

R E S O L U T I O N

1 BE IT RESOLVED by the House of Representatives of the State of
2 Texas, 83rd Legislature, Regular Session, 2013, That House Rule 13,
3 Section 9(a), be suspended in part as provided by House Rule 13,
4 Section 9(f), to enable the conference committee appointed to
5 resolve the differences on House Bill 1768 (identification
6 requirements for certain fire hydrants and flush valves) to
7 consider and take action on the following matter:

8 (1) House Rule 13, Sections 9(a)(1) and (2), are suspended
9 to permit the committee to change and omit text not in disagreement
10 in proposed SECTION 1 of the bill, in amended Section 341.0357,
11 Health and Safety Code, to read as follows:

12 SECTION 1. Section 341.0357, Health and Safety Code, is
13 amended to read as follows:

14 Sec. 341.0357. IDENTIFICATION REQUIREMENT FOR CERTAIN
15 ~~[DEVICE WITH APPEARANCE OF]~~ FIRE HYDRANTS AND FLUSH VALVES ~~[HYDRANT~~
16 ~~THAT IS NONFUNCTIONING OR UNAVAILABLE FOR USE IN FIRE~~
17 ~~EMERGENCY]~~. (a) In this section, "hydrant" means:

18 (1) a fire hydrant; or

19 (2) a metal flush valve that:

20 (A) has ~~[The owner of any device having]~~ the
21 appearance of a fire hydrant; and

22 (B) [that] ~~[that]~~ is located in a place that an entity
23 responsible for providing fire suppression services in a fire
24 emergency would expect a fire hydrant to typically be located.

1 (b) This section applies only to a county, or a municipality
2 in a county, that:

3 (1) borders the United Mexican States or is adjacent
4 to a county that borders the United Mexican States;

5 (2) has a population of at least 400,000 or has a
6 population of at least 20,000 and is adjacent to a county that has a
7 population of at least 400,000; and

8 (3) is within 200 miles of the Gulf of Mexico.

9 (c) Each water utility responsible for any hydrant shall:

10 (1) paint all or the cap of the hydrant white if the
11 hydrant is available to be used only to fill a water tank on a fire
12 truck used for fire suppression services; and

13 (2) paint all or the cap of the hydrant [device] black
14 if the hydrant [device] is [nonfunctioning or otherwise]
15 unavailable for use by the entity providing fire suppression
16 services in a fire emergency.

17 (d) For purposes of Subsection (c)(2), a hydrant is
18 unavailable for use in a fire emergency if it is unavailable for
19 pumping directly from the hydrant or is unavailable for use in
20 filling a water tank on a fire truck used for fire suppression
21 services.

22 (e) A water utility [The owner] may place a black tarp over
23 the hydrant or use another means to conceal the hydrant [device]
24 instead of painting all or the cap of the hydrant [device] black as
25 required under Subsection (c)(2) [this section] if the hydrant
26 [device] is temporarily [nonfunctioning, or temporarily]
27 unavailable for use in a fire emergency[7] for a period not to

1 exceed 45 [~~seven~~] days. Not later than the 45th day after the date a
2 hydrant is concealed as provided by this subsection, the water
3 utility responsible for the hydrant shall:

4 (1) if the hydrant is available for the provision of
5 fire suppression services, remove the tarp or other means of
6 concealment; or

7 (2) if the hydrant continues to be unavailable for use
8 in a fire emergency, paint all or the cap of the hydrant black as
9 required by Subsection (c)(2).

10 (f) A water utility that paints all or the cap of a hydrant
11 black as required by Subsection (c)(2) may also ensure by any
12 reasonable means that the hydrant is identifiable in low-light
13 conditions, including by installing reflectors.

14 (g) [~~(b)~~] For purposes of this section, a hydrant [~~device~~]
15 is considered to be unavailable for use by an entity responsible for
16 providing fire suppression services in a fire emergency if the
17 water utility is not obligated by ordinance, regulation, or
18 contract to provide water for fire suppression services and elects
19 not to provide water for those services [~~nonfunctioning if the~~
20 device pumps less than 250 gallons of water per minute].

21 (h) [~~(c)~~] This section does not apply:

22 (1) within the jurisdiction of a governmental entity
23 that maintains its own system for labeling or color coding its
24 hydrants; or

25 (2) to any water utility that has entered into a
26 contract with a municipality or volunteer fire department to
27 provide a water supply for fire suppression services if the

1 contract specifies a different system for labeling or color coding
2 hydrants [a device having the appearance of a fire hydrant that is
3 nonfunctioning or otherwise unavailable for use in a fire
4 emergency].

5 (i) For purposes of Subsection (h), a system for labeling or
6 color coding hydrants may include the assignment of different
7 colors to identify hydrants that are available for direct pumping,
8 hydrants that are available for filling a water tank on a fire truck
9 used for fire suppression services, and hydrants that are
10 unavailable for use by an entity providing fire suppression
11 services in a fire emergency.

12 (j) The fact that all or the cap of a hydrant for which a
13 water utility is responsible under this section is not painted
14 black as described by Subsection (c)(2) or concealed in the manner
15 described by Subsection (e) does not constitute a guarantee by the
16 water utility that the hydrant will deliver a certain amount of
17 water flow at all times. Notwithstanding any provision of Chapter
18 101, Civil Practice and Remedies Code, to the contrary, a water
19 utility is not liable for a hydrant's inability to provide adequate
20 water supply in a fire emergency.

21 Explanation: The change is necessary to omit the section
22 amending Section 341.0357, Health and Safety Code, to preserve the
23 application of that law to certain municipalities.

24 (2) House Rule 13, Section 9(a)(3), is suspended to permit
25 the committee to add text on a matter not in disagreement by adding
26 the following new SECTIONS to the bill:

27 SECTION 1. Section 341.0357, Health and Safety Code, is

1 amended by adding Subsection (d) to read as follows:

2 (d) This section does not apply within the jurisdiction of a
3 governmental entity described by Section 341.03571(b).

4 SECTION 2. Subchapter C, Chapter 341, Health and Safety
5 Code, is amended by adding Section 341.03571 to read as follows:

6 Sec. 341.03571. IDENTIFICATION REQUIREMENT FOR CERTAIN
7 FIRE HYDRANTS AND FLUSH VALVES IN CERTAIN MUNICIPALITIES. (a) In
8 this section, "hydrant" means:

9 (1) a fire hydrant; or

10 (2) a metal flush valve that:

11 (A) has the appearance of a fire hydrant; and

12 (B) is located in a place that an entity
13 responsible for providing fire suppression services in a fire
14 emergency would expect a fire hydrant to typically be located.

15 (b) This section applies only to a county, or a municipality
16 in a county, that:

17 (1) borders the United Mexican States or is adjacent
18 to a county that borders the United Mexican States;

19 (2) has a population of at least 400,000 or has a
20 population of at least 20,000 and is adjacent to a county that has a
21 population of at least 400,000; and

22 (3) is within 200 miles of the Gulf of Mexico.

23 (c) Each public water system responsible for any hydrant
24 shall:

25 (1) paint all or the cap of the hydrant white if the
26 hydrant is available to be used only to fill a water tank on a fire
27 truck used for fire suppression services; and

1 (2) paint all or the cap of the hydrant black if the
2 hydrant is unavailable for use by the entity providing fire
3 suppression services in a fire emergency.

4 (d) For purposes of Subsection (c)(2), a hydrant is
5 unavailable for use in a fire emergency if it is unavailable for
6 pumping directly from the hydrant or is unavailable for use in
7 filling a water tank on a fire truck used for fire suppression
8 services.

9 (e) A public water system may place a black tarp over the
10 hydrant or use another means to conceal the hydrant instead of
11 painting all or the cap of the hydrant black as required under
12 Subsection (c)(2) if the hydrant is temporarily unavailable for use
13 in a fire emergency for a period not to exceed 45 days. Not later
14 than the 45th day after the date a hydrant is concealed as provided
15 by this subsection, the public water system responsible for the
16 hydrant shall:

17 (1) if the hydrant is available for the provision of
18 fire suppression services, remove the tarp or other means of
19 concealment; or

20 (2) if the hydrant continues to be unavailable for use
21 in a fire emergency, paint all or the cap of the hydrant black as
22 required by Subsection (c)(2).

23 (f) A public water system that paints all or the cap of a
24 hydrant black as required by Subsection (c)(2) may also ensure by
25 any reasonable means that the hydrant is identifiable in low-light
26 conditions, including by installing reflectors.

27 (g) This section does not apply:

1 (1) within the jurisdiction of a governmental entity
2 that maintains its own system for labeling or color coding its
3 hydrants; or

4 (2) to any public water system that has entered into a
5 contract with a municipality or volunteer fire department to
6 provide a water supply for fire suppression services if the
7 contract specifies a different system for labeling or color coding
8 hydrants.

9 (h) For purposes of Subsection (g), a system for labeling or
10 color coding hydrants may include the assignment of different
11 colors to identify hydrants that are available for direct pumping,
12 hydrants that are available for filling a water tank on a fire truck
13 used for fire suppression services, and hydrants that are
14 unavailable for use by an entity providing fire suppression
15 services in a fire emergency.

16 (i) The fact that all or the cap of a hydrant for which a
17 public water system is responsible under this section is not
18 painted black as described by Subsection (c)(2) or concealed in the
19 manner described by Subsection (e) does not constitute a guarantee
20 by the public water system that the hydrant will deliver a certain
21 amount of water flow at all times. Notwithstanding any provision of
22 Chapter 101, Civil Practice and Remedies Code, to the contrary, a
23 public water system is not liable for a hydrant's inability to
24 provide adequate water supply in a fire emergency.

25 Explanation: This addition is necessary to preserve the
26 application of current law to certain municipalities and to enact
27 new law applicable to other municipalities.

1 (3) House Rule 13, Section 9(a)(1), is suspended to permit
2 the committee to change text not in disagreement in proposed
3 SECTION 2 of the bill, in the transition language, to read as
4 follows:

5 SECTION 3. Not later than January 1, 2014, each public water
6 system responsible for hydrants under Section 341.03571, Health and
7 Safety Code, as added by this Act, shall ensure that its hydrants
8 comply with the requirements imposed by that section.

9 Explanation: This change is necessary to update the
10 cross-reference to reflect the addition of Section 341.03571,
11 Health and Safety Code.

Canales

H.R. No. 2759

Speaker of the House

I certify that H.R. No. 2759 was adopted by the House on May 25, 2013, by the following vote: Yeas 142, Nays 0, 2 present, not voting.

Chief Clerk of the House