

A BILL TO BE ENTITLED

AN ACT

relating to the authority to regulate certain water and sewage utilities to ensure public safety in and around certain municipalities.

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

SECTION 1. Subsection (a), Section 341.0358, Health and Safety Code, is amended by amending Subdivision (1) and adding Subdivision (1-a) to read as follows:

(1) "Industrial district" has the meaning assigned by Section 42.044, Local Government Code, and includes an area that is designated by the governing body of a municipality as a zoned industrial area.

(1-a) "Public utility" has the meaning assigned by Section 13.002, Water Code.

SECTION 2. Subsection (g), Section 341.0358, Health and Safety Code, is amended to read as follows:

(g) This section also applies to:

(1) a municipality with a population of more than 36,000 and less than 41,000 located in two counties, one of which is a county with a population of more than 1.8 million;

(2) a municipality, including any industrial district within the municipality or its extraterritorial jurisdiction, with a population of more than 7,000 and less than 30,000 located in a county with a population of more than 155,000 and less than 180,000; and

(3) a municipality, including any industrial district

within the municipality or its extraterritorial jurisdiction, with a population of more than 11,000 and less than 18,000 located in a county with a population of more than 125,000 and less than 230,000.

(h) The governing body of a municipality described in subdivisions (g)(2) and (3) by ordinance may adopt standards requiring a utility to maintain a minimum sufficient water flow and pressure to fire hydrants in residential areas and an industrial district located in the municipality or the municipality's extraterritorial jurisdiction, as follows:

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

(A) sufficient water flow not in excess of 250 gallons per minute for at least two hours; and

(B) sufficient water pressure not in excess of 20 pounds per square inch;

(2) must require a utility to maintain at least the minimum sufficient water flow and pressure described by this Subdivision (h)(1) in fire hydrants in residential areas and an industrial district located within the municipality or the municipality's extraterritorial jurisdiction;

(3) notwithstanding Subdivisions (1) and (2), if the municipality owns a municipal utility, it 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; and

(4) An ordinance under Subsection (h) may not require a utility to build, retrofit, or improve hydrants and related infrastructure in existence at the time the

ordinance is adopted; provided that the standards adopted
by ordinance as provided in subsection (1) shall apply to
hydrants and related infrastructure that (a) are installed
by the utility after the effective date of the ordinance;
~~and, (b) if are acquired by the utility and~~
~~infrastructure complies with the standards in subsection~~
~~(1) after the effective date of the ordinance and the~~
~~hydrants and related infrastructure comply with the~~
~~standards adopted by the ordinance at the time of such~~
~~acquisition after the effective date of the ordinance.~~

(5) A municipality that adopts standards under this
Subsection shall encourage the responsible emergency
services district to enter into a written memorandum of
understanding with the utility to provide for:

(A) the necessary testing of fire hydrants; and

(B) other relevant issues pertaining to the use
of water and maintenance of fire hydrants to ensure
compliance with this section.

(6) After the effective date of this act and the
adoption of an ordinance provided for in this Subsection,
the utility shall paint all hydrants in accordance with the
ordinance or the memorandum of understanding that are
located in residential areas and an industrial district
that are located within the municipality or within its
extraterritorial jurisdiction.

(7) 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 or utility
under a joint enterprise theory of liability.

SECTION 3. This Act takes effect September 1, 2013.

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