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State of Minnesota  
HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 2289

02/25/2014 Authored by Pugh and Lohmer

The bill was read for the first time and referred to the Committee on Government Operations

1.1 A bill for an act  
1.2 relating to local government; requiring water utilities to provide alternative  
1.3 water metering systems; establishing procedures for entry to private property;  
1.4 proposing coding for new law in Minnesota Statutes, chapter 444.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. **[444.27] WATER METERS.**

1.7 Subdivision 1. **Definition.** "Water utility" means the owner or operator of a public  
1.8 or private waterworks, whether authorized under chapter 110A for a rural water user  
1.9 district, section 368.01 for a town, section 412.321 for a statutory city, this chapter  
1.10 for a city generally, chapter 456 for a city of the first class, chapter 471A when the  
1.11 waterworks has been transferred to private ownership or operation, or other law relating  
1.12 to authorization of waterworks.

1.13 Subd. 2. **Alternative metering system option required.** If a water utility requires  
1.14 replacement of water meters and plans to install an interior water meter integrated with a  
1.15 radio transmitter, the water utility must offer a property owner two alternative metering  
1.16 systems. The water utility must offer an exterior-mounted, radio metering system or an  
1.17 exterior-mounted, nonradio metering system.

1.18 Subd. 3. **No charge.** The water utility must not impose an extra or special charge  
1.19 for installation or reading of an alternative metering system.

1.20 Subd. 4. **Consumer information required.** If a water utility requires replacement  
1.21 of water meters and plans to install an interior water meter integrated with a radio  
1.22 transmitter, the water utility must provide property owners information about the health  
1.23 and safety concerns raised regarding meters with radio transmitters and where to find  
1.24 additional information. The water utility must provide the information at the same time it

2.1 notifies property owners of its plan to replace water meters and allow sufficient time for a  
 2.2 property owner to determine whether to request an alternative metering system.

2.3 **Subd. 5. Entry on property to install, repair, or inspect water meter; informed**  
 2.4 **consent.** (a) Except as provided in subdivision 6, a water utility may only enter private  
 2.5 property if the property owner has provided informed consent. As used in this section,  
 2.6 "informed consent" means that:

2.7 (1) the utility has provided the property owner a written notice of proposed entry,  
 2.8 mailed at least 30 days prior to the proposed date of entry, containing the items required in  
 2.9 paragraph (b);

2.10 (2) the utility has not received a completed refusal of consent form from the property  
 2.11 owner, or consent has not been refused by a separate writing; and

2.12 (3) the owner or occupant of the property at the time of entry consents, by signature, to  
 2.13 allow entry after being provided the opportunity to review the notice required by clause (1).

2.14 (b) The notice of proposed entry required by paragraph (a) must, at a minimum,  
 2.15 include the following:

2.16 (1) the date and scope of the proposed entry and the identities and workplan of any  
 2.17 individuals who will enter the property;

2.18 (2) the expected duration of time the individuals will be present, and whether  
 2.19 follow-up entries on the property are anticipated or necessary to complete the work;

2.20 (3) any effect the work will have on the property owner's water service once the  
 2.21 work is completed; and

2.22 (4) the right of the owner to refuse to provide consent to the entry and the procedures  
 2.23 for securing an administrative search warrant if the informed consent is refused, including  
 2.24 the right of the property owner to object and request a hearing on the issuance of a warrant.  
 2.25 The notice must include a form for the property owner to refuse consent for entry.

2.26 **Subd. 6. Entry on property to install, repair, or inspect water meter;**  
 2.27 **administrative search warrant.** (a) If informed consent is not provided under subdivision  
 2.28 5, a water utility may only enter private property to install, repair, or inspect a water meter  
 2.29 after first securing an administrative search warrant. An application for an administrative  
 2.30 search warrant must be filed with a district court of appropriate jurisdiction and, except  
 2.31 as provided in this subdivision, must proceed in a manner consistent with court rules  
 2.32 related to issuance of administrative warrants.

2.33 (b) Prior to a warrant being issued, the individual subject of the proposed warrant  
 2.34 must be provided notice of the application and be permitted to file an objection and  
 2.35 request a hearing on the matter. In determining whether to issue an administrative search  
 2.36 warrant under this subdivision, the judge shall conform the decision to constitutional

3.1 doctrine governing procedures for administrative warrants and shall consider, but is not  
3.2 limited to, the following factors:

3.3 (1) the scope of the proposed entry on the property, including whether the utility has  
3.4 taken reasonable steps to protect the property owner's right of privacy and to ensure that  
3.5 the entry is as minimally invasive and disruptive to the owner and other occupants of the  
3.6 property as practical given the nature of the proposed work;

3.7 (2) the number of recent prior entries by the water utility to perform work on the  
3.8 property;

3.9 (3) the time of day the entry is proposed to be made, including whether the utility  
3.10 has consulted with the property owner to determine a mutually convenient time; and

3.11 (4) whether the reason for entry on the property is derived from a general and  
3.12 ordered administrative plan of entry onto all properties served by the utility, including  
3.13 whether members of the public were given notice of the plan and an opportunity to  
3.14 comment at a public hearing.

3.15 (c) Any costs associated with securing an administrative search warrant must be paid  
3.16 by the water utility, and may not be directly or indirectly charged to the property owner  
3.17 through an additional fee, surcharge, or other assessment.

3.18 Subd. 7. **Water shutoff prohibited.** A water utility may not shut off, or threaten  
3.19 to shut off, service to a property solely because the owner or occupant refuses to  
3.20 provide informed consent for entry under subdivision 5, or objects to the issuance of an  
3.21 administrative search warrant authorizing entry under subdivision 6.