

- SUBJECT:** Identification requirements for certain fire hydrants and flush valves
- COMMITTEE:** Urban Affairs — committee substitute recommended
- VOTE:** 8 ayes — Y. Davis, Alvarado, Gutierrez, Kent, Mallory Caraway, Miklos, Pierson, C. Turner
- 0 nays
- 3 absent — C. Howard, Fletcher, Walle
- WITNESSES:** For — Steve Perdue, State Fireman’s and Fire Marshals’ Association of Texas; Laura Zent, Texas Rural Water Association; Mark Zeppa, Independent Water and Sewer Companies of Texas; (*Registered, but did not testify*: Julianne Acevedo, Texas Fire Chiefs Association)
- Against — David Covington, City of Schertz; Roger Niemietz, City of Cibolo; (*Registered, but did not testify*: Lee Perry, City of Cibolo; Alan Wayland, City of New Braunfels)
- On — Ed Salazar, Texas Department of Insurance, State Fire Marshal’s Office)
- BACKGROUND:** Health and Safety Code, sec. 341.0357, added by HB 1717 by McReynolds, enacted in 2007 by the 80th Legislature, establishes requirements for identifying when a device with the appearance of a fire hydrant is nonfunctioning or otherwise unavailable for use by any entity providing fire suppression services. The section defines a hydrant as nonfunctioning if it pumps less than 250 gallons of water per minute.
- DIGEST:** CSHB 1913 would require each public water system responsible for fire hydrants or metal flush valves to paint all or just the cap of the hydrant or valve white if it was available for pumping directly from the hydrant or for use in filling a water tank on a fire truck used for fire suppression, and black if it was unavailable for those activities. A public water system also could place a black tarp over the hydrant or otherwise conceal it for no more than 60 days if the hydrant or valve was temporarily unavailable. If the hydrant or valve was unavailable for longer than 60 days, the water system would be required to paint all or just the cap of it black.

The fact that all or the cap of a hydrant or valve was not painted black or otherwise concealed would not be considered a guarantee by the public water system responsible for it that the hydrant would deliver a certain amount of water flow at all times, and a public water system would not be considered liable for a hydrant's inability to provide an adequate water supply in an emergency. A public water system that painted all or just the cap of a hydrant or metal flush valve black could ensure that the hydrant or valve was identifiable in low-light conditions, including through the installation of reflectors.

A fire hydrant or metal flush valve would be considered unavailable for use by a fire suppression entity if the hydrant or valve delivered less than 50 gallons of water per minute during its most recent flow test, or if the public water system responsible for it was not obligated by ordinance, regulation, or contract to provide water for fire suppression and chose not to provide water for that purpose. The bill also would remove language referring to nonfunctioning hydrants.

Each public water system responsible for hydrants covered by this bill would be required to comply with the bill's requirements by January 1, 2010. CSHB 1913 would not apply within the jurisdiction of any governmental entity that maintained its own system for labeling or color coding its hydrants or to public water systems that have entered into contracts with a municipality or volunteer fire service to provide water for fire suppression if the contract specified a different system for labeling or color coding hydrants.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2009.

**SUPPORTERS
SAY:**

CSHB 1913 would address some unintended consequences of HB 1717, enacted by the 80th Legislature, and would help firefighters serve their communities better. Public water utilities should not be held liable for lack of water flow during an emergency, as state law does not require these utilities to provide water for fire suppression services and many smaller, rural systems target water flow toward drinking water rather than fire suppression. However, in the event that a utility chooses to provide water for that purpose, this bill would allow for easy identification of which hydrants were available for use by fire departments and which were not. It also would impose stricter standards on when a hydrant could be listed as

unavailable, lowering the flow delivered from 250 to 50 gallons of water per minute.

The bill also would address some safety concerns about the current system by allowing public water systems to identify hydrants painted black so that they could be seen at night.

**OPPONENTS
SAY:**

Under this bill, firefighters could be considered at fault if a house burned due to inadequate water supply, even if the a hydrant or metal flush valve was marked as available for use. Public water utilities often collect impact fees for providing water flow to businesses and other users, and should be able to guarantee that a hydrant marked as available has an adequate supply of water.

NOTES:

A similar bill, SB 1258 by Hegar, has been referred to the Senate Intergovernmental Relations Committee.