

Suspending limitations on conference committee
jurisdiction, H.B. No. 1768

By: Hinojosa

S.R. No. 1059

SENATE RESOLUTION

BE IT RESOLVED by the Senate of the State of Texas, 83rd Legislature, Regular Session, 2013, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on House Bill 1768 (identification requirements for certain fire hydrants and flush valves) to consider and take action on the following matters:

(1) Senate Rules 12.03(1) and (2) are suspended to permit the committee to change and omit text not in disagreement in proposed SECTION 1 of the bill, in amended Section 341.0357, Health and Safety Code, to read as follows:

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

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

(1) a fire hydrant; or

(2) a metal flush valve that:

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

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

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

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

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

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

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

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

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

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

(e) A water utility [The owner] may place a black tarp over the hydrant or use another means to conceal the hydrant [device] instead of painting all or the cap of the hydrant [device] black as required under Subsection (c)(2) [this section] if the hydrant [device] is temporarily [nonfunctioning, or temporarily] unavailable for use in a fire emergency[7] for a

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

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

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

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

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

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

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

(2) to any water utility that has entered into a contract with a municipality or volunteer fire department to

provide a water supply for fire suppression services if the contract specifies a different system for labeling or color coding hydrants [a device having the appearance of a fire hydrant that is nonfunctioning or otherwise unavailable for use in a fire emergency].

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

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

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

(2) Senate Rule 12.03(3) is suspended to permit the committee to add text on a matter not in disagreement by adding the following new SECTIONS to the bill:

SECTION 1. Section 341.0357, Health and Safety Code, is amended by adding Subsection (d) to read as follows:

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

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

Sec. 341.03571. IDENTIFICATION REQUIREMENT FOR CERTAIN FIRE HYDRANTS AND FLUSH VALVES IN CERTAIN MUNICIPALITIES.

(a) In this section, "hydrant" means:

(1) a fire hydrant; or

(2) a metal flush valve that:

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

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

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

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

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

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

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

(1) paint all or the cap of the hydrant white if the hydrant is available to be used only to fill a water tank on a

fire truck used for fire suppression services; and

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

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

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

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

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

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

(g) This section does not apply:

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

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

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

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

Explanation: This addition is necessary to preserve the

application of current law to certain municipalities and to enact new law applicable to other municipalities.

(3) Senate Rule 12.03(1) is suspended to permit the committee to change text not in disagreement in proposed SECTION 2 of the bill, in the transition language, to read as follows:

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

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

President of the Senate

I hereby certify that the above Resolution was adopted by the Senate on May 25, 2013, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate