



House of Representatives

General Assembly

File No. 270

January Session, 2003

Substitute House Bill No. 6583

House of Representatives, April 9, 2003

The Committee on General Law reported through REP. FOX of the 144th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING LANDLORDS AND MASTER WATER METERING.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2003*) (a) For the purposes of
2 this section:

3 (1) "Customer service charge" means a fixed amount charged by a
4 water company for providing water to a building.

5 (2) "Dwelling unit" means any house or building, or portion thereof,
6 that is occupied or designed to be occupied, or is rented, leased or
7 hired out to be occupied, as a home or residence of one or more
8 persons.

9 (3) "Landlord" means the owner, lessor or sublessor of a dwelling
10 unit in a building located on premises wherein an occupant receives
11 water service through metered measurement.

12 (4) "Master water meter" means a device that measures the quantity
13 of water provided to an entire house or building without measuring
14 the quantity of water provided for the exclusive use of each dwelling
15 unit.

16 (5) "Submetering" means use of a meter by a landlord that receives
17 water from a water company, which meter measures water supplied to
18 a portion of the premises for the purpose of the landlord charging the
19 occupants of the premises separately for water usage. "Submetering"
20 does not include the delivery of water by a water company directly to
21 a tenant's unit, rather than to the building through a master water
22 meter.

23 (6) "Water company" means a water company, as defined in
24 subdivision (10) of subsection (a) of section 16-1 of the general statutes,
25 as amended by this act, or a municipal utility or any other waterworks
26 system owned, leased, maintained, operated, managed or controlled
27 by any unit of local government under any general statute or any
28 public or special act, which company, utility or system supplies water
29 to a landlord through metered measurement.

30 (b) No landlord may charge an occupant of a dwelling unit
31 separately for estimated water usage as measured through the use of a
32 master water meter. No landlord may charge an occupant separately,
33 or allow an occupant to be charged separately, for submetered water
34 usage except in compliance with all requirements for submetering
35 established by the Department of Public Utility Control and by this
36 section.

37 (c) A landlord may install or cause to be installed, at the expense of
38 the landlord, submetering equipment in the landlord's building to
39 measure the quantity of water provided for the exclusive use of each
40 dwelling unit, provided the landlord demonstrates to the
41 Commissioner of Public Utility Control, at the landlord's expense, such
42 equipment meets standards of accuracy and testing for water company
43 meters prescribed by said department, pursuant to section 16-259 of
44 the general statutes.

45 (d) (1) No landlord may charge an occupant of a dwelling unit
46 separately for water supplied through a submeter, or allow an
47 occupant to be so charged, unless the submeter measures only water
48 that is supplied for the exclusive use of the particular dwelling unit
49 and to an area within the exclusive possession and control of the
50 occupant of such dwelling unit and does not include any water usage
51 for any portion of the common areas or by any other person or
52 dwelling unit.

53 (2) No landlord may charge an occupant separately, or allow an
54 occupant to be charged separately, for submetered water usage unless
55 the occupant has signed a written lease that clearly and conspicuously
56 provides for such separate charge and that fully discloses in plain
57 language the details of the water submetering and billing arrangement
58 between the landlord and the occupant. The landlord may institute
59 any such charge only at the beginning of a new leasing period and not
60 during the term of a lease.

61 (e) A landlord shall determine a calculated cost per unit of water
62 consumption by dividing the total amount of any bill or invoice
63 provided to the landlord from the water company for water usage,
64 including any customer service charge or taxes, but not including any
65 interest for late payment, penalty fees or other discretionary
66 assessments or charges, for all water provided to the premises through
67 the water company meter in that billing period, by the total amount of
68 water consumption for the entire premises. The total amount charged
69 separately to each submetered dwelling unit for water usage for any
70 billing period shall not exceed such calculated cost per unit of water
71 multiplied by the number of units of water delivered exclusively to the
72 particular dwelling unit. A landlord may not charge or recover, or
73 allow to be charged or recovered as part of a separate submetering bill,
74 any additional servicing, administrative, establishment, meter reading,
75 meter testing, billing or submetering fee, or other fee whatsoever,
76 however denominated.

77 (f) (1) No landlord may charge an occupant separately, or allow an

78 occupant to be charged separately, for water usage resulting from
79 leakage, defective fixtures or other conditions resulting in the wastage
80 of water, the maintenance or repair of which is the landlord's
81 responsibility pursuant to section 47a-7 of the general statutes. The
82 occupant shall be entitled to a refund or credit from the landlord of
83 any such charges in an amount that reasonably reflects the cost of such
84 excess water usage that has improperly been charged to them, except
85 that, if the landlord does not have actual or constructive knowledge of
86 the condition leading to the increased water usage and the occupant
87 has actual knowledge of such condition but does not notify the
88 landlord by the thirtieth day after receiving a water bill from the
89 landlord, the landlord shall not be required to make such refund for
90 water usage after such thirty-day period.

91 (2) Notwithstanding the provisions of subdivision (1) of this
92 subsection, if a landlord has actual knowledge of or has received actual
93 or constructive notice of leakage, defective fixtures or other conditions
94 resulting in the wastage of water, the maintenance or repair of which is
95 the landlord's responsibility, and fails to remedy the conditions by the
96 thirtieth day after such knowledge or notice, the landlord may not
97 thereafter charge an occupant separately, or allow an occupant to be
98 charged separately, for any water usage, pursuant to this section,
99 except where the occupant has prevented maintenance or repair. The
100 occupant shall be entitled to a refund or credit from the landlord of
101 any such amounts that have improperly been charged to them.

102 (3) For purposes of this subsection, a landlord has constructive
103 notice of a condition if the condition produces an abnormal usage of
104 water and such abnormal usage was known or detected by the
105 landlord or the agent or contractor of the landlord, or would have been
106 known or detected by the landlord or the agent or contractor of the
107 landlord, if submeter readings had been monitored on at least a
108 monthly basis. Any agent or company retained by a landlord to
109 provide submetering services shall promptly notify the landlord and
110 the tenant of any evidence such agent or company becomes aware of
111 regarding abnormal water usage.

112 (g) Water usage separately charged to occupants pursuant to this
113 section shall be delivered by the water company to the landlord and
114 such landlord shall (1) be the consumer, as defined in section 16-1 of
115 the general statutes, as amended by this act, (2) for billing purposes, be
116 the customer of record, (3) be responsible for payment of the water
117 company bills, and (4) be subject to any actions of the water company
118 for nonpayment.

119 (h) A landlord may not shut off or refuse water service to an
120 occupant on the basis that the occupant has not paid a separately
121 assessed submetered water usage charge. A water company shall not
122 terminate water service to the building or any part thereof, but may
123 pursue the remedy provided in section 16-262t of the general statutes.

124 (i) A separately assessed charge for submetered water usage shall
125 not be deemed rent within the meaning of section 47a-15 or 47a-15a of
126 the general statutes or subsection (h) of section 47a-1 of the general
127 statutes or any other provision of title 47a of the general statutes. No
128 water usage bill to an occupant subject to submetering may be
129 considered overdue unless it remains unpaid more than thirty-three
130 days after it was mailed to the occupant, or be considered overdue for
131 any period where the occupant is disputing such bill pursuant to
132 subsection (m) of this section. Failure to pay a separately assessed
133 charge for submetered water usage pursuant to a written lease that
134 complies with this section shall constitute a breach of such lease.

135 (j) Each bill for submetered water usage shall clearly set forth all
136 charges and all other relevant information, including, but not limited
137 to, the current and immediately preceding submeter readings and the
138 date of each such reading, the amount of water consumed since the last
139 reading, the charge per unit of water, the total charge, the payment
140 due date and the method for questioning a bill.

141 (k) (1) Prior to implementing a submetering system, a landlord shall
142 file with the Department of Public Utility Control a sworn statement of
143 a plumber licensed in this state that, based on actual knowledge
144 resulting from an examination and inspection of the water distribution

145 system and the testing of each submeter, each submeter measures
146 water delivered exclusively to each separate dwelling unit and no
147 dwelling unit will be submetered for water delivered to a common
148 area, another dwelling unit or any other area not within the exclusive
149 possession and control of the occupants of the dwelling unit; and each
150 submeter in the system meets standards of accuracy for water
151 company meters prescribed by the department pursuant to section 16-
152 259 of the general statutes.

153 (2) The landlord shall provide notice by first class mail of such filing
154 to the Office of Consumer Counsel, the water company that provides
155 service to the building and, if any dwelling units that will be
156 submetered are occupied at the time of such filing, to all known adult
157 occupants of such dwelling units. The recipients of the notice may
158 submit comments on the filing to the Department of Public Utility
159 Control for up to thirty days following the date of the filing.

160 (3) The Department of Public Utility Control shall, no later than
161 thirty days after the close of the comment period, review the filing and
162 comments for compliance with the provisions of this section. The
163 department, after such review, shall notify, in writing, the landlord,
164 the water company that provides service to the building and any
165 person or entity that has submitted written comments pursuant to this
166 subsection of the determination it has made on the filing. If the
167 department determines that the filing is not in compliance with the
168 provisions of this section, it shall set forth in detail the items that are
169 not in compliance. Upon motion of the landlord or any person that
170 submitted written comments pursuant to this subsection that is
171 aggrieved by the determination made by the department, the
172 department shall conduct a contested case proceeding on such
173 determination, in accordance with chapter 54 of the general statutes.
174 The department shall grant party status to the landlord and any person
175 or entity that submitted written comments pursuant to this subsection
176 and shall give notice of the proceeding to parties to the proceeding.

177 (l) The Department of Public Utility Control shall adopt regulations,

178 in accordance with the provisions of chapter 54 of the general statutes,
179 to carry out the purposes of this section. Such regulations shall, at a
180 minimum, (1) establish procedures for instituting, maintaining and
181 terminating submetering systems, and (2) ensure that occupants
182 subject to submetering receive consumer protections against the
183 landlord that are at least as extensive as the consumer protections
184 against water companies contained in the general statutes and the
185 regulations of Connecticut state agencies, as from time to time
186 amended.

187 (m) Any occupant of a dwelling unit who disputes the accuracy of a
188 submetered water usage bill, the accurate functioning of a submeter or
189 the landlord's compliance with any regulation, requirement or order of
190 the Department of Public Utility Control or other legal authority
191 governing the provision of water service may file a complaint with
192 said department. The department shall have the same authority to
193 order resolution of a complaint against a landlord, and the landlord
194 and the occupant shall have access to the same procedures, including
195 all rights of appeal, as if the complaint had been filed against a water
196 company. Any party aggrieved by the agency decision may appeal
197 from such decision, in accordance with section 4-183 of the general
198 statutes. Appeals shall be privileged cases to be heard by the court as
199 soon after the return date as is practicable.

200 (n) Nothing in this section shall be construed to increase or expand
201 the relationship between the occupant of a dwelling unit that is
202 submetered and a water company, or to prevent the occupant of a
203 submetered dwelling unit from pursuing any other action or remedy
204 at law or equity that the occupant may have against the landlord, the
205 water company or any other person.

206 (o) Nothing in this section shall be construed to increase or expand,
207 change, eliminate, reduce or otherwise limit the liabilities or
208 obligations of any water company that are set forth in the general
209 statutes and the regulations of Connecticut state agencies, as from time
210 to time amended, regarding occupants of a submetered building who

211 are receiving water provided to the building by the water company.

212 (p) Nothing in this section shall be construed to increase or expand
 213 the jurisdiction of the Department of Public Utility Control with
 214 respect to the regulation of any municipal water utility or any other
 215 waterworks system owned, leased, maintained, operated, managed or
 216 controlled by any unit of local government under any general statute
 217 or any public or special act.

218 Sec. 2. Subdivision (10) of subsection (a) of section 16-1 of the
 219 general statutes is repealed and the following is substituted in lieu
 220 thereof (*Effective October 1, 2003*):

221 (10) "Water company" includes every person owning, leasing,
 222 maintaining, operating, managing or controlling any pond, lake,
 223 reservoir, stream, well or distributing plant or system employed for
 224 the purpose of supplying water to fifty or more consumers. A water
 225 company does not include homeowners, condominium associations
 226 providing water only to their members, homeowners associations
 227 providing water to customers at least eighty per cent of whom are
 228 members of such associations, a municipal waterworks system
 229 established under chapter 102, a district, metropolitan district,
 230 municipal district or special services district established under chapter
 231 105, chapter 105a or any other general statute or any public or special
 232 act which is authorized to supply water, or any other waterworks
 233 system owned, leased, maintained, operated, managed or controlled
 234 by any unit of local government under any general statute or any
 235 public or special act or a landlord submetering water pursuant to
 236 section 1 of this act.

This act shall take effect as follows:	
Section 1	<i>October 1, 2003</i>
Sec. 2	<i>October 1, 2003</i>

Statement of Legislative Commissioners:

In subsections (b), (d) and (f) of section 1, introductory language was changed to "No landlord may charge an occupant" for internal

consistency. In subsection (f) of section 1, "thirty days" was changed to "by the thirtieth day" for accuracy.

GL *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Type	FY 04 \$	FY 05 \$
Public Utility Control, Dept.; Consumer Counsel	CC&PUCF - None	None	None

Note: CC&PUCF=Consumer Counsel and Public Utility Control Fund

Municipal Impact: None

Explanation

The bill establishes certain standards and guidelines for residential submetering¹ by landlords. Specifically, the bill requires the Department of Public Utility Control (DPUC) to adopt necessary regulations for the implementation of submetering programs; to make determinations on request to submeter; to notify relevant parties and conduct contested case proceedings where appropriate;² and to resolve disputes over submetering systems billing. Passage of the bill would not result in the need for additional resources.

¹ Submetering measures the amount of water individual tenants use in a building served by a master meter.

² Last year, the DPUC ruled on 12 such cases.

OLR Bill Analysis

sHB 6583

AN ACT CONCERNING LANDLORDS AND MASTER WATER METERING**SUMMARY:**

This bill specifies how and when landlords served by private or municipal water utilities can submeter their residential tenants. (Submetering measures the amount of water individual tenants use in a building served by a master meter.) The bill prohibits landlords from charging tenants for their water use through the use of submetering equipment unless the landlord complies with the bill and requirements established by the Department of Public Utility Control (DPUC). The bill specifies the circumstances under which a landlord can engage in submetering and imposes additional requirements before the landlord can implement a submetering system. It addresses water loss leaks and bill disputes and defines the obligations and rights of landlords and utilities.

The DPUC must adopt regulations to implement these provisions.

The bill specifies that it does not:

1. increase or expand the relationship between the tenant in a submetered unit and the utility serving the building, or affect the tenant's ability to pursue actions or remedies against the landlord, or the utility;
2. change the utility's legal liabilities or obligations in statute or regulation to tenants in submetered buildings it serves; or
3. increase or expand DPUC's jurisdiction over municipal utilities.

Under the bill, landlords who provide water through submetered systems to tenants are not water utilities subject to DPUC jurisdiction. DPUC has extensive powers over the utilities it regulates, including the power to set rates.

The bill also bars landlords from imposing separate charge for water

based on estimated water use in a master-metered building.

EFFECTIVE DATE: October 1, 2003

HOW LANDLORDS CAN ENGAGE IN SUBMETERING

Under the bill, a landlord can install submetering equipment in his building, at his expense, to measure the amount of water provided for the exclusive use of each unit. The landlord must demonstrate, at his expense, that the equipment meets DPUC standards for water company meters.

A landlord cannot charge his tenants, or allow them to be charged, unless the submeter measures only the water used in a particular unit or area under the tenant's exclusive possession and control. The submeter cannot measure any water used in common areas, by other units, or by third parties.

The landlord must calculate the cost of the water as the building's total water bill divided by the total amount of water used in the building. The total bill includes the charge for the water, the customer service charge, and taxes, during a billing period, but excludes any interest for late payments, penalties, and discretionary assessments and charges.

The amount charged to an individual tenant cannot exceed cost per unit of water times the number of units delivered exclusively to a particular building unit. The landlord cannot charge or recover any additional fees, such as for meter reading or billing.

WHEN LANDLORDS CAN ENGAGE IN SUBMETERING

Under the bill, landlords can charge tenants for submetered water use if the tenant has signed a lease that clearly and conspicuously provides for such charges. The landlord can only institute the charge at the beginning of a new lease period and not during the term of the lease. The lease must disclose in plain language the details of the submetering and billing arrangements.

Each bill must clearly describe all charges and other relevant information, including the current and last meter readings, the date of the readings, the amount of water used since the last reading, the total charge, the charge per unit of water, the payment due date, and the

method for questioning a bill.

IMPLEMENTATION

Before the landlord can implement a submetering program, he must submit to DPUC a sworn statement of a licensed plumber he has employed. The plumber must state that:

1. each submeter only measures water going to each separate dwelling unit;
2. no unit will be submetered for water going to common areas, another unit, or any area not in the submetered tenant's possession and under his control; and
3. each submeter has been tested for accuracy and meets DPUC standards for accuracy for water company meters.

The plumber must base his statement on actual knowledge resulting from examining and inspecting the water distribution system and testing each submeter.

The landlord must notify the following individuals and entities of his application by first class mail: (1) all known adult tenants of any dwelling units known to occupied at the time of the filing, (2) the water utility serving the building, and (3) the Office of Consumer Counsel.

The recipients may submit comments to DPUC for 30 days after the filing. DPUC must review the filing and comments in the 30 days following the close of the comment period. It must notify the landlord, water utility, and anyone who filed comments of its determination. If DPUC determines that the filing does not comply with the bill, it must provide details on the non-compliance.

If the landlord or anyone filing comments is aggrieved by the determination, DPUC must conduct a contested case proceeding on it. (Contested cases are quasi-judicial proceedings.) DPUC must grant the landlord and commenter party status and notify the parties in the original proceeding.

LEAKS

A landlord cannot charge tenants or allow them to be charged for water use that results from leaks, defective fixtures, or other conditions that waste water and that are the landlord's responsibility to fix under landlord-tenant law. The landlord must provide the tenants with a credit or refund for charges that reasonably reflects the cost of the excessive water use. But if (1) the landlord does not have actual or constructive knowledge of the condition and (2) the tenant knows about the condition but does not notify the landlord within 30 days of receiving a water bill, the landlord's responsibility to provide a refund ends after the 30-day period. A landlord has constructive knowledge or notice of the condition if (1) it produces an abnormal use of water and (2) the landlord, his agent, or contractor detects the abnormality or would have known if he monitored the submeter readings at least monthly. The entity providing submetering services must promptly notify the landlord and tenant about abnormal water use.

On the other hand, if the landlord (1) knows about it, or is notified about it by a tenant, and (2) fails to fix the condition within 30 days of learning of it, he cannot subsequently charge the tenants or allow them to be charged. This prohibition does not apply if the tenants prevent the remediation of the condition. The landlord must provide the tenants with a refund or credit for any amount improperly charged.

BILL DISPUTES

A bill to a submetered tenant is not considered overdue unless it has remained unpaid more than 33 days after it was mailed to the tenant or while the tenant contests his bill.

Any occupant who disputes the accuracy of a bill, the accuracy of a submeter, or the landlord's compliance with DPUC or other regulatory authority rules can file a complaint with DPUC. DPUC can treat such complaints in the same way it treats complaints against water companies. This means that DPUC can order the resolution of a complaint, and the landlord and tenant have access to the utility complaint procedures, including rights of appeal. Any party aggrieved by DPUC's decision can appeal to the courts under the Uniform Administrative Procedure Act. Appeals are privileged cases, to be heard as quickly as practicable. A bill is not considered overdue while a tenant is disputing it under these provisions.

OBLIGATIONS AND RIGHTS OF LANDLORDS AND UTILITIES

The landlord of a submetered building (1) continues to be the customer of record for billing purposes, (2) is responsible for paying the utility bill, and (3) is subject to the utility's actions if he does not pay. The landlord is also a consumer for purposes of the laws governing DPUC. He cannot shut off or refuse water service to a tenant because the tenant has not paid his submetered bill. The submetered bill is not considered rent for purposes of landlord-tenant law.

If the landlord does not pay his water bill, the utility continues to have all of the remedies currently available under the law. The utility cannot cut off service to the building, but can seek the appointment of a receiver of rents under existing law.

REGULATIONS

DPUC must adopt regulations that at least:

1. establish procedures for starting, maintaining, and terminating submetering systems and
2. ensure that tenants subject to submetering receive consumer protections with respect to their landlord that are at least as extensive as those provided under the law with regard to water companies.

COMMITTEE ACTION

General Law Committee

Joint Favorable Substitute

Yea 17 Nay 0