OLR RESEARCH REPORT

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WATER METERS AND SUBMETERS

By: Lee R. Hansen, Legislative Analyst II

You asked (1) what have other states done to require water meter use, (2) have any states or municipalities required water meters in each unit of newly constructed multi-unit buildings, (3) what issues Connecticut might consider to enact such a requirement, and (4) if the state could prohibit municipal utility companies from contracting with third parties to handle their customer billing administration.

This report summarizes some of the laws that other states have enacted to require greater water meter usage. It is not a comprehensive survey of such laws. The Office of Legislative Research is not authorized to issue legal opinions and this report should not be considered as one.

SUMMARY

According to the Alliance for Water Efficiency, installing water meters and billing according to water usage is the single most effective water conservation measure a water utility can initiate. Several states, such as Alabama, Arizona, California, and Washington, have laws or regulations that generally require utility water meters for most water service connections. Utility meters at the service connection measure water delivered to a building, but not individual units with in the building.

It does not appear that any states strictly require the installation of utility water meters for each unit of a multi-unit building that would allow each unit to be directly billed by the water company. Texas law requires certain multi-unit buildings built after 2003 to have either

Sandra Norman-Eady, Director
Phone (860) 240-8400
FAX (860) 240-8881
http://www.cga.ct.gov/olr

Connecticut General Assembly
Office of Legislative Research

Room 5300
Legislative Office Building
Hartford, CT 06106-1591
Olr@cga.ct.gov

utility water meters or submeters installed for each unit. With submetering, a submeter, rather than a utility meter, is installed for each unit. The property owner pays the water company for the property's overall usage and then charges each individual unit based on that unit's submetered usage.

A recent Georgia law requires submeters in newly constructed multi-unit buildings and the California legislature is considering a bill with a similar requirement. Local governments have also enacted such requirements.

Connecticut does not require that utility meters or submeters be installed for each unit of a multi-unit building. Proposals for such a requirement could consider (1) how broadly the requirement would apply, (2) the extent to which such a requirement might increase costs and how they will be recovered, and (3) what consumer protection regulations might be needed for submetered tenants.

We are unaware of anything legally preventing the legislature from prohibiting municipal utility companies from using third-party contractors to administer their billing systems. However, if the legislature wished to pursue such a restriction, it might consider allowing existing third-party contracts to expire before the ban takes effect. This may help avoid conflicts with the Constitution's contract clause, which generally prohibits states from passing laws that impair contractual obligations. The legislature may also wish to consider the fiscal impact such a prohibition might have on municipal utility rates.

STATE REQUIREMENTS FOR WATER UTILITY METERS

Several states, including Alabama, Arizona, California, and Washington, have laws or regulations that generally require utility water meters usage for most water service connections.

Alabama

Rule W-13 of the Water Rules of the Alabama Public Service Commission generally requires all water sold by a utility with 100 or more customers to be based on metered volume sales. However, the rule allows the utilities, at their option, to provide flat rate or estimated service for (1) temporary service where the water use can be readily estimated, (2) public and private fire protection, (3) water used for street sprinkling and sewer flushing under certain circumstances, and (4) other flat rate service arrangement that must be approved by the commission.

Arizona

The Arizona Corporation Commission's Rules on Water requires all water delivered by a regulated water utility to be billed on the basis of metered volume sales. As in Alabama, Arizona's regulations allow the utility, at its option, to provide a fixed charge schedule for (1) temporary service where water use can be readily estimated, (2) public and private fire protection, (3) water used for street sprinkling and sewer flushing under certain circumstances, and (4) other fixed charge schedules approved by the commission (Ariz. Admin. Code, Title 14, Article 4, R14-2-408).

California

California law has generally required utility water meters for all new water service connections installed since 1992. In 2004, the state expanded this requirement to pre-existing connections by requiring all urban water suppliers (public or private water companies serving at least 3,000 customers) to install utility water meters on all of their water service connections. The suppliers that receive water from the federal Central Valley Project had to meet this requirement by January 1, 2013 and begin charging their customers based on the actual volume of water delivered by March 1, 2013. Other urban water suppliers must install utility meters on all of their service connections by January 1, 2025. Starting January 1, 2010, their charges for any customer with a metered connection must be based on the actual volume of water delivered, as measured by the water meter. The law allows the water companies to recover their related costs through rates, fees, or charges (California Water Code, §§ 525-527).

Washington

Enacted in 2003, Washington's Municipal Water Law requires all municipal water suppliers (public and private water utilities serving at least 15 residential connections) to have meters on all of their service connections by January 2017. Among other things, the law also dealt with water rights, water system planning, and other efficiency-related initiatives.

WATER METERS AND SUBMETERS FOR MULTI-UNIT BUILDINGS

It does not appear that any states strictly require each unit in a multi-unit building to have a utility water meter so that each unit can be billed directly by the water company. Texas law requires certain multi-unit buildings built since 2003 to provide for either direct utility metering or

submetering. Georgia requires submeters for newly constructed multi-unit buildings and California is currently considering a bill that would create a similar requirement. Local governments have also enacted metering and submetering requirements.

Texas

The Texas Water Code requires each unit in a building with five or more residential units built after January 1, 2003 to have either an individual water utility meter or submeter. If feasible, it requires water companies to install individual meters in such buildings at the building owner's request. The water company can charge reasonable costs for installing the meters. If the water company determines that installing these meters is not feasible, the law requires the property owner to install a plumbing system compatible with submeters.

For submetering multi-unit property owners, the state's water code limits submetering charges on tenants to (1) the cost per gallon and applicable taxes and surcharges charged by the water company, (2) a late fee up to five percent of the late bill, and (3) a service charge of up to nine percent of the costs related to submetering allocated to each submetered unit. The code also requires (1) the property owners to maintain adequate records and make them available to tenants and (2) submeters to meet certain standards for accuracy, testing, and record keeping (Texas Water Code §§ 13.501-13.506).

Georgia

Among other things, Georgia's 2010 Water Stewardship Act requires sub-metering of each new multi-unit residential building and certain retail and light industrial buildings granted a construction permit after July 1, 2012. Tenants in these new buildings must be charged for water and wastewater use based on their measured usage. The act also encourages, but does not require the installation of sub-meters in existing multi-unit buildings and for any office components of newly constructed multi-unit buildings.

The act also (1) allows an affected building's owner to seek reimbursement from tenants for common area water usage through an allocation based formula, (2) allows the owner to charge a reasonable fee for establishing, servicing, and billing the tenant's water service, (3) allows water companies to charge for submeter installations, (4) relieves owners from liability that results from billing or meter-reading errors by an unaffiliated third-party, and (5) allows the requirement to be temporarily waived under certain circumstances.

California SB 750

If enacted, California's SB 750, would require the state's water companies to install water submeters for each unit of a multi-unit building built after January 1, 2015. The bill has passed the state Senate and is currently being considered by the state Assembly.

Among other things, the bill also:

1. requires multi-unit landlords to bill tenants for the volume of water they use;

2. exempts low-income housing, student dormitories, long-term health care facilities, time-share properties, and residential care facilities;

3. excludes water companies from ensuring compliance with installation, certification, maintenance, and testing of submeters;

4. establishes tenant protections, including notification requirements;

5. requires submetered water bills to be calculated by multiplying the water volume determined by the submeter for the billing period by the water company's rate for volumetric usage;

6. limits submetered bills to charges for (a) volumetric use, (b) a portion of the water company's fixed charges, (c) a fee for the landlord's billing costs capped at $4.00, and (d) a late fee, if applicable; and

7. requires a landlord to repair malfunctioning water systems in an individual unit.

Local Laws

Local governments such as Boone, North Carolina, DeKalb County, Georgia, and San Diego, California, and have also enacted ordinances requiring submeter installations in new construction.

Boone, North Carolina, which operates a municipal water system, has a local ordinance that requires all new multi-unit developments and buildings with major renovations to have individual water utility meters for each unit. These meters would allow each metered unit to be billed directly by the municipal water system.

DeKalb County, Georgia, which provides public water service, enacted an ordinance in 2008 that requires submeters for any water supplied to a multi-unit residential building built after June 1, 2008. It allows multi-unit property owners or landlords to use the submeters to bill each tenant for their actual water use. It also requires water meters for any single family residence or condominium built after July 1, 2008.

San Diego, California enacted an ordinance in 2010, similar to California's SB 750, that requires submeters to be installed in (1) every new multi-unit building with at least three residential units and (2) an existing multi-unit building with at least three residential units, whenever the entire potable water supply piping is being replaced. It exempts existing multi-unit buildings with individual units that are served by more than one cold water riser and one hot water riser system.

San Diego's ordinance also regulates submetered billing by, among other things, (1) requiring monthly or bi-monthly billing, (2) requiring fixed charges to be allocated equally among units, (3) requiring variable charges to be charged at the same rate as in the water utility's bill, (4) allowing an administrative fee up to $4.00 per month, (5) allowing a late fee up to $10.00 per billing cycle, and (6) setting bill content and notification requirements.

Policy Considerations in Connecticut

Connecticut law does not strictly require utility water meter or submeter usage. It allows an investor-owned water company to require meter usage by a customer who has been notified of, and failed to make repairs to, fixtures that are wasting water (CGS § 16-260). State regulations require all water sales by the companies to be based on meter measurements or as otherwise provided for in the company's rate schedules. Submetering is allowed only with the Public Utilities Regulatory Authority's permission (Conn. Agencies Reg., § 16-11-55).

If the legislature sought to require the installation of water utility meters in future multi-unit construction projects, it may want to consider if the requirement would apply to:

1. buildings with a certain number of units;

2. residential, commercial, or mixed-use buildings;

3. certain buildings such as low-income housing, student dormitories, long-term health care facilities, time-share properties, and residential care facilities; and

4. investor-owned or public water utilities, or both.

The legislature may also want to consider if it should account for certain engineering, logistic, and financial issues which could accompany such a requirement. For example, according to the East Bay Municipal Utility District's *Watersmart Guidebook*, if each unit in a building has its own water heater, each unit is served by one cold-water line and can be served by one meter. However, if the building uses a common water heater for all the units, then each unit is served by two water lines and would need two meters to account for its total water use. In such an instance, the costs for the meters would more than double because the meter required for the hot water line can cost significantly more than a meter for a cold water line.

Installing individual-unit meters for buildings over three stories high could also pose engineering problems that could require (1) dedicated utility rooms for banks of meters and (2) allowing for water company access to read and service the meters and lines, all of which could increase a project's costs. The legislature could consider how such meter-related cost increases should be allocated and if they should be publicly subsidized.

Similar issues could arise if the legislature sought to require the installation of water submeters in future multi-unit construction projects. With submetering, it may also want to consider the extent to which multi-unit property owners should be:

1. considered water utility companies selling water to customers and correspondingly regulated;

2. required to register or receive approval from a regulating entity before submetering;

3. allowed to charge any service, administrative, or late fees;

4. allowed to charge for water used in common areas or landscaping;

5. allowed to terminate service to a unit;

6. held liable for service- or billing-related issues;

7. subject to notice and record keeping requirements; or

8. subject to meter testing requirements.

HYPERLINKS

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