

## **BILL ANALYSIS**

H.B. 200  
By: Murphy  
Judiciary & Civil Jurisprudence  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Interested parties assert that public hike and bike trails provide many benefits, including supplementing transportation infrastructure, reducing congestion, connecting communities, and encouraging a healthy lifestyle. However, acquiring real estate in an urban area that is suitable for development of hike and bike trails can be both difficult and expensive. These parties further contend that, by utilizing an electric utility's property, miles of public hike and bike trails can be constructed at virtually no cost for land. H.B. 200 seeks to establish limitations on the liability of certain electric utilities that allow public use of the utility's property for recreation and certain other purposes.

### **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**

H.B. 200 amends the Civil Practice and Remedies Code to remove an electric utility in a municipal management district located in a municipality with a population of more than 1.9 million from among the public utilities subject to statutory provisions establishing that an electric utility under certain circumstances does not assume responsibility or incur liability beyond that provided by statutory provisions relating to landowner's liability to a third party who enters the premises for recreation.

H.B. 200 authorizes an electric utility located in a county with a population of four million or more, as the owner, easement holder, occupant, or lessee of land, to enter into a written agreement with a political subdivision to allow public access to and use of the premises of the electric utility for recreation, exercise, relaxation, travel, or pleasure.

H.B. 200 establishes that, by entering into such an agreement or at any time during the term of the agreement, the electric utility does not do the following:

- assure that the premises are safe for recreation, exercise, relaxation, travel, or pleasure
- owe to a person entering the premises for those purposes, or accompanying another such person, a greater degree of care than is owed to a trespasser on the premises
- or assume responsibility or incur any liability, except as otherwise provided, for damages arising from or related to bodily or other personal injury to or death of any person who enters the premises for those purposes or accompanies another person entering the premises for those purposes; property damage sustained by any such person; or an act of a third party that occurs on the premises, regardless of whether the act is intentional.

H.B. 200 establishes that these limitations on liability apply only to a cause of action brought by a person who enters the premises for recreation, exercise, relaxation, travel, or pleasure or by a

person who accompanies another person entering the premises for such purposes and that, for purposes of its provisions regarding liability, "person" includes an unborn child. The bill establishes that such limitations do not limit the liability of the electric utility for serious bodily injury or death of a person proximately caused by the electric utility's wilful or wanton acts or gross negligence with respect to a dangerous condition existing on the premises. The bill makes the doctrine of attractive nuisance inapplicable to a claim subject to the bill's limitations. The bill authorizes the written agreement between the political subdivision and the electric utility to require the political subdivision to provide or pay for insurance coverage for any defense costs or other litigation costs incurred by the electric utility for damage claims.

H.B. 200 authorizes a person to appeal from an interlocutory order of a district court, county court at law, or county court that denies a motion for summary judgment filed by an electric utility regarding liability in a suit subject to the bill's provisions.

#### **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2013.