

## **BILL ANALYSIS**

C.S.H.B. 1943  
By: Murphy  
Land & Resource Management  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties observe that, currently, public utilities may acquire significant portions of land for the installation of service distribution systems. Those parties contend that, due to liability issues involved with allowing an individual to enter utility-held property for recreational and other purposes, many utilities prohibit public access to these areas. C.S.H.B. 1943 seeks to address such issues by establishing provisions relating to liability of certain public utilities that allow certain uses of land that the public utility owns, occupies, or leases.

### **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. 1943 amends the Civil Practice and Remedies Code to remove language establishing that a public utility located in a county with a population of 600,000 or more and located on the international border, or in a municipal management district located in a municipality with a population of more than 1.9 million, that, as the owner, easement holder, occupant, or lessee of land, signs an agreement with a municipality, county, or political subdivision to allow public access to or use of the premises for recreation by allowing the public access or use does not assume responsibility or incur liability beyond that provided by provisions relating to limitation of a landowners' liability to a third party who enters the premises for recreation to the extent the municipality, county, or political subdivision purchases a general liability insurance policy in amounts required by such provisions insuring the public utility for liability arising from the condition of the premises for such recreational use.

C.S.H.B. 1943 instead establishes provisions applicable only with respect to land located in such a county or such a municipal management district authorizing a public utility, as the owner, easement holder, occupant, or lessee of land, to enter into an easement or license or lease agreement with a municipal management district to allow access by the public to the premises of the public utility for recreation, exercise, education, relaxation, travel, or pleasure. The bill requires such an easement or license or lease agreement to require the municipal management district to provide insurance coverage. The bill establishes that the public utility does not, by entering into the easement or license or lease agreement or at any time during the term of the easement or license or lease agreement, ensure that the premises are safe for recreation, exercise, education, relaxation, travel, or pleasure or assume responsibility or incur any liability for the following: damages arising from or related to bodily or other personal injury to or death of any person who enters the premises for, or accompanies another person entering the premises for, recreation, exercise, education, relaxation, travel, or pleasure; property damage sustained by any person who enters the premises for, or accompanies another person entering the premises for, recreation, exercise, education, relaxation, travel, or pleasure; or an act of a third party that occurs on the premises, regardless of whether the act is intentional. The bill makes these provisions applicable to any claim for damages, including a claim alleging gross negligence, asserting the doctrine of attractive nuisance, or arising from contact of a person or property with

power lines or exposure of a person or property to electric and magnetic fields.

C.S.H.B. 1943 requires a public utility that, as the owner, easement holder, occupant, or lessee of land, enters into an easement or license or lease agreement with a municipal management district to allow the use of the premises for recreation, exercise, education, relaxation, travel, or pleasure to post and maintain a clearly readable sign in a clearly visible location on or near the premises. The bill requires the sign to contain warning language provided by the bill.

C.S.H.B. 1943 makes provisions relating to limited liability of certain public utilities, as amended by the bill, applicable only during the term of the easement or license or lease agreement between the public utility and the municipal management district. The bill, for purposes of such provisions, redefines "public utility" to include, in addition to an electric utility as defined in the Utilities Code, a telecommunications provider as defined in the Utilities Code, a gas utility as defined in the Utilities Code, and a water and sewer utility as defined in the Water Code.

C.S.H.B. 1943 makes a conforming change.

**EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2011.

**COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.H.B. 1943 differs from the original by conforming to certain bill drafting conventions.