

SUBJECT: Penalty for interrupting or impairing public water supply

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 8 ayes — Hinojosa, Dunnam, Keel, Talton, Green, Kitchen, Martinez Fischer, Shields
0 nays
1 absent — Garcia

SENATE VOTE: On final passage, April 11 — 29-0, on Local and Uncontested Calendar

WITNESSES: (*On House companion bill, HB 1919:*)
For — James Morrison, Walker County Rural Water Supply Corp.; Ken Petersen, Texas Rural Water Association
Against — None

BACKGROUND: Penal Code, sec. 28.03 provides a penalty for causing impairment or interruption of public utility services, including water, or causing those services to be diverted in whole, in part, or in any manner, including by installing or removing any device for that purpose. The offense is a Class A misdemeanor (punishable by up to one year in jail and/or a maximum fine of \$4,000) if the pecuniary loss is less than \$1,500. The offense escalates with the loss, reaching a first-degree felony (punishable by life in prison or a sentence of five to 99 years and an optional fine of up to \$10,000) for a loss of \$200,000 or more.

DIGEST: SB 1174 would establish a Class A misdemeanor, regardless of the amount of pecuniary loss, for causing impairment or interruption of any public water supply or causing any public water supply to be diverted in whole, in part, or in any manner.

The bill would take effect September 1, 2001, and would apply only to an offense committed on or after that date.

- SUPPORTERS SAY:** SB 1174 would protect water supply corporations that are plagued by people who tamper with meters and make illegal connections to divert water, which is in short supply in some parts of Texas. This tampering is costly to suppliers and can represent a significant loss of revenue for small, rural public water suppliers. In addition, the tampering creates a risk of contamination to the water supply, affecting all Texans who buy the water. Under current law, it is difficult to prosecute these diversions because determining a penalty depends on knowing the financial loss to the buyer. Proving the amount of this monetary loss is almost impossible when the supplier does not know how much water has been diverted or when the diversion began.
- OPPONENTS SAY:** Enacting SB 1174 would prohibit people who cause extreme disruption of a public water supply from being charged with a crime greater than a Class A misdemeanor, even if they caused hundreds of thousands of dollars in damage. People who cause this kind of damage need to be held accountable by facing a felony charge.
- NOTES:** The House companion bill, HB 1919 by B. Turner, was reported favorably as substituted by the House Criminal Jurisprudence Committee on May 10 but died in the House Calendars Committee.