 identified did not meet the tolerances set forth in subsection c. of
24 this section, less the lowest bill from the three prior months.

25 If a tenant continues to have a good faith basis to contest the
26 accuracy of the sub-meter after testing by the billing company
27 pursuant to this subsection, the tenant may file a complaint, in
28 writing, with the Department of Community Affairs, Bureau of
29 Housing Inspection. The tenant shall include all available
30 documents and relevant information in filing a complaint.

31 j. Sub-metering technology may be installed at any time during
32 the tenancy, and sub-metering billing shall be permitted
33 immediately upon the date of enactment of this act, except as
34 follows:

35 (1) Billing for a dwelling unit occupied by a tenant in a multi-
36 family dwelling that is not subject to rent control or that is subject
37 to rent control whenever the ordinance allows for water supply
38 service charges or sewerage service charges, or both, as appropriate,
39 to be passed through to the tenant shall not commence until the
40 renewal date of the lease, and provided that statements for six
41 billing cycles shall have been sent to the tenant by the owner, or the
42 owner's billing company, without charge for six consecutive
43 months, informing the tenant what the tenant's water supply service
44 charges or sewerage service charges and administrative fees would
45 have been had the tenant been receiving actual bills; or

46 (2) Billing for a dwelling unit occupied by a tenant in a multi-
47 family dwelling that is subject to rent control shall not commence
48 until the renewal date of the lease, and provided that statements for

1 six billing cycles shall have been sent to the tenant by the owner, or
2 the owner's billing company, without charge for six consecutive
3 months, informing the tenant what the tenant's water supply service
4 charges or sewerage service charges and administrative fees would
5 have been had the tenant been receiving actual bills. At the initial
6 lease renewal when sub-metering is initiated, the owner of each
7 multi-family dwelling subject to rent control shall give each tenant
8 a one-time rent reduction, pursuant to a formula adopted by the
9 Department of Community Affairs in the rules and regulations
10 required by section 6 of this act, for the term of the initial lease
11 renewal when sub-metering is initiated, equal to the anticipated
12 monthly charge for the water supply service charges or sewerage
13 service charges, or both, as appropriate. After the reduction in rent
14 required pursuant to this paragraph, the owner shall be entitled to
15 the normal rent increase allowed by the applicable rent control
16 ordinance provided that the rent increase is based on the amount of
17 the reduced rent as provided by this paragraph.

18 k An owner of a multi-family dwelling constructed prior to
19 January 1, 1994 who uses sub-metering shall implement the
20 following water savings program in each sub-metered dwelling unit:

21 (1) before sub-metering billing commences at the multi-family
22 dwelling:

23 (a) the owner's property management staff shall conduct a visual
24 inspection for leaking fixtures on the tenant's side of the sub-meter
25 in each dwelling unit at the multi-family dwelling; and

26 (b) the owner shall install or have previously installed in each
27 shower within each sub-metered dwelling unit a low-flow shower
28 fixture that does not exceed 2.5 gallons per minute; and

29 (2) within two years after the date that sub-metering billing
30 commences at the multi-family dwelling the owner shall install or
31 have previously installed in each bathroom within each sub-metered
32 dwelling unit a toilet that does not exceed 3.5 gallons per flush.

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34 5. An owner who, prior to the date of enactment of this act,
35 uses sub-metering and bills tenants subject to a written agreement
36 with the tenant that recognizes the owner's right to bill the tenant
37 for water supply service charges or sewerage service charges, or
38 both, is permitted to continue sub-metering and billing tenants
39 without complying with the requirements set forth in subsections j.
40 and k. of section 4 of this act, provided that the owner otherwise
41 complies with the provisions of this act.

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43 6. The Department of Community Affairs, in consultation with
44 the Department of Environmental Protection and the Division of
45 Consumer Affairs in the Department of Law and Public Safety,
46 shall adopt, within 120 days after the effective date of this act and
47 pursuant to the "Administrative Procedure Act," P.L.1968, c.410

1 (C.52:14B-1 et seq.), rules and regulations as are necessary to
2 effectuate the purposes of this act.

3 These rules and regulations shall: include a formula as required
4 pursuant to paragraph (2) of subsection j. of section 4 of this act
5 providing a rent reduction, for the term of the initial lease renewal
6 when sub-metering is initiated, equal to the anticipated monthly
7 charge for the water supply service charges or sewerage service
8 charges, or both, as appropriate; require periodic inspections of sub-
9 meters installed pursuant to this act to ensure that the sub-meters
10 accurately measure the water consumed in the dwelling unit; and
11 provide a process for a tenant to appeal water supply service
12 charges or sewerage service charges, or both, as appropriate, in the
13 case of overcharges by the owner.

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15 7. This act shall take effect immediately.

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STATEMENT

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20 This bill permits the sub-metering of water consumption in
21 multi-family dwellings to promote water conservation. The bill
22 permits the owner of any multi-family dwelling with three or more
23 leased dwelling units to provide for sub-metering of each dwelling
24 unit for the total or partial quantity of water consumed by the
25 tenants.

26 Tenants may be billed for water supply service or sewerage
27 service, or both. The bill requires that the sub-meter or sub-meters
28 installed for each dwelling unit measure the total or partial use of
29 the water consumed in the dwelling unit, which amount would be
30 multiplied by the applicable water supply service charges or
31 sewerage service charges, or a calculation based on those rates, as
32 charged by the utility or utilities servicing the multi-family
33 dwelling. In no event would the tenants be charged more in total
34 than the owner's total water supply service charges or sewerage
35 service charges by the local government unit or water purveyor, as
36 appropriate. In addition, the bill provides that in no event would a
37 tenant be charged more in total than that tenant's measured total
38 water service to the dwelling unit as measured by the metering
39 device or devices in that tenant's dwelling unit.

40 Any multi-family dwelling owner installing a sub-metering
41 system must disclose this information in the lease to each tenant,
42 and must include a description of the billing method used. The cost
43 of the installation of the sub-meter cannot be passed on to the
44 tenant.

45 Bills sent to tenants must include the following items: (1) the
46 opening and closing measurements; (2) a description of charges and
47 billing method; and (3) the identification of the billing company,

1 including a toll-free number and website for tenants to use for billing
2 questions.

3 The bill requires an owner to respond to any tenant's report of a
4 leak in a plumbing line or fixture on the tenant's side of the sub-
5 meter in a dwelling unit within 24 hours after the tenant reporting,
6 verbally and in writing, the suspected leak to the owner. If the
7 owner does not respond within this time period, and does not
8 substantially complete the necessary repair work within one week,
9 the bill provides that the tenant shall receive a credit from the
10 owner in an amount equal to the bill for water supply service or
11 sewerage service, or both, as appropriate, in the monthly billing
12 cycle when the leak was identified less the lowest water bill from
13 the three prior months.

14 The bill provides that all water supply service charges or
15 sewerage service charges relating to sub-metering would be
16 exempted from any local rent control ordinance governing
17 allowable increases.

18 The bill includes, in subsection h. of section 4 of the bill, a
19 process for the resolution of billing disputes. The bill also includes,
20 in subsection i of section 4 of the bill, meter testing procedures and
21 provides for a credit to be issued to a tenant if a meter is not within
22 the accepted accuracy standards as set forth in the bill.

23 Sub-metering technology may be installed at any time during the
24 tenancy, and sub-metering billing shall be permitted immediately
25 upon the date of enactment of this bill into law, except as follows:

26 (1) Billing for a dwelling unit occupied by a tenant in a multi-
27 family dwelling that is not subject to rent control or that is subject
28 to rent control whenever the ordinance allows for water supply
29 service charges or sewerage service charges, or both, as appropriate,
30 to be "passed through" to the tenant shall not commence until the
31 renewal date of the lease, and provided that statements for six
32 billing cycles shall have been sent to the tenant by the owner, or the
33 owner's billing company, without charge for six consecutive
34 months, informing the tenant what the water supply service charges
35 or sewerage service charges and administrative fees would have
36 been had the tenant been receiving actual bills; or

37 (2) Billing for a dwelling unit occupied by a tenant in a multi-
38 family dwelling that is subject to rent control shall not commence
39 until the renewal date of the lease, and provided that statements for
40 six billing cycles shall have been sent to the tenant by the owner, or
41 the owner's billing company, without charge for six consecutive
42 months, informing the tenant what the water supply service charges
43 or sewerage service charges and administrative fees would have
44 been had the tenant been receiving actual bills. At the initial lease
45 renewal when sub-metering is initiated, the owner of each multi-
46 family dwelling subject to rent control shall give each tenant a one-
47 time rent reduction pursuant to a formula required by the bill that
48 provides tenants with a rent reduction, for the term of the initial

1 lease when sub-metering is initiated, equal to the anticipated
2 monthly charge for the water supply service charges or sewerage
3 service charges, or both, as appropriate. After this reduction in rent,
4 the owner shall be entitled to the normal rent increase allowed by
5 the applicable rent control ordinance, provided that the rent increase
6 is based on the amount of the reduced rent.

7 The bill requires an owner of a multi-family dwelling
8 constructed prior to January 1, 1994 that uses sub-metering to
9 implement a water savings program in each sub-metered dwelling
10 unit. The water savings program requires that before sub-metering
11 billing commences at the multi-family dwelling: (1) the owner's
12 property management staff conduct a visual inspection for leaking
13 fixtures on the tenant's side of the sub-meter in each dwelling unit
14 at the multi-family dwelling; and (2) the owner install or have
15 previously installed in each shower within each sub-metered
16 dwelling unit a low-flow shower fixture that does not exceed 2.5
17 gallons per minute. In addition, the water savings program
18 requires, within two years after the date that sub-metering billing
19 commences at the multi-family dwelling, that the owner install or
20 have previously installed in each bathroom within each sub-metered
21 dwelling unit a toilet that does not exceed 3.5 gallons per flush.

22 The bill allows an owner who, prior to the date of enactment of
23 this bill into law, uses sub-metering and bills tenants subject to a
24 written agreement with the tenant that recognizes the owner's right
25 to bill the tenant for water supply service or sewerage service, or
26 both, to continue sub-metering and billing tenants without
27 complying with the requirements of subsections j. and k. of section
28 4 of the bill.

29 Lastly, the bill requires the Department of Community Affairs
30 (DCA), in consultation with the Department of Environmental
31 Protection (DEP) and the Division of Consumer Affairs in the
32 Department of Law and Public Safety, to adopt rules and
33 regulations to implement the provisions of the bill. The bill
34 requires these rules and regulations to: (1) include a formula as
35 required pursuant to paragraph (2) of subsection j. of section 4 of
36 the bill providing a rent reduction, for the term of the initial lease
37 renewal when sub-metering is initiated, equal to the anticipated
38 monthly charge for the water supply service charges or sewerage
39 service charges, or both, as appropriate; (2) require periodic
40 inspections of sub-meters installed pursuant to this act to ensure
41 that the sub-meters accurately measure the water consumed in the
42 dwelling unit; and (3) provide a process for a tenant to appeal water
43 supply service charges or sewerage service charges, or both, as
44 appropriate, in the case of overcharges by the owner.