

By: Murphy

H.B. No. 1943

Substitute the following for H.B. No. 1943:

By: Kleinschmidt

C.S.H.B. No. 1943

A BILL TO BE ENTITLED

1 AN ACT

2 relating to liability of certain public utilities that allow  
3 certain uses of land that the public utility owns, occupies, or  
4 leases.

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

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

8 Sec. 75.0021. LIMITED 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:

13 (A) an electric utility as defined by Section  
14 31.002, Utilities Code;

15 (B) a telecommunications provider as defined by  
16 Section 51.002, Utilities Code;

17 (C) a gas utility as defined by Section 101.003  
18 or 121.001, Utilities Code; or

19 (D) a water and sewer utility as defined by  
20 Section 13.002, Water Code.

21 (b) A public utility [~~that~~], as the owner, easement holder,  
22 occupant, or lessee of land, may enter into an easement or license  
23 or lease agreement with a municipal management district to allow  
24 access by the public to [~~signs an agreement with a municipality,~~

1 ~~county, or political subdivision to allow public access to or use~~  
2 ~~of] the premises of the public utility for recreation, exercise,  
3 education, relaxation, travel, or pleasure. An easement or license  
4 or lease agreement entered into under this subsection must require  
5 the municipal management district to provide insurance coverage.  
6 The public utility [~~by allowing the public access or use~~] does not,  
7 by entering into the easement or license or lease agreement or at  
8 any time during the term of the easement or license or lease  
9 agreement:~~

10           (1) ensure that the premises are safe for recreation,  
11 exercise, education, relaxation, travel, or pleasure; or

12           (2) assume responsibility or incur any liability for:

13                   (A) damages arising from or related to bodily or  
14 other personal injury to or death of any person [~~beyond that~~  
15 ~~provided by Chapter 75 of the Civil Practice and Remedies Code to a~~  
16 ~~third party] who enters the premises for recreation, exercise,  
17 education, relaxation, travel, or pleasure or accompanies another  
18 person entering the premises for recreation, exercise, education,  
19 relaxation, travel, or pleasure;~~

20                   (B) property damage sustained by any person who  
21 enters the premises for recreation, exercise, education,  
22 relaxation, travel, or pleasure or accompanies another person  
23 entering the premises for recreation, exercise, education,  
24 relaxation, travel, or pleasure; or

25                   (C) an act of a third party that occurs on the  
26 premises, regardless of whether the act is intentional.

27           (c) Subsection (b) applies to any claim for damages,

1 including a claim:

2 (1) alleging gross negligence;

3 (2) asserting the doctrine of attractive nuisance; or

4 (3) arising from contact of a person or property with

5 power lines or exposure of a person or property to electric and

6 magnetic fields [to the extent the municipality, county, or

7 political subdivision purchases a general liability insurance

8 policy in amounts required by Chapter 75 of the Civil Practice and

9 Remedies Code insuring the public utility for liability arising

10 from the condition of the premises for such recreational use].

11 (d) A public utility that, as the owner, easement holder,

12 occupant, or lessee of land, enters into an easement or license or

13 lease agreement with a municipal management district to allow the

14 use of the premises for recreation, exercise, education,

15 relaxation, travel, or pleasure shall post and maintain a clearly

16 readable sign in a clearly visible location on or near the premises.

17 The sign must contain the following warning language:

18 WARNING

19 TEXAS LAW (CHAPTER 75, CIVIL PRACTICE AND REMEDIES CODE)

20 LIMITS THE LIABILITY OF A PUBLIC UTILITY FOR DAMAGES ARISING FROM

21 THE USE OF THIS PROPERTY FOR RECREATION, EXERCISE, EDUCATION,

22 RELAXATION, TRAVEL, OR PLEASURE.

23 (e) [~~e~~] This section applies only with respect to land [a

24 public utility] located in:

25 (1) a county with a population of 600,000 or more and

26 located on the international border; or

27 (2) a municipal management district located in a

1 municipality with a population of more than 1.9 million.

2 (f) The provisions of this section apply only during the  
3 term of the easement or license or lease agreement between the  
4 public utility and the municipal management district.

5 SECTION 2. Section 75.003(b), Civil Practice and Remedies  
6 Code, is amended to read as follows:

7 (b) Except as provided by Sections 75.0021(b) and (c), this  
8 ~~[This]~~ chapter does not affect the doctrine of attractive nuisance,  
9 except that the doctrine may not be the basis for liability of an  
10 owner, lessee, or occupant of agricultural land for any injury to a  
11 trespasser over the age of 16 years.

12 SECTION 3. The change in law made by this Act applies only  
13 to a cause of action that accrues on or after the effective date of  
14 this Act. A cause of action that accrues before the effective date  
15 of this Act is governed by the law in effect immediately before that  
16 date, and that law is continued in effect for that purpose.

17 SECTION 4. This Act takes effect immediately if it receives  
18 a vote of two-thirds of all the members elected to each house, as  
19 provided by Section 39, Article III, Texas Constitution. If this  
20 Act does not receive the vote necessary for immediate effect, this  
21 Act takes effect September 1, 2011.