

BILL ANALYSIS

Senate Research Center
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S.B. 633
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Acquiring real estate in an urban area that is suitable for development of hike and bike trails can cost millions of dollars, and the property is virtually impossible to find. Electric utility corridors can function as stand-alone projects as well as serve as connections within a system of off-street trails.

Under current law, an owner of real property who opens the owner's land for recreational use is liable for property damage, injury, or death arising from gross negligence on the part of the property owner, or if the owner has acted with malicious intent or in bad faith. Additionally, public utilities located in El Paso and municipal management districts in Houston may require that the municipality, county, or political subdivision carry general liability insurance to insure the public utility for liability.

S.B. 633 will assist in the development of hike and bike trails in Harris County. If passed, S.B. 633 could potentially lead to 135 miles of trail connectivity in Houston. S.B. 633 encourages electric utility companies to enter into recreational use agreements with a political subdivision by limiting the liability of the electric utility. The liability of the electric utility is not limited with respect to serious bodily injury or death resulting from wilful or wanton acts or gross negligence with respect to a dangerous condition that exists on the premises. Additionally, the doctrine of attractive nuisance does not apply to claims made under this section.

S.B. 633 also authorizes an electric utility company to file an interlocutory appeal if a motion for summary judgment is denied under this section, and authorizes it to require the political subdivision to provide or pay for insurance to cover defense costs for claims brought under this section.

S.B. 633 only applies to Harris County.

As proposed, S.B. 633 amends current law relating to liability of certain electric utilities that allow certain uses of land that the electric utility owns, occupies, or leases.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 51.014(a), Civil Practice and Remedies Code, to authorize a person to appeal from an interlocutory order of a district court, county court at law, or county court that takes certain actions, including denies a motion for summary judgment filed by an electric utility regarding liability in a suit subject to Section 75.0022, in addition to certain other court rulings.

SECTION 2. Amends Section 75.0021(c), Civil Practice and Remedies Code, as follows:

(c) Provides that this section applies only to a public utility located in a county with a population of 800,000 or more and located on the international border. Deletes existing

text providing that this section applies to a public utility located in a municipal management district located in a municipality with a population of more than 1.9 million.

SECTION 3. Amends Chapter 75, Civil Practice and Remedies Code, by adding Section 75.0022, as follows:

Sec. 75.0022. LIMITED LIABILITY OF CERTAIN ELECTRIC UTILITIES. (a) Defines "electric utility," "person," "premises," and "serious bodily injury."

(b) Provides that this section applies only to an electric utility located in a county with a population of four million or more.

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

(d) Provides that the electric utility, by entering into an agreement under this section or at any time during the term of the agreement, does not:

(1) assure that the premises are safe for recreation, exercise, relaxation, travel, or pleasure;

(2) owe to a person entering the premises for recreation, exercise, relaxation, travel, or pleasure, or accompanying another person entering the premises for such purposes, a greater degree of care than is owed to a trespasser on the premises; or

(3) except as provided by Subsection (e), assume responsibility or incur any liability for:

(A) damages arising from or related to bodily or other personal injury to or death of any person who enters the premises for recreation, exercise, relaxation, travel, or pleasure or accompanies another person entering the premises for such purposes;

(B) property damage sustained by any person who enters the premises for recreation, exercise, relaxation, travel, or pleasure or accompanies another person entering the premises for such purposes; or

(C) an act of a third party that occurs on the premises, regardless of whether the act is intentional.

(e) Provides that Subsection (d) does not limit the liability of an electric utility for serious bodily injury or death of a person proximately caused by the electric utility's wilful or wanton acts or gross negligence with respect to a dangerous condition existing on the premises.

(f) Provides that the limitation on liability provided by this section applies only to a cause of action brought by a person who enters the premises for recreation, exercise, relaxation, travel, or pleasure or accompanies another person entering the premises for such purposes.

(g) Provides that the doctrine of attractive nuisance does not apply to a claim that is subject to this section.

(h) Authorizes a written agreement entered into under this section to require the 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.

SECTION 4. Amends Section 75.003(b), Civil Practice and Remedies Code, to provide that this chapter does not affect the doctrine of attractive nuisance, except as provided by Section 75.0022(g), and prohibits the doctrine of attractive nuisance from being the basis for liability of an owner, lessee, or occupant of agricultural land for any injury to a trespasser over the age of 16 years.

SECTION 5. Makes application of this Act prospective.

SECTION 6. Effective date: upon passage or September 1, 2013.