

- SUBJECT:** Whistle-blowing protection for certain water and sewer workers
- COMMITTEE:** Business and Industry — committee substitute recommended
- VOTE:** 8 ayes — Brimer, Dukes, Corte, George, Ritter, Siebert, Solomons, Woolley
0 nays
1 absent — Giddings
- WITNESSES:** For — Daniel Allen, Texas Water Utilities Association; Diana L. Bell
Against — None
- BACKGROUND:** Under Government Code, Chapter 554, a public employee of a local government or a state agency is protected from discharge and discrimination when the employee reports in good faith a violation of law to an appropriate law enforcement authority.

Water Code, sec. 13.002(19) defines a retail public utility as any person, corporation, public utility, water-supply or sewer-service corporation, municipality, political subdivision, or agency operating, maintaining, or controlling facilities to provide potable water service, sewer service, or both for compensation.
- DIGEST:** HB 260 would amend the Water Code by adding sec. 13.420 to prohibit an employer from suspending, terminating, or discriminating against a public-utility employee who reports actions that the employee in good faith believes to be a violation of public health or safety laws related to the operation of a water or sewer system. This section would not apply to public employees of local governments or of state agencies, who are covered under Government Code, Chapter 554.

HB 260 would provide remedies for an employee terminated or suspended in violation of the above provision. The employee would be entitled to reinstatement to the employee's former position, to receive wages based on time lost, and to receive lost fringe benefits and seniority rights.

Under HB 260, if the employee were discriminated against for reporting violations, the employer would have to take any action necessary to return the employee to the status the employee enjoyed before the discrimination occurred.

An affected employee would have to file suit within 90 days after the date the employee learned or should have learned about the suspension or termination. An employee or employer who prevailed in the suit would be entitled to reimbursement of reasonable attorney's fees and court costs.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house.

**SUPPORTERS
SAY:**

HB 260 would extend protection to private-sector workers who would like to "blow the whistle" on infractions of state laws and regulations but hesitate to do so for fear of being fired. Many special districts, including water and sewer authorities, are outsourcing some operations to private contractors. To cut costs, some contractors do not comply fully with Texas Natural Resource Conservation Commission (TNRCC) regulations, and some pressure their employees to bypass these regulations.

HB 260 would encourage private contractors to comply with TNRCC and Water Code provisions. Given the trend toward privatization of certain water and sewer services, HB 260 would help guard against a loss of control over water safety.

Employers would not need to fear frivolous lawsuits because if they prevailed in a suit, they could recover attorney's fees and court costs.

**OPPONENTS
SAY:**

HB 260 would divert administrative resources to litigation. A utility employer could be exposed to whistle-blowing on minor technical infractions and could be forced to defend those allegations in court. Such litigation on minor infractions also could damage employer-employee relations.

NOTES:

The committee substitute added the exclusion of employees subject to Government Code, Chapter 554. A similar bill, HB 374 by Maxey, was reported favorably by the Business and Industry Committee during the 1997 session, but died in the Calendars Committee.