

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2023-2024 Regular Session

AB 604 (Lee)
Version: February 9, 2023
Hearing Date: June 20, 2023
Fiscal: Yes
Urgency: No
ID

SUBJECT

Mobilehome parks: water utility charges

DIGEST

This bill clarifies that all mobilehome parks that elect to provide submetered water service and bill separately for that service are subject to a requirement previously passed under AB 1061 (Lee, Ch.625, Stats. 2021) that they charge proportional rates for such submetered water service, regardless of whether the water provider is under the jurisdiction, control, or regulation of the Public Utilities Code. It also prohibits an order by the Public Utilities Commission for payment of reimbursement to residents for rates charged to them for unreasonableness or unjustness when that rate conforms with the proportional rate requirements under AB 1061 for submetered water service.

EXECUTIVE SUMMARY

AB 604 addresses the issue of whether AB 1061 (Lee, Ch. 625, Stats. 2021) applies to all mobilehome parks that provide submetered water services by amending the Civil Code and the Public Utilities Code to state specifically that parks that provide such submetered water must comply with the formulas for rates under AB 1061 and would not be under the jurisdiction of the California Public Utilities Commission (CPUC).

AB 604 is sponsored by the Golden State Manufactured-Home Owners League. It also is supported by the Santa Cruz County Manufactured and Mobilehome Commission. Supporters of the bill argue that it is necessary to prevent mobilehome parks from charging residents excessive charges beyond the actual charges for the water they submeter to their residents, and therefore prevents parks from pocketing additional profits from their residents. The bill is opposed by the Western Manufactured Housing Communities Association, who argue that mobilehome parks have high costs related to maintaining park water systems, that the bill would not encourage water conservation, and that the bill would undermine CPUC authority.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Creates the Mobilehome Residency Law (MRL) to regulate the relationship between mobilehome park management and park residents, and establish various rights, responsibilities and limits of both groups. (Civ. Code § 798 *et seq.*)
- 2) Mandates that, if a mobilehome park provides both master-meter and submeter service of utilities to a homeowner, the park must separately state for each billing period the cost of the charges along with the opening and closing readings of the homeowner's meter. The MRL also mandates that parks must post in a conspicuous place the specific current residential utility rate schedule published by the serving utility, or the internet website address where the current residential utility rate is published by the utility. The park must make available free of charge the current rate upon a request of a resident, and must state that it is available in their posting. (Civ. Code § 798.40(a).)
- 3) Sets out limits on the rates that a mobilehome park can charge if the park elects to separately bill water service to a homeowner and provide submetered water service as a master-meter customer of the water purveyor. These limits are that:
 - a) the park must charge for water based on volumetric usage, and sets out three methods which the mobilehome park may use to calculate the volumetric usage; and
 - b) for any recurring fixed charge that is charged to the mobilehome park by the water purveyor, that the park may bill residents for this fixed charge either by the resident's proportion of the park's total volumetric usage of water, or by billing the residents equally for their share of the total. (Civ. Code § 798.40(c)(2).)
- 4) Establishes limits on the billing, administrative, or other fee charged by the park for management's and the billing agent's costs in billing residents separately for their submetered water. This fee must be the lesser of either \$4.75, or 25% of the amount billed for each resident's volumetric usage. The maximum fee under this paragraph can be adjusted annually based on a commensurate increase in the Consumer Price Index based on a California fiscal year average for the previous fiscal year, for all urban consumers, as determined by the Department of Finance. (Civ. Code § 798.40(c)(3).)
- 5) Defines "water purveyor" to mean any individual, firm, association, partnership, corporation, or public entity of any kind who furnishes water service to another individual, firm, association, partnership, corporation, or public entity. (Civ. Code § 798.40; Water Code §§ 512-513.)

- 6) Authorizes any mobilehome park management to bill homeowners separately for fees and charges assessed by the utility provider of natural gas or liquid propane gas, electricity, water, cable television, garbage or refuse service, or sewer service for the residents' spaces in the park, unless the rental agreement states otherwise.
 - a) States that separate utility fees and charges are not rent, or to be considered a rent increase for the purposes of any local ordinance or rule for rent control, as long as base rent calculations for the space are reduced by the separately-billed fees and charges when separate billing has begun. (Civ. Code § 798.41.)
- 7) Requires parks to separately state any utility fees and charges for such utility services on any monthly or other periodic billing to the homeowner. If the fee or charge has a limited duration or is amortized for a specified period, the expiration date shall be stated on the initial notice and each subsequent billing to the homeowner while the fee or charge is billed to the homeowner. (Civ. Code § 798.41(d).)
- 8) Provides that any person or corporation, and their lessees, receivers, or trustees appointed by any court, that maintains a mobilehome park or a multiple unit residential complex and provides, or will provide, water service to users through a submeter service system is not a public utility and is not subject to the jurisdiction, control, or regulation of the CPUC if each user of the submeter system is charged at the rate which would be applicable if the user were receiving water directly from the water corporation. (Public Utilities Code § 2705.5.)
- 9) Establishes that a mobilehome park that provides water only to its tenants from water supplies and facilities that it owns is not a water corporation. If a complaint is filed with the CPUC by tenants of the mobilehome park that represent 10% or more of the park's water service connection during any 12-month period claiming that the water rates charged by the park are not just and reasonable or that the service is inadequate, CPUC shall have jurisdiction to determine the merits of the complaint.
 - a) Requires a mobilehome park to provide written notice to each of the mobilehome park's residents to inform those residents of their right to, and how to, file a complaint with the CPUC about the water rates charged or the service provided by the mobilehome park. Subjects a mobilehome park to penalty fees if the park fails to provide the required notice.
 - b) Authorizes the CPUC to afford rate relief or order the mobilehome park to improve its water supply, facilities, and services on terms that it finds just and reasonable, or both.
 - c) Requires, if the CPUC finds after investigation that the mobilehome park has charged an unjust or unreasonable rate, the CPUC to order the mobilehome park to reimburse the complainants and any other current and former tenants affected by the rate. Reimbursement shall be

calculated from the first date of collection of the unjust or unreasonable rate, with interest.

- d) Prohibits the CPUC from ordering a park to reimburse tenants if the rate in question has been previously declared by a formal finding of the commission to be reasonable. (Public Utilities Code § 2705.6.)

This bill:

- 1) Clarifies that civil code section 798.40(c), establishing the limits on what mobilehome parks can charge when they provide submetered water service and separately bill residents, shall apply to all mobilehome park management that provide submetered and separately-billed water service, including to mobilehome parks where the water purveyor or the mobilehome park is subject to the jurisdiction, control, or regulation of the Public Utilities Commission.
- 2) Expands the list under the Public Utilities Code of mobilehome parks that are not subject to the jurisdiction, control, or regulation of the Public Utilities Commission to include mobilehome parks where management complies with the limits on submetered and separately billed water services charges under subdivision (c) of Section 798.40 of the Civil Code.
- 3) Establishes that the Public Utilities Commission, if investigating upon a complaint by residents the unjustness or unreasonableness of a water rate charged by a mobilehome park that owns its own water supplies and facilities, cannot make an order of payment of reimbursement for the rate being unreasonable or unjust if that rate complies with the limits on submetered and separately billed water services charges under civil code section 798.40(c).

COMMENTS

1. Author's statement

According to the author:

AB 1061 which passed in 2021 prohibits mobilehome park management from charging its residents more than their proportional share of the water service charges paid by the park to the water utility or provider, in addition to the outlined management fee. However, since then, park owner affiliated organizations have argued that certain mobile home parks are exempted from the statute as written. AB 604 amends the Civil Code to clarify the scope of its protections to include all mobilehome residents.

2. Clarifies law regarding water service charges of mobilehome residents

There are an estimated 508,589 mobile home units in California.¹ Mobilehome residents in California tend to be poorer and older than the average renter, for which mobilehome ownership is an important option for affordable housing. Many mobilehome residents own their mobilehome, but lease the land upon which their home is located from the mobilehome park that owns and manages the land and park. Under this relationship, while residents technically own their mobilehome, they pay rent to the park management and often rely on the park for the provision of utilities.

The Mobilehome Residency Law (MRL) was passed by the Legislature in 1978 to regulate the relationship between mobilehome park management and park residents, and establish various rights, responsibilities and limits of both groups. Over time, the MRL has been amended to include additional protections for residents and limits on charges mobilehome parks can bill residents.

One of the subjects addressed by the MRL are utilities. Mobilehome parks can provide utilities to their residents in a number of ways, including as a master-meter providing submetered service. Parks can provide water services in this way as well, obtaining water from a separate utility or purveyor of water, and then providing that water to its residents and billing them separately from rent. (Cal. Civil Code § 798.41.) In this arrangement, the mobilehome parks contract for and pay for the water to the utility, and then bill their residents separately for the service of managing and providing water from the water purveyor. Other mobilehome parks provide water services to their residents from a utility or water supply (such as from a well) owned by the park.

The MRL has, over time, included various provisions regulating how mobilehome parks can charge their residents for these submetered water services, and at the same time the Public Utilities Code has been amended to create an avenue for residents to file complaints with the CPUC when a mobilehome park that owns its own water utility or water supply overcharges its residents. The Public Utilities Code further specifies that the CPUC has jurisdiction over water corporations as public utilities, and specifies various instances where a mobilehome may not be considered a public utility or water corporation under the jurisdiction, control, or regulation of the CPUC.

3. This bill and the problem it aims to fix

Before AB 1061 was passed into law, mobilehome parks often charged residents an additional, administrative charge for the costs of managing and providing submetered water service. When AB 1061 was before the Legislature, the author argued that changes to the law were necessary because mobilehome parks often overcharged

¹ U.S. Census Bureau, 2021 American Community Survey 1-Year Estimates (2021), available at <https://data.census.gov/>.

residents through this additional, service charge, thereby making a profit off providing submetered water to their residents. There had been reports that such service fees are arbitrarily-determined and sometimes doubled without warning.² Considering that many mobilehome residents are low-income or living on a fixed income, such arbitrary charges and increases can have a real impact on residents.

AB 1061 (Lee, Ch. 625, Stats. of 2021) addressed this issue by creating specific limits on what mobilehome parks can charge residents when they provide submetered water services. These limits tied charges to each residents' proportional, volumetric usage of the park's water, and limited additional administrative charges for providing submetered service to the lesser of either \$4.75 or 25% of a resident's volumetric usage. This \$4.75 limit was modeled after SB 7 (Wolk, Ch. 623, Stats. 2016), a bill passed in 2017 that similarly regulated how submetered water service can be billed in the context of apartment buildings. (Civ. Code section 1954.205.) Through this rubric, AB 1061 provided exact formulas for how the charges may be calculated by mobilehome park management, and sought to limit unscrupulous parks from padding their water service fees and profiting from this submetering arrangement.

However, because the Public Utilities Code regulates public utilities and water corporations, arguments have been made since the passage of AB 1061 that some mobilehome parks are not subject to AB 1061 and its formulas for billing for submetered service because they are regulated by the CPUC. On this issue, the author of this bill asked Legislative Counsel "whether section 798.40 applies to the management of a [mobilehome park] that elects to separately bill water service to a homeowner as a utility service, and to provide submetered water to homeowners, if that [mobilehome park] is a master-meter customer of a CPUC-regulated water corporation."³ Legislative Counsel concluded that "section 798.40 applies to any owner of a [mobilehome park] that elects to separately bill water service to a homeowner as a utility service, and to provide submetered water to homeowners, if that [mobilehome park] owner is a master-meter customer of a CPUC-regulated water corporation." Accordingly, this bill seeks to clarify and explicitly state, through amendments to Section 798.40 of the Civil Code and Sections of the Public Utilities Code, that Section 798.40 and its subdivisions apply to all mobilehome parks that provide submetered water services to its residents, and that such a park is not under the jurisdiction, control, or regulation of the CPUC.

4. Support

According to the Golden State Manufactured-home Owners League (GSMOL), the bill's sponsor:

² Sheila Pell, "Mobile-home owner sees water bill jump," San Diego Reader (Dec. 8, 2017), available at <https://www.sandiegoreader.com/news/2017/dec/08/stringers-mobile-home-owner-sees-water-bill-jump/>.

³ Leg. Counsel Opinion Request #2302359 (Apr. 4, 2023).

In 2021, Assembly Member Lee championed AB 1061, which extended consumer protections to residents living in mobilehome. These protections were approved by the state to protect consumers of water in sub-metered circumstances from excessive charges. We don't object to paying for the water we consume. And, we should pay our pro-rata share of services charges water companies bill park owners. What isn't fair is when water is sub-metered and then park owners mark up the price of water and in turn make an unfair profit. Some parks are making around a quarter million dollars a year. However, despite AB 1061 being passed into law, park owners continue to multiply water service charges to each home space throughout the park and in some cases they are making up their own charges. For this reason, GSMOL supports AB 604, which provides additional clarity.

5. Arguments in Opposition:

According to the Western Manufactured Housing Communities Association (WMA):

Unlike traditional site-built homes, manufactured housing communities are responsible for maintaining water systems for each space in mobilehome parks beyond the master-meter connection provided by the local governing water agency. The costs associated with maintaining mobilehome park water systems are significantly higher than for apartment buildings, which is why WMA believes the formula in AB 1061 was inadequate. If the State of California values water conservation and CPUC regulatory authority, AB 604 as drafted should be defeated as it does little to encourage residents of manufactured housing communities to conserve water and undermines the authority of the CPUC to adequately regulate water companies. The CPUC should serve as the model for water delivery, conservation and reimbursement given their expertise in this area. We should have the experts create this policy, not arbitrary legislation that has unintended consequences.

SUPPORT

Golden State Manufactured-home Owners League, Inc. (Sponsor)
Santa Cruz County Board of Supervisors
Santa Cruz County Manufactured and Mobilehome Commission

OPPOSITION

Western Manufactured Housing Communities Association

RELATED LEGISLATION

Pending Legislation

AB 318 (Addis, 2023) amends Section 18806 of the Health and Safety Code relating to extending the Mobilehome Residency Law Protection Program within the Department of Housing and Community Development that resolves complaints from homeowners relating to the Mobilehome Residency Law. Extends the program to January 1, 2027. The bill is currently in front of the Rules Committee in the Senate.

AB 319 (Connolly, 2023) extends previously-passed provisions that require the Department of Housing and Community Development to enforce the Mobilehome Parks Act from January 1, 2024 to January 1, 2025, and makes some changes to fees for enforcement and rules for inspectors. The bill is currently in the Housing Committee of the Senate.

Prior Legislation

AB 1061 (Lee, Ch. 625, Stats. 2021) created limits on how much mobilehome parks can charge park residents for water service when the park provides submetered water service by requiring that such charges be based on residents' actual volumetric water usage and that any service fee charged be the lesser of 25% of the volumetric charge or \$4.75.

SB 1117 (Monning, Ch. 164, Stats. 2020) ensured consumer protections for electrical and gas service are extended to tenants of mobilehome parks and other similar residential components.

AB 1830 (Pérez, Ch. 539, Stats. 2012) authorized the CPUC to order a mobilehome park to reimburse tenants if, upon a complaint from at least ten percent of park residents, the CPUC finds that the park charged an unreasonable rate for water services when the mobilehome park provides water from water supplies and utilities it owns.

SB 1163 (Dunn, Ch. 728, Stats. 2004) provided that, where the management provides both master-meter and submeter service of utilities to a homeowner, for each billing period the cost of the charges for the period shall be separately stated along with the opening and closing readings for their meter. The management shall post in a conspicuous place the prevailing residential utilities rate schedule as published by the serving utility.

PRIOR VOTES:

Assembly Floor (Ayes 49, Noes 13)

Assembly Appropriations Committee (Ayes 11, Noes 4)

Assembly Housing and Community Development Committee (Ayes 6, Noes 2)
