

SUBJECT: Nonsubmetering rules for manufactured home rental communities

COMMITTEE: Natural Resources — favorable, with amendment

VOTE: 6 ayes — Cook, Corte, Hamric, R. Lewis, Shields, Walker

0 nays

3 absent — Counts, T. King, Puente

WITNESSES: For — Will Ehrle, Texas Manufactured Housing Association

Against — None

BACKGROUND: Water Code, sec. 13.5031 allows apartment owners, condominium managers, or owners of multiple-use facilities like office complexes and industrial parks to allocate the costs of nonsubmetered, master-metered water utility service among tenants. The rental agreement must describe how the allocation is calculated. A landlord billing on a nonsubmetered basis may pass through all costs to tenants, including the cost of water for common areas.

Under current law, manufactured home rental communities, popularly called mobile home parks, may not offer nonsubmetered service. The owners either include the utility costs in the rent or submeter each dwelling, in which case they may pass through only costs that are related directly to each tenant's actual consumption. If the community includes a well, the owner may act as a retail public utility in certain circumstances.

Water Code, sec. 13.501 defines a mobile home park as "a property on which parking spaces are rented to mobile dwelling units primarily for nontransient use and for which rental is paid at intervals of one month or longer."

DIGEST: HB 2931, as amended, would allow owners of manufactured home rental communities to allocate the costs of nonsubmetered master-metered utility service among tenants. The bill also would allow the owners or managers of manufactured home rental communities, apartment owners, multiple-use facility owners, and condominium managers to impose:

- a service charge of not more than 9 percent of the costs related to submetering, allocated to each submetered rental or dwelling unit; and
- applicable taxes and surcharges charged by the retail public utility to the owner or manager.

HB 2931, as amended, would require the owner to bear the initial cost of submeters and their installation and would prohibit the owner from allocating those costs to tenants.

HB 2931 would require the Texas Natural Resource Conservation Commission (TNRCC) to encourage submetering of individual rental or dwelling units by master-meter operators to enhance the conservation of water resources. It also would require TNRCC to adopt rules to implement the bill's changes as soon as possible after the effective date.

The bill would change statutory language throughout chapter 13 of the Water Code to call mobile homes "manufactured homes" and call mobile home parks "manufactured home rental communities." HB 2931, as amended, would define a manufactured home rental community as "a property on which spaces are rented for the occupancy of manufactured homes for nontransient residential use and for which rental is paid at intervals of one month or longer."

HB 2931 would take immediate effect if finally passed by a two-thirds record vote of the membership of each house.

**SUPPORTERS
SAY:**

HB 2931 would enhance water conservation by allowing owners of manufactured home rental communities and other landlords to charge tenants up to 9 percent of costs related to submetering. Many studies have shown that submetering encourages water conservation since it financially rewards those who conserve water.

The state needs to encourage the conservation of water resources at a time when the state is attempting to build a statewide water management strategy, a move critical for its economic future. Without increased conservation, the increasing scarcity of water in some areas of Texas will reach crisis proportions within the next four decades.

Paying a small amount for submetering would not burden tenants unfairly. The bill, as amended, expressly would forbid landlords from charging tenants for the initial cost of submeters and their installation. It merely would allow owners to recoup a portion of the costs they incur reading the meters and handling the individual bills, a task that many owners choose to subcontract out to other companies.

There is no reason why the owners and operators of manufactured home rental communities should not be able to use the same kind of billing systems or methods widely used by apartment owners and condominium managers. Under nonsubmetering rules, because of the larger volume of usage, a landlord usually pays less per gallon than normally is charged to a single-family residence. The owner can pass the savings along to tenants.

Nonsubmetering rules work as well for manufactured home rental communities as they do for apartment houses. Owners and managers of manufactured home rental communities have as much right as other landlords to pass along utility costs for common areas.

It would make no sense for an operator of a manufactured home rental community not to fix leaking water lines because these costs could be passed on, and it is very unlikely that the owner would not notice such a leak. Water conservation actually would increase under nonsubmetering rules because it would be to an owner's benefit to keep costs down for all tenants for competitive reasons.

Changing the definition of mobile home parks to remove references to the rental of parking spaces and stipulating that these spaces are rented for nontransient residential use rather than primarily for nontransient use would make it clear that the bill's changes would not affect vacationers at recreational-vehicle parks.

Allowing owners or managers of manufactured home rental communities, apartments, multiple-use facilities, and condominiums to pass through taxes and surcharges would not result in additional costs to tenants because TNRCC rules already recognize applicable taxes and surcharges as part of the "cost per gallon" that an owner can pass through to a tenant.

**OPPONENTS
SAY:**

It would be unwise to allow owners of manufactured home rental communities to bill tenants on a nonsubmetered basis. Nonsubmetering rules could allow owners to pass along all water costs to the tenants, including the

cost of water used for irrigation, pools, and other common areas. Many occupants of these communities are struggling to pay current rents and often have limited options for moving elsewhere.

Owners of manufactured home rental communities would have little incentive to repair leaking water lines that were not damaging their property, since the tenants would pay for the leakage anyway. Leaks also would be more difficult to spot since distribution lines in mobile home parks run between buildings where leaks may not be noticed.

Nonsubmetered billing would not encourage water conservation. Owners would have little incentive to conserve water, since watering greenery heavily actually might attract more tenants to a mobile home community. Tenants who saw a neighbor wasting water might feel that they too should use more to “get their fair share.” Since the bill would give mobile home owners a choice between paying to install submeters themselves and recouping no more than 9 percent of related costs, or billing tenants on a nonsubmetered basis and passing all costs through to tenants, owners probably would opt for nonsubmetering since it involves no capital outlay.

HB 2931, as amended, would allow owners or managers of apartments, office complexes, condominiums, or mobile home parks to charge tenants up to 9 percent for “costs related to submetering.” This, in effect, would be a rent increase under the guise of a water-service charge and would do little to enhance water conservation. It is true that submetering can encourage water conservation, but this bill would not necessarily persuade anyone to submeter who had not planned to do so already. Landlords simply would use the service charge to take more money from tenants, whether or not the charge reflected “costs related to submetering,” a phrase too vague to be useful.

OTHER
OPPONENTS
SAY:

Owners of manufactured home rental communities may need extra encouragement to submeter, but HB 2931 should not authorize owners or managers of apartments, multiple-use facilities, and condominiums to impose a service charge of up to 9 percent for submetering. Most apartment owners and managers who wish to submeter have done so already and are passing those costs along to their tenants.

Nonsubmetering rules should be repealed altogether, and submetering should be required for all rental units. Allocated billing does not encourage water conservation.

NOTES:

The committee amendment would reword the definition of a manufactured home rental community and add the requirement for the owner to bear the initial cost of submeters and their installation.

Rep. Cook intends to offer a floor amendment that would stipulate that only owners and operators of manufactured home rental communities could impose a service charge of up to 9 percent of the costs related to submetering, allocated to each submetered rental or dwelling unit.

The companion bill, SB 950 by Duncan, similarly would allow only owners of manufactured home rental communities to impose a service charge for costs related to submetering. Unlike HB 2931 as amended, SB 950 would define those costs as water costs and other taxes and surcharges charged by the retail public utility. The Senate passed SB 950 by 30-0 on April 15, and the House Natural Resources Committee reported SB 950 favorably, without amendment, on April 21, making it eligible to be considered in lieu of HB 2931.