

BILL ANALYSIS

Senate Research Center
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S.B. 701
By: Hegar
Criminal Justice
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 701 corrects an oversight in legislation passed in the 2009 regular session. That legislation, H.B. 2609, addressed issues related to the prosecution and punishment of the offense of criminal trespass. Among other things, the 2009 legislation amended Section 30.05(e) of the Penal Code to allow an employee or agent of a utility performing a duty within the scope of his or her employment or agency to claim an affirmative defense to a charge of trespass.

The problem with the 2009 legislation is that it failed to include employees and agents of all electric and gas utilities among those able to claim the affirmative defense. Municipally owned electric utilities and electric cooperatives were not included in the legislation's definitions of "electric utility." Employees and agents of municipally owned utilities and electric cooperatives perform the same duties and provide the same services as their counterparts at other utilities and should be included in the list of those utility employees and agents who can claim an affirmative defense under the statute. The failure to include employees and agents of municipally owned utilities and electric cooperatives appears to have been an oversight.

While there is no known case of a municipally owned utility or electric cooperative employee or agent having been charged with criminal trespass while performing a duty within the scope of his or her employment or agency, approval of S.B. 701 by the legislature will clarify that those employees and agents can claim the same affirmative defense as those who work for other utilities.

As proposed, S.B. 701 amends current law relating to a defense to prosecution for criminal trespass.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 30.05(e), Penal Code, to provide that it is a defense to prosecution under this section that the actor at the time of an offense was a certain employee or agent, including an employee or agent of an electric cooperative or municipally owned utility, as defined by Section 11.003 (Definitions), Utilities Code.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2013.