

By: Senator(s) Nunnelee

To: Environment Prot, Cons
and Water Res

SENATE BILL NO. 2797
(As Sent to Governor)

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: (i) manufactured
37 homes for nontransient residential use and for which rental is
38 paid at intervals of one (1) month or longer; or (ii) recreational
39 vehicles for nontransient residential use for a time period of
40 three (3) months or longer.

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

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

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



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

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

65 (i) Beginning and ending meter reads;

66 (ii) A statement that the bill is not from the
67 public utility; and

68 (iii) A telephone number for tenant inquiries on
69 the bill.

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

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

74 77-3-3. As used in this chapter:

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

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

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

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

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

90 (ii) The transmission, sale, sale for resale, or
91 distribution of natural, artificial, or mixed natural and
92 artificial gas to the public for compensation by means of
93 transportation, transmission, or distribution facilities and



94 equipment located within this state; however, the term shall not
95 include the production and gathering of natural gas, the sale of
96 natural gas in or within the vicinity of the field where produced,
97 or the distribution or sale of liquefied petroleum gas or the sale
98 to the ultimate consumer of natural gas for use as a motor vehicle
99 fuel;

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

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

118 The term "public utility" shall not include any person not
119 otherwise a public utility, who furnishes the services or
120 commodity described in this paragraph * * * only to himself, his
121 employees or tenants as an incident of such employee service or
122 tenancy, if such services are not sold or resold to such tenants
123 or employees on a metered or consumption basis other than the
124 submetering authorized under Section 1 of Senate Bill No. 2797,
125 2002 Regular Session.



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

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

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

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

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

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

150 (iii) Any corporation of which fifteen percent
151 (15%) or more of the voting securities is owned or controlled,
152 directly or indirectly, by a public utility;

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



158 person or corporation in any chain of successive ownership of
159 twenty-five percent (25%) of such securities;

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

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

174 * * * However, the term "affiliated interest" or "affiliate"
175 shall not include a joint agency organized pursuant to Sections
176 77-5-701 et seq. * * * nor a member municipality thereof.

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

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

188 (j) The term "lead-lag study" includes an analysis to
189 determine the amount of capital which investors in a public
190 utility, the rates of which are subject to regulation under the



191 provisions of this chapter, must provide to meet the day-to-day
192 operating costs of the public utility prior to the time such costs
193 are recovered from customers, and the measurement of (i) the lag
194 in collecting from the customer the cost of providing service, and
195 (ii) the lag in paying the cost of providing service by the public
196 utility.

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

