

**SUBJECT:** Requiring certain water service providers to maintain fire-flow standards

**COMMITTEE:** Natural Resources — committee substitute recommended

**VOTE:** 9 ayes — Ritter, Ashby, D. Bonnen, Callegari, T. King, Larson, Lucio, Martinez Fischer, D. Miller

0 nays

2 absent — Johnson, Keffer

**WITNESSES:** **(On original)**  
For — Jack Hodges and James Morrison, Texas Rural Water Association; Scott Houston, Texas Municipal League; Brian Macmanus, East Rio Hondo Water Supply Corp.; Charles Profilet, Southwest Water Co.; *(Registered, but did not testify: Janet Adams, Fort Davis Water Supply Corp.; David Garza, City of Pharr)*

Against — *(Registered, but did not testify: Charlie Schnabel, Manville Water Supply Corp.)*

On — Tony Graf, Manville Water Supply Corp.; Isael Posadas; *(Registered, but did not testify: Sherilyn Dahlberg, Sharyland Water Supply Corp; Elston Johnson, Texas Commission on Environmental Quality)*

**(On committee substitute)**  
For — Robert Laughman, Aqua America; Brian Macmanus, East Rio Hondo Water Supply Corp.; Charles Profilet, Southwest Water Co.; *(Registered, but did not testify: Brandon Aghamalian, City of Pflugerville; Jerry Valdez, Texas Alliance of Water Providers; Lara Zent, Texas Rural Water Association)*

Against — none

**BACKGROUND:** Fire flow is the water flow and pressure from a fire hydrant needed to successfully extinguish a fire.

Title 30 TAC, sec. 290.46 requires a public utility, in municipalities with a

population of 1 million or more to deliver water to any fire hydrant connected to the public utility's water system located in a residential area so that the flow at the fire hydrant is at least 250 gallons per minute for at least two hours while maintaining a minimum pressure of 20 pounds per square inch (psi) throughout the distribution system during emergencies such as firefighting. That flow is in addition to the public utility's maximum daily demand for purposes other than firefighting.

The Health and Safety Code, sec. 341.0357(b) states that a fire hydrant is considered to be nonfunctioning if it pumps less than 250 gallons of water per minute.

DIGEST:

CSHB 1973 would authorize a city to impose fire-flow standards established by the Texas Commission on Environmental Quality (TCEQ) on an investor-owned utility (IOU) or water supply corporation (WSC) that was operating in a municipality or a municipality's extraterritorial jurisdiction.

The TCEQ, by rule, would establish standards for adoption by a municipality that would be similar to what is laid out in the Texas Administrative Code for public utilities in municipalities with populations of 1 million or more. The standards would require IOUs and WSCs to deliver water to any fire hydrant connected to the provider's water system located in a residential area so that the flow at the fire hydrant was at least 250 gallons per minute for a minimum of two hours while maintaining a minimum pressure of 20 psi throughout the distribution system during emergencies such as firefighting. That flow would be in addition to the water provider's maximum daily demand for purposes other than firefighting.

IOUs and WSCs would be exempt from meeting the TCEQ standard if the municipality's own fire-flow standard was less than the TCEQ standard. If a municipality did not have fire-flow standards, the IOU and the WSC could not be required by the municipality to exceed the TCEQ standard.

An ordinance could not require an IOU or WSC to build, retrofit, or improve infrastructure in existence at the time the ordinance was adopted.

IOUs and WSCs would enter into written memorandums of understanding with municipalities to provide for the necessary testing of fire hydrants, and other issues relating to the use of the water and maintenance of the fire

hydrants.

Municipalities could report non-compliance to the TCEQ, which would be charged with enforcement to require the IOU or WSC to comply with the standard, including approving infrastructure improvements.

An IOU and WSC would not be liable for a hydrant's or metal flush valve's inability to provide adequate water supply in a fire emergency. This bill would not waive a municipality's immunity and would not create any liability on the part of a municipality under a joint enterprise theory of liability.

This bill would take effect September 1, 2013.

**SUPPORTERS  
SAY:**

CSHB 1973 was developed with stakeholder input to address concerns that neighborhoods across the state within a municipality's city limits and extraterritorial jurisdiction that are served by water supply corporations (WSCs) and investor owned utilities (IOUs) are not equipped with fire hydrants with adequate pressure (psi) and flow (gallons per minute) to fight fires. Currently, only public utilities serving cities with 1 million or more residents — Houston, San Antonio, and Dallas — are required to comply with fire-flow standards. This bill would expand the standards statewide to ensure communities served by WSCs and IOUs within cities and extraterritorial jurisdictions had access to sufficient fire flows in times of emergency.

The bill also would include liability protection in the event a hydrant was unable to provide adequate water supply in a fire emergency. This change in the law would allow IOUs and WSCs to assist fire departments in fulfilling their governmental responsibility of fighting fires without the fear of getting sued and therefore would encourage cooperation between water systems and fire departments.

Since most IOUs and WSCs do provide adequate fire flows, this bill was designed to protect future communities from a water provider that may consider not providing this basic service. CSHB 1973 would protect Texans from potential disasters by ensuring fire protection infrastructure was available as new communities are built across the state.

While there would be a cost associated with upgrading systems when necessary, it would be up to the IOU or WSC to handle rate equity. This

bill would not directly result in increased rates for those customers that would not benefit from the infrastructure upgrade.

OPPONENTS  
SAY:

Although this bill would apply only to future development, IOUs and WSCs that do not currently have adequate fire-flow standards could experience cost increases to install new water lines, provide additional storage, install service pumps, and obtain increased water supply capacity. If an IOU or WSC had to incur the costs to raise their standards for a new community, those costs could be spread out over the entire service area, resulting in customers subsidizing an infrastructure upgrade from which they received no benefit.

NOTES:

CASHB 1973 would not have a significant fiscal impact to the state. According to the fiscal note, although the bill would expand the number of entities under TCEQ's regulatory jurisdiction with respect to fire flows, it is not expected to result in significant costs to the agency.

The committee substitute differs from the bill as filed by creating a new section in the Health and Safety Code, whereas the original bill amended existing public safety standards by including water supply corporations and striking language regarding population to include all municipalities and adding a municipality's extraterritorial jurisdiction.