

CHAPTER 606

S.B. No. 1086

AN ACT

relating to the regulation of 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

1           (3) a municipality, including any industrial district  
2 within the municipality or its extraterritorial jurisdiction, with  
3 a population of more than 11,000 and less than 18,000 located in a  
4 county with a population of more than 125,000 and less than 230,000.

5           SECTION 3. Subchapter C, Chapter 341, Health and Safety  
6 Code, is amended by adding Section 341.03585 to read as follows:

7           Sec. 341.03585. FIRE HYDRANT FLOW AND PRESSURE STANDARDS IN  
8 CERTAIN MUNICIPALITIES. (a) In this section:

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

13           (2) "Municipal utility" means a retail public utility,  
14 as defined by Section 13.002, Water Code, that is owned by a  
15 municipality.

16           (3) "Residential area" has the meaning assigned by  
17 Section 341.0358.

18           (4) "Utility" includes a "public utility" and "water  
19 supply or sewer service corporation" as defined by Section 13.002,  
20 Water Code.

21           (b) This section applies only to:

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

27           (2) 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.

(c) The governing body of a municipality by ordinance shall adopt standards requiring a utility to maintain a sufficient water flow and pressure to fire hydrants in a residential area or an industrial district located in the municipality or the municipality's extraterritorial jurisdiction. The standards:

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

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

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

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

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

(d) Except as provided by this subsection, an ordinance under Subsection (c) may not require a utility to build, retrofit, or improve fire hydrants and related infrastructure in existence at

1 the time the ordinance is adopted. An ordinance under Subsection  
2 (c) may apply to a utility's fire hydrants and related  
3 infrastructure that the utility:

4 (1) installs after the effective date of the  
5 ordinance; or

6 (2) acquires after the effective date of the ordinance  
7 if the hydrants and infrastructure comply with the standards  
8 adopted by the ordinance at the time the hydrants and  
9 infrastructure are acquired.

10 (e) After adoption of an ordinance under Subsection (c), the  
11 municipality shall encourage any responsible emergency services  
12 district, as described by Chapter 775, to enter into a written  
13 memorandum of understanding with the utility to provide for:

14 (1) the necessary testing of fire hydrants; and

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

18 (f) After adoption of an ordinance under Subsection (c), the  
19 utility shall paint all fire hydrants in accordance with the  
20 ordinance or a memorandum of understanding under Subsection (e)  
21 that are located in a residential area or an industrial district  
22 within the municipality or the municipality's extraterritorial  
23 jurisdiction.

24 (g) Notwithstanding any provision of Chapter 101, Civil  
25 Practice and Remedies Code, to the contrary, a utility is not liable  
26 for a hydrant's or metal flush valve's inability to provide adequate  
27 water supply in a fire emergency. This subsection does not waive a

S.B. No. 1086

1 municipality's immunity under Subchapter I, Chapter 271, Local  
2 Government Code, or any other law and does not create any liability  
3 on the part of a municipality or utility under a joint enterprise  
4 theory of liability.

5 SECTION 4. This Act takes effect September 1, 2013.\_\_\_\_\_

David Newkirk  
President of the Senate

Joe Straus  
Speaker of the House

I hereby certify that S.B. No. 1086 passed the Senate on April 25, 2013, by the following vote: Yeas 30, Nays 0; and that the Senate concurred in House amendment on May 23, 2013, by the following vote: Yeas 31, Nays 0.\_\_\_\_\_

Atsuy Spaw  
Secretary of the Senate

I hereby certify that S.B. No. 1086 passed the House, with amendment, on May 20, 2013, by the following vote: Yeas 147, Nays 0, two present not voting.\_\_\_\_\_

Robert Haney  
Chief Clerk of the House

Approved:

14 JUNE '13  
Date

Rick Perry  
Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
10PM O'CLOCK

JUN 14 2013

[Signature]  
Secretary of State