

1                                   **WATER FACILITY AMENDMENTS**

2   2022 GENERAL SESSION

3   STATE OF UTAH

4                                   **Chief Sponsor: Christine F. Watkins**

5   Senate Sponsor: Jani Iwamoto

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7   **LONG TITLE**

8   **General Description:**

9           This bill modifies provisions related to water facilities.

10 **Highlighted Provisions:**

11       This bill:

- 12           ▶ modifies criminal and civil provisions related to water facilities, including defining
- 13 terms, repealing language, and amending criminal intent provisions;
- 14           ▶ clarifies award of attorney fees and costs;
- 15           ▶ addresses scope of the section; and
- 16           ▶ makes technical changes.

17 **Money Appropriated in this Bill:**

18       None

19 **Other Special Clauses:**

20       None

21 **Utah Code Sections Affected:**

22 AMENDS:

23       **73-1-14**, as last amended by Laws of Utah 2020, Chapter 64

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25 *Be it enacted by the Legislature of the state of Utah:*

26       Section 1. Section **73-1-14** is amended to read:

27       **73-1-14. Acts against water facilities or interfering with apportioning official --**

28 **Penalty and liability.**

29 (1) As used in this section:

30 (a) "Connection to a water facility" includes:

31 (i) to introduce water or another substance into or take water from a water facility  
32 through a pipeline, flume, ditch, canal, trench, holding pond, or water collection structure;

33 (ii) to place or maintain a structure capable of introducing water or another substance  
34 directly into or of taking water from a water facility from a pipeline, flume, ditch, canal, trench,  
35 holding pond, or water collection structure; or

36 (iii) to cut into or breach a canal or ditch bank for the purpose of introducing water or  
37 another substance into or of taking water from the canal or ditch.

38 ~~[(a)]~~ (b) "Interfere," for purposes of a water facility, means damage to or modification  
39 of the water facility that results in actual blockage or diversion of water, stormwater,  
40 wastewater, or sewage.

41 (c) "Knowingly" means the same as that term is defined in Section [76-2-103](#).

42 ~~[(b)]~~ (d) "Water facility" means a dam, pipeline, culvert, fire hydrant, flume, conduit,  
43 ditch, head gate, canal, reservoir, storage tank, spring box, well, meter, weir, valve, casing, cap,  
44 or other facility used for the diversion, transportation, distribution, measurement, collection,  
45 containment, or storage of water, stormwater, wastewater, or sewage.

46 (2) ~~[A]~~ Subject to Subsection (6), a person is guilty of a crime punishable under  
47 Section [73-2-27](#) if the person:

48 ~~[(a) maliciously:]~~

49 ~~[(i) interferes with a water facility;]~~

50 ~~[(ii) damages a water facility;]~~

51 ~~[(iii) destroys a water facility; or]~~

52 ~~[(iv) removes a water facility;]~~

53 ~~[(b)]~~ (a) ~~[intentionally or]~~ knowingly makes a temporary or permanent connection to a  
54 water facility without:

55 (i) first obtaining the written consent of the owner or operator of the water facility; or

56           (ii) having other lawful authority; or  
57           ~~(c)~~ (b) ~~[unlawfully]~~ without lawful authority, knowingly interferes with an individual  
58 authorized to apportion water while in the discharge of the individual's duties.

59           (3) A person who commits an act defined as a crime under this section is also liable for  
60 damages ~~[or]~~, other relief, and ~~[costs]~~ reasonable costs and attorney fees as provided in Section  
61 73-2-28, in a civil action brought by a person injured by that act.

62           (4) (a) A civil action under this section may be brought independent of a criminal  
63 action.

64           (b) Proof of the elements of a civil action under this section need only be made by a  
65 preponderance of the evidence.

66           (5) A person who complies with Title 54, Chapter 8a, Damage to Underground Utility  
67 Facilities, Section 73-1-7, or Section 73-1-15.5 may not be held criminally or civilly liable for  
68 actions allowed by those sections.

69           (6) (a) "Person" for purposes of this section does not include a government entity,  
70 including a political subdivision of the state.

71           (b) This section may not be interpreted to limit or impair a claim otherwise provided by  
72 law of a water facility owner or operator against a government entity.