

By: Lucio III, Larson

H.B. No. 1973

Substitute the following for H.B. No. 1973:

By: Miller of Comal

C.S.H.B. No. 1973

A BILL TO BE ENTITLED

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 that adopts standards under Subsection  
2 (b) or that seeks to use a utility's water for fire suppression  
3 shall enter into a written memorandum of understanding with the  
4 utility to provide for:

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

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

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

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

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

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