

BILL ANALYSIS

Senate Research Center

H.B. 1391
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Natural Resources
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under current law, the Texas Commission on Environmental Quality (TCEQ) does not oversee the water safety measures of certain regulatory authorities. Prior to annexation, several neighborhoods in Harris County were unincorporated and are lacking water systems that ensure adequate water pressure to operate fire hydrants. The neighborhoods' public safety is at risk due to the lack of oversight from the regulating authority. For example, the Garden City neighborhood of Houston has lost numerous homes to fire due to insufficient equipment and lack of water pressure.

H.B. 1391 requires a regulatory authority for a public utility by rule or ordinance to adopt standards for maintaining sufficient water pressure for service to fire hydrants adequate to protect public safety in residential areas in a municipality with a population of 655,000 or more.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Natural Resource Conservation Commission [Texas Commission on Environmental Quality] in SECTION 1 (Section 341.0357, Health and Safety Code) and SECTION 3 (Section 13.046, Water Code) of this bill.

SECTION BY SECTION ANALYSIS

[While the statutory reference in this bill is to the Texas Natural Resource Conservation Commission (TNRCC), the following amendments affect the Texas Commission on Environmental Quality, as the successor agency to TNRCC.]

SECTION 1. Amends Subchapter C, Chapter 341, Health and Safety Code, by adding Section 341.0357, as follows:

Sec. 341.0357. PUBLIC SAFETY STANDARDS. (a) Defines "public utility," "regulatory authority," and "residential area."

(b) Requires a regulatory authority for a public utility by rule or ordinance to adopt standards for maintaining sufficient water pressure for service to fire hydrants adequate to protect public safety in residential areas in a municipality with a population of 655,000 or more.

(c) Requires the Texas Natural Resource Conservation Commission (TNRCC) to assess residential areas in a municipality with a population of 655,000 or more to ensure that the regulatory authority for the area has adopted the standards required by this section, and all public utilities serving the residential area are complying with those standards.

(d) Requires TNRCC to require a municipality with a population of 655,000 or more and acting as a regulatory authority to make appropriate revisions to standards TNRCC considers to be inadequate within a reasonable time established by TNRCC.

(e) Requires TNRCC to require a public utility in violation of a standard required under this section and established by TNRCC or by a municipality with a

population of 655,000 or more and acting as a regulatory authority to comply with the standard within a reasonable time established by TNRCC.

(f) Provides that this section does not limit the authority of a municipality with a population of 655,000 or more and acting as a regulatory authority to prohibit a public utility in violation of a standard established by the municipality from recovering through the public utility's rates a penalty or fine incurred for a violation of a standard.

SECTION 2. Amends Section 341.040, Health and Safety Code, to redefine "commission."

SECTION 3. Amends Subchapter C, Chapter 13, Water Code, by adding Section 13.046, as follows:

Sec. 13.046. TEMPORARY RATES FOR SERVICES PROVIDED FOR NONFUNCTIONING SYSTEM; SANCTIONS FOR NONCOMPLIANCE. (a) Requires TNRCC by rule to establish a procedure that allows a retail public utility that takes over the provision of services for a nonfunctioning retail water or sewer utility service provider to charge a reasonable rate for the services provided to the customers of the nonfunctioning system and to bill the customers for the services at that rate immediately to recover services costs.

(b) Requires the rules to provide a streamlined process that the retail public utility that takes over the nonfunctioning system may use to apply to TNRCC for a ruling on the reasonableness of the rates the utility is charging under Subsection (a). Requires the process to allow for adequate consideration of costs for interconnection or other costs incurred in making services available and of the costs that may necessarily be incurred to bring the nonfunctioning system into compliance with TNRCC rules.

(c) Requires TNRCC to provide a reasonable period for the retail public utility that takes over the nonfunctioning system to bring the nonfunctioning system into compliance with TNRCC rules during which TNRCC is prohibited from imposing a penalty for any deficiency in the system that is present at the time the utility takes over the nonfunctioning system. Requires TNRCC to consult with the utility before determining the period and authorizes it to grant an extension of the period for good cause.

SECTION 4. Effective date: September 1, 2007.