

SUBJECT: Regulating the sanitation of interactive water features and fountains

COMMITTEE: Public Health — committee substitute recommended

VOTE: 8 ayes — Kolkhorst, Naishtat, J. Davis, Gonzales, Hopson, S. King,
Laubenberg, Zerwas

0 nays

3 absent — Coleman, McReynolds, Truitt

SENATE VOTE: On final passage, April 9 — 31-0, on Local and Uncontested Calendar

WITNESSES: For — (*Registered, but did not testify*: Mazie Jamison, Children's Medical
Center Dallas; Mark Mendez, Tarrant County; Craig Pardue, Dallas
County; Bryan Sperry, Children's Hospital Association of Texas)

Against — None

On — Kathleen Moore, Department of State Health Services

DIGEST: CSSB 968 would amend Health and Safety Code, subch. D, ch. 341, to
provide regulation of the sanitary conditions of interactive water features
or fountains, including water sprays, dancing water jets, waterfalls,
dumping buckets, or shooting water cannons that were maintained for
public recreation.

Sanitary conditions. An owner, manager, operator, or other attendant in
charge of an interactive water feature or fountain would be required to
maintain the water feature or fountain in a sanitary condition. The
bacterial content of the water could not exceed the safe limits prescribed
by the standards adopted under ch. 341.

A minimum free residual chlorine of 1.0 part for each one million units of
water would have to be maintained, and water could not show an acid
reaction to a standard pH test. These requirements would not apply to an
interactive water feature or fountain that was supplied entirely by drinking
water that was not re-circulated. The Department of State Health Services

(DSHS) could, by rule, adopt methods of disinfection other than chlorination.

A person known to be or suspected of being infected with a transmissible condition of a communicable disease would have to be excluded from an interactive water feature or fountain.

Regulation. A county, a municipality, or DSHS could:

- require the owner or operator to obtain a permit for operation of the water feature or fountain;
- inspect an interactive water feature or fountain for compliance; and
- impose and collect a reasonable fee in connection with a permit or inspection.

If a fee were imposed, the auditor for the county or municipality would be required to review the program every two years to ensure that the fees imposed did not exceed the cost of the program. The county or municipality would refund the permit holder any revenue determined to exceed the cost of the program.

A county, a municipality, or DSHS could, by order, close an interactive water feature or fountain if the operation of the fountain or water feature was in violation of a provision of the bill or of a permitting or inspection requirement.

CSSB 968 would require the Health and Human Services Commission to adopt emergency rules for implementation no later than the 30th day after the effective date. An owner, operator, or other attendant in charge of an interactive water feature or fountain would not be required to comply until five days after the rules were adopted.

Effective date. This 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:

Swimming pools, spas, and wading pools currently are regulated by Health and Safety Code, ch. 341, and CSSB 968 would add that interactive water features or fountains also be regulated to ensure sanitation and reduce the risk of communicable disease transmission.

Interactive spray fountain parks have become increasingly popular attractions. However, there currently are no regulations in Texas requiring minimum operating standards for such facilities. Without proper disinfection measures, contamination of re-circulating spray water with infectious pathogens could result in large numbers of persons contracting diarrheal illnesses. To combat this, other states have recently enacted legislation to require regulation of spray fountain parks to better protect the health of citizens and prevent outbreaks of disease associated with use of these facilities.

The bill would apply only to interactive public fountains used for public recreation purposes that would result in the public coming in contact with the water. It would not apply to private fountains or those that were purely decorative.

OPPONENTS
SAY:

No apparent opposition

NOTES:

The committee substitute differs from the Senate-passed version by:

- authorizing DSHS, rather than the state, to require the owner or operator of an interactive water feature or fountain to obtain a permit;
- removing provisions that the interactive water feature or fountain be within the jurisdiction of a county or municipality;
- adding that the imposition or collection of a fee would apply if required by a county or municipality; and
- adding DSHS to the entities authorized to close an interactive water feature or fountain.