

AMENDED IN ASSEMBLY AUGUST 6, 2013

AMENDED IN SENATE MAY 24, 2013

AMENDED IN SENATE MAY 14, 2013

AMENDED IN SENATE APRIL 29, 2013

**SENATE BILL**

**No. 750**

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**Introduced by Senator Wolk**  
(Coauthor: Assembly Member Fong)

February 22, 2013

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An act to add Chapter 2.5 (commencing with Section 1954.201) 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

SB 750, as amended, Wolk. Building standards: water meters: multiunit structures.

(1) 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 that submits an application for a water connection after January 1, 2014, 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. 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, including, but not limited to, the California Plumbing Code. The bill would exempt certain buildings from these requirements. *The bill would prohibit a water purveyor from imposing an additional capacity or connection fee or charge for a submeter that is installed by the owner, or his or her agent.*

(2) Existing law generally regulates the hiring of dwelling units and, among other things, imposes certain requirements on landlords and tenants. Among these requirements, existing law requires landlords to provide tenants with certain notices or disclosures pertaining to, among other things, pest control and gas meters.

This bill would, if a water purveyor requires the installation of a meter or submeter, as specified, or a submeter has been installed, impose further requirements on landlords, relating to submetered water service to individual dwelling units. The bill would prohibit a landlord from charging tenants separately for water service in a property with submeters unless the submetering system is installed, operated, and maintained as specified. The bill would require a landlord to make certain disclosures to the tenant prior to the execution of the rental agreement, including, among other things, that the tenant will be billed for water separately from the rent and that the tenant will also be billed for a portion of any recurring fixed charge billed to the property by the water purveyor, as specified. The bill would specify that a landlord may only bill a tenant for volumetric water usage, as specified, and a portion of any recurring fixed charge billed to the property by the water purveyor, as specified. The bill would specify that the landlord's billing cycle for water service must match that of the water purveyor and that each bill must include certain information. The bill would prohibit a landlord from charging additional fees related to water service, except as provided. The bill would require a landlord to maintain and make available installation, maintenance, and testing records to a tenant upon request, as specified. The bill would require a landlord to make certain repairs on the water system in a dwelling, as specified. The bill would permit the assessment of administrative fees and late fees, as specified.

In addition to actual damages, this bill would permit a tenant to recover from the landlord certain damages, costs, and fees for a violation

of these provisions. The bill would authorize a city, county, a city and county, or district to enforce these provisions.

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 2.5 (commencing with Section 1954.201)  
2 is added to Title 5 of Part 4 of Division 3 of the Civil Code, to  
3 read:

4  
5 CHAPTER 2.5. WATER SERVICE  
6

7 1954.201. 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 include  
14 appropriate safeguards for both tenants and landlords.

15 1954.202. 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 agents,  
19 and successors in interest to the real property interests of the  
20 landlord. "Landlord" does not include a tenant who rents all or a  
21 portion of a dwelling unit to subtenants. "Landlord" does not  
22 include a common interest development, as defined in Section  
23 4100 of the Civil Code.

24 (c) "Property" means real property containing two or more  
25 dwelling units that is served by a single meter.

26 (d) "Rental agreement" includes a fixed-term lease.

27 (e) "Renting" includes leasing, whether on a periodic or  
28 fixed-term basis.

29 (f) "Submeter" means a device that measures water consumption  
30 of an individual rental unit within a multiunit residential structure  
31 or mixed-use residential and commercial structure, and which is  
32 owned and operated by the landlord. "Submeter" includes

1 submeters, if more than one submeter is being used to measure  
2 water usage in a particular dwelling unit.

3 (g) “Water service” includes any charges for other services,  
4 including sewage or storm water services, that are based in whole  
5 or in part on the volume of water usage recorded by a water meter.

6 (h) “Water purveyor” means a water purveyor as defined in  
7 Section 512 of the Water Code.

8 1954.203. (a) A landlord shall not charge tenants separately  
9 for water service in a property with submeters unless the  
10 submetering system is installed, operated, and maintained as  
11 follows:

12 (a)

13 (1) The submeter is certified for commercial purposes pursuant  
14 to law, including, but not limited to, Section 12500.5 of the  
15 Business and Professions Code.

16 (b)

17 (2) The installation conforms to all laws, including, but not  
18 limited to, regulations established pursuant to Section 12107 of  
19 the Business and Professions Code.

20 (c)

21 (3) The installation was performed by a registered service  
22 agency as defined in Section 12531 of the Business and Professions  
23 Code.

24 (d)

25 (4) The submeter is operated in compliance with regulations  
26 established pursuant to Section 12107 of the Business and  
27 Professions Code.

28 (e)

29 (5) The submeter for a dwelling unit measures only water that  
30 is supplied for the exclusive use of the particular dwelling unit and  
31 only to an area within the exclusive possession and control of the  
32 tenant of the dwelling unit.

33 (f)

34 (6) The primary submeter indicator or remote reader may be  
35 easily accessed and read by the tenant of the dwelling unit, and  
36 read by the owner landlord without entering the dwelling unit.

37 (g)

38 (7) Each submeter is reinspected and recalibrated within the  
39 time limits specified in law or regulation.

40 (h)

1 (8) All plumbing fixtures and fittings within each dwelling unit  
2 conform to all laws regarding habitability of dwellings and water  
3 conservation.

4 (i)

5 (b) This section ~~shall~~ *does not be construed to* require a water  
6 purveyor to assume responsibility for ensuring compliance with  
7 any law or regulation governing installation, certification,  
8 maintenance, and testing of ~~water~~ submeters and associated onsite  
9 plumbing.

10 1954.204. Prior to executing a rental agreement, a landlord  
11 that intends to charge a tenant separately for water service shall  
12 clearly disclose the following information to the tenant, in writing,  
13 in at least 10-point type, which may be incorporated into the rental  
14 agreement:

15 (a) That the tenant will be billed for water service separately  
16 from the rent.

17 (b) The average bill for water service for units at the property  
18 over the most recent calendar year or, if the building is less than  
19 one year old, a portion of that calendar year.

20 (c) The frequency of submeter readings.

21 (d) The due dates and payment procedures for bills for water  
22 service.

23 (e) If a billing agent is used, the name, address, email address,  
24 normal hours of operation, and toll-free telephone number of the  
25 agent.

26 (f) The date the submeter was last tested and calibrated, and the  
27 date by which it must be retested and recalibrated under law.

28 (g) A statement in substantially the following form:

29

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 (water purveyor) bills its  
33 customers for residential use. To find out what the rate charged  
34 by (water purveyor) is, contact (water purveyor) at (address),  
35 (telephone number).

36

37 (h) A statement that the tenant shall be charged for water service  
38 at the exact rate or rates charged by the water purveyor serving  
39 the property.

1 (i) A statement that the tenant shall also be charged for a portion  
2 of any recurring fixed charge billed to the property by the water  
3 purveyor and that the tenant's portion of the recurring fixed charge  
4 shall be proportional to the amount of water the tenant uses in  
5 relation to the usage for the entire property.

6 (j) The current amount of the recurring fixed charge referred to  
7 in subdivision (i).

8 (k) A statement that no other connection, disconnection, billing,  
9 or other periodic fee or charge, except for an administrative fee,  
10 a late fee, or a submeter testing fee, may be assessed. If the landlord  
11 reserves the right to charge an administrative fee or a late fee, the  
12 amount and terms of the administrative fee or the late fee shall  
13 also be disclosed.

14 (l) The location of the submeter, and directions on how to read  
15 the submeter.

16 1954.205. (a) As part of a water service bill, a landlord shall  
17 only bill a tenant for volumetric usage of water service pursuant  
18 to subdivision (b); and *for* a portion of any recurring fixed charge  
19 for water service billed to the property by the water purveyor  
20 pursuant to subdivision (f). The landlord shall not impose any  
21 periodic, connection, termination, or other fee, however  
22 denominated, except for administrative fees, late fees, or testing  
23 fees as provided in this chapter.

24 (b) The amount of the volumetric portion of the bill shall be  
25 calculated by multiplying the volume of water used, as determined  
26 by the submeter for the billing period in question, by the rate or  
27 rates for volumetric usage established by the purveyor of water  
28 service for residential use.

29 (c) If the rates established by the water purveyor change, the  
30 bill shall be prorated to reflect the time each rate was in effect.  
31 The landlord may assess charges for the entire billing period based  
32 on the lower rate.

33 (d) If a submeter reading for the beginning or end of a billing  
34 period is, in good faith, not available, the landlord may bill the  
35 tenant 75 percent of the amount originally disclosed to the tenant  
36 pursuant to subdivision (b) of Section 1954.204.

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

39 (f) The amount of the recurring fixed charge for water service  
40 billed to the property by the water purveyor to be charged to the

1 tenant shall be based on the proportion of the tenant's volumetric  
2 water use, as shown on the submeter, in relation to the water use  
3 of the entire property, as shown on the property's water meter.

4 1954.206. (a) The billing cycle for a water service bill pursuant  
5 to this chapter shall match that of the water purveyor.

6 (b) Submeters shall be read within three days of the same point  
7 in each billing cycle.

8 (c) Bills shall be due at the same point in each billing cycle.  
9 However, bills shall be due no earlier than 10 days after mailing,  
10 if mailed, or 5 days after personal delivery.

11 (d) Bills shall include the following information:

12 (1) The submeter readings for the beginning and end of the  
13 billing cycle, the dates read, and the indicated consumption.

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

15 (3) The rate or rates charged per unit of measure.

16 (4) The amount of the current charges for volumetric use.

17 (5) The amount of any recurring fixed charge for water service  
18 billed to the property by the water purveyor.

19 (6) The total water consumption for the property, as indicated  
20 by the property's water meter.

21 (7) The percentage of the total water consumption of the  
22 property that was consumed by the tenant.

23 (8) The amount of current charges assessed to the tenant for the  
24 tenant's share of any recurring fixed charges for water service  
25 billed to the property by the water purveyor.

26 (9) A separate entry showing past due amounts, if any.

27 (10) A separate entry showing any previously imposed late  
28 charges.

29 (11) The total amount due.

30 (12) The due date for the bill.

31 (13) A statement of the amount of any new late charges, if any,  
32 and when the late charges would apply. Late charges shall be  
33 imposed pursuant to Section 1954.212.

34 (14) The name, mailing address, email address, telephone  
35 number, and the regular business hours of the person or persons  
36 the tenant may call with questions or concerns regarding the bill,  
37 and who is authorized to make any necessary adjustments to the  
38 bill. If a billing agent is used, the name of the entity shall also be  
39 disclosed and the telephone number of the billing agent shall be  
40 toll free.

1 1954.207. A submeter shall be read within three days of the  
2 beginning or end of a tenancy to determine the amount of the first  
3 or last bill for water service. Tenancies that begin or end within  
4 three days of a normal reading may be billed as usual.

5 1954.208. (a) A landlord shall not charge or recover, or allow  
6 to be charged or recovered, any of the following:

7 (1) Any additional servicing, establishment, maintenance, meter  
8 reading, meter testing, billing, or submetering fees, or any other  
9 fee, including those charged by a billing agent, except as provided  
10 in Section 1954.210.

11 (2) Any fees billed to the landlord by the water purveyor, billing  
12 agent, or any other person for any deposit, disconnection,  
13 reconnection, late payment, or any other water service related  
14 purpose.

15 (b) This section does not prohibit a landlord from recovering  
16 any costs listed in subdivision (a) that are incorporated into the  
17 rent for a dwelling unit, if the rent is a fixed amount per rental  
18 period, the charges are not listed separately, and the rental charges  
19 are otherwise lawful.

20 1954.209. The landlord shall maintain and make available in  
21 writing, at the tenant's request, within seven days after the request,  
22 the following:

23 (a) All installation and maintenance records of the submeter in  
24 the tenant's dwelling unit, including the name, license number,  
25 and contact information of the registered service agency that  
26 installed or serviced the submeter.

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

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

31 1954.210. (a) If the water system in a dwelling unit does not  
32 function properly, including leaks, fixtures allowing unnecessary  
33 water consumption, or a malfunctioning submeter, the tenant may  
34 request that the landlord repair the problem. The landlord shall  
35 make the repairs within seven days.

36 (b) A tenant may request that a landlord have a submeter tested  
37 for accuracy. The landlord shall respond to the request within seven  
38 days, and the test shall be carried out as soon as reasonably  
39 practicable. The test shall be performed by a registered service  
40 agency or other person authorized by law to perform the test. If

1 the test shows that the submeter is inaccurate beyond the tolerances  
2 established by law, the landlord shall repair or replace the submeter.  
3 If the test shows the submeter was indicating more usage than the  
4 actual amount used and beyond established tolerances, the landlord  
5 shall refund the estimated overcharge to the tenant within 30 days  
6 of receipt of the results.

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

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

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

14 (d) The tenant shall pay for the test in all other cases, up to a  
15 maximum of seventy-five dollars (\$75).

16 (e) The landlord is not required to test a submeter under  
17 subdivision (b) if the submeter was tested and found accurate  
18 within two years prior to the tenant's request and the landlord  
19 provides the written results of that test to the tenant. However, the  
20 landlord shall have the submeter tested if the tenant pays in advance  
21 for the entire cost of the test.

22 1954.211. (a) A landlord may charge an administrative fee for  
23 the actual costs of reading submeters and providing billing services,  
24 up to a maximum of four dollars (\$4) per submetered tenant per  
25 month for water service bills totaling ten dollars (\$10) or more. If  
26 a water service bill totals nine dollars and ninety-nine cents (\$9.99)  
27 or under, a landlord may charge an administrative fee for the actual  
28 costs of reading submeters and providing billing services up to 40  
29 percent of the water service bill per submetered tenant per month.

30 (b) Beginning January 1, 2017, an administrative fee imposed  
31 pursuant to this section may be adjusted annually by the landlord  
32 commensurate with an increase in the Consumer Price Index.

33 1954.212. (a) A landlord may impose a late fee of up to 5  
34 percent for any water service bill not paid within 20 days of its  
35 due date. If the 20th day falls on a Saturday, Sunday, or holiday,  
36 the late fee shall not be imposed until the day after the first business  
37 day following the 20th day.

38 (b) (1) Notwithstanding Section 1950.5, if a water service bill  
39 remains unpaid after the time described in subdivision (a) expires,  
40 the landlord may, in lieu of a late fee, deduct the amount due from

1 the tenant's security deposit. The landlord may require an  
2 additional deposit of security following a deduction, if the deposit  
3 would be otherwise lawful under Sections 827 and 1950.5.

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

9 (c) If a water service bill remains unpaid for 30 days after its  
10 due date, the nonpayment shall constitute a curable breach of a  
11 material lease obligation. The landlord may commence an action  
12 to remedy the breach, as provided by law.

13 (d) Water service charges under this chapter shall not constitute  
14 rent.

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

19 1954.213. In addition to actual damages sustained by a tenant  
20 for a violation of this chapter, the tenant may recover from the  
21 landlord three times the amount of actual damages, ~~a civil penalty~~  
22 ~~equal to one month's rent~~, reasonable attorney's fees, and court  
23 costs. ~~A landlord shall not be liable for a civil penalty if the~~  
24 ~~landlord proves that the violation was a good faith, unintentional~~  
25 ~~mistake. The landlord may also be liable for a civil penalty of up~~  
26 ~~to one month's rent, unless the landlord shows that the violation~~  
27 ~~was made in good faith and not part of a pattern and practice of~~  
28 ~~violations of this chapter.~~

29 1954.214. (a) A city, county, city and county, or district may  
30 enforce this chapter.

31 (b) *This chapter does not preclude or preempt an ordinance*  
32 *that regulates the approval of submeter types or the installation,*  
33 *maintenance, reading, billing, or testing of submeters and*  
34 *associated onsite plumbing if the ordinance meets either of the*  
35 *following requirements:*

36 (1) *Is adopted prior to January 1, 2013.*

37 (2) *Meets or exceeds the minimum requirements provided by*  
38 *this chapter.*

39 1954.215. The rights or obligations established under this  
40 chapter shall not be waived. Any purported waiver is void.

1 1954.216. This chapter applies only to property where  
2 submeters have been installed or where a meter and submeters are  
3 installed pursuant to Chapter 8.5 (commencing with Section 537)  
4 of Division 1 of the Water Code.

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

7  
8  
9

CHAPTER 8.5. MULTIUNIT STRUCTURES

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

12 (1) “Meter” has the same meaning as “water meter” in Section  
13 516.

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

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

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

32 (2) Student dormitories.

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

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

37 (5) Residential care facilities, as defined in subdivision (k) of  
38 Section 1569.2 of the Health and Safety Code.

39 ~~(e) This chapter does not apply to a structure that is greater than~~  
40 ~~four stories in height above grade if the owner, or his or her agent,~~

1 ~~demonstrates to the satisfaction of the water purveyor that the~~  
2 ~~structure's plumbing configuration incorporates multiple points~~  
3 ~~of entry in each dwelling unit and renders the installation of~~  
4 ~~submeters infeasible.~~

5 ~~(d)~~

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

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

20 (b) (1) If the water purveyor requires installation of submeters  
21 pursuant to subdivision (a), the owner of the structure shall ensure  
22 that each submeter installed complies with all laws and regulations  
23 governing ~~installation, the approval of meter type~~ *submeter types*  
24 *or the installation*, maintenance, reading, billing, and testing of  
25 ~~water~~ submeters, including, but not limited to, the California  
26 Plumbing Code.

27 (2) This subdivision does not require a water purveyor to fund  
28 or assume responsibility for ensuring compliance with any law or  
29 regulation governing ~~installation, the approval of submeter type~~  
30 *types or the installation*, maintenance, reading, billing, and testing  
31 of ~~water~~ submeters and associated onsite plumbing.

32 (c) *A water purveyor shall not impose an additional capacity*  
33 *or connection fee or charge for a submeter that is installed by the*  
34 *owner, or his or her agent.*

35 538.5. (a) *This chapter does not restrict the authority of a*  
36 *water purveyor, city, county, city and county, or other local agency*  
37 *to adopt and implement a program to promote water conservation*  
38 *that includes the installation of water meters and submeters, as*  
39 *required pursuant to subdivision (a) of Section 538, if the program*  
40 *is at least as stringent as the requirements of this chapter.*

1     ***(b) This chapter does not preclude or preempt an ordinance***  
2     ***that regulates the approval of submeter types or the installation,***  
3     ***maintenance, reading, billing, or testing of submeters and***  
4     ***associated onsite plumbing if the ordinance meets either of the***  
5     ***following requirements:***

6         ***(1) Is adopted prior to January 1, 2013.***

7         ***(2) Meets or exceeds the minimum requirements provided by***  
8         ***this chapter.***

9     539. It is the intent of the Legislature that this chapter should  
10  not be construed to impose costs on any local government agency,  
11  except to the extent that the local government agency is a water  
12  purveyor.

O