

BILL ANALYSIS

Senate Research Center
83R15915 SCL-F

H.B. 1768
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Natural Resources
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Interested parties note that, in recent years, firefighters in rural areas of the state have faced increasing problems with broken fire hydrants, resulting in significant property loss and a potential risk to human life. Recent legislation was enacted to help firefighters identify nonfunctioning hydrants by requiring the owners of hydrants to paint the hydrants black if they are nonfunctioning or otherwise unavailable for fire suppression services. It is reported that after passage of this legislation some water utilities began painting all of their hydrants black out of concern that the statute might subject them to lawsuits. H.B. 1768 seeks to address this problem in certain counties and municipalities by setting out the conditions under which a hydrant is considered unavailable, exempting a water utility from liability for a hydrant's inability to provide adequate water supply in a fire emergency, and implementing a color coding system for hydrants that are used only to fill the tanks of fire trucks.

H.B. 1768 amends current law relating to identification requirements for certain fire hydrants and flush valves.

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 341.0357, Health and Safety Code, as follows:

Sec. 341.0357. New heading: IDENTIFICATION REQUIREMENT FOR CERTAIN FIRE HYDRANTS AND FLUSH VALVES. (a) Redefines, in this section, "hydrant."

(b) Provides that this section applies only to a county, or a municipality in a county, that:

- (1) borders the United Mexican States or is adjacent to a county that borders the United Mexican States;
- (2) has a population of at least 400,000 or has a population of at least 20,000 and is adjacent to a county that has a population of at least 400,000; and
- (3) is within 200 miles of the Gulf of Mexico.

(c) Require that each water utility responsible for any hydrant:

- (1) paint all or the cap of the hydrant white if the hydrant is available to be used only to fill a water tank on a fire truck used for fire suppression services; and

(2) paint all or the cap of the hydrant black if the hydrant is unavailable for use by the entity providing fire suppression services in a fire emergency.

(d) Provides that, for purposes of Subsection (c)(2), a hydrant is unavailable for use in a fire emergency if it is unavailable for pumping directly from the hydrant or is unavailable for use in filling a water tank on a fire truck used for fire suppression services.

(e) Authorizes a water utility to place a black tarp over the hydrant or use another means to conceal the hydrant instead of painting all or the cap of the hydrant black as required under Subsection (c)(2) if the hydrant is temporarily unavailable for use in a fire emergency for a period not to exceed 45 days. Requires the water utility responsible for the hydrant, not later than the 45th day after the date a hydrant is concealed as provided by this subsection, to if the hydrant is available for the provision of fire suppression services, remove the tarp or other means of concealment or if the hydrant continues to be unavailable for use in a fire emergency, paint all or the cap of the hydrant black as required by Subsection (c)(2). Deletes existing text authorizing the owner to place a black tarp over the device instead of painting the device black as required under this section if the device is temporarily nonfunctioning, or temporarily unavailable for use in a fire emergency, for a period not to exceed seven days.

(f) Authorizes a water utility that paints all or the cap of a hydrant black as required by Subsection (c)(2) to also ensure by any reasonable means that the hydrant is identifiable in low-light conditions, including by installing reflectors.

(g) Redesignates existing Subsection (b) as Subsection (g). Provides that, for purposes of this section, a hydrant is considered to be unavailable for use by an entity responsible for providing fire suppression services in a fire emergency if the water utility is not obligated by ordinance, regulation, or contract to provide water for fire suppression services and elects not to provide water for those services. Deletes existing text providing that, for purposes of this section, a device is considered to be nonfunctioning if the device pumps less than 250 gallons of water per minute.

(h) Redesignates existing Subsection (c) as Subsection (h). Provides that this section does not apply within the jurisdiction of a governmental entity that maintains its own system for labeling or color coding its hydrants or to any water utility that has entered into a contract with a municipality or volunteer fire department to provide a water supply for fire suppression services if the contract specifies a different system for labeling or color coding hydrants. Deletes existing text providing that this section does not apply within the jurisdiction of a governmental entity that maintains its own system for labeling a device having the appearance of a fire hydrant that is nonfunctioning or otherwise unavailable for use in a fire emergency.

(i) Authorizes a system for labeling or color coding hydrants, for purposes of Subsection (h), to include the assignment of different colors to identify hydrants that are available for direct pumping, hydrants that are available for filling a water tank on a fire truck used for fire suppression services, and hydrants that are unavailable for use by an entity providing fire suppression services in a fire emergency.

(j) Provides that the fact that all or the cap of a hydrant for which a water utility is responsible under this section is not painted black as described by Subsection (c)(2) or concealed in the manner described by Subsection (e) does not constitute a guarantee by the water utility that the hydrant will deliver a certain amount of water flow at all times. Provides that, notwithstanding any provision of Chapter 101 (Tort Claims), Civil Practice and Remedies Code, to the contrary, a water

utility is not liable for a hydrant's inability to provide adequate water supply in a fire emergency.

SECTION 2. Requires that each water utility responsible for hydrants under Section 341.0357, Health and Safety Code, as amended by this Act, not later than January 1, 2014, ensure that its hydrants comply with the requirements imposed by that section.

SECTION 3. Effective date: upon passage or September 1, 2013.