

SUBJECT: Making impairment of dams and flood control structures a state-jail felony

COMMITTEE: Natural Resources — favorable, without amendment

VOTE: 10 ayes — Larson, Phelan, Ashby, Burns, Frank, Kacal, T. King, Lucio,
Price, Workman

0 nays

1 absent — Nevárez

WITNESSES: For — (*Registered, but did not testify*: Donna Warndof, Harris County
Flood Control District; Bill Lauderback, Lower Colorado River Authority;
Kaleb McLaurin, Texas and Southwestern Cattle Raisers Association)

Against — None

BACKGROUND: Under Penal Code, sec. 28.03(b)(4), acts of criminal mischief that are a
state-jail felony (180 days to two years in a state jail and an optional fine
of up to \$10,000) include:

- an act resulting in the financial loss of \$2,500 or more but less than \$30,000; and
- an act resulting in the financial loss of less than \$30,000 that impairs or interrupts public communications, public transportation, public gas or power supply, or other public services.

DIGEST: HB 1257 would add to the list of criminal mischief acts that are state-jail
felonies those acts that impair or interrupt property used for flood control
purposes or a dam and result in the financial loss of less than \$30,000.

This bill would take effect September 1, 2017, and would apply only to an
offense committed on or after that date.

SUPPORTERS SAY: HB 1257 would clarify the proper punishment for intentionally impairing
or interrupting dams and flood control structures. Penal Code, sec.

28.03(b)(4) lists intentionally or knowingly impairing or interrupting public services as a state-jail felony, but it is not clear that impairing dams falls under impairing public services.

Under current law, crimes such as pouring concrete into a dam structure or stealing a water valve may be deemed a misdemeanor because the cost of actual repairs to the dam or flood control structure do not reach \$2,500. Because a malfunctioning dam or flood control structure could result in losses far greater than \$2,500, the act of impairing these structures should be punished as a state-jail felony.

Impairing dams and flood control structures could lead to serious consequences, including millions of dollars in property damage and loss of life. Many commercial and residential developments downstream from dams and flood control structures could be severely impacted from a breached dam. Broken dams in rural areas could cause flooding of farm and ranch land, leading to lost crops and livestock, as well as the flooding of homes. HB 1257 would penalize individuals who could cause serious harm and would deter others by making it clear that impairing a dam or flood control structure was a state-jail felony.

OPPONENTS
SAY:

No apparent opposition.

NOTES:

An identical companion bill, SB 903 by Birdwell, was referred to the Senate Committee on Criminal Justice on February 28.