

## **BILL ANALYSIS**

C.S.H.B. 931  
By: Miller  
State Affairs  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties suggest that the public would benefit from additional hike and bike trails, but that acquiring the land for such amenities can be too expensive. C.S.H.B. 931 seeks to encourage the establishment of hike and bike trails by limiting the liability of certain electric utilities and political subdivisions that contract for certain uses of land owned, occupied, or leased by the utility.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 931 repeals Civil Practice and Remedies Code provisions limiting to an electric utility located in a county with a population of four million or more statutory provisions authorizing an electric utility to enter into a written agreement with a political subdivision to allow certain public access to and use of the utility's premises and limiting the utility's liability for such public access and use. The bill amends the Civil Practice and Remedies Code to authorize such a written agreement to require the political subdivision with whom the utility entered into the agreement to pay costs incurred by the utility in entering the agreement, including reimbursement for maintenance or removal of facilities and additional taxes, fees, and other costs incurred by the utility. The bill limits the liability of a political subdivision that arises from the use of property that is subject to such an agreement, as justice and equity may require, to an amount not to exceed \$350,000 for each person, \$700,000 for each single occurrence for bodily injury or death, \$100,000 for each single occurrence for injury to or destruction of property, court costs, reasonable attorney's fees, and any other expense incurred in filing a cause of action against a political subdivision relating to the liability of the political subdivision in the agreement with the utility.

C.S.H.B. 931 repeals Sections 75.0021 and 75.0022(b), Civil Practice and Remedies Code.

### **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2017.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 931 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences

85R 26738

17.117.92

Substitute Document Number: 85R 23659

between the introduced and committee substitute versions of the bill.

#### INTRODUCED

SECTION 1. Section 75.0022(a)(3), Civil Practice and Remedies Code, is amended to read as follows:

(3) "Premises" includes the land owned, occupied, or leased by an electric utility, or covered by an easement owned by an electric utility, with respect to which public access and use is allowed in a written agreement with a person [~~political subdivision~~] under Subsection (c).

SECTION 2. Sections 75.0022(b), (c), and (h), Civil Practice and Remedies Code, are amended to read as follows:

(b) This section applies only to an electric utility located in:

(1) a county with a population of four million or more;

(2) a county adjacent to a county with a population of four million or more;

(3) a county adjacent to a county described by Subdivision (2) with a population of:

(A) more than 41,200 but less than 41,900;

(B) more than 36,500 but less than 36,800;

or

(C) more than 28,300 but less than 30,000;

or

(4) a county adjacent to a county described by Subdivision (3) with a population of more than 20,700 but less than 21,100.

(c) An electric utility, as the owner, easement holder, occupant, or lessee of land, may enter into a written agreement with a person [~~political subdivision~~] to allow public access to and use of the premises of the electric utility for recreation, exercise, relaxation, travel, or pleasure.

(h) A written agreement entered into under this section may require the person with whom the electric utility has made the agreement [~~political subdivision~~] to provide or pay for insurance coverage for any defense costs or other litigation costs incurred by the electric utility for damage claims under this section.

#### HOUSE COMMITTEE SUBSTITUTE

No equivalent provision.

SECTION 1. Section 75.0022(h), Civil Practice and Remedies Code, is amended to read as follows:

(h) A written agreement entered into under this section may require the political subdivision to provide or pay for:

(1) insurance coverage for any defense costs or other litigation costs incurred by the electric utility for damage claims under this section; and

(2) costs incurred by the electric utility in entering the agreement under this section, including reimbursement for maintenance or removal of facilities and additional taxes, fees, and other costs incurred by the electric utility.

No equivalent provision.

SECTION 2. Section 75.007(e), Civil Practice and Remedies Code, is amended to read as follows:

(e) This section does not affect Section 75.001, 75.002, ~~[75.0021,]~~ 75.003, or 75.004 or create or increase the liability of any person.

No equivalent provision.

SECTION 3. Subchapter B, Chapter 101, Civil Practice and Remedies Code, is amended by adding Section 101.030 to read as follows:

Sec. 101.030. LIABILITY OF POLITICAL SUBDIVISION IN AGREEMENT WITH ELECTRIC UTILITY. (a) This chapter applies to a political subdivision that enters into a written agreement with an electric utility for public access to and use of the premises of the electric utility as provided by Section 75.0022.

(b) Liability of a political subdivision that arises from the use of property that is subject to an agreement under Section 75.0022 is limited, as justice and equity may require, to an amount not to exceed:

(1) \$350,000 for each person;

(2) \$700,000 for each single occurrence for bodily injury or death;

(3) \$100,000 for each single occurrence for injury to or destruction of property;

(4) court costs;

(5) reasonable attorney's fees; and

(6) any other expense incurred in filing a cause of action against a political subdivision under this section.

No equivalent provision.

SECTION 4. Sections 75.0021 and 75.0022(b), Civil Practice and Remedies Code, are repealed.

SECTION 3. The change in law made by this Act applies only to a cause of action that accrues on or after the effective date of this Act. A cause of action that accrues before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

SECTION 5. (a) The change in law made by this Act applies only to a cause of action that accrues on or after the effective date of this Act. A cause of action that accrues before the effective date of this Act is governed by the law applicable to the cause of action immediately before that date, and that law is continued in effect for that purpose.

(b) The change in law made by this Act to Section 75.0022(h), Civil Practice and Remedies Code, does not apply to an agreement entered into between an electric utility and a political subdivision before the

effective date of this Act.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2017.

SECTION 6. Same as introduced version.