

- SUBJECT:** Requiring public utilities in larger cities to maintain water pressure
- COMMITTEE:** Environmental Regulation — committee substitute recommended
- VOTE:** 7 ayes — Bonnen, Hancock, Lucio, Driver, T. King, Kuempel, West
0 nays
- WITNESSES:** For — Michael Thane, City of Round Rock (*Registered, but did not testify*); Shanna Igo, Texas Municipal League; Beth O'Brien, Public Citizen)

Against — Ken Petersen, Texas Rural Water Association

On — Bob Laughman, Aqua Texas, Inc.
- BACKGROUND:** Several cities manage water provision through a public utility. However, in cities such as Houston, water supply corporations and municipal utility districts (MUDs) are a more common source of water provision. MUDs are political subdivisions of Texas, authorized by TCEQ to provide water, sewage, drainage, and other services within the district.
- DIGEST:** CSHB 1391 would require the regulatory authority for a public utility to adopt standards for maintaining sufficient water pressure for service to fire hydrants that was adequate to protect public safety in residential areas in municipalities with a population of 655,000 or more (Houston, Dallas, San Antonio, and Austin). A residential area would be:
- an area officially designated as a residential zoning district or an area where private residences were the principal permitted land use
 - a subdivision recorded on a legal map that contained or was bounded by public streets touching residential property that filled at least 75 percent of the land facing the block
 - a subdivision in which the majority of lots were limited to residential use as stipulated by deed restrictions
- Municipalities acting as the regulatory authority would be required to make appropriate revisions to inadequate standards within an established

timeframe and with the oversight of the Texas Commission on Environmental Quality (TCEQ).

Public utilities would have to comply with the standards set forth in the bill and established by TCEQ or a municipality acting as a regulatory authority. TCEQ would ensure that these standards were followed.

HB 1391 would not limit the authority of a municipality that acted as a regulatory authority to prohibit a public utility from using utility rates to recover a penalty or fine incurred for violations stipulated in the bill.

The bill would take effect on September 1, 2007.

**SUPPORTERS
SAY:**

CSHB 1391 would ensure the provision of ample water pressure in case of fire in residential areas. The bill specifically would apply to municipalities with populations over 655,000. With the authority granted by the bill, regulatory authorities of public utilities could reduce the devastation wrought by residential fires, thereby improving public safety.

The lack of standards for flow on hydrants in residential areas represents an important concern. Several neighborhoods in Harris County were once unincorporated and are now a part of the city of Houston. These neighborhoods currently lack water systems to ensure adequate water pressure to operate fire hydrants. This puts the neighborhoods' safety at risk. Garden City in Houston is one such neighborhood where many homes have been lost to fires, due in part to a lack of water pressure from hydrants.

Current state statutes and TCEQ rules require public water systems to provide water for human use and maintain a minimum pressure of 35 pounds per square inch. However, requirements on fire flow, the amount of water needed to fight fires, do not exist in state statutes or TCEQ rules. Without such rules, water supply corporations and MUDs can evade the provision of fire flow under current law. The bill would address this loophole in cities with populations of more than 655,000.

Often a developer establishes a corporation or MUD with the economic incentive of ensuring the cheapest water provision possible. The city retains regulatory authority over rate-setting and operating standards for water supply corporations and MUDs. Although the city may also have requirements on fire flow, a developer may appeal the standards to TCEQ,

where rules on fire flow do not exist. CSHB 1391 would give TCEQ and the city greater authority to set fire flow standards in water supply corporations and MUDs.

The bill would require additional administrative costs to TCEQ for rulemaking, inspections, and compliance review. However, these costs would be absorbed in the agency's existing resources. The cost of including all municipalities under this legislation would result in a fiscal impact to the state.

The cost of ensuring fire flow in more rural areas would be prohibitively expensive. In such areas, water systems are devised for systems with larger distances between residential dwellings. Consequently, the assurance of fire flow in smaller municipalities would be costly and inefficient.

OPPONENTS
SAY:

The committee substitute would apply only to cities with populations of 655,000 or more. This population limit would exclude municipalities across Texas from the public safety standards ensured by the bill. The bill should ensure adequate fire hydrant water pressure for a greater number of Texans.

The public sector would incur significant costs in fixing shoddy water supply systems by developers. Given the difficulties and costs of updating an old system, the bill should require residential developments across Texas to provide adequate fire flow. The state and cities would incur less cost in retrofitting residential areas by including all municipalities in the proposed legislation.

NOTES:

The committee substitute differs from the original by:

- affecting municipalities with populations of 655,000 or more rather than any municipality;
- eliminating the term "public safety" when referring to standards set forth by the proposed legislation;
- placing the proposed legislation in Chapter 341 of the Health and Safety Code as opposed to Chapter 13 of the Water Code;
- including definitions of "public utility" and "regulatory authority" from Chapter 13 of the Water Code; and

- not limiting the authority of a municipality of 655,000 or more to act as a regulatory authority to prohibit a public utility from using rates to recover a penalty or fine incurred for violations stipulated in this legislation.