

By: Turner

H.B. No. 1391

A BILL TO BE ENTITLED

AN ACT

relating to the provision of water and utility service.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter C, Chapter 341, Health and Safety Code, is amended by adding Section 341.0357 to read as follows:

Sec. 341.0357. PUBLIC SAFETY STANDARDS. (a) In this section:

(1) "Public utility" has the meaning assigned by Section 13.002, Water Code.

(2) "Regulatory authority" has the meaning assigned by Section 13.002, Water Code.

(3) "Residential area" means:

(A) an area designated as a residential zoning district by a governing ordinance or code or an area in which the principal land use is for private residences;

(B) a subdivision for which a plat is recorded in the real property records of the county and that contains or is bounded by public streets or parts of public streets that are abutted by residential property occupying at least 75 percent of the front footage along the block face; or

(C) a subdivision a majority of the lots of which are subject to deed restrictions limiting the lots to residential use.

(b) The regulatory authority for a public utility shall by

1 rule or ordinance adopt standards for maintaining sufficient water
2 pressure for service to fire hydrants adequate to protect public
3 safety in residential areas in a municipality with a population of
4 655,000 or more.

5 (c) The commission shall assess residential areas in a
6 municipality with a population of 655,000 or more to ensure that:

7 (1) the regulatory authority for the area has adopted
8 the standards required by this section; and

9 (2) all public utilities serving the residential area
10 are complying with the standards required by this section.

11 (d) The commission shall require a municipality with a
12 population of 655,000 or more and acting as a regulatory authority
13 to make appropriate revisions to standards the commission considers
14 to be inadequate within a reasonable time established by the
15 commission.

16 (e) The commission shall require a public utility in
17 violation of a standard required under this section and established
18 by the commission or by a municipality with a population of 655,000
19 or more and acting as a regulatory authority to comply with the
20 standard within a reasonable time established by the commission.

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

27 SECTION 2. Section 341.040, Health and Safety Code, is

1 amended to read as follows:

2 Sec. 341.040. DEFINITION. In this subchapter,
3 "commission" means the Texas [~~Natural Resource Conservation~~]
4 Commission on Environmental Quality.

5 SECTION 3. Subchapter C, Chapter 13, Water Code, is amended
6 by adding Section 13.046 to read as follows:

7 Sec. 13.046. TEMPORARY RATES FOR SERVICES PROVIDED FOR
8 NONFUNCTIONING SYSTEM; SANCTIONS FOR NONCOMPLIANCE. (a) The
9 commission by rule shall establish a procedure that allows a retail
10 public utility that takes over the provision of services for a
11 nonfunctioning retail water or sewer utility service provider to
12 charge a reasonable rate for the services provided to the customers
13 of the nonfunctioning system and to bill the customers for the
14 services at that rate immediately to recover service costs.

15 (b) The rules must provide a streamlined process that the
16 retail public utility that takes over the nonfunctioning system may
17 use to apply to the commission for a ruling on the reasonableness of
18 the rates the utility is charging under Subsection (a). The process
19 must allow for adequate consideration of costs for interconnection
20 or other costs incurred in making services available and of the
21 costs that may necessarily be incurred to bring the nonfunctioning
22 system into compliance with commission rules.

23 (c) The commission shall provide a reasonable period for the
24 retail public utility that takes over the nonfunctioning system to
25 bring the nonfunctioning system into compliance with commission
26 rules during which the commission may not impose a penalty for any
27 deficiency in the system that is present at the time the utility

1 takes over the nonfunctioning system. The commission must consult
2 with the utility before determining the period and may grant an
3 extension of the period for good cause.

4 SECTION 4. This Act takes effect September 1, 2007.