

SENATE AMENDMENTS

2nd Printing

By: Pickett

H.B. No. 783

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the liability of an electric utility that allows
3 recreational use of land that the utility owns, occupies, or
4 leases.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Chapter 75, Civil Practice and Remedies Code, is
7 amended by adding Section 75.0021 to read as follows:

8 Sec. 75.0021. IMMUNITY FROM LIABILITY OF CERTAIN PUBLIC
9 UTILITIES. (a) In this section:

10 (1) "Person" includes an individual as defined by
11 Section 71.001.

12 (2) "Public utility" means an electric utility as
13 defined by Section 31.002, Utilities Code.

14 (b) A public utility that, as the owner, occupant, or lessee
15 of land, signs an agreement with a municipality, county, or other
16 political subdivision of the state to allow public access to or use
17 of the premises for recreation does not, by allowing the public
18 access or use:

19 (1) assure that the premises are safe for recreation;
20 or

21 (2) assume responsibility or incur liability for any
22 damage to or loss of property, or for any bodily or other personal
23 injury to, or death of, a person who enters the premises for
24 recreation or accompanies another person entering the premises for

1 recreation, including injury, death, or other damage arising from:

2 (A) an act of a third party that occurs on the
3 premises, regardless of whether the act is intentional;

4 (B) contact of a person or property with power
5 lines or exposure of a person or property to electromagnetic
6 fields;

7 (C) a premises defect in or other condition
8 relating to the premises; or

9 (D) any negligence or gross negligence of the
10 public utility.

11 (c) This section applies only to a public utility located in
12 a county with a population of 600,000 or more and located on the
13 international border.

14 SECTION 2. This Act applies only to a cause of action that
15 accrues on or after the effective date of this Act. A cause of
16 action that accrues before the effective date of this Act is
17 governed by the law in effect immediately before that date, and that
18 law is continued in effect for that purpose.

19 SECTION 3. This Act takes effect immediately if it receives
20 a vote of two-thirds of all the members elected to each house, as
21 provided by Section 39, Article III, Texas Constitution. If this
22 Act does not receive the vote necessary for immediate effect, this
23 Act takes effect September 1, 2009.

ADOPTED

MAY 22 2009

Atty. Gen.
Secretary of the Senate

By: *Maple*

H.B. No. 783

Substitute the following for H.B. No. 783

By: *Sevell*

C.S.H.B. No. 783

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the liability of an electric utility that allows
3 recreational use of land that the utility owns, occupies, or
4 leases.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Chapter 75, Civil Practice and Remedies Code, is
7 amended by adding Section 75.0021 to read as follows:

8 Sec. 75.0021. LIMITED LIABILITY OF CERTAIN PUBLIC UTILITIES.

9 (a) In this section:

10 (1) "Person" includes an individual as defined by
11 Section 71.001.

12 (2) "Public utility" means an electric utility as
13 defined by Section 31.002, Utilities Code.

14 (b) A public utility that, as the owner, easement
15 holder, occupant, or lessee of land, signs an agreement with a
16 municipality, county, or political subdivision to allow public
17 access to or use of the premises for recreation by allowing the
18 public access or use does not assume responsibility or incur
19 liability beyond that provided by Chapter 75 of the Civil Practice
20 & Remedies Code to a third party who enters the premises for

1 recreation to the extent the municipality, county, or political
2 subdivision purchases a general liability insurance policy in
3 amounts required by Chapter 75 of the Civil Practice & Remedies
4 Code insuring the public utility for liability arising from the
5 condition of the premises for such recreational use.

6 (c) This section applies only to a public utility located in
7 a county with a population of 600,000 or more and located on the
8 international border.

9 SECTION 2. This Act applies only to a cause of action that
10 accrues on or after the effective date of this Act. A cause of
11 action that accrues before the effective date of this Act is
12 governed by the law in effect immediately before that date, and
13 that law is continued in effect for that purpose.

14 SECTION 3. This Act takes effect immediately if it receives a
15 vote of two-thirds of all the members elected to each house, as
16 provided by Section 39, Article III, Texas Constitution. If this
17 Act does not receive the vote necessary for immediate effect, this
18 Act takes effect September 1, 2009.

ADOPTED

MAY 22 2009

Atty Gen
Secretary of the Senate

FLOOR AMENDMENT NO. 1

BY: *Jan Hoffman*

1 Amend C.S.H.B. No. 783 (senate committee printing) as
2 follows:

3 (1) In SECTION 1 of the bill, in added Section 75.0021(c),
4 Civil Practice and Remedies Code (page 1, line 34), following "in"
5 insert the following:

6 ":

7 (1)".

8 (2) In SECTION 1 of the bill, in added Section 75.0021(c),
9 Civil Practice and Remedies Code (page 1, line 36), between
10 "border" and the period, insert the following:

11 ; or

12 (2) a municipal management district located in a
13 municipality with a population of more than 1.9 million

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 23, 2009

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

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

IN RE: HB783 by Pickett (Relating to the liability of an electric utility that allows recreational use of land that the utility owns, occupies, or leases.), **As Passed 2nd House**

No fiscal implication to the State is anticipated.

The bill would apply only to a public utility located in a county with a population of 600,000 or more and located on the international border or a municipal management district located in a municipality with a population of more than 1.9 million.

Local Government Impact

Based on the applicability criteria within the bill, it would affect a public utility located in El Paso County and a municipal management district located in the municipality of Houston.

Because the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the House/Senate as to its probable fiscal implication on units of local government.

Source Agencies:

LBB Staff: JOB, SD, DB, KJG

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 12, 2009

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

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

IN RE: HB783 by Pickett (Relating to the liability of an electric utility that allows recreational use of land that the utility owns, occupies, or leases.), **Committee Report 2nd House, Substituted**

No fiscal implication to the State is anticipated.

The bill would apply only to a public utility located in a county with a population of 600,000 or more and located on the international border.

Local Government Impact

Based on the applicability criteria within the bill, it would affect a public utility located in El Paso County only.

Because the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the House/Senate as to its probable fiscal implication on units of local government.

Source Agencies:

LBB Staff: JOB, DB, KJG

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 5, 2009

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

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

IN RE: HB783 by Pickett (Relating to the liability of an electric utility that allows recreational use of land that the utility owns, occupies, or leases.), **As Engrossed**

No fiscal implication to the State is anticipated.

The bill would apply only to a public utility located in a county with a population of 600,000 or more and located on the international border.

Local Government Impact

Based on the applicability criteria within the bill, it would affect a public utility located in El Paso County only.

Because the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the House/Senate as to its probable fiscal implication on units of local government.

Source Agencies:

LBB Staff: JOB, DB, KJG

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

March 27, 2009

TO: Honorable Burt R. Solomons, Chair, House Committee on State Affairs

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

IN RE: HB783 by Pickett (Relating to the liability of an electric utility that allows recreational use of land that the utility owns, occupies, or leases.), **Committee Report 1st House, Substituted**

No fiscal implication to the State is anticipated.

The bill would apply only to a public utility located in a county with a population of 600,000 or more and located on the international border.

Local Government Impact

Based on the applicability criteria within the bill, it would affect a public utility located in El Paso County only.

Because the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the House/Senate as to its probable fiscal implication on units of local government.

Source Agencies:

LBB Staff: JOB, DB, KJG

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

March 4, 2009

TO: Honorable Burt R. Solomons, Chair, House Committee on State Affairs

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

IN RE: HB783 by Pickett (Relating to the liability of a public utility that allows recreational use of land that the public utility owns, occupies, or leases.), **As Introduced**

No fiscal implication to the State is anticipated.

The bill would amend the Civil Practice and Remedies Code to provide immunity from liability to certain public utilities that, as the owner, occupant, or lessee of land, gives permission to a person to enter the premises for recreation. The public utility would be required to post a sign warning that the utility is immune from liability for damages arising from the use of the property for recreational purposes. The bill would affect certain river authorities and counties.

Provisions of the bill would apply only to a cause of action that accrues on or after the effective date of the bill. The bill would take effect immediately if it were to receive the required two-thirds vote in each house of the legislature; otherwise, it would take effect September 1, 2009.

Local Government Impact

Protection from liability could provide an unknown but possibly significant savings in the event damages were to occur for which the utility would otherwise be liable for the costs to mitigate those damages.

Source Agencies:

LBB Staff: JOB, KJG, DB