

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 1814
By: Lucio III (Lucio)
Natural Resources
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Many water supply corporations allow or would like to allow fire departments to fill their tanks from flush valves in the system. Some water supply corporations provide a fire-flow level of service in areas that are urbanizing. Unlike volunteer fire departments and governmental entities, water supply corporations do not have immunity from suit or liability limits for providing this public service, unless they have a written contract in place with the fire department.

This bill would amend the law so that water supply corporations would have some liability protection if they are providing a water supply to fight fires, regardless of whether there is a written contract in place or not. This change in the law would enable water supply corporations to assist fire departments in fulfilling their governmental responsibility of fighting fires without the fear of getting sued and therefore would encourage cooperation between water systems and fire departments.

C.S.H.B. 1814 amends current law relating to the provision of water and certain equipment by water supply or sewer service corporations for use in fire suppression and the liability of those corporations.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 67.0105, Water Code, as follows:

Sec. 67.0105. New heading: WATER FOR FIRE SUPPRESSION. (a) Authorizes a water supply corporation (corporation) to provide a water supply to a governmental entity or volunteer fire department for use in fire suppression.

(a-1) Creates this subsection from existing text. Authorizes a corporation to enter into a contract with a governmental entity or a volunteer fire department to supply water to fire hydrants owned by the governmental entity or the corporation for use in fire suppression by the governmental entity's fire department or a volunteer fire department, rather than authorizes a corporation to enter into a contract with a municipality or a volunteer fire department to supply water either to municipally owned fire hydrants or to corporation fire hydrants for use in fire suppression by the municipality's fire department or volunteer fire department.

(b) Provides that the furnishing of a water supply and fire hydrant equipment by a governmental entity, rather than municipality, or a volunteer fire department directly or through an entity by a lease, contract, or any other manner is an essential governmental function and not a proprietary function for all purposes, including the application of Chapter 101 (Tort Claims), Civil Practice and Remedies Code.

(c) Authorizes a corporation that provides a governmental entity or volunteer fire department with water supply or fire hydrant equipment to carry out the governmental function described by Subsection (b) to be liable for damages only to the extent that the governmental entity or volunteer fire department would be liable if the governmental entity or volunteer fire department were performing the governmental function directly, rather than authorizes a corporation that contracts with a municipality or volunteer fire department to provide a water supply or fire hydrant equipment to be liable for damages only to the extent that the municipality or volunteer fire department would be liable if the municipality or volunteer fire department were performing the governmental function directly.

SECTION 2. Amends Section 314.0358, Health and Safety Code, by adding Subsection (g), to provide that this section also applies to 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.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2011.