

## **BILL ANALYSIS**

C.S.H.B. 783  
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State Affairs  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

For years, many hikers and recreational enthusiasts have entertained an interest in land owned by public utilities, such as dirt trails beneath power lines, for their activities. Public utilities have been reluctant to allow a trail to be routed over their land because of potential liability costs if someone were to get injured.

C.S.H.B. 783 protects landowners who allow free public recreational use on their property.

### **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. 783 amends the Civil Practice and Remedies Code to establish that a public utility that, as the owner, occupant, or lessee of land signs an agreement with a municipality, county, or other political subdivision to allow public access to or use of the premises for recreation does not, by allowing the access or use, assure that the premises are safe for recreation. The bill provides additionally that, in so doing, the utility does not assume responsibility or incur liability for any damage to or loss of property, or for any bodily or other personal injury to, or death of, a person who enters the premises for recreation or accompanies another person entering such premises. The bill includes within the scope of those provisions, injury, death, or other damage arising from an act of a third party that occurs on the premises, regardless of whether the act is intentional; contact of a person or property with power lines or exposure of a person or property to electromagnetic fields; a premises defect in or other condition relating to the premises; or any negligence or gross negligence of the public utility. The bill makes these provisions applicable only to a public utility located in a county with a population of 600,000 or more and located on the international border.

C.S.H.B. 783 defines "public utility," for purposes of its provisions, to mean an electric utility. The bill defines "person."

### **EFFECTIVE DATE**

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.

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

C.S.H.B. 783 differs from the original by removing language in the original that included a telecommunications provider, a cable or video service provider, a gas utility, and a water and sewer utility from the definition of "public utility." The substitute bases the immunity from liability on the public utility signing an agreement with a municipality, county, or other political

subdivision authorizing public access to or use of the premises, rather than on the public utility simply giving permission to a person to enter the premises, as in the original. The substitute differs from the original by specifying that the signing of this agreement does not assure, rather than ensure as in the original, that the premises are safe for recreation. The substitute includes, as in the original, that the utility does not assume responsibility for damage to property, but applies that provision to all property, not just the property of the person who enters the premises or accompanies another person, as in the original. The substitute adds that the immunity applies also to loss of such property. The substitute differs from the original by adding specifically that a utility is not responsible or liable to such persons for any injury, death, or other damage arising from contact of a person or property with power lines or exposure of a person or property to electromagnetic fields, arising from a premises defect in or other condition relating to the premises, or arising from any negligence or gross negligence of the public utility. The substitute makes its provisions applicable only to a public utility located in a county with a population of 600,000 or more and located on the international border, whereas the original contained no such limitation.