

House Bill 1973
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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 adoption by a municipality under Subsection (b). The standards:

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

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

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

(2) must require a utility to maintain at least the minimum sufficient water flow and pressure described by Subdivision

SENATE VERSION (IE)

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(1) in fire hydrants in a residential area located within the municipality or the municipality's extraterritorial jurisdiction;
(3) must be based on the density of connections, service demands, and other relevant factors;
(4) notwithstanding Subdivisions (1) and (2), if the municipality owns a municipal utility, may not require another utility located in the municipality or the municipality's extraterritorial jurisdiction to provide water flow and pressure in a fire hydrant greater than that provided by the municipal utility as determined by the commission; and
(5) if the municipality does not own a municipal utility, may not require a utility located in the municipality or the municipality's extraterritorial jurisdiction to provide a minimum sufficient water flow and pressure greater than the standard established under Subdivision (1).
(d) An ordinance under Subsection (b) may not require a utility to build, retrofit, or improve infrastructure in existence at the time the ordinance is adopted.
(e) A municipality that adopts standards under Subsection (b) or that seeks to use a utility's water for fire suppression shall enter into a written memorandum of understanding with the utility to provide for:

(1) the necessary testing of fire hydrants; and
(2) other relevant issues pertaining to the use of the water and maintenance of the fire hydrants to ensure compliance with this section.
(f) A municipality may notify the commission of a utility's failure to comply with a standard adopted under Subsection (b).
(g) On receiving the notice described by Subsection (f), the commission shall require a utility in violation of a standard

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(4) notwithstanding Subdivisions (1) and (2), if the municipality owns a municipal utility, may not require another utility located in the municipality or the municipality's extraterritorial jurisdiction to provide water flow and pressure in a fire hydrant greater than that provided by the municipal utility as determined by the commission; and
(5) if the municipality does not own a municipal utility, may not require a utility located in the municipality or the municipality's extraterritorial jurisdiction to provide a minimum sufficient water flow and pressure greater than the standard established under Subdivision (1).
(d) An ordinance under Subsection (b) may not require a utility to build, retrofit, or improve infrastructure in existence at the time the ordinance is adopted.
(e) A municipality with a population of less than 1.9 million that adopts standards under Subsection (b) or that seeks to use a utility's water for fire suppression shall enter into a written memorandum of understanding with the utility to provide for:
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(1) the necessary testing of fire hydrants; and
(2) other relevant issues pertaining to the use of the water and maintenance of the fire hydrants to ensure compliance with this section.
(f) A municipality may notify the commission of a utility's failure to comply with a standard adopted under Subsection (b).
(g) On receiving the notice described by Subsection (f), the commission shall require a utility in violation of a standard

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adopted under this section to comply within a reasonable time established by the commission. The commission may approve infrastructure improvements and make corresponding changes to the tariff or rate schedule of a utility that is a public utility as needed to permit compliance with this section.

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

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

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SECTION 2. Same as House version.

CONFERENCE