
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair

2017 - 2018 Regular

Bill No: SB 513 **Hearing Date:** March 28, 2017
Author: Bradford
Version: February 16, 2017
Urgency: No **Fiscal:** Yes
Consultant: NQG

Subject: *Assault and Battery of a Public Utility Worker*

HISTORY

Source: IBEW local 18 and Coalition of California Utility

Prior Legislation: AB 172 (Rodriguez) –Vetoed by Governor, 2015
SB 390 (La Mafia) – Chaptered 249, Statutes of 2011
SB 406 (Lieu) – Chapter 250, Statutes of 2011

Support: Association for Los Angeles Deputy Sheriffs; California American Water; California Association of Code Enforcement Officers; California Chapters of the National Electrical Contractors Association; California College and University Police Chiefs Association; California District Attorneys Association; California Municipal Utilities Association; California Narcotic Officers Association; California Water Association; California Water Service; Golden State Power Cooperative; Los Angeles County Professional Peace Officers Association; Los Angeles Police Protective League; Northern California Power Agency; PacifiCorp; Sacramento Municipal Utility District (SMUD); Riverside Sheriffs Association; Southern California Gas Company and San Diego Gas & Electric Company (collectively known as the Sempra Energy Utilities); Western Line Constructors

Opposition: American Civil Liberties Union of California; Courage Campaign

PURPOSE

The purpose of this bill is to increase the penalty for assault and battery, as specified.

Existing law defines “assault” as an unlawful attempt, coupled with a present ability, to commit a violent injury on the person of another. (Penal Code § 240)

Existing law defines the punishment for assault as a fine not exceeding one thousand dollars (\$1,000.00), or by the imprisonment in the county jail not exceeding six months, or by both the fine and imprisonment. (Penal Code § 241(a).)

Existing law increases the maximum punishment for assault, as described by Penal Code § 241(a), to a fine not exceeding two thousand dollars (\$2,000.00), or by the imprisonment in the county jail not exceeding six months, or by the both the fine and imprisonment, if an assault is

committed against the person of a parking control officer engaged in the performance of his or her duties, and the person committing the offense knows, or reasonably should know, that the victim is a parking control officer. (Penal Code § 241(b).)

Existing law increases the maximum punishment for assault, as described by Penal Code § 241(a), to a fine not exceeding two thousand dollars (\$2,000.00), or by the imprisonment in the county jail not exceeding one year, or by the both the fine and imprisonment, if assault is committed against a person of a peace officer, firefighter, emergency medical technician, mobile intensive care paramedic, lifeguard, process sever, traffic officer, code enforcement officer, animal control officer, or search and rescue member engaged in the performance of his or her duties, or a physician or nurse engaged in rendering emergency medical care outside a hospital, clinic, or other health care facility, and the person committing assault knows or reasonably should know that the victim is a member of any of the aforementioned professions. (Penal Code § 241(c).)

Existing law defines “battery” as any willful and unlawful use of force or violence upon the person of another. (Penal Code § 242)

Existing law defines the punishment for battery as a fine not exceeding two thousand dollars (\$2,000.00), or by imprisonment in a county jail not exceeding six months, or by both that fine and imprisonment (Penal Code § 243(a).)

Existing law increases the maximum punishment for battery, as described by Penal Code § 243(a), by a fine not exceeding two thousand (\$2,000.00) or by imprisonment in the county jail not exceeding one year, or by both fine and imprisonment if battery is committed against the person of a peace officer, custodial officer, firefighter, emergency medical technician, lifeguard, security officer, custody assistant, process server, traffic officer, code enforcement officer, animal control officers, or search and rescue member engaged in the performance of his or her duties, whether on or off duty, including when the peace officer is in a police uniform and is concurrently performing the duties required of him or her as peace officer while also employed in a private capacity as a part-time or casual private security guard or patrolman, or a nonsworn employee of a probation department engaged in the performance of his or her duties, whether on or off duty, or a physician or nurse engaged in rendering emergency medical care outside a hospital, clinic, or other health care facility, and the person committing the offense knows or reasonably should know that the victim is a peace officer, custodial officer, firefighter, emergency medical technician, lifeguard, security officer, custody assistant, process server, traffic officer, code enforcement officer, animal control officer, or search and rescue member engaged in the performance of his or her duties, nonsworn employee of a probation department, or a physician or nurse engaged in rendering emergency medical care. (Penal Code §243(b).)

Existing law increases the maximum punishment for battery, as described by Penal Code § 243(a), by a fine not exceeding two thousand (\$2,000.00) or by imprisonment in a county jail not exceeding one year, or imprisonment for 16 months, two, or three years, or by both fine and imprisonment, if battery is committed against a custodial officer, firefighter, emergency medical technician, lifeguard, process server, traffic officer, or animal control officer engaged in the performance of his or her duties, whether on or off duty, or a nonsworn employee of a probation department engaged in the performance of his or duties, whether on or off duty, or a physician or nurse engaged in rendering emergency medical care outside a hospital, clinic, or other health care facility, and the person committing the offense knows or reasonably should know that the victim is a nonsworn employee of a probation department, custodial officer, firefighter,

emergency medical technician, lifeguard, process server, traffic officer, or animal control officer engaged in the performance of his or her duties, or a physician or nurse engaged in rendering emergency medical care, and injury is inflicted on that victim. (Penal Code §243(c).)

Existing law states that if battery is committed against a person and serious bodily injury is inflicted on the person, the battery is punishable by imprisonment in a county jail not exceeding one year or imprisonment for two, three, or four years. (Penal Code §243(d).)

This bill would increase the punishment for assault by a fine not exceeding two thousand dollars (\$2,000.00), or by imprisonment in the county jail not exceeding one year, or by both the fine and imprisonment, if the assault is committed against a utility worker engaged in the performance of essential services, and if the person committing the offense knows or reasonably should know that the victim is a utility worker engaged in the performance of the service.

This bill would increase the maximum punishment for battery, as described by Penal Code § 243(a), by a fine not exceeding two thousand (\$2,000.00) or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment, if the battery is committed against a utility worker engaged in the performance of essential services, and if the person committing the offense knows or reasonably should know that the victim is a utility worker engaged in the performance of the service.

This bill would increase the maximum punishment for battery, as described by Penal Code § 243(a), by a fine not exceeding two thousand dollars (\$2,000.00), by imprisonment in a county jail not exceeding one year, or by both fine and imprisonment, of 16 months, or two or three years, if the battery is committed against a utility worker engaged in the performance of essential services, and if the person committing the offense knows or reasonably should know that the victim is a utility worker engaged in the performance of the service, and if injury is inflicted on the victim.

This bill would define a “utility worker” as a person employed by an investor-owned public utility or publicly owned public utility.

COMMENTS

1. Need for This Bill

According to the author:

Current law provides a fine or imprisonment, or both, if an assault or injury is committed against a peace officer, firefighter, emergency medical technician, mobile intensive care paramedic, lifeguard, process server, traffic officer, code enforcement officer, animal control officer, or search and rescue member engaged in the performance of his or her duties, or a physician or nurse engaged in rendering emergency medical care outside a hospital, clinic.

Utility workers put their lives on the line, often in adverse weather conditions, in order to restore and maintain gas and electric energy services.

By creating a penalty enhancement, SB 513 will help thwart attacks on utility workers, sends a strong message that this Legislature supports utility workers and opposes any violence that may be perpetrated against them.

Similar laws have been enacted in Missouri, West Virginia, Pennsylvania, and New York State.

In 2012, two PG&E crews were working on a busy street when a driver plowed into them, pinning one worker, Rayshawn Neely, between his car and a PG&E truck. The driver then assaulted Mr. Neely before the crew and others stopped him.

In 2015, a man used a pellet gun to shoot at two gas natural gas employees as they worked at his mother's home in Pico Rivera.

2. Effect of This Bill

This bill would increase the penalty for assault or battery if these crimes are committed against utility workers, as specified.

This bill defines a "public utility worker" as a person employed by an investor-owned public utility or publicly owned public utility.

According to the Sacramento Municipal Utility District (SMUD):

There are instances when our employees, including tree trimmers, meter technicians, and troubleshooters have been harmed or threatened while on the job. For example, our employees have experienced customers brandishing weapons including swords, broomsticks, golf clubs, and guns. Verbal threats have turned into direct assaults. Specifically, customers have intentionally commanded their dogs to attack employees resulting in significant injuries. It is essential to our industry that we have a workforce that is capable of meeting the needs of a continuously changing power system. This bill will provide much-needed direction to ensure we have a safe environment for our employees

According to California Gas Company and San Diego Gas & Electric Company (collectively known as the Sempra Energy Utilities):

Our trained staff respond to a multitude of calls in various locations, from mobile home parks to apartment buildings, businesses, and single-family homes. Each time a worker enters a dwelling, it is in trust that no harm will come to him or her in that space. However, this is not always the case. For example, in 2015, two of our employees were the victims of an attack in Pico Rivera, when a customer shot at them with a pellet gun while they attempted to complete their work. Incidents such as these should be strongly discouraged, as they undermine the ability of utility workers to accomplish their tasks, which are sometimes urgent and relevant to public safety.

To address these issues this bill seeks to increase the penalty for assault and battery on utility workers, as specified.

3. Proposed Amendments

This bill will be amended to:

- (1) Narrow the definition of any investor owned public utility or publicly owned public utility to any investor owned or publicly owned water corporation, electrical corporations, gas corporation, and electric cooperative, where the service is performed for, or the commodity is delivered to, the public or any portion thereof.
- (2) Remove the independent section of increased penalties for assault committed against utility workers, and add utility worker to the corresponding code section for existing increased maximum penalties for assault.
- (3) Remove the independent section of increased penalties for battery committed against utility workers, and add utility worker to corresponding code section for existing increased maximum penalties for battery.
- (4) Remove the independent sections of increased penalties for battery committed against utility workers in case which injury occur, and add utility worker to corresponding code section for existing increased maximum penalties for battery in cases which injury occur.

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