

# ASSEMBLY, No. 2216

## STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED FEBRUARY 11, 2010

**Sponsored by:**

**Assemblyman JOHN F. MCKEON**

**District 27 (Essex)**

**Assemblyman DAVID P. RIBLE**

**District 11 (Monmouth)**

**Co-Sponsored by:**

**Assemblywoman Vandervalk, Assemblyman Bramnick and  
Assemblywoman N.Munoz**

**SYNOPSIS**

Permits water supply service and sewerage service sub-metering in multi-family dwellings to promote water conservation.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 9/17/2010)**

1 AN ACT concerning the sub-metering of water consumption in  
2 multiple dwellings, and supplementing Title 55 of the Revised  
3 Statutes.

4

5 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
6 *of New Jersey:*

7

8 1. This act shall be known and may be cited as the "Water  
9 Conservation and Metering Act."

10

11 2. The Legislature finds and declares that the conservation of  
12 water resources is vitally important to the future of our State.

13 The Legislature further finds and declares that in order to  
14 enhance the conservation of water resources, it is necessary to grant  
15 specific authority to apartment owners for the sub-metering of water  
16 supply service and sewerage service provided to tenants of multi-  
17 family dwellings throughout the State.

18 The Legislature therefore determines that it is appropriate for the  
19 Department of Community Affairs, which has extensive regulatory  
20 authority over multi-family housing, to adopt, in consultation with  
21 the Department of Environmental Protection, rules and regulations  
22 governing the installation and use of sub-metering as a water  
23 conservation method.

24

25 3. As used in this act:

26 "Dwelling unit" means an individual residential unit in a multi-  
27 family dwelling.

28 "Local government unit" means (1) a State authority, district  
29 water supply commission, county, municipality, municipal, county  
30 or regional utilities authority, municipal water district, joint meeting  
31 or any other political subdivision of the State authorized pursuant to  
32 law to operate or maintain a public water supply system or to  
33 construct, rehabilitate, operate or maintain water supply facilities or  
34 otherwise provide water for human consumption, or (2) a State  
35 authority, county, municipality, municipal, county or regional  
36 sewerage or utility authority, municipal sewerage district, joint  
37 meeting, improvement authority, or any other political subdivision  
38 of the State authorized to construct, operate and maintain a  
39 wastewater treatment system.

40 "Multi-family dwelling" means any building or structure or  
41 complex of buildings or structures in which three or more dwelling  
42 units are rented or leased or offered for rental or lease for  
43 residential purposes except hotels, motels or other guesthouses  
44 serving transient or seasonal guests as those terms are defined in  
45 section 3 of the "Hotel and Multiple Dwelling Law," P.L.1967, c.76  
46 (C.55:13A-3).

47 "Owner" means the legal titleholder of a multi-family dwelling,  
48 including any individual, corporation, company, partnership, firm,

1 association or other business concern that purports to be the  
2 landlord of tenants in the multi-family dwelling.

3 "Sub-metering" means the use of a metering device or metering  
4 devices by an owner that receives water supply service or sewerage  
5 service from a local government unit or water purveyor, which metering  
6 device measures water supplied to a tenant for the purpose of  
7 measuring the tenant's actual consumption and the charging of the  
8 tenant of a dwelling unit separately for water supply service and  
9 sewerage service.

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

13 "Water purveyor" means any investor-owned water company or  
14 small water company that owns or operates a public water system.

15

16 4. a. Any owner may provide for sub-metering of each  
17 dwelling unit measuring the total or partial quantity of water  
18 consumed by the tenants. Tenants may be billed for water supply  
19 service or sewerage service, or both, provided that the sub-meter or  
20 sub-meters installed for each dwelling unit shall measure the total  
21 or partial use of the water consumed in the dwelling unit, which  
22 amount shall be multiplied by the applicable water supply service  
23 charges or sewerage service charges, or a calculation based on those  
24 rates, as charged by the local government unit or water purveyor, as  
25 appropriate, servicing the multi-family dwelling. In no event shall  
26 the tenants be charged more in total than the owner's total water  
27 supply service charges or sewerage service charges by the local  
28 government unit or water purveyor, as appropriate.

29 In no event shall a tenant be charged more in total than that  
30 tenant's measured total water supply service or sewerage service, or  
31 both, as appropriate, to the dwelling unit as measured by the  
32 metering device or devices in that tenant's dwelling unit.

33 b. Any multi-family dwelling owner utilizing the authority  
34 conferred in subsection a. of this section shall disclose in a clear  
35 and conspicuous manner in the lease such sub-metering to each  
36 tenant, and shall include a description in plain language of the  
37 billing method used.

38 c. All sub-meters installed pursuant to this section shall meet  
39 accuracy and testing standards of the American Society of  
40 Mechanical Engineers, the American National Standards Institute,  
41 the American Water Works Association, the National Institute of  
42 Standards and Technology, or the International Association of  
43 Plumbing and Mechanical Officials, as defined in rules and  
44 regulations adopted by the Department of Community Affairs  
45 pursuant to section 6 of this act.

46 d. Bills sent to tenants shall include the following items:

- 47 (1) opening and closing measurements;  
48 (2) description of charges and billing method; and

- 1 (3) identification of the billing company, including a toll-free  
2 number and website for tenants to use for questions regarding the  
3 bill.
- 4 e. The cost of the installation of the sub-meter shall not be  
5 passed on to the tenant.
- 6 f. Water supply service charges or sewerage service charges  
7 relating to sub-metering shall be exempted from any local rent  
8 control ordinance governing allowable increases.
- 9 g. An owner shall respond to any tenant's report of a leak in a  
10 plumbing line or fixture on the tenant's side of the sub-meter in a  
11 dwelling unit within 24 hours after the tenant reporting, verbally  
12 and in writing, the suspected leak to the owner. If the owner does  
13 not respond as required pursuant to this subsection, and does not  
14 substantially complete the necessary repair work within one week,  
15 the tenant shall receive a credit from the owner in an amount that is  
16 calculated as follows: the bill for water supply service or sewerage  
17 service, or both, as appropriate, in the monthly billing cycle when  
18 the leak was identified less the lowest water bill from the three prior  
19 months.
- 20 h. A dispute regarding the amount of water supply service  
21 charges or sewerage service charges or billing method relating to  
22 sub-metering shall be resolved as follows:
- 23 (1) The tenant shall notify the billing company of the nature and  
24 reason for the dispute by calling the toll-free number shown on the  
25 bill, or in writing to the billing company, within 30 days after  
26 receiving the bill. The tenant shall have a good faith basis for any  
27 such dispute;
- 28 (2) Within 15 days after receiving notice of a billing dispute, the  
29 billing company shall contact the tenant to discuss the dispute, and  
30 the billing company and the tenant shall determine the amount of  
31 disputed and undisputed charges. The tenant shall pay all  
32 undisputed charges within 30 days after reaching agreement with  
33 the billing company regarding the amount;
- 34 (3) The billing company shall investigate the matter and report  
35 the results of investigation to the owner of the multi-family  
36 dwelling and the tenant in writing, within 30 days following  
37 completion of the investigation;
- 38 (4) If a resolution is not reached following the investigation and  
39 report by the billing company, the tenant and the billing company  
40 shall continue to discuss in good faith any remaining disputed  
41 amount and attempt to reach an agreement on the amount due, if  
42 any, within 60 days after the billing company's receipt of notice of  
43 a billing dispute; and
- 44 (5) At the conclusion of the 60-day extended billing dispute  
45 period pursuant to paragraph (4) of this subsection, the billing  
46 company shall itemize, in writing, any total charges outstanding,  
47 and provide the tenant with 30 additional days to pay the remaining  
48 charges. At the conclusion of this 30-day period, if the remaining

1 charges have not been paid, the billing company shall forward the  
2 itemized list of charges to the owner of the multi-family dwelling.  
3 After receipt of the list from the billing company, the owner may  
4 choose to exercise available legal remedies to collect the amount  
5 due, provided however, that nothing in this subsection shall be  
6 construed to limit a tenant's right to present any legal or equitable  
7 defense, and for the court to consider such a defense before issuing  
8 a judgment.

9 i. If a tenant requests that the sub-meter or sub-meters installed  
10 in the dwelling unit be checked for accuracy, the tenant shall be  
11 entitled to one meter test, free of charge, every two years.  
12 Following this free meter test, the tenant shall be charged no more  
13 than the actual cost incurred by the billing company for any  
14 additional tests requested. The billing company shall furnish both  
15 the owner of the multi-family dwelling and the tenant with a written  
16 report of the meter test results.

17 Each sub-meter must read within the tolerances allowed under  
18 the accuracy standards set forth in subsection c. of this section, or  
19 the sub-meter shall be replaced free of charge, and the tenant shall  
20 receive a credit in an amount that is calculated as follows: the bill  
21 for water supply service or sewerage service, or both, as  
22 appropriate, for the monthly billing cycle in which the sub-meter  
23 identified did not meet the tolerances set forth in subsection c. of  
24 this section, less the lowest bill from the three prior months.

25 If a tenant continues to have a good faith basis to contest the  
26 accuracy of the sub-meter after testing by the billing company  
27 pursuant to this subsection, the tenant may file a complaint, in  
28 writing, with the Department of Community Affairs, Bureau of  
29 Housing Inspection. The tenant shall include all available  
30 documents and relevant information in filing a complaint.

31 j. Sub-metering technology may be installed at any time during  
32 the tenancy, and sub-metering billing shall be permitted  
33 immediately upon the date of enactment of this act, except as  
34 follows:

35 (1) Billing for a dwelling unit occupied by a tenant in a multi-  
36 family dwelling that is not subject to rent control or that is subject  
37 to rent control whenever the ordinance allows for water supply  
38 service charges or sewerage service charges, or both, as appropriate,  
39 to be passed through to the tenant shall not commence until the  
40 renewal date of the lease, and provided that statements for six  
41 billing cycles shall have been sent to the tenant by the owner, or the  
42 owner's billing company, without charge for six consecutive  
43 months, informing the tenant what the tenant's water supply service  
44 charges or sewerage service charges and administrative fees would  
45 have been had the tenant been receiving actual bills; or

46 (2) Billing for a dwelling unit occupied by a tenant in a multi-  
47 family dwelling that is subject to rent control shall not commence  
48 until the renewal date of the lease, and provided that statements for

1 six billing cycles shall have been sent to the tenant by the owner, or  
2 the owner's billing company, without charge for six consecutive  
3 months, informing the tenant what the tenant's water supply service  
4 charges or sewerage service charges and administrative fees would  
5 have been had the tenant been receiving actual bills. At the initial  
6 lease renewal when sub-metering is initiated, the owner of each  
7 multi-family dwelling subject to rent control shall give each tenant  
8 a one-time rent reduction, pursuant to a formula adopted by the  
9 Department of Community Affairs in the rules and regulations  
10 required by section 6 of this act, for the term of the initial lease  
11 renewal when sub-metering is initiated, equal to the anticipated  
12 monthly charge for the water supply service charges or sewerage  
13 service charges, or both, as appropriate. After the reduction in rent  
14 required pursuant to this paragraph, the owner shall be entitled to  
15 the normal rent increase allowed by the applicable rent control  
16 ordinance provided that the rent increase is based on the amount of  
17 the reduced rent as provided by this paragraph.

18 k An owner of a multi-family dwelling constructed prior to  
19 January 1, 1994 who uses sub-metering shall implement the  
20 following water savings program in each sub-metered dwelling unit:

21 (1) before sub-metering billing commences at the multi-family  
22 dwelling:

23 (a) the owner's property management staff shall conduct a visual  
24 inspection for leaking fixtures on the tenant's side of the sub-meter  
25 in each dwelling unit at the multi-family dwelling; and

26 (b) the owner shall install or have previously installed in each  
27 shower within each sub-metered dwelling unit a low-flow shower  
28 fixture that does not exceed 2.5 gallons per minute; and

29 (2) within two years after the date that sub-metering billing  
30 commences at the multi-family dwelling the owner shall install or  
31 have previously installed in each bathroom within each sub-metered  
32 dwelling unit a toilet that does not exceed 3.5 gallons per flush.

33

34 5. An owner who, prior to the date of enactment of this act,  
35 uses sub-metering and bills tenants subject to a written agreement  
36 with the tenant that recognizes the owner's right to bill the tenant  
37 for water supply service charges or sewerage service charges, or  
38 both, is permitted to continue sub-metering and billing tenants  
39 without complying with the requirements set forth in subsections j.  
40 and k. of section 4 of this act, provided that the owner otherwise  
41 complies with the provisions of this act.

42

43 6. The Department of Community Affairs, in consultation with  
44 the Department of Environmental Protection and the Division of  
45 Consumer Affairs in the Department of Law and Public Safety,  
46 shall adopt, within 120 days after the effective date of this act and  
47 pursuant to the "Administrative Procedure Act," P.L.1968, c.410

1 (C.52:14B-1 et seq.), rules and regulations as are necessary to  
2 effectuate the purposes of this act.

3 These rules and regulations shall: include a formula as required  
4 pursuant to paragraph (2) of subsection j. of section 4 of this act  
5 providing a rent reduction, for the term of the initial lease renewal  
6 when sub-metering is initiated, equal to the anticipated monthly  
7 charge for the water supply service charges or sewerage service  
8 charges, or both, as appropriate; require periodic inspections of sub-  
9 meters installed pursuant to this act to ensure that the sub-meters  
10 accurately measure the water consumed in the dwelling unit; and  
11 provide a process for a tenant to appeal water supply service  
12 charges or sewerage service charges, or both, as appropriate, in the  
13 case of overcharges by the owner.

14

15 7. This act shall take effect immediately.

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#### STATEMENT

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20 This bill permits the sub-metering of water consumption in  
21 multi-family dwellings to promote water conservation. The bill  
22 permits the owner of any multi-family dwelling with three or more  
23 leased dwelling units to provide for sub-metering of each dwelling  
24 unit for the total or partial quantity of water consumed by the  
25 tenants.

26 Tenants may be billed for water supply service or sewerage  
27 service, or both. The bill requires that the sub-meter or sub-meters  
28 installed for each dwelling unit measure the total or partial use of  
29 the water consumed in the dwelling unit, which amount would be  
30 multiplied by the applicable water supply service charges or  
31 sewerage service charges, or a calculation based on those rates, as  
32 charged by the utility or utilities servicing the multi-family  
33 dwelling. In no event would the tenants be charged more in total  
34 than the owner's total water supply service charges or sewerage  
35 service charges by the local government unit or water purveyor, as  
36 appropriate. In addition, the bill provides that in no event would a  
37 tenant be charged more in total than that tenant's measured total  
38 water service to the dwelling unit as measured by the metering  
39 device or devices in that tenant's dwelling unit.

40 Any multi-family dwelling owner installing a sub-metering  
41 system must disclose this information in the lease to each tenant,  
42 and must include a description of the billing method used. The cost  
43 of the installation of the sub-meter cannot be passed on to the  
44 tenant.

45 Bills sent to tenants must include the following items: (1) the  
46 opening and closing measurements; (2) a description of charges and  
47 billing method; and (3) the identification of the billing company,

1 including a toll-free number and website for tenants to use for billing  
2 questions.

3 The bill requires an owner to respond to any tenant's report of a  
4 leak in a plumbing line or fixture on the tenant's side of the sub-  
5 meter in a dwelling unit within 24 hours after the tenant reporting,  
6 verbally and in writing, the suspected leak to the owner. If the  
7 owner does not respond within this time period, and does not  
8 substantially complete the necessary repair work within one week,  
9 the bill provides that the tenant shall receive a credit from the  
10 owner in an amount equal to the bill for water supply service or  
11 sewerage service, or both, as appropriate, in the monthly billing  
12 cycle when the leak was identified less the lowest water bill from  
13 the three prior months.

14 The bill provides that all water supply service charges or  
15 sewerage service charges relating to sub-metering would be  
16 exempted from any local rent control ordinance governing  
17 allowable increases.

18 The bill includes, in subsection h. of section 4 of the bill, a  
19 process for the resolution of billing disputes. The bill also includes,  
20 in subsection i of section 4 of the bill, meter testing procedures and  
21 provides for a credit to be issued to a tenant if a meter is not within  
22 the accepted accuracy standards as set forth in the bill.

23 Sub-metering technology may be installed at any time during the  
24 tenancy, and sub-metering billing shall be permitted immediately  
25 upon the date of enactment of this bill into law, except as follows:

26 (1) Billing for a dwelling unit occupied by a tenant in a multi-  
27 family dwelling that is not subject to rent control or that is subject  
28 to rent control whenever the ordinance allows for water supply  
29 service charges or sewerage service charges, or both, as appropriate,  
30 to be "passed through" to the tenant shall not commence until the  
31 renewal date of the lease, and provided that statements for six  
32 billing cycles shall have been sent to the tenant by the owner, or the  
33 owner's billing company, without charge for six consecutive  
34 months, informing the tenant what the water supply service charges  
35 or sewerage service charges and administrative fees would have  
36 been had the tenant been receiving actual bills; or

37 (2) Billing for a dwelling unit occupied by a tenant in a multi-  
38 family dwelling that is subject to rent control shall not commence  
39 until the renewal date of the lease, and provided that statements for  
40 six billing cycles shall have been sent to the tenant by the owner, or  
41 the owner's billing company, without charge for six consecutive  
42 months, informing the tenant what the water supply service charges  
43 or sewerage service charges and administrative fees would have  
44 been had the tenant been receiving actual bills. At the initial lease  
45 renewal when sub-metering is initiated, the owner of each multi-  
46 family dwelling subject to rent control shall give each tenant a one-  
47 time rent reduction pursuant to a formula required by the bill that  
48 provides tenants with a rent reduction, for the term of the initial



1 lease when sub-metering is initiated, equal to the anticipated  
2 monthly charge for the water supply service charges or sewerage  
3 service charges, or both, as appropriate. After this reduction in rent,  
4 the owner shall be entitled to the normal rent increase allowed by  
5 the applicable rent control ordinance, provided that the rent increase  
6 is based on the amount of the reduced rent.

7 The bill requires an owner of a multi-family dwelling  
8 constructed prior to January 1, 1994 that uses sub-metering to  
9 implement a water savings program in each sub-metered dwelling  
10 unit. The water savings program requires that before sub-metering  
11 billing commences at the multi-family dwelling: (1) the owner's  
12 property management staff conduct a visual inspection for leaking  
13 fixtures on the tenant's side of the sub-meter in each dwelling unit  
14 at the multi-family dwelling; and (2) the owner install or have  
15 previously installed in each shower within each sub-metered  
16 dwelling unit a low-flow shower fixture that does not exceed 2.5  
17 gallons per minute. In addition, the water savings program  
18 requires, within two years after the date that sub-metering billing  
19 commences at the multi-family dwelling, that the owner install or  
20 have previously installed in each bathroom within each sub-metered  
21 dwelling unit a toilet that does not exceed 3.5 gallons per flush.

22 The bill allows an owner who, prior to the date of enactment of  
23 this bill into law, uses sub-metering and bills tenants subject to a  
24 written agreement with the tenant that recognizes the owner's right  
25 to bill the tenant for water supply service or sewerage service, or  
26 both, to continue sub-metering and billing tenants without  
27 complying with the requirements of subsections j. and k. of section  
28 4 of the bill.

29 Lastly, the bill requires the Department of Community Affairs  
30 (DCA), in consultation with the Department of Environmental  
31 Protection (DEP) and the Division of Consumer Affairs in the  
32 Department of Law and Public Safety, to adopt rules and  
33 regulations to implement the provisions of the bill. The bill  
34 requires these rules and regulations to: (1) include a formula as  
35 required pursuant to paragraph (2) of subsection j. of section 4 of  
36 the bill providing a rent reduction, for the term of the initial lease  
37 renewal when sub-metering is initiated, equal to the anticipated  
38 monthly charge for the water supply service charges or sewerage  
39 service charges, or both, as appropriate; (2) require periodic  
40 inspections of sub-meters installed pursuant to this act to ensure  
41 that the sub-meters accurately measure the water consumed in the  
42 dwelling unit; and (3) provide a process for a tenant to appeal water  
43 supply service charges or sewerage service charges, or both, as  
44 appropriate, in the case of overcharges by the owner.