SUBJECT: Requiring nonfunctioning and out-of-use fire hydrants to be painted black

COMMITTEE: Urban Affairs — favorable, without amendment

VOTE: 5 ayes — Bailey, Murphy, Menendez, Latham, Martinez Fischer

1 nay — Mallory Caraway

1 absent — Cohen

WITNESSES: For — Chris Barron, State Firemen's and Fire Marshals' Association. (*Registered, but did not testify:* Randy Cain, Texas Fire Chiefs Association; Mike Higgins, Texas State Association of Fire Fighters)

Against — None

BACKGROUND: Subch. C, ch. 341 of the Health and Safety Code, which concerns protection of public water supplies and drinking water sanitation standards, allows civil penalties of between $50 and $1,000 per violation and injunctive relief for violations of the standards specified. Each day of a continuing violation is considered a separate violation. Under sec. 341.048, a county or municipality may bring suit for civil relief, with any fines split equally between the state and the county or municipality.

DIGEST: HB 1717 would add sec. 341.0357 to the Health and Safety Code to require the owner of any device that had the appearance of a fire hydrant, that was located where a fire hydrant typically would be located, and that was nonfunctioning or otherwise not in use to paint the device black.

The owner would have to comply by January 1, 2008.

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, 2007.

SUPPORTERS SAY: HB 1717 would provide a cost effective and simple solution to a recurring problem for fire departments in rural and exurban areas. Painting inoperable and out of use fire hydrants black would help prevent

dangerous situations in which fire departments attempt to use a nonfunctioning hydrant to extinguish a fire. Making clear which hydrants were inoperable would help fire departments plan responses to emergencies and would establish a statewide standard for designating nonfunctioning hydrants.

Fire hydrants come in many shapes and sizes and often are very difficult to distinguish from similar water devices, such as flush valves. Flush valves are an important part of water system maintenance, but do not deliver flow like a fire hydrant. In rural and exurban areas, flush valves and inoperable hydrants are very common and pose significant dangers. Also, nonfunctioning hydrant devices provide a false sense of security to nearby homeowners and can impair fire response time in an emergency.

Larger cities have fire departments with full-time staff and the resources to track and monitor fire hydrants within municipal boundaries. Rural and exurban areas, however, often have small or volunteer fire departments with large districts and disbursed housing developments. Fire departments in these areas seldom have the resources to verify and maintain a database of functional hydrant devices in the vicinity. These departments often rely on the availability and functionality of hydrants in the immediate area of a fire to help extinguish the blaze.

In a number of recent incidents, rural or exurban fire departments, responding to a fire emergency, have connected hoses to nonfunctioning hydrants. This confusion has had catastrophic results, since lost time attempting to connect to a nonfunctioning device can be critical to the extent of fire damage. One recent fire caused by electrical lines at the Mineral Wells Airport caused $4 million in damages and destroyed six homes and 1,600 acres of property. The fire started in an area adjacent to a hydrant that proved inoperable when fire personnel attempted to connect.

HB 1717 would provide the easiest and most cost effective solution to the widespread problem of designating nonfunctioning hydrants. The provisions in the bill could be easily satisfied by the owner of a hydrant, such as a water utility, rural water district, developer, or city by applying black spray paint to nonfunctioning hydrants. The bill would not call for expensive removals, repairs, or extensive enforcement actions that entities most affected by the bill would be incapable of funding. Related civil penalties in ch. 341 of the Health and Safety Code could be applied to help achieve compliance.

Confusion regarding the functionality of hydrants results in misplaced perceptions of fire response time and adversely affects residents and insurance companies who possess a false sense of security. HB 1717 would extend existing and accepted practices used in municipal areas for coloring hydrants by flow capacity. Statewide standards for inoperable hydrant coloring would promote uniformity and eliminate confusion among fire department districts. The bill would establish practices that

help alert residents who move into housing adjacent to a black fire hydrant that they should take extra precautions in the event of a fire.

HB 1717 would introduce a common-knowledge standard that would help fire departments and neighborhoods engage in emergency planning. Fire departments would be able to plan and devote additional resources to fires in neighborhoods with no functioning hydrants, and local residents could develop fire emergency evacuation and response plans. HB 1717 would provide a simple means of supporting cooperative local efforts at planning for increased response time due to nonfunctioning hydrant devices.

OPPONENTS SAY:

HB 1717 would not address the basic problem that gives rise to inoperable hydrants. The current problem results when various entities, such as utility districts, rural water districts, developers, and others install nonfunctioning devices like flush valves with deceptive appearances that are meant to support the water system but do not bring water to a fire truck in the event of an emergency. These devices are poorly documented in large measure because the utilities that install them are not required to notify fire departments of their whereabouts and status. Small and volunteer fire departments have insufficient resources to catalogue and monitor the hydrants in their districts. HB 1717 would not address the lack of communication and resources for documenting, cataloging and mapping fire resources in rural and exurban areas.

OTHER OPPONENTS SAY:

HB 1717 would not distinguish between two types of water devices that are nonfunctioning: temporarily inoperable hydrants and water devices that are incapable of functioning as hydrants. Procedures regarding these types of devices should be handled carefully because a temporarily defunct hydrant painted black could create a dangerous situation if not restored to its original color when repaired. Legislation that addresses nonfunctioning devices should distinguish between permanently non-functioning and temporarily disabled hydrants.

NFPA fire flow publications recommend that hydrants that are permanently inoperable should be removed from service and temporarily inoperative hydrants should be so indicated until they are repaired and placed back in service. HB 1717 would not go far enough to meet the NFPA recommendations. Owners of permanently inoperable fire hydrants ultimately should remove them completely and replace them if doing so would restore their operability.

NOTES:

The companion bill, SB 1441 by Hegar, has been referred to the Senate Intergovernmental Relations Committee.