

CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

May 30, 2009
Date

Honorable David Dewhurst
President of the Senate

Honorable Joe Straus
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on SB 968 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Roger West
West, Chair

John Carona
Carona

Nichols
Nichols

Don Patrick
Patrick, Don

Vande Putte
On the part of the Senate
Vande Putte

Vicki Truitt
Truitt, Chair

Linda Harper Brown
Harper - Brown

Carol N Kent
Kent

D. W. Kalkhorst
Kalkhorst

Doug Miller
On the part of the House
Miller, Doug

Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

CONFERENCE COMMITTEE REPORT

3rd Printing

S.B. No. 968

A BILL TO BE ENTITLED

AN ACT

1

2 relating to interactive water features and fountains.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

4 SECTION 1. Subchapter D, Chapter 341, Health and Safety
5 Code, is amended by adding Section 341.0695 to read as follows:

6 Sec. 341.0695. INTERACTIVE WATER FEATURES AND FOUNTAINS.

7 (a) In this section, "interactive water feature or fountain" means
8 an installation that includes water sprays, dancing water jets,
9 waterfalls, dumping buckets, or shooting water cannons and that is
10 maintained for public recreation.

11 (b) An owner, manager, operator, or other attendant in
12 charge of an interactive water feature or fountain shall maintain
13 the water feature or fountain in a sanitary condition.

14 (c) The bacterial content of the water in an interactive
15 water feature or fountain may not exceed the safe limits prescribed
16 by the standards adopted under this chapter.

17 (d) Except as provided by Subsection (f), a minimum free
18 residual chlorine of 1.0 part for each one million units of water
19 used in an interactive water feature or fountain must be
20 maintained.

21 (e) Water in an interactive water feature or fountain may
22 not show an acid reaction to a standard pH test.

23 (f) The department may by rule adopt methods other than
24 chlorination for the purpose of disinfecting interactive water

1 features and fountains.

2 (g) An interactive water feature or fountain that is
3 supplied entirely by drinking water that is not recirculated is not
4 subject to Subsections (d) and (e).

5 (h) A person known to be or suspected of being infected with
6 a transmissible condition of a communicable disease shall be
7 excluded from an interactive water feature or fountain.

8 (i) A county, a municipality, or the department may:

9 (1) require that the owner or operator of an
10 interactive water feature or fountain obtain a permit for operation
11 of the water feature or fountain;

12 (2) inspect an interactive water feature or fountain
13 for compliance with this section; and

14 (3) impose and collect a reasonable fee in connection
15 with a permit or inspection required under this subsection
16 provided, if the requirement is imposed by a county or
17 municipality, the following are met:

18 (A) the auditor for the county or municipality
19 shall review the program every two years to ensure that the fees
20 imposed do not exceed the cost of the program; and

21 (B) the county or municipality refunds the permit
22 holders any revenue determined by the auditor to exceed the cost of
23 the program.

24 (j) A county, a municipality, or the department may by order
25 close, for the period specified in the order, an interactive water
26 feature or fountain if the operation of the fountain or water
27 feature violates this section or a permitting or inspection

1 requirement imposed under Subsection (i).

2 (k) This section does not apply to a recreational water park
3 that uses freshwater originating from a natural watercourse for
4 recreational purposes and releases the freshwater back into the
5 same natural watercourse.

6 SECTION 2. (a) Not later than the 30th day after the
7 effective date of this Act, the executive commissioner of the
8 Health and Human Services Commission shall adopt emergency rules in
9 accordance with Section 2001.034, Government Code, as necessary to
10 implement Section 341.0695, Health and Safety Code, as added by
11 this Act.

12 (b) An owner, manager, operator, or other attendant in
13 charge of an interactive water feature or fountain is not required
14 to comply with Section 341.0695, Health and Safety Code, as added by
15 this Act, before the fifth day after the date rules are adopted
16 under Subsection (a) of this section.

17 SECTION 3. This Act takes effect immediately if it receives
18 a vote of two-thirds of all the members elected to each house, as
19 provided by Section 39, Article III, Texas Constitution. If this
20 Act does not receive the vote necessary for immediate effect, this
21 Act takes effect September 1, 2009.

Senate Bill 968
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

SECTION 1. Subchapter D, Chapter 341, Health and Safety Code, is amended by adding Section 341.0695, INTERACTIVE WATER FEATURES AND FOUNTAINS, as follows:

(a)-(h)

(i) Authorizes a county, a municipality, or the *state* to require that the owner or operator of an interactive water feature or fountain within the jurisdiction of the county or municipality obtain a permit for operation of the water feature or fountain, inspect an interactive water feature or fountain within the jurisdiction of the county or municipality for compliance with this section, and impose and collect a reasonable fee in connection with a required permit or inspection provided that certain criteria are met relating to a biennial audit and refund of revenue determined to be in excess of the cost of the permit and inspection program.

No equivalent provision.

(j) Authorizes a county or municipality to by order close, for the period specified in the order, an interactive

HOUSE VERSION

SECTION 1. Same as Senate version, except as follows:

(a)-(h) Same as Senate version.

(i) Same as the Senate version, except authorizes the *Department of State Health Services* to require the permitting and inspection of a feature or fountain and impose and collect fees. Makes conforming changes to omit the condition that the interactive water feature or fountain be within the jurisdiction of the county or municipality and to clarify that the audit provisions apply to a permit and inspection requirement imposed by a county or municipality.

(i)(4) Exempts from certain minimum standards and health protection measures an owner, manager, operator, or other attendant in charge of a water park that is subject to standards for public pools and spas contained in Texas Administrative Code, Title 25, Part 1, Chapter 2654, Subchapter L, rule 265.181-265.208.

(j) Same as Senate version, except clarifies that the Department of State Health Services is authorized to

CONFERENCE

SECTION 1. Same as Senate version, except as follows:

✓
(a)-(h) Same as Senate version.

(i) Same as House version. ✓

✓
(k) Substantially the same as House version, except specifically refers to a recreational water park that uses freshwater originating from a natural watercourse for recreational purposes and releases the freshwater back into the same natural watercourse.

(j) Same as House version.

Senate Bill 968
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

water feature or fountain within the jurisdiction of the county or municipality if the operation of the fountain or water feature violates this section or a permitting or inspection requirement imposed by the county or municipality under Subsection (i).

SECTION 2. Transition provision.

SECTION 3. Effective date.

HOUSE VERSION

close a feature or fountain. Makes conforming changes.

SECTION 2. Same as Senate version.

SECTION 3. Same as Senate version.

CONFERENCE

SECTION 2. Same as Senate version.

SECTION 3. Same as Senate version.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 30, 2009

**TO: Honorable David Dewhurst , Lieutenant Governor, Senate
Honorable Joe Straus, Speaker of the House, House of Representatives**

FROM: John S. O'Brien, Director, Legislative Budget Board

**IN RE: SB968 by West (Relating to interactive water features and fountains.), Conference
Committee Report**

No significant fiscal implication to the State is anticipated.

The bill would add Section 341.0695 to the Health and Safety Code to authorize the Department of State Health Services (DSHS) to by rule adopt methods other than chlorination for the purpose of disinfecting interactive water features and fountains.

The new section of the code would also authorize a county, a municipality, or DSHS to require the owner or operator of an interactive water feature or fountain to obtain a permit for operation of the water feature or fountain. The county, municipality, or state would also be authorized to inspect the feature or fountain for compliance with health requirements set forth in the bill. The county, municipality, or DSHS would be authorized to impose and collect a fee to cover the costs of a permit and inspection if the auditor for the county or the municipality reviewed the program every two years to ensure the fees do not exceed related costs and if those entities refund to the permit holders any revenue determined by the auditor to exceed the cost of the program. Certain owners, managers, operators, or other attendants in charge of water parks would be exempt. Also exempt from the requirements of the new section would be a recreational water park that uses freshwater originating from a natural watercourse for recreational purposes and releases the freshwater back into the same natural watercourse.

Not later than the 30th day after the effective date of the bill, the executive commissioner of the Health and Human Services Commission would be required to adopt emergency rules as necessary to implement the Section 341.0695 proposed by the bill.

The bill would take effect immediately if it were to receive the required two-thirds vote in each house; otherwise, it would take effect September 1, 2009.

It is assumed that costs associated with implementing provisions of the bill can be absorbed within existing resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 529 Health and Human Services Commission

LBB Staff: JOB, DB, SD, CL, TP