

AMENDED IN ASSEMBLY APRIL 15, 2011

AMENDED IN ASSEMBLY MARCH 23, 2011

AMENDED IN ASSEMBLY MARCH 17, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 19**

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**Introduced by Assembly Member Fong**

December 6, 2010

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An act to add *Chapter 4.2 (commencing with Section 1963.010) to Title 5 of Part 4 of Division 3 of the Civil Code, and to add Chapter 8.5 (commencing with Section 537) to Division 1 of the Water Code, relating to water.*

LEGISLATIVE COUNSEL'S DIGEST

AB 19, as amended, Fong. Building standards: water meters: multiunit structures.

The Water Measurement Law requires every water purveyor to require, as a condition of new water service on and after January 1, 1992, the installation of a water meter to measure water service. That law also requires urban water suppliers to install water meters on specified service connections, and to charge water users based on the actual volume of deliveries as measured by those water meters in accordance with a certain timetable.

This bill would require a water purveyor that provides water service to a newly constructed multiunit residential structure or newly constructed mixed-use residential and commercial structure, *including a structure that is part of a common interest development*, that submits an application for a water connection after January 1, 2014, to ~~either~~ adopt a general policy to require the installation of either a water meter,

~~as defined, or a submeter, as defined, to measure water supplied to each individual dwelling unit, or to inform, on an individual basis, an applicant for new water service as to whether a water meter or submeter is required to be installed for each individual dwelling unit~~ *require the installation of a water meter or submeter to measure the water supplied to each individual dwelling unit as a condition of new water service.* The bill would require the owner of the structure to ensure that a water submeter installed for these purposes complies with laws and regulations governing installation, approval of meter type, maintenance, reading, billing, and testing of water submeters. The bill would ~~except~~ *exempt* certain buildings from these requirements.

*Existing law governs the hiring of dwelling units.*

*The bill would impose prescribed requirements, including requirements for billing and disclosure, on landlords for submetered water service to individual dwelling units.*

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     *SECTION 1. Chapter 4.2 (commencing with Section 1963.010)*  
2     *is added to Title 5 of Part 4 of Division 3 of the Civil Code, to*  
3     *read:*

4  
5                     *CHAPTER 4.2. WATER SERVICE*  
6

7     *1963.010. It is the intent of the Legislature in enacting this*  
8     *chapter to do both of the following:*

9     *(a) To encourage the conservation of water in multifamily*  
10    *residential rental buildings through means either within the*  
11    *landlord’s or the tenant’s control.*

12    *(b) To ensure that the practices involving the submetering of*  
13    *dwelling units for water service are just and reasonable, and*  
14    *include appropriate safeguards for both tenants and landlords.*

15    *1963.020. As used in this chapter:*

16    *(a) “Billing agent” means a person or entity who contracts to*  
17    *provide submetering services to a landlord, including billing.*

18    *(b) “Landlord” includes all agents of the landlord, billing*  
19    *agents, successors in interest to the real property interests of the*  
20    *landlord, and persons and entities with which the landlord*

1 *contracts for billing, meter reading, meter maintenance or repair,*  
2 *or other services in connection with imposing water or sewage*  
3 *service charges. “Landlord” does not include a tenant who rents*  
4 *all or a portion of a dwelling unit to subtenants.*

5 *(c) “Property” means real property containing two or more*  
6 *dwelling units that is served by a single meter.*

7 *(d) “Rental agreement” includes a fixed-term lease.*

8 *(e) “Renting” includes leasing, whether on a periodic or*  
9 *fixed-term basis.*

10 *(f) “Submeter” means a device that measures water consumption*  
11 *of an individual rental unit within a multiunit residential structure*  
12 *or mixed-use residential and commercial structure, and which is*  
13 *owned and operated by the landlord. “Submeter” includes*  
14 *submeters, if more than one submeter is being used to measure*  
15 *water usage in a particular dwelling unit.*

16 *(g) “Water service” includes any charges for other services,*  
17 *including sewage or storm water services, that are based on*  
18 *charges for water service.*

19 *(h) “Water purveyor” means a water purveyor as defined in*  
20 *Section 512 of the Water Code. A landlord complying with the*  
21 *provisions of this chapter shall not be considered a water purveyor.*

22 *1963.030. A landlord shall not charge tenants separately for*  
23 *water service unless the water and submetering system is installed,*  
24 *operated, and maintained as follows:*

25 *(a) The submeter is certified for commercial purposes pursuant*  
26 *to law, including, but not limited to, Section 12500.5 of the*  
27 *Business and Professions Code.*

28 *(b) The installation conforms to all laws, including, but not*  
29 *limited to, regulations established pursuant to Section 12107 of*  
30 *the Business and Professions Code.*

31 *(c) The installation was performed by a licensed service*  
32 *provider.*

33 *(d) The submeter is operated in compliance with regulations*  
34 *established pursuant to Section 12107 of the Business and*  
35 *Professions Code.*

36 *(e) The submeter for a dwelling unit measures only water that*  
37 *is supplied for the exclusive use of the particular dwelling unit*  
38 *and only to an area within the exclusive possession and control*  
39 *of the tenant of the dwelling unit.*

- 1     (f) *The primary submeter indicator or remote reader may be*
- 2 *easily accessed and read by the tenant of the dwelling unit, and*
- 3 *read by the owner landlord without entering the dwelling unit.*
- 4     (g) *Each submeter is reinspected and recalibrated within the*
- 5 *time limits specified in law or regulation.*
- 6     (h) *The plumbing fixtures conform to all laws regarding*
- 7 *habitability of dwellings and water conservation.*
- 8     (i) *This section shall not be construed to require a water*
- 9 *purveyor to assume responsibility for ensuring compliance with*
- 10 *any law or regulation governing installation, certification,*
- 11 *maintenance, and testing of water submeters and associated onsite*
- 12 *plumbing.*
- 13     1963.040. *Prior to executing a rental agreement, the landlord*
- 14 *shall clearly disclose the following to the tenant, in writing, in at*
- 15 *least 10-point type, which may be incorporated into the rental*
- 16 *agreement:*
- 17     (a) *The tenant will be billed for water usage separately from*
- 18 *the rent.*
- 19     (b) *The average bill for water usage for units at the property*
- 20 *over the most recent calendar year, or portion thereof if the*
- 21 *building is less than one year old.*
- 22     (d) *The frequency of submeter readings.*
- 23     (e) *The due dates and payment procedures for bills.*
- 24     (f) *If a billing agent is used, the name, address, e-mail address,*
- 25 *normal hours of operation, and toll-free telephone number of the*
- 26 *agent.*
- 27     (g) *The date the submeter was last tested and calibrated, and*
- 28 *the date by which it must be retested and recalibrated under law.*
- 29     (h) *A statement in substantially the following form:*
- 30     *The landlord (or name of landlord) shall charge you (or name*
- 31 *of tenant, or term used in the rental agreement for the tenant) for*
- 32 *water use at the same rate that the (purveyor) bills its customers*
- 33 *for residential use. To find out what the rate charged by (purveyor)*
- 34 *is, contact (purveyor) at (address), (telephone number).*
- 35     (i) *A statement that the tenant shall only be charged for actual*
- 36 *water usage at the exact rate(s) charged by the water purveyor*
- 37 *servicing the building for volumetric water usage, and that no*
- 38 *other administrative, connection, disconnection, billing, or other*
- 39 *periodic fee or charge may be assessed, other than a late fee. If*

1 *the landlord reserves the right to charge a late fee, the amount*  
2 *and terms of the late fee shall also be disclosed.*

3 *(j) The location of the submeter, and the directions for the tenant*  
4 *to read the submeter.*

5 *1963.050. (a) A landlord shall bill a tenant only for volumetric*  
6 *usage of water. The landlord shall not impose any periodic,*  
7 *connection, termination, or other fee, however denominated, except*  
8 *for late fees or testing fees as provided in this chapter.*

9 *(b) The amount of the bill shall be calculated by multiplying the*  
10 *water volume, as determined by the submeter for the billing period*  
11 *in question, times the rate(s) for volumetric usage established by*  
12 *the water purveyor for residential use.*

13 *(c) If the rates established by the water purveyor change, the*  
14 *bill shall be prorated to reflect the time each rate was in effect. At*  
15 *the landlord's option, the landlord may assess charges for the*  
16 *entire billing period based on the lower rate.*

17 *(d) If a beginning or ending submeter reading is, in good faith,*  
18 *not available, the landlord may bill the tenant 75 percent of the*  
19 *amount originally disclosed to the tenant under subdivision (b) of*  
20 *Section 1963.040.*

21 *(e) No charges shall be imposed under this chapter if readings*  
22 *have been unavailable for more than three months.*

23 *1963.060. (a) The billing cycle shall match that of the water*  
24 *purveyor.*

25 *(b) Submeters shall normally be read at the same point in each*  
26 *billing cycle. Submeters may be read within three days of the*  
27 *normal date.*

28 *(c) Bills shall be due at the same point in each billing cycle.*  
29 *However, bills shall be due no earlier than five days after mailing,*  
30 *if mailed, or one day after personal delivery.*

31 *(d) Bills shall include the following information:*

32 *(1) The beginning and ending submeter readings, the dates*  
33 *read, and the indicated consumption.*

34 *(2) The unit of measure for the readings and usage.*

35 *(3) The rate(s) charged per unit of measure.*

36 *(4) The amount of the current charges.*

37 *(5) A separate entry showing past due amounts, if any.*

38 *(6) A separate entry showing any previously-imposed late*  
39 *charges.*

40 *(7) The total amount due.*

1 (8) *The due date for the bill.*

2 (9) *A statement of the amount of late charges, if any, and when*  
 3 *the late charges would apply. Late charges shall be imposed*  
 4 *pursuant to Section 1963.110.*

5 (10) *The name, mailing address, e-mail address, telephone*  
 6 *number, and the regular business hours of the person or persons*  
 7 *the tenant may call with questions or concerns, and who is*  
 8 *authorized to make any necessary adjustments. If a billing agent*  
 9 *is used, the name of the entity shall be disclosed and the telephone*  
 10 *number shall be toll-free.*

11 1963.070. *If a tenancy begins or ends on a date more than*  
 12 *three days from than a normal reading, the submeter shall be read*  
 13 *within three days of the beginning or end of the tenancy, and the*  
 14 *first and last bills calculated accordingly. Tenancies beginning or*  
 15 *ending within three days of a normal reading may be billed based*  
 16 *upon the normal reading, for the first or last bills.*

17 1963.080. (a) *A landlord shall not charge or recover, or allow*  
 18 *to be charged or recovered, any of the following:*

19 (1) *Any additional servicing, administrative, establishment,*  
 20 *maintenance, meter reading, meter testing, billing, or submetering*  
 21 *fee or other fee whatsoever, however denominated, including those*  
 22 *charged by a billing agent.*

23 (2) *Any fees billed to the landlord by the water purveyor, billing*  
 24 *agent, or any other person for any deposit, disconnect, reconnect,*  
 25 *late payment, or other similar fees.*

26 (3) *Any charges by the water purveyor not directly based on*  
 27 *volumetric usage, including any base charges, customer service*  
 28 *charges, or monthly, bimonthly, or other periodic charges assessed*  
 29 *regardless of the volume consumed.*

30 (b) *This section does not prohibit a landlord from recovering*  
 31 *any costs listed in subdivision (a) that are incorporated into the*  
 32 *rent for a dwelling unit, if the rent is a fixed amount per rental*  
 33 *period, the charges are not listed separately, and the rental charges*  
 34 *are otherwise lawful.*

35 1963.090. *The landlord shall maintain and make available in*  
 36 *writing, at the tenant's request, within seven days after the request,*  
 37 *the following:*

38 (a) *All installation and maintenance records of the submeter in*  
 39 *the tenant's dwelling unit, including the name, license number,*

1 and contact information of the service provider who installed or  
2 serviced the submeter.

3 (b) The most recent test results of the submeter in the tenant's  
4 dwelling unit.

5 (c) The method and sources used to determine the rate at which  
6 the tenant is charged for water.

7 1963.100. (a) If the water system in a dwelling unit does not  
8 function properly, including leaks, a fixture allowing unnecessary  
9 water consumption, or a malfunctioning submeter, the tenant may  
10 request the landlord to repair the problem. The landlord shall  
11 make the repairs within seven days.

12 (b) A tenant may request that a landlord have a submeter tested  
13 for accuracy. The landlord shall respond to the request within  
14 seven days, and the test shall be carried out as soon as is  
15 practicable. The test shall be performed by a service provider or  
16 other person authorized by law to perform the test. If the test shows  
17 that the submeter is inaccurate beyond the tolerances established  
18 by law, the landlord shall repair or replace it. If the test shows the  
19 submeter was indicating more usage than the true amount, beyond  
20 established tolerances, the landlord shall refund the estimated  
21 overcharge to the tenant within 30 days of receipt of the results.

22 (c) The landlord shall pay for the cost of the test if either:

23 (1) The tenant requests the test because the submeter has  
24 indicated that water usage has increased more than 25 percent  
25 for two consecutive billing periods over the previous three billing  
26 periods.

27 (2) The submeter is found to be inaccurate beyond the tolerances  
28 established by law.

29 (d) The tenant shall pay for the test in all other cases, up to a  
30 maximum of fifty dollars (\$50).

31 (e) The landlord is not required to test a submeter under  
32 subdivision (b), if the submeter was tested and found accurate  
33 within two years prior to the tenant's request, and the landlord  
34 provides the written results of the test to the tenant. However, the  
35 tenant may require the meter to be tested if the tenant pays in  
36 advance for the entire cost of the test.

37 1963.110. (a) A landlord may impose a late fee of up to 5  
38 percent for any bill not paid within 20 days of its due date. If the  
39 20th day falls on a Saturday, Sunday, or holiday, the late fee shall  
40 not be imposed until one day after the extended time for payment.

1 (b) (1) Notwithstanding Section 1950.5, if a bill remains unpaid  
 2 after the time described in subdivision (a) expires, the landlord  
 3 may, in lieu of a late fee, deduct the amount due from the tenant's  
 4 security deposit. The landlord may require an additional deposit  
 5 of security following a deduction, if the deposit would be otherwise  
 6 lawful under Sections 827 and 1950.5.

7 (2) The landlord may also deduct a water bill from the security  
 8 deposit upon the ending of a tenancy, provided that the last water  
 9 bill showing the amount due is attached to the documentation  
 10 required by Section 1950.5, and all the other requirements of that  
 11 section are met.

12 (c) If a bill remains unpaid for 30 days after its due date, the  
 13 nonpayment shall constitute a curable breach of a material lease  
 14 obligation. The landlord may commence actions to remedy the  
 15 breach, as provided in the Code of Civil Procedure.

16 (d) Water charges under the chapter shall not constitute rent.

17 (e) A landlord shall not shut off the water or otherwise interfere  
 18 with the provision of water service to a dwelling unit for any  
 19 reason, including nonpayment of a bill assessed pursuant to this  
 20 chapter.

21 1963.120. A tenant renting to subtenants may opt not to comply  
 22 with this chapter, if the sum total of any separate water charges  
 23 assessed to the subtenants does not exceed the amount paid by the  
 24 master tenant to the landlord under this chapter.

25 1963.130. In addition to actual damages sustained by the tenant  
 26 for a violation of this chapter, the tenant may recover from the  
 27 landlord three times the amount of actual damages, a civil penalty  
 28 equal to one month's rent, reasonable attorney's fees, and court  
 29 costs. However, the landlord is not liable for a civil penalty if the  
 30 landlord proves that the violation was a good faith, unintentional  
 31 mistake.

32 1963.140. A city, county, or district may enforce this chapter.

33 1963.150. The rights or obligations established under this  
 34 chapter shall not be waived. Any purported waiver is void.

35 **SECTION 1.**

36 **SEC. 2.** Chapter 8.5 (commencing with Section 537) is added  
 37 to Division 1 of the Water Code, to read:



CHAPTER 8.5. MULTIUNIT STRUCTURES

537. (a) The following definitions govern the construction of this chapter:

~~(1) “Master meter” means a meter that measures water usage for an entire property or structure, which may include common areas, and is read by the water purveyor.~~

~~(2)~~

(1) “Meter” has the same meaning as “water meter” in Section 516 of the Water Code.

~~(3)~~

(2) “Submeter” means a device that measures water consumption of an individual unit within a ~~master-metered structure~~ *multiunit residential structure or mixed-use residential and commercial structure*, and is read by the owner of the structure or the owner’s agent.

(b) Structures in all of the following categories shall be exempt from ~~the provisions of~~ this chapter:

(1) Low-income housing. For purposes of this paragraph, “low-income housing” means a residential building financed with low-income housing tax credits, tax-exempt mortgage revenue bonds, general obligation bonds, or local, state, or federal loans or grants, for which the rents of the occupants in lower income households, as defined in Section 50079.5 of the Health and Safety Code, do not exceed rents prescribed by deed restrictions or regulatory agreements pursuant to the terms of the financing or financial assistance, and for which not less than 25 percent of the dwelling units within the building are designated for occupancy by lower income households, as defined in Section 50079.5 of the Health and Safety Code.

(2) Student dormitories.

(3) Long-term health care facilities, as defined in Section 1418 of the Health and Safety Code.

(4) Time-share property, as defined in subdivision (aa) of Section 11212 of the Business and Professions Code.

(c) This chapter does not apply to a structure that is greater than four stories in height above grade if the owner, or his or her agent, demonstrates to the satisfaction of the water purveyor that the structure’s plumbing configuration incorporates multiple points

1 of entry in each dwelling unit and renders the installation of  
2 submeters infeasible.

3 (d) A ~~meter or~~ submeter used to measure water supplied to an  
4 individual residential unit that is required to be installed by a water  
5 purveyor pursuant to this chapter, shall be of a type approved  
6 pursuant to Section 12500.5 of the Business and Professions Code,  
7 and shall be installed and operated in compliance with regulations  
8 established pursuant to Section 12107 of the Business and  
9 Professions Code.

10 538. (a) Each water purveyor that sells, leases, rents, furnishes,  
11 or delivers water service to a newly constructed multiunit  
12 residential structure or newly constructed mixed-use residential  
13 and commercial structure for which an application for a water  
14 connection, or more than one connection, is submitted after January  
15 1, 2014, shall require the installation of a water meter or submeter  
16 to measure the water supplied to each individual dwelling unit as  
17 a condition of new water service by doing either of the following:

18 ~~(1) Adopt a general policy to determine when the installation~~  
19 ~~of either a water meter or submeter to measure water supplied to~~  
20 ~~each individual dwelling unit shall be required. The water purveyor~~  
21 ~~shall inform all local building departments within its service area~~  
22 ~~of the policy.~~

23 ~~(2) On an individual basis, and upon receipt of an application~~  
24 ~~for new water service to the structure, inform the applicant, and~~  
25 ~~the appropriate local building department, as to whether a water~~  
26 ~~meter or submeter is required to be installed to measure water~~  
27 ~~supplied to each individual dwelling unit in the structure. a~~  
28 ~~condition of new water service.~~

29 (b) (1) If the water purveyor requires installation of submeters  
30 pursuant to subdivision (a), the owner of the structure shall ensure  
31 that each submeter installed complies with all laws and regulations  
32 governing installation, approval of meter type, maintenance,  
33 reading, billing, and testing of water submeters.

34 (2) This subdivision does not require a water purveyor to fund  
35 or assume responsibility for ensuring compliance with any law or  
36 regulation governing installation, approval of submeter type,  
37 maintenance, reading, billing, and testing of water submeters and  
38 associated onsite plumbing.

39 ~~(e) A water purveyor shall not charge an owner of a structure,~~  
40 ~~or his or her agent, a fee, charge, or assessment, either directly or~~

1 indirectly, for the installation, approval, connection, or use of a  
 2 submeter that is installed by the owner or his or her agent. This  
 3 subdivision shall not be construed to restrict the authority of a  
 4 water purveyor to collect fees or charges for meters or connection  
 5 and installation of meters, or other fees or charges associated with  
 6 providing and maintaining water service, as described in the water  
 7 purveyor's authorized tariffs or rates.

8 (d)

9 (c) This section shall not restrict the authority of a water  
 10 purveyor to adopt and implement a program for the use of water  
 11 meters or submeters for multiunit residential structures or  
 12 mixed-use residential and commercial structures that promotes  
 13 water conservation, at least as stringently, as the requirements of  
 14 this section.

15 *539. Each water purveyor that sells, leases, rents, furnishes,*  
 16 *or delivers water service to a multiunit residential structure or*  
 17 *mixed-use residential and commercial structure that is part of a*  
 18 *common interest development for which an application for a water*  
 19 *connection, or more than one connection, is submitted after*  
 20 *January 1, 2014, shall require the installation of a water meter to*  
 21 *measure water supplied to each individual dwelling unit as a*  
 22 *condition of new water service.*

23 ~~539.~~

24 540. It is the intent of the Legislature that this chapter should  
 25 not be construed to impose costs on any local government agency,  
 26 except to the extent that the local government agency is a water  
 27 purveyor subject to subdivision (a) of Section 538.