

## **BILL ANALYSIS**

C.S.H.B. 3802  
By: Davis, Sarah  
Judiciary & Civil Jurisprudence  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties assert that limiting the liability of certain public utilities would serve the public interest and is necessary to promote, develop, encourage, and maintain transportation, recreation, safety, and public welfare. C.S.H.B. 3802 seeks to provide for these interests by amending provisions of law relating to the limited liability of certain public utilities.

### **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. 3802 amends the Civil Practice and Remedies Code to establish that a public utility that, as the owner, easement holder, occupant, or lessee of land, gives permission to a person to enter the premises for recreation, exercise, education, relaxation, travel, or pleasure does not by giving that permission 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 any bodily or other personal injury to or death of a 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 such provisions apply 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. The bill requires such a public utility that allows 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 and sets out the required warning language for the sign.

C.S.H.B. 3802 expands the applicability of its provisions to include a public utility located in a county with a population of four million or more or a county adjacent to a county with a population of four million or more and removes the applicability to a public utility located in a municipal management district located in a municipality with a population of more than 1.9 million. The bill removes a provision relating to a limitation on the liability of a public utility that signs an agreement with a municipality, county, or political subdivision to allow public access to or use of the premises for recreation. The bill redefines "public utility" and makes conforming and nonsubstantive changes.

**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. 3802 differs from the original by including an electric cooperative in the definition of "public utility," whereas the original includes a cable service provider or video service provider. The substitute omits a provision included in the original defining "recreation."

C.S.H.B. 3802 differs from the original by establishing that a public utility that gives permission to a person to enter a premises for recreation, exercise, education, relaxation, travel, or pleasure does not ensure that the premises are safe for those purposes and does not assume liability for certain damages or acts, whereas the original gives that permission to a person entering the premises for recreation.

C.S.H.B. 3802 differs from the original by retaining a statutory provision making provisions establishing the limits of the liability applicable to a public utility in a county with a population of 600,000 or more and located on the international border and by expanding the applicability of those provisions establishing that limited liability to include a public utility located in a county with a population of four million or more or a county adjacent to a county with a population of four million or more, whereas the original removes the entire statutory provision.

C.S.H.B. 3802 differs from the original in nonsubstantive ways by conforming to certain bill drafting conventions and making clarifying changes.