

**M e m o r a n d u m**

**Date:** May 16, 2007

**To:** The Commission  
(Meeting of May 24, 2007)

**From:** Delaney Hunter, Director  
Office of Governmental Affairs (OGA) — Sacramento

**Subject:** **AB 1173 (Keene) Water charges: multiunit residential structures.**  
**As Amended: April 24, 2007**

**LEGISLATIVE SUBCOMMITTEE RECO: OPPOSE UNLESS AMENDED**

**SUMMARY OF BILL:**

This bill would require that each retail local water purveyor, on or after January 1, 2010, require submeters in new multi-unit residential structures before providing service, unless such installation is infeasible. When no submeters are present, this bill authorizes the owners of such structures to charge tenants separately for the costs of water service based on the number of tenants or the floor space of the unit.

**SUMMARY OF SUPPORTING ARGUMENTS FOR RECOMMENDATION:**

The Commission supports the use of submetering as a means to encourage water conservation and provide rate assistance to low-income tenants. However, the Commission cannot support codifying the practice of charging tenants for unmetered water service outside of their rent. The Commission does not have jurisdiction over private owners of apartment houses, and therefore cannot ensure that the cost being charged to tenants is fair and reasonable.

**SUMMARY OF SUGGESTED AMENDMENTS (if any):**

Delete Water Code section 538 from the bill.

## **DIVISION ANALYSIS (Water Division):**

- Proposed Section 538 of the Water Code is inconsistent with good ratemaking policy. If a landlord charges a tenant a rate for water, it should be based upon some metric that tracks water usage. Apartment size does not.
- Section 538 seems to model the Ratio Utility Billing System (RUBS). RUBS can be based on reasonable metrics, such as the number of tenants in the apartment, and also include an in-apartment washing machine as another “tenant” for apportioning the water bill. This approach to charging for water is arguably somewhat fair. But RUBS can also be based on unreasonable metrics, like square-footage of an apartment, which bears no relationship to water usage.
- The Commission’s underlying objection to Section 538 is that it provides landlords a legal justification for charging a separate fee for unmetered water service (which some cities prohibit, saying the municipal water company has an exclusive franchise to sell water in its service area). The bill does not set limits on “billing fees” and other add-ons that might be used by landlords to earn a profit under the guise of encouraging water conservation.

## **PROGRAM BACKGROUND:**

The Commission determined in Decision 01-05-058 (May 14, 2001) that it did not have jurisdiction over private owners of apartment houses that charged for providing water.

Owners/operators of some unsubscribered multi-unit apartments, or their billing agents, charge tenants directly for water or sewer service using a proxy for metered usage known as “RUBS”, or Ratio Utility Billing Systems. Typical “RUBS” methodologies employ apartment square footage or number of tenants per unit as the basis for computing water and sewer charges.

In Decision 01-05-058, the Commission concluded:

Though water conservation is an important state policy, the anecdotal information in the record does not allow us to conclude that any of the “RUBS” methodologies proposed are fair or that they actually result in water conservation.

## **LEGISLATIVE HISTORY:**

Unknown.

## **FISCAL IMPACT:**

There would be no fiscal impact on the CPUC due to this bill.

**STATUS:**

This bill is set to be heard by the Assembly Appropriations Committee on May 16, 2007.

**SUPPORT/OPPOSITION:**

**Support:** California Apartment Association (sponsor)

**Oppose:** California Rural Legal Assistance Foundation; and Western Center on Law and Poverty.

**STAFF CONTACTS:**

Pamela Loomis  
Deputy Director-Office of Governmental Affairs

[pcl@cpuc.ca.gov](mailto:pcl@cpuc.ca.gov)  
(916) 327-8441

Fred L. Curry  
Water Division

[flc@cpuc.ca.gov](mailto:flc@cpuc.ca.gov)  
(415) 703-1739

**Date completed:** May 16, 2007

**BILL LANGUAGE:**

BILL NUMBER: AB 1173    AMENDED  
BILL TEXT

AMENDED IN ASSEMBLY    APRIL 24, 2007  
AMENDED IN ASSEMBLY    APRIL 12, 2007

INTRODUCED BY    Assembly Member Keene

FEBRUARY 23, 2007

An act to add Chapter 8.5 (commencing with Section 537) to Division 1 of the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

AB 1173, as amended, Keene. Water charges: multiunit residential structures.

The Water Measurement Law requires every water purveyor to require, as a condition of new water service on and after January 1, 1992, the installation of a water meter to measure water service. That law also requires urban water suppliers to install water meters on specified service connections, and to charge water users based on the actual volume of deliveries as measured by those water meters in accordance with a certain timetable.

This bill, with a certain exception, would require every water purveyor who ~~furnishes~~ provides water service to any person residing in a multiunit residential structure for which a construction permit has been issued on or after January 1, 2010, to require the installation of meters or submeters on each individual rental unit as a condition of new water service to that property. The bill would authorize the owner or operator to charge tenants based on the actual volume of water delivered as measured by the water meter or submeter. The bill would authorize the owner or operator of a multiunit residential structure without water submeters to charge tenants separately for *the costs of water* service as determined by a prescribed allocation formula , subject to specified requirements.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Chapter 8.5 (commencing with Section 537) is added to Division 1 of the Water Code, to read:

CHAPTER 8.5. MULTIUNIT RESIDENTIAL STRUCTURES

537. (a) Every water purveyor who sells, leases, rents, furnishes, or delivers water service to any person residing in a multiunit residential structure for which a construction permit has been issued on or after January 1, 2010, shall require the

installation of meters or submeters on each individual rental unit as a condition of new water service to that property, except if plumbing configurations with multiple points of entry in high rise structures make the installation of submeters infeasible.

(b) The owner or operator of the multiunit residential structure described in subdivision (a) may charge tenants for water service based on the actual volume of water delivered to the unit as measured by the meter or submeter installed pursuant to subdivision (a).

538. (a) Subject to subdivision (b), the owner or operator of a multiunit residential structure without water submeters may charge tenants separately for *the costs of* water service as determined by an allocation formula that reflects the square footage of the unit or the number of tenants of record residing in the unit.

(b) The owner or operator of a multiunit residential structure who imposes water charges pursuant to subdivision (a) is subject to all of the following requirements:

(1) Prior to the inception of a tenancy, the owner or operator shall disclose in writing to the prospective tenant the method that will be used to calculate the prospective tenant's portion of the water charge, or water and sewer charge, as applicable.

(2) The owner or operator may only commence billing a tenant for his or her portion of the charge described in paragraph (1) upon a change in the terms of a tenancy. Under a periodic contract, the owner or operator shall provide the tenant at least 30 days written notice prior to assessing the charge.

(3) Upon the request of a tenant, the owner or operator shall provide to the tenant information relating to water use as determined by the property's master meter, charges for that water use, and a description of the calculation used for allocating to the tenant's portion of the water charge, or water and sewer charge, as applicable, to which the property is subject. The owner or operator shall maintain records that reflect the actual water use of the property and the allocation calculation for at least three years.

(4) *The owner or operator of a multiunit residential property shall not include within the allocation formula described in subdivision (a) the costs of water used for the common areas of the property, including, but not limited to, water used for landscaping, swimming pools, and other recreation areas. If the common areas of the multiunit residential property are not individually metered or submetered for water service, the multiunit residential property owner or operator shall deduct 25 percent from the total property water bill before allocating charges to the tenants for water service, or water and sewer service, as applicable.*