

AN ACT

relating to the provision of water by a public utility or water supply or sewer service corporation for use in fire suppression.

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 341.0359 to read as follows:

Sec. 341.0359. FIRE HYDRANT FLOW STANDARDS. (a) In this section:

(1) "Municipal utility" means a retail public utility, as defined by Section 13.002, Water Code, that is owned by a municipality.

(2) "Residential area" means an area used principally for private residences that is improved with at least 100 single-family homes and has an average density of one home per half acre.

(3) "Utility" includes a "public utility" and "water supply or sewer service corporation" as defined by Section 13.002, Water Code.

(b) The governing body of a municipality by ordinance may adopt standards set by the commission 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) The commission by rule shall establish standards for

1 adoption by a municipality under Subsection (b). The standards:

2 (1) in addition to a utility's maximum daily demand,
3 must provide, for purposes of emergency fire suppression, for:

4 (A) a minimum sufficient water flow of at least
5 250 gallons per minute for at least two hours; and

6 (B) a minimum sufficient water pressure of at
7 least 20 pounds per square inch;

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

12 (3) must be based on the density of connections,
13 service demands, and other relevant factors;

14 (4) notwithstanding Subdivisions (1) and (2), if the
15 municipality owns a municipal utility, may not require another
16 utility located in the municipality or the municipality's
17 extraterritorial jurisdiction to provide water flow and pressure in
18 a fire hydrant greater than that provided by the municipal utility
19 as determined by the commission; and

20 (5) if the municipality does not own a municipal
21 utility, may not require a utility located in the municipality or
22 the municipality's extraterritorial jurisdiction to provide a
23 minimum sufficient water flow and pressure greater than the
24 standard established under Subdivision (1).

25 (d) An ordinance under Subsection (b) may not require a
26 utility to build, retrofit, or improve infrastructure in existence
27 at the time the ordinance is adopted.

1 (e) A municipality with a population of less than 1.9
2 million that adopts standards under Subsection (b) or that seeks to
3 use a utility's water for fire suppression shall enter into a
4 written memorandum of understanding with the utility to provide
5 for:

6 (1) the necessary testing of fire hydrants; and

7 (2) other relevant issues pertaining to the use of the
8 water and maintenance of the fire hydrants to ensure compliance
9 with this section.

10 (f) A municipality may notify the commission of a utility's
11 failure to comply with a standard adopted under Subsection (b).

12 (g) On receiving the notice described by Subsection (f), the
13 commission shall require a utility in violation of a standard
14 adopted under this section to comply within a reasonable time
15 established by the commission. The commission may approve
16 infrastructure improvements and make corresponding changes to the
17 tariff or rate schedule of a utility that is a public utility as
18 needed to permit compliance with this section.

19 (h) Notwithstanding any provision of Chapter 101, Civil
20 Practice and Remedies Code, to the contrary, a utility is not liable
21 for a hydrant's or metal flush valve's inability to provide adequate
22 water supply in a fire emergency. This subsection does not waive a
23 municipality's immunity under Subchapter I, Chapter 271, Local
24 Government Code, or any other law and does not create any liability
25 on the part of a municipality under a joint enterprise theory of
26 liability.

27 SECTION 2. This Act takes effect September 1, 2013.

President of the Senate

Speaker of the House

I certify that H.B. No. 1973 was passed by the House on April 26, 2013, by the following vote: Yeas 138, Nays 3, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1973 on May 17, 2013, by the following vote: Yeas 111, Nays 22, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 1973 was passed by the Senate, with amendments, on May 14, 2013, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor