

BILL ANALYSIS

H.B. 2146
By: Gattis
Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Water supply issues in Texas are significant, especially in the smaller towns and rural communities of Texas. In time of drought, rural water supply corporations, small towns and remote districts can be especially plagued by illegal connections and tampering with meters by individuals illicitly diverting water, which may be in short supply, and which can represent significant revenue losses for small public water suppliers. More importantly, the unsupervised connection to public water distribution lines, in circumvention of state health and safety regulations, can create a risk of contamination of the public water supply. These illegal diversions can be difficult to prosecute, in part because it can be virtually impossible to prove a dollar amount for prosecution by the district or county attorney.

For these reasons, the 77th Legislature enacted Senate Bill 1174, which made any impairment or interruption of a public water supply a Class A misdemeanor regardless of the amount of pecuniary loss to the public water supplier. However, S.B. 1174 had the unintended effect of limiting the punishment for an impairment or interruption of a public water supply which caused a pecuniary loss of \$1,500 or more, which otherwise would be punishable as a felony based upon the amount of pecuniary loss.

As proposed, House Bill 2146 would amend Section 28.03 of the Penal Code to allow prosecution for an impairment or interruption of a public water supply based upon the amount of pecuniary loss, with a minimum punishment as a Class A misdemeanor for losses of less than \$1,500. This will bring prosecutions for the impairment or interruption of a public water supply into line with similar prosecutions for the impairment or interruption of public communications, public transportation, public gas or power supply, and other public services.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. Amends Section 28.03(b), Penal Code, to provide that it is a Class A misdemeanor if the amount of the pecuniary loss is less than \$1,500 and the actor causes in whole or in part impairment or interruption of any public water supply, or causes to be diverted in whole, in part, or in any manner, including installation or removal of any device for any such purpose, any public water supply.

SECTION 2. Amends Section 28.03(d), Penal Code, by defining the term "public communications, public transportation, public water, gas, or power supply, or other public service" to include any such services subject to regulation by the Public Utility Commission of Texas, the Railroad Commission of Texas, or the Texas Commission on Environmental Quality, or enfranchised by the state or any political subdivision of the state.

SECTION 3. Effective date is September 1, 2003, and makes application of this Act prospective.

EFFECTIVE DATE

September 1, 2003.