

1-1 By: Lucio III, et al. (Senate Sponsor - Hegar) H.B. No. 1973
 1-2 (In the Senate - Received from the House April 29, 2013;
 1-3 April 30, 2013, read first time and referred to Committee on
 1-4 Natural Resources; May 8, 2013, reported favorably by the
 1-5 following vote: Yeas 10, Nays 0; May 8, 2013, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13			X	
1-14	X			
1-15	X			
1-16	X			
1-17	X			
1-18	X			

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to the provision of water by a public utility or water
 1-22 supply or sewer service corporation for use in fire suppression.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Subchapter C, Chapter 341, Health and Safety
 1-25 Code, is amended by adding Section 341.0359 to read as follows:

1-26 Sec. 341.0359. FIRE HYDRANT FLOW STANDARDS. (a) In this
 1-27 section:

1-28 (1) "Municipal utility" means a retail public utility,
 1-29 as defined by Section 13.002, Water Code, that is owned by a
 1-30 municipality.

1-31 (2) "Residential area" means an area used principally
 1-32 for private residences that is improved with at least 100
 1-33 single-family homes and has an average density of one home per half
 1-34 acre.

1-35 (3) "Utility" includes a "public utility" and "water
 1-36 supply or sewer service corporation" as defined by Section 13.002,
 1-37 Water Code.

1-38 (b) The governing body of a municipality by ordinance may
 1-39 adopt standards set by the commission under Subsection (c)
 1-40 requiring a utility to maintain a minimum sufficient water flow and
 1-41 pressure to fire hydrants in a residential area located in the
 1-42 municipality or the municipality's extraterritorial jurisdiction.

1-43 (c) The commission by rule shall establish standards for
 1-44 adoption by a municipality under Subsection (b). The standards:

1-45 (1) in addition to a utility's maximum daily demand,
 1-46 must provide, for purposes of emergency fire suppression, for:

1-47 (A) a minimum sufficient water flow of at least
 1-48 250 gallons per minute for at least two hours; and

1-49 (B) a minimum sufficient water pressure of at
 1-50 least 20 pounds per square inch;

1-51 (2) must require a utility to maintain at least the
 1-52 minimum sufficient water flow and pressure described by Subdivision
 1-53 (1) in fire hydrants in a residential area located within the
 1-54 municipality or the municipality's extraterritorial jurisdiction;

1-55 (3) must be based on the density of connections,
 1-56 service demands, and other relevant factors;

1-57 (4) notwithstanding Subdivisions (1) and (2), if the
 1-58 municipality owns a municipal utility, may not require another
 1-59 utility located in the municipality or the municipality's
 1-60 extraterritorial jurisdiction to provide water flow and pressure in
 1-61 a fire hydrant greater than that provided by the municipal utility

2-1 as determined by the commission; and
2-2 (5) if the municipality does not own a municipal
2-3 utility, may not require a utility located in the municipality or
2-4 the municipality's extraterritorial jurisdiction to provide a
2-5 minimum sufficient water flow and pressure greater than the
2-6 standard established under Subdivision (1).

2-7 (d) An ordinance under Subsection (b) may not require a
2-8 utility to build, retrofit, or improve infrastructure in existence
2-9 at the time the ordinance is adopted.

2-10 (e) A municipality that adopts standards under Subsection
2-11 (b) or that seeks to use a utility's water for fire suppression
2-12 shall enter into a written memorandum of understanding with the
2-13 utility to provide for:

2-14 (1) the necessary testing of fire hydrants; and
2-15 (2) other relevant issues pertaining to the use of the
2-16 water and maintenance of the fire hydrants to ensure compliance
2-17 with this section.

2-18 (f) A municipality may notify the commission of a utility's
2-19 failure to comply with a standard adopted under Subsection (b).

2-20 (g) On receiving the notice described by Subsection (f), the
2-21 commission shall require a utility in violation of a standard
2-22 adopted under this section to comply within a reasonable time
2-23 established by the commission. The commission may approve
2-24 infrastructure improvements and make corresponding changes to the
2-25 tariff or rate schedule of a utility that is a public utility as
2-26 needed to permit compliance with this section.

2-27 (h) Notwithstanding any provision of Chapter 101, Civil
2-28 Practice and Remedies Code, to the contrary, a utility is not liable
2-29 for a hydrant's or metal flush valve's inability to provide adequate
2-30 water supply in a fire emergency. This subsection does not waive a
2-31 municipality's immunity under Subchapter I, Chapter 271, Local
2-32 Government Code, or any other law and does not create any liability
2-33 on the part of a municipality under a joint enterprise theory of
2-34 liability.

2-35 SECTION 2. This Act takes effect September 1, 2013.

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