

By: Senator(s) Nunnelee

To: Environment Prot, Cons
and Water Res

SENATE BILL NO. 2797

1 AN ACT TO AUTHORIZE ANY APARTMENT HOUSE OWNER, MANUFACTURED
2 HOME COMMUNITY OWNER OR CONDOMINIUM MANAGER TO PROVIDE SUBMETERING
3 OF WATER AND WASTEWATER SERVICES; TO REQUIRE THE DISCLOSURE OF
4 SUBMETERING TO EACH TENANT; TO REQUIRE THAT SUBMETERS INSTALLED
5 PURSUANT TO THIS ACT SHALL MEET THE AMERICAN WORKS ASSOCIATION
6 STANDARDS FOR ACCURACY; TO AMEND SECTION 77-3-3, MISSISSIPPI CODE
7 OF 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** The Legislature finds as follows:

10 (a) The conservation of water resources is vitally
11 important to the future of our state; and

12 (b) In order to enhance the conservation of water
13 resources, it is necessary to grant specific authority for the
14 provision of submetering of water and wastewater disposal service.

15 **SECTION 2.** As used in this act, the following words or
16 phrases or the plural thereof, whenever they appear in this act,
17 unless the context clearly requires otherwise, shall have the
18 meaning ascribed to them in this section:

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

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



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

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

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

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

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

SECTION 3. (1) Any apartment house owner, manufactured home community owner or condominium manager may provide for submetering of each dwelling unit or rental unit for the measurement of the quantity of water, if any, consumed by the occupants of the unit. In the event that submetering is utilized, tenants may be charged separately for water and wastewater services on a pass through allocated basis for charges incurred by the customer. In no event shall the charges for any tenant exceed the tenant's pro rata share of all water and wastewater services used by all of the tenants in the apartment house, manufactured home community or condominium.

(2) Any apartment house owner, manufactured home community owner or condominium manager utilizing the authority conferred in subsection (1) of this section shall disclose such submetering to



each tenant and obtain from the tenant an acknowledgment of the submetering in a written document.

(3) Submeters installed pursuant to this section shall meet the American Water Works Association standards for accuracy.

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

(a) Beginning and ending meter reads;

(b) A statement that the bill is not from the public utility; and

(c) A telephone number for tenant inquiries on the bill.

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

SECTION 4. Section 77-3-3, Mississippi Code of 1972, is amended as follows:

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

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

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

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

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

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

(ii) The transmission, sale, sale for resale, or distribution of natural, artificial, or mixed natural and



95 artificial gas to the public for compensation by means of
96 transportation, transmission, or distribution facilities and
97 equipment located within this state; however, said term shall not
98 include the production and gathering of natural gas, the sale of
99 natural gas in or within the vicinity of the field where produced,
100 or the distribution or sale of liquefied petroleum gas or the sale
101 to the ultimate consumer of natural gas for use as a motor vehicle
102 fuel;

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

116 (iv) The transmission, distribution, sale or
117 resale of water to the public for compensation, or the collection,
118 transmission, treatment or disposal of sewage, or otherwise
119 operating a sewage disposal service, to or for the public for
120 compensation.

121 The term "public utility" shall not include any person
122 not otherwise a public utility, who furnishes the services or
123 commodity described in this paragraph (d) only to himself, his
124 employees or tenants as an incident of such employee service or
125 tenancy, provided that such services are not sold or resold to
126 such tenants or employees on a metered or consumption basis except



for the submetering provided for in Senate Bill No. _____, 2002
Regular Session.

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

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

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

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

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

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

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

(iv) Any corporation twenty-five percent (25%) or more of the voting securities of which is owned or controlled, directly or indirectly, by any person or corporation that owns or controls, directly or indirectly, twenty-five percent (25%) or



more of the voting securities of any public utility or by any person or corporation in any chain of successive ownership of twenty-five percent (25%) of such securities;

(v) Any person who is an officer or director of a public utility or of any corporation in any chain of successive ownership of fifteen percent (15%) or more of voting securities of a public utility; or

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

Provided, however, the term "affiliated interest" or "affiliate" shall not include a joint agency organized pursuant to Sections 77-5-701 et seq., as now or hereafter amended, nor a member municipality thereof.

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

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



192 (j) The term "lead-lag study" includes an analysis to
193 determine the amount of capital which investors in a public
194 utility, the rates of which are subject to regulation under the
195 provisions of this chapter, must provide to meet the day-to-day
196 operating costs of the public utility prior to the time such costs
197 are recovered from customers, and the measurement of (i) the lag
198 in collecting from the customer the cost of providing service, and
199 (ii) the lag in paying the cost of providing service by the public
200 utility.

201 **SECTION 5.** This act shall take effect and be in force from
202 and after its passage.