

By: S. Davis of Harris, et al.

H.B. No. 3802

Substitute the following for H.B. No. 3802:

By: Bohac

C.S.H.B. No. 3802

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) an electric cooperative as defined by Section
18 11.003, Utilities Code;

19 (D) a gas utility as defined by Section 101.003
20 or 121.001, Utilities Code; or

21 (E) a water and sewer utility as defined by
22 Section 13.002, Water Code.

23 (b) A public utility that, as the owner, easement holder,
24 occupant, or lessee of land, gives permission to a person to enter

1 ~~[signs an agreement with a municipality, county, or political~~
2 ~~subdivision to allow public access to or use of]~~ the premises for
3 recreation, exercise, education, relaxation, travel, or pleasure
4 ~~[by allowing the public access or use]~~ does not by giving that
5 permission:

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

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

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

16 (B) property damage sustained by any person who
17 enters the premises for recreation, exercise, education,
18 relaxation, travel, or pleasure or accompanies another person
19 entering the premises for recreation, exercise, education,
20 relaxation, travel, or pleasure; or

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

23 (c) Subsection (b) applies to any claim for damages,
24 including a claim:

25 (1) alleging gross negligence;

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

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

1 power lines or exposure of a person or property to electric and
2 magnetic fields [~~to the extent the municipality, county, or~~
3 ~~political subdivision purchases a general liability insurance~~
4 ~~policy in amounts required by Chapter 75 of the Civil Practice and~~
5 ~~Remedies Code insuring the public utility for liability arising~~
6 ~~from the condition of the premises for such recreational use].~~

7 (d) A public utility that, as the owner, easement holder,
8 occupant, or lessee of land, allows the use of the premises for
9 recreation, exercise, education, relaxation, travel, or pleasure
10 shall post and maintain a clearly readable sign in a clearly visible
11 location on or near the premises. The sign must contain the
12 following warning language:

13 WARNING

14 TEXAS LAW (CHAPTER 75, CIVIL PRACTICE AND REMEDIES CODE)
15 LIMITS THE LIABILITY OF A PUBLIC UTILITY FOR DAMAGES ARISING FROM
16 THE USE OF THIS PROPERTY FOR RECREATION, EXERCISE, EDUCATION,
17 RELAXATION, TRAVEL, OR PLEASURE.

18 (e) [~~(c)~~] This section applies only to a public utility
19 located in~~+~~

20 [~~(1)~~] a county:

21 (1) with a population of 600,000 or more and located on
22 the international border; [~~or~~]

23 (2) with a population of four million or more; or

24 (3) adjacent to a county with a population of four
25 million or more [~~a municipal management district located in a~~
26 ~~municipality with a population of more than 1.9 million].~~

27 SECTION 2. Section 75.003(b), Civil Practice and Remedies

1 Code, is amended to read as follows:

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

7 SECTION 3. The change in law made by this Act applies only
8 to a cause of action that accrues on or after the effective date of
9 this Act. A cause of action that accrues before the effective date
10 of this Act is governed by the law in effect immediately before that
11 date, and that law is continued in effect for that purpose.

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