

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

April 6, 2005

TO: Honorable Robert Duncan, Chair, Senate Committee on State Affairs

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

IN RE: SB1224 by Duncan (Relating to a landowner's liability for injuries incurred during certain recreational activities.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend Subchapter 75, Civil Practice and Remedies Code, by adding to the list of activities that define "recreation" on any premises of a governmental unit for purposes of the governmental unit's limited liability to include off-road motorcycling, off-road automobile driving, the use of all-terrain vehicles, bicycling and mountain biking, disc golf, and on-leash and off-leash walking of dogs. The bill would stipulate that the governmental unit would not owe a greater degree of care than is owed to a trespasser on the premises to a person who enters the governmental unit's premises for engaging in recreational activities.

The bill would take effect immediately if it receives the required two-thirds vote in each house; otherwise, it would take effect September 1, 2005. The bill would apply only to a cause of action that accrues on or after the effective date.

Subchapter 75 provides liability protection for the state and local governments when operating certain types of recreational facilities when designated warning signs are posted. In addition, current statute limits liability for those damages arising directly from a recreational activity and does not limit liability for gross negligence or acts conducted in bad faith or with malicious intent. Changing the level of liability to the level of care owed to a trespasser could provide greater protection to a governmental entity.

The Parks and Wildlife Department determined it would have to erect signs at 120 sites, at a cost of \$250 per sign, for a total one-time cost of \$30,000.

Local Government Impact

Recreation facilities operated by local governments would incur the costs of erecting warning signs, at a cost of approximately \$250 per sign. The number of signs per facility would vary, depending on the size of the site.

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

Source Agencies: 802 Parks and Wildlife Department

LBB Staff: JOB, SR, DLBa