~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

March 25, 2015

**S. 512**

Introduced by Senators Sheheen, McElveen, Lourie and L. Martin

S. Printed 3/25/15--S.

Read the first time March 4, 2015.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 512) to amend Section 6‑13‑90 of the 1976 Code, relating to wilful damage to a water system, to provide different penalties for violations of the section based upon, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking all after the enacting language and inserting:

/ SECTION 1. Article 7, Chapter 11, Title 16 of the 1976 Code is amended by adding:

“Section 16‑11‑745. (A) It shall be unlawful for any person to wilfully and maliciously injure, destroy, damage, tamper with, obstruct, or impair a public water system as defined by Section 44-55-20(13) or a public sewer system of the state or a political subdivision of the state, or any part thereof, or any machinery, apparatus, or equipment of the water system, or to pollute the water in any part of its system, or to obtain water therefrom except in accordance with the regulations promulgated by the appropriate agency of the state or political subdivision.

(B) A person who violates this section, upon conviction, shall be liable to pay all damages suffered by the water system, and is guilty of a:

(1) misdemeanor and must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the injury to the property or the property loss is worth ten thousand dollars or more;

(2) misdemeanor and must be fined in the discretion of the court or imprisoned not more than five years, or both, if the injury to the property or the property loss is worth more than two thousand dollars but less than ten thousand dollars;

(3) misdemeanor triable in magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, if the injury to the property or the property loss is worth two thousand dollars or less and must be fined not more than one thousand dollars, or imprisoned not more than thirty days, or both.”

SECTION 2. Section 5-31-20 of the 1976 code is deleted.

SECTION 3. Section 6-13-90 of the 1976 code is deleted.

SECTION 4. Notwithstanding any other provision of law, the penalties contained in this act shall be imposed in all cases where a person wilfully injures or destroys, or in any manner hurts, damages, tampers with, obstructs, or impairs a water system of any political subdivision of the state, or any part thereof, or any machinery, apparatus, or equipment of the district, or pollutes the water in any part of its system, or obtains water therefrom except in accordance with the regulations promulgated by the district. Any provision of law to the contrary regarding a penalty for a violation of this nature is superseded by the provisions of this act.

SECTION 5. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

J. THOMAS MCELVEEN III for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Fiscal Impact Summary**

This bill would have no expenditure impact on federal or other funds. The Judicial Department indicates that this bill could have an expenditure impact on the general fund, but any expenses could be absorbed by the department. Based on information provided by the Municipal Association, this bill would have a minimal expenditure impact on municipal governments.

This bill would have minimal to no revenue impact on the state’s general fund. There would be no revenue impact on federal or other funds.

**Explanation of Fiscal Impact**

**State Expenditure**

This bill amends Section 6-13-90, which outlines the penalties associated with willful damage to a water system operated by a water district.

**Judicial Department.**

This bill varies the penalty, based on the value of the damage, for willful damage to a water system. Currently, this offense is tried in the summary courts. Under this bill, this offense would be heard in summary or general sessions courts. During FY 2013-14, there were no charges filed or convictions for the offense of willful damage to a water system. If any hearings or trials would be held in general sessions court as a result of this legislation, it is anticipated that the Judicial Department would absorb this cost to general funds. It is also anticipated that the passage of the bill could impact the general sessions court dockets due to additional hearings and trials. There is no impact on federal or other funds.

**State Revenue**

Based on data obtained from the Judicial Department, there were no convictions associated with Section 6-13-90 in general sessions court, magistrates court, or municipal court in FY 2013-14. Additionally, the fines associated with this amended section are left to the discretion of the courts. Any revenue associated with this bill would be allocated by statute based on the individual courts. A portion of the revenue derived from fees would be allocated to the general fund and the remainder would be allocated per statute depending on the type of court. Since there were no convictions associated with this section in FY 2013-14, and assuming a similar pattern in FY 2015-16, our office estimates this bill would have minimal to no revenue impact in FY 2015-16.

**Local Expenditure**

The Revenue and Fiscal Affairs Office contacted the Municipal Association and twenty-three county governments regarding the expenditure impact of this bill. We received a response from the Municipal Association and no county responses. The Municipal Association reports this bill would have minimal impact on municipal governments. Since our office received no responses from the counties surveyed, we cannot provide an impact on county governments.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND SECTION 6‑13‑90 OF THE 1976 CODE, RELATING TO WILFUL DAMAGE TO A WATER SYSTEM, TO PROVIDE DIFFERENT PENALTIES FOR VIOLATIONS OF THE SECTION BASED UPON THE AMOUNT OF PROPERTY DAMAGE; AND TO PROVIDE THAT ALL OFFENSES OF THIS NATURE SHALL BE SUBJECT TO THIS PENALTY.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 6‑13‑90 of the 1976 Code is amended to read:

“Section 6‑13‑90. (A) It shall be unlawful for any person to wilfully injure or destroy, or in any manner hurt, damage, tamper with, or impair the system of the district, or any part thereof, or any machinery, apparatus or equipment of the district, or to pollute the water in any part of its system, or to obtain water therefrom except in accordance with the regulations promulgated by the district. ~~Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined not less than ten dollars nor more than one hundred dollars, or be imprisoned for not more than thirty days, in the discretion of the court,~~ ~~and shall be further liable to pay all damages suffered by the district.~~

(B) A person who violates this section, upon conviction, shall be liable to pay all damages suffered by the district, and is guilty of a:

(1) felony and must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the injury to the property or the property loss is worth ten thousand dollars or more;

(2) felony and must be fined in the discretion of the court or imprisoned not more than five years, or both, if the injury to the property or the property loss is worth more than two thousand dollars but less than ten thousand dollars;

(3) misdemeanor triable in magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, if the injury to the property or the property loss is worth two thousand dollars or less and must be fined not more than one thousand dollars, or imprisoned not more than thirty days, or both.”

SECTION 2. Notwithstanding any other provision of law, the penalties contained in this act shall be imposed in all cases where a person wilfully injures or destroys, or in any manner hurts, damages, tampers with, or impairs a water system of any district, or any part thereof, or any machinery, apparatus or equipment of the district, or pollutes the water in any part of its system, or obtains water therefrom except in accordance with the regulations promulgated by the district. Any provision of law to the contrary regarding a penalty for a violation of this nature is superseded by the provisions of this act.

SECTION 3. This act takes effect upon approval by the Governor.

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