

Representative Christine F. Watkins proposes the following substitute bill:

WATER FACILITY AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Christine F. Watkins

Senate Sponsor: Jani Iwamoto

LONG TITLE

General Description:

This bill modifies provisions related to water facilities.

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

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.