

Bill Proposal: Increasing penalties for water theft

Sponsors: Las Virgenes Municipal Water District / Association of California Water Agencies

Proposed Text

Section 1.

The Legislature finds and declares all of the following:

(a) Unauthorized connection to and use of a fire hydrant and unauthorized use of a fire hydrant meter to take water from a fire hydrant is water theft, is typically conducted by commercial actors subverting the law for profit, and undermines the local water system process.

(b) The State supports Making Conservation a California Way of Life and finds that theft of water from fire hydrants violates those goals by leading to water loss that is not adequately deterred by current statutory authorities.

(c) Further, unauthorized connections to fire hydrants can lead to public health and safety issues, including potential contamination of a drinking water source due to a lack of backflow prevention, and damage to water system facilities and infrastructure or de-pressurization of the water system which could make communities more vulnerable in the event of a fire.

(d) Affordability of water is impacted by water theft from a hydrant as the cost of water loss and damages to infrastructure is ultimately borne by ratepayers.

(d) It is the intent of the Legislature to uphold its values of water efficiency, affordability and public health and safety by enacting a statute that is a greater deterrence to water theft via the unauthorized connection to a fire hydrant or unauthorized use of a hydrant meter.

Section 2. Section 53069.45 of the Government Code is amended as follows:

53069.45.

(a) (1) Notwithstanding any other law, the legislative body of a “local agency,” as defined in Section 54951, that provides water services, may adopt an ordinance that prohibits water theft and makes a violation of an ordinance enacted by the local agency regarding water theft subject to an administrative fine or penalty, as provided in this section.

(2) The local agency shall adopt an ordinance that sets forth the administrative procedure that shall govern the imposition, enforcement, collection, and administrative review by the local agency of the administrative fines or penalties for water theft.

(3) The local agency shall establish a process for granting a hardship waiver to reduce the amount of the fine imposed for water theft upon a showing by the responsible party that payment of the full amount of the fine would impose an undue financial burden on the responsible party.

(b) If the water theft is committed via meter tampering in violation of an ordinance adopted under this section, it is punishable as follows:

(1) A fine not exceeding one hundred thirty dollars (\$130) for a first violation.

(2) A fine not exceeding seven hundred dollars (\$700) for a second violation of the same ordinance within one year of the first violation.

(3) A fine not exceeding one thousand three hundred dollars (\$1,300) for the third violation and each additional violation of the same ordinance ~~within one year of the first violation.~~

(c) All other forms of water theft in violation of an ordinance adopted under this section are punishable as follows:

(1) A fine not exceeding one thousand dollars (\$1,000) for a first violation.

(2) A fine not exceeding two thousand dollars (\$2,000) for a second violation of the same ordinance within one year.

(3) A fine not exceeding three thousand dollars (\$3,000) for each additional violation of the same ordinance ~~within one year.~~

(d) For purposes of this section, the following definitions apply:

(1) "Irrigation district" has the same meaning as "district," as that term is defined in Section 20513 of the Water Code.

(2) "Water theft" means an action to divert, tamper, or reconnect water utility services, as defined in Section 498 of the Penal Code.

(e) An irrigation district may impose fines or penalties for water theft in accordance with this section or Division 11 (commencing with Section 20500) of the Water Code. This section shall not cap or limit the fines that an irrigation district may impose in accordance with Division 11 (commencing with Section 20500) of the Water Code.

[Section 3. Section 53069.46 is added to the Government Code as follows:](#)

[53069.46.](#)

[\(a\) \(1\) Notwithstanding any other law, the legislative body of a "local agency," as defined in Section 54951, that provides retail water services, may adopt an ordinance that prohibits unauthorized connection to a fire hydrant, and makes a violation of an ordinance enacted by the local agency regarding water theft committed via the unauthorized connection to a fire hydrant, subject to an administrative fine or penalty, as provided in this section.](#)

[\(2\) The local agency shall adopt an ordinance that sets forth the administrative procedure that shall govern the imposition, enforcement, collection, and administrative review by the local agency of the administrative fines or penalties for water theft committed via the unauthorized connection to a fire hydrant.](#)

(b) Water theft committed via the unauthorized connection to a fire hydrant in violation of an ordinance adopted under this section is punishable as follows:

(1) A fine not exceeding two thousand five hundred dollars (\$2,500) for a first violation.

(2) A fine not exceeding five thousand dollars (\$5,000) for a second violation of the same ordinance.

(3) A fine not exceeding ten thousand dollars (\$10,000) for the third violation and each additional violation of the same ordinance.

(c) For purposes of this section, the following definition applies:

(1) "Unauthorized connection to a fire hydrant" includes the unauthorized use of a fire hydrant, fire hydrant meter, or fire detector check.

(d) Nothing in this section precludes remedies available under other applicable law including the penal code and civil code.

Section 4. Section 1882.1 of the Civil Code is amended as follows:

1882.1.

A utility may bring a civil action for damages against any person who commits, authorizes, solicits, aids, abets, or attempts any of the following acts:

(a) Diverts, or causes to be diverted, utility services by any means whatsoever.

(b) Makes, or causes to be made, any connection or reconnection with property owned or used by the utility to provide utility service without the authorization or consent of the utility.

(c) Prevents any utility meter, or other device used in determining the charge for utility services, from accurately performing its measuring function by tampering or by any other means.

(d) Tampers with any property owned or used by the utility to provide utility services.

(e) Uses or receives the direct benefit of all, or a portion, of the utility service with knowledge of, or reason to believe that, the diversion, tampering, or unauthorized connection existed at the time of the use, or that the use or receipt, was without the authorization or consent of the utility.

(f) Tampers with a fire hydrant, fire hydrant meter, or fire detector check or diverts or causes water to be diverted from a fire hydrant with knowledge of, or reason to believe, that the diversion or unauthorized connection existed at the time of use for non-firefighting purposes or without authorization from the appropriate water system or fire department.

Section 5. Section 1882.3 of the Civil Code is amended as follows:

1882.3.

There is a rebuttable presumption that there is a violation of Section 1882.1 if:

(a) on premises [or in a vehicle](#) controlled by the customer or by the person using or receiving the direct benefit of utility service, there is either, or both, of the following:

(1) Any instrument, apparatus, or device primarily designed to be used to obtain utility service without paying the full lawful charge therefor.

(2) Any meter that has been altered, tampered with, or bypassed so as to cause no measurement or inaccurate measurement of utility services.

[\(b\) a person tampers with or uses a fire hydrant, fire hydrant meter, or fire detector check without authorization to obtain water and without paying the full lawful charge of the water.](#)