

By: Representative Ellington

To: Conservation and Water Resources; Public Utilities

HOUSE BILL NO. 1483

1 AN ACT TO PROMOTE THE CONSERVATION OF WATER RESOURCES THROUGH
2 THE AUTHORIZATION OF SUBMETERING OF WATER AND WASTEWATER SERVICES
3 BEING PROVIDED TO RESIDENTS OF MULTI-UNIT DWELLINGS; TO AMEND
4 SECTION 77-3-3, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE
5 PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

7 **SECTION 1.** (1) The Legislature finds that the conservation
8 of water resources is vitally important to the future of our
9 state, and that in order to enhance the conservation of water
10 resources, it is necessary to grant specific authority for the
11 provision of submetering of water and wastewater disposal service.

12 (2) As used in this section, the following words and phrases
13 have the meanings ascribed in this subsection, unless the context
14 clearly indicates otherwise:

15 (a) "Apartment house" means one or more buildings
16 containing four (4) or more dwelling units that are occupied
17 primarily for nontransient use, including a residential
18 condominium whether rented or owner occupied, and if a dwelling
19 unit is rented, having rental paid at intervals of one (1) month
20 or longer.

21 (b) "Dwelling unit" means one or more rooms in an
22 apartment house or condominium, suitable for occupancy as a
23 residence, and containing kitchen and bathroom facilities, or a
24 manufactured home in a manufactured home community.

25 (c) "Customer" means the individual, firm or
26 corporation in whose name a master meter has been connected by a
27 public utility.



28 (d) "Owner" means the legal titleholder of an apartment
29 house or manufactured home community and any individual, firm or
30 corporation that purports to be the landlord of tenants in the
31 apartment house or manufactured home community.

32 (e) "Tenant" means a person who is entitled to occupy a
33 dwelling unit to the exclusion of others and who is obligated to
34 pay for the occupancy under a written or oral rental agreement.

35 (f) "Manufactured home community" means a property on
36 which spaces are rented for the occupancy of manufactured homes
37 for nontransient residential use and for which rental is paid at
38 intervals of one (1) month or longer.

39 (g) "Submetering" means the use of a metering device by
40 a customer who receives water and wastewater service from a public
41 utility, which metering device measures water supplied to a tenant
42 for the purpose of the customer's charging the tenant of a
43 dwelling unit separately for water and wastewater usage.

44 (3) (a) An apartment house owner, manufactured home
45 community owner or condominium manager may provide for submetering
46 of each dwelling unit or rental unit for the measurement of the
47 quantity of water consumed by the occupants of the unit. If
48 submetering is utilized, tenants may be charged separately for
49 water and wastewater services on a pass through allocated basis
50 for charges incurred by the customer. The charges for a tenant
51 may not exceed the tenant's pro rata share of all water and
52 wastewater services used by all of the tenants in that apartment
53 house, manufactured home community or condominium.

54 (b) Any apartment house owner, manufactured home
55 community owner or condominium manager utilizing submetering
56 pursuant to this section shall disclose the submetering to each
57 tenant and obtain from the tenant an acknowledgment of the
58 submetering in a written document.

59 (c) Submeters installed pursuant to this section must
60 meet the American Water Works Association standards for accuracy.



61 (d) In rendering charges to tenants pursuant to this
62 section, the customer shall provide:

63 (i) Beginning and ending meter reads;

64 (ii) A statement that the bill is not from the
65 public utility; and

66 (iii) A telephone number for tenant inquiries on
67 the bill.

68 (e) Water and wastewater services utilized by the
69 tenant may not be disconnected for nonpayment of submetered bills.

70 **SECTION 2.** Section 77-3-3, Mississippi Code of 1972, is
71 amended as follows:

72 77-3-3. As used in this chapter:

73 (a) The term "corporation" includes a private or public
74 corporation, a municipality, an association, a joint stock
75 association or a business trust.

76 (b) The term "person" includes a natural person, a
77 partnership of two (2) or more persons having a joint or common
78 interest, a cooperative, nonprofit, limited dividend or mutual
79 association, a corporation, or any other legal entity.

80 (c) The term "municipality" includes any incorporated
81 city, town or village.

82 (d) The term "public utility" includes persons and
83 corporations, or their lessees, trustees and receivers now or
84 hereafter owning or operating in this state equipment or
85 facilities for:

86 (i) The generation, manufacture, transmission or
87 distribution of electricity to or for the public for compensation;

88 (ii) The transmission, sale, sale for resale, or
89 distribution of natural, artificial, or mixed natural and
90 artificial gas to the public for compensation by means of
91 transportation, transmission, or distribution facilities and
92 equipment located within this state; however, the term shall not
93 include the production and gathering of natural gas, the sale of



94 natural gas in or within the vicinity of the field where produced,
95 or the distribution or sale of liquefied petroleum gas or the sale
96 to the ultimate consumer of natural gas for use as a motor vehicle
97 fuel;

98 (iii) The transmission, conveyance or reception of
99 any message over wire, or by radio, or otherwise, of writing,
100 signs, signals, pictures and sounds of all kinds by or for the
101 public, where such service is offered to the public for
102 compensation, and the furnishing, or the furnishing and
103 maintenance, of equipment or facilities to the public, for
104 compensation, for use as a private communications system or part
105 thereof; however, no person or corporation not otherwise a public
106 utility within the meaning of this chapter shall be deemed such
107 solely because of engaging in this state in the furnishing, for
108 private use as last aforementioned, and moreover, nothing in this
109 chapter shall be construed to apply to television stations, radio
110 stations or community television antenna services; and

111 (iv) The transmission, distribution, sale or
112 resale of water to the public for compensation, or the collection,
113 transmission, treatment or disposal of sewage, or otherwise
114 operating a sewage disposal service, to or for the public for
115 compensation.

116 The term "public utility" shall not include any person not
117 otherwise a public utility, who furnishes the services or
118 commodity described in this paragraph * * * only to himself, his
119 employees or tenants as an incident of such employee service or
120 tenancy, if such services are not sold or resold to such tenants
121 or employees on a metered or consumption basis other than the
122 submetering authorized under Section 1 of House Bill No. _____,
123 2002 Regular Session.

124 A public utility's business other than of the character
125 defined in subparagraphs (i) to (iv) of this paragraph * * * is
126 not subject to the provisions of this chapter.



127 (e) The term "rate" means and includes every
128 compensation, charge, fare, toll, rental and classification, or
129 the formula or method by which such may be determined, or any of
130 them, demanded, observed, charged or collected by any public
131 utility for any service, product or commodity described in this
132 section, offered by it to the public, and any rules, regulations,
133 practices or contracts relating to any such compensation, charge,
134 fare, toll, rental or classification; however, the term "rate"
135 shall not include charges for electrical current furnished,
136 delivered or sold by one public utility to another for resale.

137 (f) The word "commission" shall refer to the Public
138 Service Commission of the State of Mississippi, as now existing,
139 unless otherwise indicated.

140 (g) The term "affiliated interest" or "affiliate"
141 includes:

142 (i) Any person or corporation owning or holding,
143 directly or indirectly, twenty-five percent (25%) or more of the
144 voting securities of a public utility;

145 (ii) Any person or corporation in any chain of
146 successive ownership of twenty-five percent (25%) or more of the
147 voting securities of a public utility;

148 (iii) Any corporation of which fifteen percent
149 (15%) or more of the voting securities is owned or controlled,
150 directly or indirectly, by a public utility;

151 (iv) Any corporation twenty-five percent (25%) or
152 more of the voting securities of which is owned or controlled,
153 directly or indirectly, by any person or corporation that owns or
154 controls, directly or indirectly, twenty-five percent (25%) or
155 more of the voting securities of any public utility or by any
156 person or corporation in any chain of successive ownership of
157 twenty-five percent (25%) of such securities;

158 (v) Any person who is an officer or director of a
159 public utility or of any corporation in any chain of successive



160 ownership of fifteen percent (15%) or more of voting securities of
161 a public utility; or

162 (vi) Any person or corporation that the
163 commission, after notice and hearing, determines actually
164 exercises any substantial influence or control over the policies
165 and actions of a public utility, or over which a public utility
166 exercises such control, or that is under a common control with a
167 public utility, such control being the possession, directly or
168 indirectly, of the power to direct or cause the discretion of the
169 management and policies of another, whether such power is
170 established through ownership of voting securities or by any other
171 direct or indirect means.

172 * * * However, the term "affiliated interest" or "affiliate"
173 shall not include a joint agency organized pursuant to Sections
174 77-5-701 et seq. * * * nor a member municipality thereof.

175 (h) The term "facilities" includes all the plant and
176 equipment of a public utility, used or useful in furnishing public
177 utility service, including all real and personal property without
178 limitation, and any and all means and instrumentalities in any
179 manner owned, operated, leased, licensed, used, controlled,
180 furnished or supplied for, by or in connection with its public
181 utility business.

182 (i) The term "cost of service" includes operating
183 expenses, taxes, depreciation, net revenue and operating revenue
184 requirement at a claimed rate of return from public utility
185 operations.

186 (j) The term "lead-lag study" includes an analysis to
187 determine the amount of capital which investors in a public
188 utility, the rates of which are subject to regulation under the
189 provisions of this chapter, must provide to meet the day-to-day
190 operating costs of the public utility prior to the time such costs
191 are recovered from customers, and the measurement of (i) the lag
192 in collecting from the customer the cost of providing service, and



193 (ii) the lag in paying the cost of providing service by the public
194 utility.

195 **SECTION 3.** This act shall take effect and be in force from
196 and after July 1, 2002.

