

SENATE AMENDMENTS

2nd Printing

By: Lucio III, Larson, Isaac, Canales

H.B. No. 1973

A BILL TO BE ENTITLED

1 AN ACT

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

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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

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

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

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

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

19 (b) The governing body of a municipality by ordinance may
20 adopt standards set by the commission under Subsection (c)
21 requiring a utility to maintain a minimum sufficient water flow and
22 pressure to fire hydrants in a residential area located in the
23 municipality or the municipality's extraterritorial jurisdiction.

24 (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.

ADOPTED

MAY 14 2013

Atay Spaw
Secretary of the Senate

FLOOR AMENDMENT NO. 1

BY:

Sten Hegar

1 Amend H.B. No. 1973 (senate committee printing) in SECTION 1
2 of the bill. in proposed Section 341.0359(e), Health and Safety
3 Code (page 2, line 10), between "municipality" and "that", by
4 inserting "with a population of less than 1.9 million".

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

May 15, 2013

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1973 by Lucio III (Relating to the provision of water by a public utility or water supply or sewer service corporation for use in fire suppression.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would provide for the governing body of a municipality to adopt standards that would be set by the Texas Commission on Environmental Quality (TCEQ) requiring a utility to maintain a minimum sufficient water flow and pressure to fire hydrants in residential areas, as defined by the bill. A municipality would be authorized to notify the TCEQ of a utility's failure to comply with an adopted standard, and the TCEQ would be charged with enforcing the violation of the standard. The bill's provisions that require a municipality that adopts fire suppression standards to enter into a memorandum of understanding with a utility would not apply to a municipality with a population over 1.9 million.

Although the bill would expand the number of entities under the TCEQ's regulatory jurisdiction with respect to water flows for fire suppression, passage of the bill is not expected to result in significant costs to the agency.

Local Government Impact

Local governments that are regulatory authorities could incur increased enforcement costs when requiring adequate water capacity and pressure for fire suppression. Local governments that do not currently have adequate fire-flow standards would experience cost increases to install new water lines, provide additional storage, install service pumps, obtain increased water supply capacity, etc. in order to provide sufficient capability. However, the significance of any cost increases would vary depending on the characteristics of each system and service area.

Source Agencies: 582 Commission on Environmental Quality

LBB Staff: UP, SZ, KKR, TL

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

May 2, 2013

TO: Honorable Troy Fraser, Chair, Senate Committee on Natural Resources

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1973 by Lucio III (Relating to the provision of water by a public utility or water supply or sewer service corporation for use in fire suppression.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would provide for the governing body of a municipality to adopt standards that would be set by the Texas Commission on Environmental Quality (TCEQ) requiring a utility to maintain a minimum sufficient water flow and pressure to fire hydrants in residential areas, as defined by the bill. A municipality would be authorized to notify the TCEQ of a utility's failure to comply with an adopted standard, and the TCEQ would be charged with enforcing the violation of the standard.

Although the bill would expand the number of entities under the TCEQ's regulatory jurisdiction with respect to water flows for fire suppression, passage of the bill is not expected to result in significant costs to the agency.

Local Government Impact

Local governments that are regulatory authorities could incur increased enforcement costs when requiring adequate water capacity and pressure for fire suppression. Local governments that do not currently have adequate fire-flow standards would experience cost increases to install new water lines, provide additional storage, install service pumps, obtain increased water supply capacity, etc. in order to provide sufficient capability. However, the significance of any cost increases would vary depending on the characteristics of each system and service area.

Source Agencies: 582 Commission on Environmental Quality

LBB Staff: UP, KKR, SZ, TL

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

April 12, 2013

TO: Honorable Allan Ritter, Chair, House Committee on Natural Resources

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1973 by Lucio III (Relating to the provision of water by a public utility or water supply or sewer service corporation for use in fire suppression.), **Committee Report 1st House, Substituted**

<p>No significant fiscal implication to the State is anticipated.</p>
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The bill would provide for the governing body of a municipality to adopt standards that would be set by the Texas Commission on Environmental Quality (TCEQ) requiring a utility to maintain a minimum sufficient water flow and pressure to fire hydrants in residential areas, as defined by the bill. A municipality would be authorized to notify the TCEQ of a utility's failure to comply with an adopted standard, and the TCEQ would be charged with enforcing the violation of the standard.

Although the bill would expand the number of entities under the TCEQ's regulatory jurisdiction with respect to water flows for fire suppression, passage of the bill is not expected to result in significant costs to the agency.

Local Government Impact

Local governments that are regulatory authorities could incur increased enforcement costs when requiring adequate water capacity and pressure for fire suppression. Local governments that do not currently have adequate fire-flow standards would experience cost increases to install new water lines, provide additional storage, install service pumps, obtain increased water supply capacity, etc. in order to provide sufficient capability. However, the significance of any cost increases would vary depending on the characteristics of each system and service area.

Source Agencies: 582 Commission on Environmental Quality

LBB Staff: UP, KKR, SZ, TL

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

April 8, 2013

TO: Honorable Allan Ritter, Chair, House Committee on Natural Resources

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1973 by Lucio III (Relating to the provision of water by a public utility or water supply or sewer service corporation for use in fire suppression.), **As Introduced**

<p>No significant fiscal implication to the State is anticipated.</p>
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The bill would expand the requirements for fire suppression capability to apply on a statewide basis, rather than specifically to residential areas, and it would require that standards be adopted in all municipalities, instead of those over 1 million population or falling between specific population limits under current law. The bill would subject municipalities' extraterritorial jurisdictions to fire suppression regulatory standards, and it would provide water supply or sewer service corporations the authority to issue fire flow standards.

The bill would also revise how the Texas Commission on Environmental Quality (TCEQ) assesses a regulatory authority's implementation of the standards for installation of fire hydrants in addition to the existing requirement for water pressure and the maintenance of sufficient water pressure to fire hydrants utilized for firefighting purposes in a volume adequate to protect public safety.

Although the bill would expand the number of entities under the TCEQ's regulatory jurisdiction with respect to water flows for fire suppression, passage of the bill is not expected to result in significant costs to the agency.

Local Government Impact

Local governments that are regulatory authorities could incur increased enforcement costs when requiring adequate water capacity and pressure for fire suppression. Local governments that do not currently have adequate fire-flow standards would experience cost increases to install new water lines, provide additional storage, install service pumps, obtain increased water supply capacity, etc. in order to provide sufficient capability. However, the significance of any cost increases would vary depending on the characteristics of each system and service area.

The cities of Houston and Dallas reported no fiscal impact associated with the bill.

Source Agencies: 582 Commission on Environmental Quality

LBB Staff: UP, SZ, TL, KKR