

BILL ANALYSIS

Senate Research Center
83R21261 SCL-F

H.B. 1973
By: Lucio III et al. (Hegar)
Natural Resources
5/2/2013
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Interested parties note that certain investor-owned utilities and water supply corporations servicing cities or extraterritorial jurisdictions currently are not required to provide fire flow service to their customers. The parties contend that this poses emergency response concerns for fire departments and residents who are served by such utilities and corporations. The parties also note that recent legislation established fire flow standards for certain larger municipalities and contend that similar standards should apply to more areas. H.B. 1973 seeks to address these issues by establishing provisions relating to the provision of water by a public utility or water supply or sewer service corporation for use in fire suppression.

H.B. 1973 amends current law relating to the provision of water by a public utility or water supply or sewer service corporation for use in fire suppression.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTION 1 (Section 341.0359, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter C, Chapter 341, Health and Safety Code, by adding Section 341.0359, as follows:

Sec. 341.0359. FIRE HYDRANT FLOW STANDARDS. (a) Defines "municipal utility," "residential area," "utility," "public utility," and "water supply or sewer service corporation" in this section.

(b) Authorizes the governing body of a municipality by ordinance to adopt standards set by the Texas Commission on Environmental Quality under Subsection (c) requiring a utility to maintain a minimum sufficient water flow and pressure to fire hydrants in a residential area located in the municipality or the municipality's extraterritorial jurisdiction.

(c) Requires TCEQ by rule to establish standards for adoption by a municipality under Subsection (b). Provides that the standards:

(1) in addition to a utility's maximum daily demand, must provide, for purposes of emergency fire suppression, for a minimum sufficient water flow of at least 250 gallons per minute for at least two hours, and a minimum sufficient water pressure of at least 20 pounds per square inch;

(2) are required to require a utility to maintain at least the minimum sufficient water flow and pressure described by Subdivision (1) in fire hydrants in a residential area located within the municipality or the municipality's extraterritorial jurisdiction;

(3) are required to be based on the density of connections, service demands, and other relevant factors;

(4) notwithstanding Subdivisions (1) and (2), if the municipality owns a municipal utility, is prohibited from requiring another utility located in the municipality or the municipality's extraterritorial jurisdiction to provide water flow and pressure in a fire hydrant greater than that provided by the municipal utility as determined by TCEQ; and

(5) are prohibited, if the municipality does not own a municipal utility, from requiring a utility located in the municipality or the municipality's extraterritorial jurisdiction to provide a minimum sufficient water flow and pressure greater than the standard established under Subdivision (1).

(d) Prohibits an ordinance under Subsection (b) from requiring a utility to build, retrofit, or improve infrastructure in existence at the time the ordinance is adopted.

(e) Requires a municipality that adopts standards under Subsection (b) or that seeks to use a utility's water for fire suppression to enter into a written memorandum of understanding with the utility to provide for the necessary testing of fire hydrants, and other relevant issues pertaining to the use of the water and maintenance of the fire hydrants to ensure compliance with this section.

(f) Authorizes a municipality to notify TCEQ of a utility's failure to comply with a standard adopted under Subsection (b).

(g) Requires TCEQ, on receiving the notice described by Subsection (f), to require a utility in violation of a standard adopted under this section to comply within a reasonable time established by TCEQ. Authorizes TCEQ to approve infrastructure improvements and make corresponding changes to the tariff or rate schedule of a utility that is a public utility as needed to permit compliance with this section.

(h) Provides that, notwithstanding any provision of Chapter 101 (Tort Claims), Civil Practice and Remedies Code, to the contrary, a utility is not liable for a hydrant's or metal flush valve's inability to provide adequate water supply in a fire emergency. Provides that this subsection does not waive a municipality's immunity under Subchapter I (Adjudication of Claims Arising Under Written Contracts with Local Governmental Entities), Chapter 271 (Purchasing and Contracting Authority of Municipalities, Counties, and Certain Other Local Governments), Local Government Code, or any other law and does not create any liability on the part of a municipality under a joint enterprise theory of liability.

SECTION 2. Effective date: September 1, 2013.