

BILL ANALYSIS

C.S.H.B. 2882
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Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

It has been noted that the number of excavations to install underground facilities has increased dramatically in recent years, and concerns have been raised over reports that excavators are digging and cutting into existing utility lines at an alarming rate, causing substantial damage to underground facilities and creating disruptions to crucial public services. C.S.H.B. 2882 seeks to help shift the cost of service disruptions to the party causing that disruption by providing for recovery in a civil action of damages attributable to certain excavation activities.

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. 2882 amends the Utilities Code to authorize the operator of an underground facility or an excavator to file a civil action for damages arising from the violation of certain provisions of the Underground Facility Damage Prevention and Safety Act regarding excavation requirements. The bill authorizes the substantially prevailing party in such an action to recover reasonable attorney's fees, court costs, and other expenses incurred in the action if:

- the party was represented by an attorney;
- that party presents the claim to the opposing party or the opposing party's authorized agent; and
- payment for the just amount owed is not tendered before the expiration of the 30th day after the claim is presented.

The bill provides for the determination of venue for the action and clarifies that the action is in addition to any other procedure or remedy provided by law.

EFFECTIVE DATE

September 1, 2019.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2882 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute, with regard to a civil action for damages arising from a violation of certain provisions of the Underground Facility Damage Prevention and Safety Act, makes the following changes:

- authorizes an excavator to bring such an action;
- expands the act's provisions under which a suit may be brought;
- revises the recoverable items and sets out the conditions under which the substantially prevailing party may recover certain courts costs and expenses;
- does not include a provision specifying the considerations a trier of fact must make in assessing damages; and
- does not include a provision authorizing recovery of treble damages.