



SB-394 Water theft: fire hydrants. (2025-2026)

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Senate Bill No. 394

CHAPTER 540

An act to amend Sections 1882.1 and 1882.3 of the Civil Code, and to amend Section 53069.45 of, and to add Section 53069.46 to, the Government Code, relating to water theft.

[Approved by Governor October 10, 2025. Filed with Secretary of State October 10, 2025.]

LEGISLATIVE COUNSEL'S DIGEST

SB 394, Allen. Water theft: fire hydrants.

Existing law authorizes a utility to bring a civil action for damages against any person who commits, authorizes, solicits, aids, abets, or attempts certain acts, including, diverting or causing to be diverted, utility services by any means whatsoever. Existing law creates a rebuttable presumption that there is violation of these provisions if, on premises controlled by the customer or by the person using or receiving the direct benefit of utility service, certain actions occur, including that there is an instrument, apparatus, or device primarily designed to be used to obtain utility service without paying the full lawful charge for the utility.

This bill would add to the list of acts for which a utility may bring a civil cause of action under these circumstances to include tampering with a fire hydrant, fire hydrant meter, or fire detector check, or connecting to, diverting water from, or causing water to be diverted from, a fire hydrant without authorization from the utility that owns the fire hydrant, except as provided. The bill would also expand the rebuttable presumption for a violation of these provisions to include, among other things, if 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.

Existing law authorizes the legislative body of a local agency, as defined, that provides water services to adopt an ordinance that prohibits water theft, as defined, and makes a violation of the ordinance subject to an administrative fine or penalty, as specified. Existing law sets forth a schedule of fines for a violation of an ordinance adopted pursuant to these provisions, including, if the violation is committed via meter tampering, a fine not exceeding \$1,300 for a third or additional violation of the same ordinance within one year of the first violation, and for a violation of all other forms of water theft, a fine not exceeding \$3,000 for a third or additional violation of the same ordinance within one year.

This bill would revise those fines to apply to the third or additional violation without regard to whether the violation occurred within one year of the first violation.

This bill would authorize a legislative body of a local agency, as defined, that provides retail water services, to adopt an ordinance that prohibits unauthorized connection to a fire hydrant, as defined, subject to an

administrative fine or penalty, as specified. The bill would set forth a schedule of fines for a violation of the ordinance. The bill would prohibit a local agency from imposing a fine for the same offense under both an ordinance adopted by a local agency pursuant to these provisions that prohibits unauthorized connection to a fire hydrant and an ordinance adopted by the local agency pursuant to the provisions described above that prohibits water theft.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

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 the Making Conservation a California Way of Life regulation adopted by the State Water Resources Control Board 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) 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 depressurization 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 fire hydrant as the cost of water loss and damages to infrastructure is ultimately borne by ratepayers.

(e) 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 deterrent to water theft via the unauthorized connection to a fire hydrant or unauthorized use of a hydrant meter.

SEC. 2. Section 1882.1 of the Civil Code is amended to read:

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) Tampered 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) (1) Tampered with a fire hydrant, fire hydrant meter, or fire detector check, or connects to, diverts water from, or causes water to be diverted from, a fire hydrant without authorization from the utility that owns the fire hydrant.

(2) A public agency having firefighting or emergency response responsibilities during a fire, or a qualified insurance resource, as defined in Section 1139 of the Labor Code, with approval from incident command or the authority having jurisdiction over the active fire incident, shall be considered to have authorization from the utility that owns the fire hydrant during an active fire incident.

SEC. 3. Section 1882.3 of the Civil Code is amended to read:

1882.3. There is a rebuttable presumption that there is a violation of Section 1882.1 if either of the following occurs:

(a) On premises controlled by the customer or by the person using or receiving the direct benefit of utility service, including through the use of a vehicle, 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 for the utility service.

(2) A 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.

SEC. 4. Section 53069.45 of the Government Code is amended to read:

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.

(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.

(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.

SEC. 5. Section 53069.46 is added to the Government Code, to read:

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

(d) (1) A local agency shall not impose fines under both this section and Section 53069.45 for the same offense.

(2) Except as provided in paragraph (1), this section does not preclude remedies available under any other law, including provisions in the Penal Code or the Civil Code.

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2025-2026 Regular Session

SB 394 (Allen)
Version: February 14, 2025
Hearing Date: April 1, 2025
Fiscal: No
Urgency: No
AM

SUBJECT

Water theft: fire hydrants

DIGEST

This bill authorizes a utility to bring a civil action for damages against any person who commits, authorizes, solicits, aids, abets, or attempts to tamper with a fire hydrant, fire hydrant meter, or fire detector check, or diverts water, 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 nonfirefighting purposes or without authorization from the appropriate water system or fire department. The bill provides that a person who 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 is presumed to be in violation of existing law. The bill also provides enhanced civil penalties for water theft committed via the unauthorized connection to a fire hydrant in violation of an ordinance adopted by a local agency that provides retail water services, as specified.

EXECUTIVE SUMMARY

The author and sponsors of the bill note that water theft threatens public health and safety, water affordability, and water efficiency. They argue that existing penalties for water theft are inadequate and not an effective deterrent providing various examples of water theft and the fiscal cost of that theft to water agencies and the public (*see* Comment 2 below). In order to safeguard this precious natural resource, the bill seeks to provide enhanced penalties for water agencies to deter water theft from fire hydrants. The bill passed the Senate Local Government Committee on a vote of 7 to 0. The bill is sponsored by the Association of California Water Agencies (ACWA) and the Las Virgenes Municipal Water District. The bill is supported by numerous water agencies and districts, some cities, and the League of California Cities. No timely opposition was received by the Committee.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Authorizes the legislative body of a local agency to make any violation of any ordinance enacted by the local agency subject to an administrative fine or penalty, and set forth by ordinance the administrative procedures that govern the imposition, enforcement, collection, and administrative review by the local agencies of those fines or penalties. The administrative procedures must provide a reasonable period of time for a person to correct or remedy a violation prior to the imposition of fines or penalties, when the violation pertains to building, plumbing, electrical, or other similar structural or zoning issues that do not create an immediate danger to health or safety. (Gov. Code, § 53069.4(a).)
- 2) Authorizes a local agency that provides water services to 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.
 - a) Violation of an ordinance prohibiting water theft via meter tampering is punishable by a fine not to exceed: \$130 for a first violation; \$700 for a second violation within one year of the first violation; and \$1,300 for a third violation and each additional violation within one year of the first violation.
 - b) Violation of any other ordinance prohibiting water theft is punishable by a fine not to exceed: \$1,000 for a first violation; \$2,000 for a second violation within one year of the first violation; and \$3,000 for a third violation and each additional violation within one year of the first violation. (Gov. C. § 53069.45)
- 3) Defines a “local agency” as a county, city, whether general law or chartered, city and county, town, school district, municipal corporation, district, political subdivision, or any board, commission or agency thereof, or other local public agency. (Gov. Code, § 54951.)
- 4) Authorizes a utility to 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; and

- 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. (Civ. C. § 1882.1.)
- 5) Provides there is a rebuttable presumption that there is a violation of 1), above, if on premises 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:
- a) any instrument, apparatus, or device primarily designed to be used to obtain utility service without paying the full lawful charge therefor; and
 - b) any meter that has been altered, tampered with, or bypassed so as to cause no measurement or inaccurate measurement of utility services. (Civ. C. § 1882.3.)
- 6) Defines “utility” for purposes of 4) and 5), above, as any electrical, gas, or water corporation as those terms are defined in the Public Utilities Code and includes any electrical, gas, or water system operated by any public agency. (Civ. C. § 1882.)

This bill:

- 1) Authorizes a utility to bring a civil action for damages against any person who commits, authorizes, solicits, aids, abets, or attempts to tamper with a fire hydrant, fire hydrant meter, or fire detector check, or diverts water, 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 nonfirefighting purposes or without authorization from the appropriate water system or fire department.
- 2) Provides that a person who 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 is presumed to be in violation of 1), above.
- 3) Revises the existing civil penalty for a third and each subsequent violation of a local ordinance against water theft to apply any time after a second violation, not just if the violation occurred within one year of the first violation.
- 4) Authorizes the legislative body of a local agency that provides retail water services to 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.
 - a) A violation of an ordinance adopted under 4) is punishable as follows:
 - i. a fine not exceeding \$2,500 for a first violation;
 - ii. a fine not exceeding \$5,000 for a second violation; and

- iii. a fine not exceeding \$10,000 for a third violation and each additional violation.
- b) Requires the local agency to adopt an ordinance that sets forth the administrative procedures governing the imposition, enforcement, collection, and administrative review by the local agency of the fines or penalties.
- c) Provides that an “unauthorized connection to a fire hydrant” includes the unauthorized use of a fire hydrant, fire hydrant meter, or fire detector check.
- d) Prohibits a local agency from imposing fines under this provision and Section 53069.45 of the Government Code.

COMMENTS

1. Stated need for the bill

The author writes:

Water is one of California’s most precious resources, especially as the state continues to face the challenges of drought and climate change. Unfortunately, the theft of water from fire hydrants has become a growing problem, costing local agencies millions of gallons of water and hundreds of thousands of dollars annually. Illegal actors use specialized tools to steal water from hydrants for commercial purposes, such as construction, landscaping, and farming. These costs are ultimately passed on to ratepayers, raising costs for paying customers. This activity not only undermines affordability but also jeopardizes public safety, conservation efforts, and the integrity of our water systems. Current penalties are insufficient deterrents to water theft and are a “cost of doing business” for the commercial entities responsible. SB 394 addresses this critical issue by enhancing penalties for water theft from fire hydrants and providing water agencies with the tools they need to hold perpetrators accountable.

2. This bill seeks to provide enhanced penalties and remedies for water theft from fire hydrants

The ACWA reports water agencies incur financial costs for both the loss of revenue from stolen water and any actions that must be taken as a result of, and to prevent, water theft.¹ For example, the West Valley Water District reports experiencing an estimated loss of 45 to 60 million gallons of water due to theft, which is roughly the equivalent of \$200,000 to \$300,000 in lost revenue.² The Las Virgenes Municipal Water District, a sponsor of the bill, reports an estimated loss of 22 to 45 million gallons of water due to theft, which is roughly the equivalent of \$150,000 to \$300,000 in lost

¹ Association of California Water Agencies, *SB 394 (Allen): Enhanced Penalties for Water Theft from Fire Hydrants*, (Feb. 2025) available at <https://www.acwa.com/wp-content/uploads/2025/02/Fire-Hydrant-Water-Theft-Fact-Sheet.pdf>.

² *Ibid.*

revenue.³ In order to prevent theft, the Contra Costa Water District has taken several actions that they report costs upwards of \$250,000 in 2021 alone. These steps include “locking hydrants in coordination with their local first responders, communications to customers, installing signage and cameras, implementing patrols, installing pressure monitoring devices, and constructing fill stations and dedicated hydrants for paying customers.”⁴ An egregious example of the effect of water theft happened in the Coachella Valley Water District where a violator admitted to accessing a hydrant illegally two to three times a week, stealing an estimated 80,000 to 100,000 gallons of water and causing water levels a two different reservoirs to drop seven feet.⁵

In order to strengthen existing penalties for water theft from fire hydrants this bill authorizes the legislative body of a local agency that provides retail water services to adopt an ordinance that prohibits unauthorized connection to a fire hydrant. Under the bill, a violation of the adopted ordinance is punishable by a fine not to exceed \$2,500 for a first violation, \$5,000 for a second violation, and \$10,000 for a third violation and any subsequent violation. A local agency that adopts such an ordinance must also adopt an ordinance setting forth the administrative procedures governing the imposition, enforcement, and collection of the fines or penalties, including a procedure for administrative review of the fines or penalty by the local agency. The bill also prohibits a local agency from imposing fines under these provision as well as those fines authorized for water theft under Section 53069.45 of the Government Code.

Additionally, the bill authorizes a utility to bring a civil action for damages against any person who commits, authorizes, solicits, aids, abets, or attempts to tamper with a fire hydrant, fire hydrant meter, or fire detector check, or diverts water, 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 nonfirefighting purposes or without authorization from the appropriate water system or fire department. The bill establishes a rebuttable presumption that a person who tampers with or uses a fire hydrant, fire hydrant meter, or fire detector check without authorization to obtain the water and without paying the full lawful charge of the water is civilly liable to a utility for damages. Lastly, the bill modifies the existing civil penalty for a third or any subsequent violation of a local ordinance against water theft under Government Code Section 53069.45 to apply any time after a second violation has occurred, not just if the third or subsequent violation occurred within one year of the first violation. This will allow water agencies to more effectively punish repeat offenders and hopefully act as a stronger deterrent against repeat violations.

³ *Ibid.*

⁴ *Ibid.*

⁵ *Ibid.*

3. Statements in support

The Las Virgenes Municipal Water District, a sponsor of the bill, writes in support stating:

[...] Under current law, the maximum penalty for water theft from a hydrant is \$1,000 for a first offense. The penalty increases to \$2,000 and \$3,000 for a second and third offense, but the enhanced penalties only apply if the second and third offenses are committed within 12 months of the first offense. A theft committed more than twelve months later would be treated as a first offense. Experience has shown these penalties are failing to deter water haulers from stealing water from fire hydrants for profit.

In the case of LVMWD, thefts usually occur during periods of drought where property owners, seeking to circumvent outdoor watering restrictions, purchased water from haulers who illegally tapped into fire hydrants. LVMWD has no evidence that the property owners were aware of the theft, and no action has been taken them, but the water haulers are clearly aware of the illegal nature of their actions. They possess expensive, specialized tools needed to access the fire hydrants, and they have access to commercial water trucks, all of which indicates they have professional experience and know the legal requirements.

While the financial loss to LVMWD is an obvious concern, the public safety implications are far worse. If an improperly closed fire hydrant has an air gap, to give one example, a firetruck connecting to the hydrant in an emergency can be severely damaged and unable to fight a fire until it is repaired. [...]

SUPPORT

Association of California Water Agencies (sponsor)
Las Virgenes Municipal Water District (sponsor)
Bella Vista Water District
California Municipal Utilities Association
California Special Districts Association
California Water Association
Calleguas Municipal Water District
City of Fairfield
City of Roseville
Coachella Valley Water District
Community Water Systems Alliance
Crescenta Valley Water District
Crestline-Lake Arrowhead Water Agency
Cucamonga Valley Water District
Desert Water Agency

East Bay Municipal Utility District
Eastern Municipal Water District
El Dorado Irrigation District
Elk Grove Water District
Foothill Municipal Water District
Helix Water District
Kinneloa Irrigation District
Lakeside Water District
Las Virgenes - Triunfo Joint Powers Authority
Las Virgenes Municipal Water District
League of California Cities
Mendocino County Russian River Flood Control & Water Conservation
Mesa Water District
Metropolitan Water District of Southern California
Mid-Peninsula Water District
Monte Vista Water District
Orchard Dale Water District
Padre Dam Municipal Water District
Paradise Irrigation District
Placer County Water Agency
Rancho California Water District
Rosamond Community Services District
Rural County Representatives of California
San Juan Water District
Santa Clarita Valley Water Agency
Santa Fe Irrigation District
Santa Margarita Water District
Scotts Valley Water District
Three Valleys Municipal Water District
Tuolumne Utilities District
Utica Water and Power Authority
Valley Center Municipal Water District
West Valley Water District
Western Municipal Water District

OPPOSITION

None received

RELATED LEGISLATION

Pending Legislation: None known.

Prior Legislation:

SB 427 (Eggman, Ch. 137, Stats. 2021) increased the civil penalty amounts for violation of an ordinance adopted by a local agency for water theft and required the local agency to adopt an ordinance that sets forth the administrative procedures governing the imposition, enforcement, collection, and administrative review of the administrative fines or penalties for water theft and to establish a process for granting a hardship waiver to reduce the amount of the fine, as specified.

PRIOR VOTES:

Senate Local Government Committee (7 Ayes, 0 Noes)

Date of Hearing: June 18, 2025

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT
Juan Carrillo, Chair
SB 394 (Allen) – As Amended June 9, 2025

SENATE VOTE: 39-0

SUBJECT: Water theft: fire hydrants.

SUMMARY: Authorizes utilities to bring a civil action and local agencies to establish ordinances with enhanced administrative fines for water theft from a fire hydrant. Specifically, **this bill:**

- 1) Authorizes a utility to bring a civil action for damages against any person who commits, authorizes, solicits, aids, abets, or attempts to tamper with a fire hydrant, fire hydrant meter, or fire detector check, or connects to, diverts water from, or causes water to be diverted from, a fire hydrant without authorization from the utility that owns the fire hydrant.
- 2) Provides that a person who 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 is presumed to be in violation of 1), above.
- 3) Revises the existing civil penalty for a third and each additional violation of a local ordinance against water theft committed via meter tampering to apply any time after a second violation, not just if the violation occurred within one year of the first violation.
- 4) Revises the existing civil penalty for a third and each additional violation of a local ordinance against all other forms of water theft to apply any time after a second violation, not just if the violation occurred within one year of the first violation.
- 5) Authorizes the legislative body of a local agency that provides retail water services to 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.
- 6) Requires the local agency to adopt an ordinance that sets forth the administrative procedures governing the imposition, enforcement, collection, and administrative review by the local agency of the fines or penalties for water theft committed via the unauthorized connection to a fire hydrant.
- 7) Provides that water theft committed via the unauthorized connection to a fire hydrant in violation of an ordinance adopted under 5) and 6), above, is punishable as follows:
 - a) A fine not exceeding \$2,500 for a first violation;
 - b) A fine not exceeding \$5,000 for a second violation; and,

- c) A fine not exceeding \$10,000 for a third violation and each additional violation of the same ordinance.
- 8) Provides that an “unauthorized connection to a fire hydrant” includes the unauthorized use of a fire hydrant, fire hydrant meter, or fire detector check.
- 9) Prohibits a local agency from imposing fines for the same offense under both 7), above, and existing law that establishes fines for water theft, as specified.
- 10) Makes related findings and declarations.

EXISTING LAW:

- 1) Authorizes the legislative body of a local agency to make any violation of any ordinance enacted by the local agency subject to an administrative fine or penalty, and set forth by ordinance the administrative procedures that govern the imposition, enforcement, collection, and administrative review by the local agencies of those fines or penalties. The administrative procedures must provide a reasonable period of time for a person to correct or remedy a violation prior to the imposition of fines or penalties, when the violation pertains to building, plumbing, electrical, or other similar structural or zoning issues that do not create an immediate danger to health or safety. (Government Code § 53069.4(a).)
- 2) Provides that any person who, with intent to obtain for himself or herself utility services without paying the full lawful charge thereof, or with intent to enable another person to do so, or with intent to deprive any utility of any part of the full lawful charge for utility services it provides, commits, authorizes, solicits, aids, or abets any of the following is guilty of a misdemeanor:
 - a) Diverts or causes to be diverted utility services, by any means;
 - b) 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;
 - c) Tampered with any property owned by or used by the utility to provide utility services;
 - d) Makes or causes to be made any connection with or reconnection with property owned or used by the utility to provide utility services without the authorization or consent of the utility; and,
 - e) Uses or receives the direct benefit of all or a portion of utility services with knowledge or reason to believe that the diversion, tampering, or unauthorized connection existed at the time of that use, or that the use or receipt was otherwise without the authorization or consent of the utility. (Penal Code § 498 (b).)

- 3) Authorizes a local agency that provides water services to 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.
 - a) Violation of an ordinance prohibiting water theft via meter tampering is punishable by a fine not to exceed: \$130 for a first violation; \$700 for a second violation within one year of the first violation; and \$1,300 for a third violation and each additional violation within one year of the first violation;
 - b) Violation of any other ordinance prohibiting water theft is punishable by a fine not to exceed: \$1,000 for a first violation; \$2,000 for a second violation within one year of the first violation; and \$3,000 for a third violation and each additional violation within one year of the first violation. (Government Code § 53069.45)
- 4) Defines a “local agency” as a county, city, whether general law or chartered, city and county, town, school district, municipal corporation, district, political subdivision, or any board, commission or agency thereof, or other local public agency. (Government Code, § 54951.)
- 5) Authorizes a utility to 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) Tamper with any property owned or used by the utility to provide utility services; and,
 - 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. (Civil Code § 1882.1.)
- 6) Provides there is a rebuttable presumption that there is a violation of 5), above, if on premises 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:
 - a) Any instrument, apparatus, or device primarily designed to be used to obtain utility service without paying the full lawful charge therefor; and
 - b) Any meter that has been altered, tampered with, or bypassed so as to cause no measurement or inaccurate measurement of utility services. (Civil Code § 1882.3.)

- 7) Defines “utility” for purposes of 5) and 6), above, as any electrical, gas, or water corporation as those terms are defined in the Public Utilities Code and includes any electrical, gas, or water system operated by any public agency. (Civil Code § 1882.)

FISCAL EFFECT: None.

COMMENTS:

- 1) **Bill Summary.** This bill provides enhanced civil penalties for water theft committed via the unauthorized connection to a fire hydrant in violation of an ordinance adopted by a local agency that provides retail water services. This bill authorizes a utility to bring a civil action for damages against any person who commits, authorizes, solicits, aids, abets, or attempts to tamper with a fire hydrant, fire hydrant meter, or fire detector check, or connects to, diverts water from, or causes water to be diverted from, a fire hydrant without authorization from the utility that owns the fire hydrant. The bill provides that a person who 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 is presumed to be in violation of existing law.

This bill is sponsored by the Association of California Water Agencies and the Las Virgenes Municipal Water District.

- 2) **Author’s Statement.** According to the author, “Water is one of California’s most precious resources, especially as the state continues to face the challenges of drought and climate change. Unfortunately, the theft of water from fire hydrants has become a growing problem, costing local agencies millions of gallons of water and hundreds of thousands of dollars annually. Illegal actors use specialized tools to steal water from hydrants for commercial purposes, such as construction, landscaping, and farming. These costs are ultimately passed on to ratepayers, raising costs for paying customers. This activity not only undermines affordability but also jeopardizes public safety, conservation efforts, and the integrity of our water systems. Current penalties are insufficient deterrents to water theft and are a ‘cost of doing business’ for the commercial entities responsible. SB 394 addresses this critical issue by enhancing penalties for water theft from fire hydrants and providing water agencies with the tools they need to hold perpetrators accountable.”
- 3) **Local Ordinances.** Existing law provides local agencies the authority to establish ordinances and to impose fines and penalties for violation of those ordinances. A violation of a local ordinance is a misdemeanor unless, by ordinance, it is made an infraction. Existing law outlines the following fine structure for ordinance violations that are determined to be infractions, including those for building and safety code violations, which are higher:

Number of violations within specified time periods	Amount of fine for ordinance violations that are infractions	Amount of fine for building and safety code violations that are infractions
First violation	Fine does not exceed \$100	Fine does not exceed \$130

Second violation within one year of first violation	Fine does not exceed \$200	Fine does not exceed \$700
Third violation within one year of first violation	Fine does not exceed \$500	Fine does not exceed \$1,300

For building and safety code violations that are infractions, the fine can be increased to \$2,500 for each additional violation of the same ordinance within two years of the first violation, if the property is a commercial property that has an existing building at the time of the violation and the violation is due to failure by the owner to remove visible refuse or failure to prohibit unauthorized use of the property.

- 4) **Administrative Alternative.** As an alternative to the court process, a local agency can make any violation of any of its ordinances subject to an administrative fine or penalty. This provision was enacted in 1995 [SB 814 (Alquist), Chapter 898, Statutes of 1995], to relieve the courts of some of these cases and offer local governments a faster, easier, and less costly means of pursuing remedies for ordinance violations.

In order to make an ordinance violation subject to an administrative fine or penalty, the local agency must adopt an ordinance specifying the administrative procedures that govern the imposition, enforcement, collection, and administrative review of the fines or penalties. A person may appeal such fines or penalties in superior court within 20 days after service of a final administrative order or decision. Local agencies must pursue a civil court proceeding to collect fines and penalties that are not secured via the administrative process.

Current law requires these administrative procedures to grant a person responsible for a continuing violation a reasonable time to remedy the violation before the local agency may impose fines or penalties when the violation pertains to building, plumbing, electrical, or other similar structural and zoning issues that do not create an immediate danger to health or safety.

- 5) **Water Theft.** SB 2053 (Killea), Chapter 1010, Statutes of 1994, established “water theft” as a misdemeanor. A person can be found guilty of water theft if they commit any of the following actions without paying for utility services:
- a) Divert utility services, by any means;
 - b) Prevent any utility meter, or other device used in determining the charge for utility services, from accurately performing its measuring function;
 - c) Tamper with any property owned by or used by the utility to provide utility services;
 - d) Connect with property owned or used by the utility to provide utility services without authorization; and
 - e) Use or receive the direct benefit of all or a portion of utility services with knowledge or reason to believe that the diversion, tampering, or unauthorized connection existed at the time of that use, or that the use or receipt was otherwise without the authorization or consent of the utility.

If the total value of all utility services stolen is more than \$950, or if the defendant has previously been convicted of an offense under this section or other similarly defined sections, then the violation is punishable with up to one year of imprisonment.

A utility can bring a civil action for damages against any person who commits or attempts water theft. Existing law creates a rebuttable presumption that there is violation of these provisions if certain actions occur, including that there is, on premises owned by the customer, a device primarily designed to be used to obtain utility service without paying the full lawful charge for the utility.

- 6) **SB 427 (Eggman) of 2021.** Responding to concerns that some water agencies lacked sufficient authority to impose fines to deter water theft, the Legislature enacted SB 427 (Eggman), Chapter 137, Statutes of 2021. SB 427 allowed any local agency that provides water services to enact an ordinance that prohibits water theft and made violation of an ordinance enacted by the local agency regarding water theft subject to an administrative fine or penalty. SB 427 required the local agency to establish procedures for the imposition, enforcement, collection, and administrative review of the administrative fines or penalties for water theft, and required the local agency to 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.

SB 427 established two sets of limits on the fines that a local agency can impose for water theft. Specifically, if the water theft is committed via meter tampering, the fines must not exceed:

- a) \$130 for a first violation;
- b) \$700 for a second violation of the same ordinance within one year of the first violation; and
- c) \$1,300 for the third violation and each additional violation of the same ordinance within one year of the first violation.

All other forms of water theft in violation of an ordinance adopted under SB 427 are punishable by fines of up to:

- a) \$1,000 for a first violation;
 - b) \$2,000 for a second violation of the same ordinance within one year; and
 - c) \$3,000 for each additional violation of the same ordinance within one year.
- 7) **Arguments in Support.** According to the Association of California Water Agencies and the Las Virgenes Municipal Water District, co-sponsors of this bill, “Water theft takes many forms, the most egregious being water theft from fire hydrants for commercial uses. Illegal actors have been documented connecting to and filling water trucks from fire hydrants without the proper use of hydrant meters to avoid paying for water. These water trucks can hold up to 6,000 gallons of water, resulting in significant loss for water agencies. The stolen water is typically used or sold for profit for commercial purposes, such as by construction

companies, landscaping companies, and water trucks selling the water to other users. Current fine amounts are not strong enough to deter this theft and may instead be seen as the cost of doing business for some bad actors...

“Water theft from fire hydrants poses serious risks to public health and safety, water affordability, and water efficiency. During water theft from hydrants, contamination can occur when non-potable sources are illegally connected to a drinking water system and anti-backflow devices are not used. This crosscontamination between the water system and non-potable source connections poses a serious health risk to everyone in the system. Further, unauthorized use of a hydrant can lead to water pressure in the system dropping which can jeopardize response to emergency situations such as fires. This potential issue is especially timely given the devastating fires in Southern California. Illegal connections also often result in costly damage to the fire hydrant and system infrastructure that can impair the hydrant’s function. The revenue lost from water theft and the cost of damage to infrastructure as a result of theft is ultimately borne by law-abiding paying customers, having a negative impact on water affordability. Water theft also works against efforts by water districts to comply with State water use efficiency goals under the State’s newly adopted Making Conservation a California Way of Life framework.

“The current penalties for water theft are an insufficient deterrent and fail to prevent this criminal activity from occurring...”

8) **Arguments in Opposition.** None on file.

9) **Double-Referral.** This bill is double-referred to the Judiciary Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

Association of California Water Agencies (ACWA) (co-sponsor)

Las Virgenes Municipal Water District (co-sponsor)

Aromas Water District

Beaumont-cherry Valley Water District

Bella Vista Water District

Burbank/burbank Redevelopment Agency; City of

California Chamber of Commerce

California Contract Cities Association

California Fire Chiefs Association

California Municipal Utilities Association

California Special Districts Association

California Water Association

California-nevada Section, American Water Works Association

Calleguas Municipal Water District

City of Agoura Hills

City of Fairfield

City of Hidden Hills

City of Norwalk

City of Roseville

City of Thousand Oaks

Coachella Valley Water District
Coastside County Water District
Community Water Systems Alliance
Crescenta Valley Water District
Crestline-lake Arrowhead Water Agency
Cucamonga Valley Water District
Desert Water Agency
East Bay Municipal Utility District
East Valley Water District
Eastern Municipal Water District
El Dorado Irrigation District
Elk Grove Water District
Fire Districts Association of California
Foothill Municipal Water District
Helix Water District
Inland Empire Utilities Agency
Jurupa Community Services District
Kinneloa Irrigation District
Lakeside Water District
Las Virgenes - Triunfo Joint Powers Authority
League of California Cities
Mendocino County Russian River Flood Control & Water Conservation
Mesa Water District
Metropolitan Water District of Southern California
Mid-peninsula Water District
Mission Springs Water District
Monte Vista Water District
Monterey Peninsula Water Management District
Orchard Dale Water District
Padre Dam Municipal Water District
Paradise Irrigation District
Pinyon Pines County Water District
Placer County Water Agency
Rancho California Water District
Rio Linda Elverta Community Water District
Rosamond Community Services District
Rural County Representatives of California
San Diego County Water Authority
San Gabriel Valley Water Association
San Juan Water District
Santa Clarita Valley Water Agency
Santa Fe Irrigation District
Santa Margarita Water District
Scotts Valley Water District
Three Valleys Municipal Water District
Tuolumne Utilities District
Upper San Gabriel Valley Municipal Water District
Utica Water and Power Authority
Valley Center Municipal Water District

West Valley Water District
Western Canal Water District
Western Municipal Water District

Opposition

None on file

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