

By: Ellis, Patrick

S.B. No. 633

A BILL TO BE ENTITLED

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

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

6 SECTION 1. Section 51.014(a), Civil Practice and Remedies
7 Code, is amended to read as follows:

8 (a) A person may appeal from an interlocutory order of a
9 district court, county court at law, or county court that:

10 (1) appoints a receiver or trustee;

11 (2) overrules a motion to vacate an order that
12 appoints a receiver or trustee;

13 (3) certifies or refuses to certify a class in a suit
14 brought under Rule 42 of the Texas Rules of Civil Procedure;

15 (4) grants or refuses a temporary injunction or grants
16 or overrules a motion to dissolve a temporary injunction as
17 provided by Chapter 65;

18 (5) denies a motion for summary judgment that is based
19 on an assertion of immunity by an individual who is an officer or
20 employee of the state or a political subdivision of the state;

21 (6) denies a motion for summary judgment that is based
22 in whole or in part upon a claim against or defense by a member of
23 the electronic or print media, acting in such capacity, or a person
24 whose communication appears in or is published by the electronic or

1 print media, arising under the free speech or free press clause of
2 the First Amendment to the United States Constitution, or Article
3 I, Section 8, of the Texas Constitution, or Chapter 73;

4 (7) grants or denies the special appearance of a
5 defendant under Rule 120a, Texas Rules of Civil Procedure, except
6 in a suit brought under the Family Code;

7 (8) grants or denies a plea to the jurisdiction by a
8 governmental unit as that term is defined in Section 101.001;

9 (9) denies all or part of the relief sought by a motion
10 under Section 74.351(b), except that an appeal may not be taken from
11 an order granting an extension under Section 74.351;

12 (10) grants relief sought by a motion under Section
13 74.351(1); ~~or~~

14 (11) denies a motion to dismiss filed under Section
15 90.007; or

16 (12) denies a motion for summary judgment filed by an
17 electric utility regarding liability in a suit subject to Section
18 75.0022.

19 SECTION 2. Section 75.0021(c), Civil Practice and Remedies
20 Code, is amended to read as follows:

21 (c) This section applies only to a public utility located
22 in~~+~~

23 [~~1~~] a county with a population of 800,000 or more and
24 located on the international border [~~+~~ ~~or~~

25 [~~2~~] ~~a municipal management district located in a~~
26 ~~municipality with a population of more than 1.9 million].~~

27 SECTION 3. Chapter 75, Civil Practice and Remedies Code, is

1 amended by adding Section 75.0022 to read as follows:

2 Sec. 75.0022. LIMITED LIABILITY OF CERTAIN ELECTRIC
3 UTILITIES. (a) In this section:

4 (1) "Electric utility" has the meaning assigned by
5 Section 31.002, Utilities Code.

6 (2) "Person" includes an individual, as defined by
7 Section 71.001.

8 (3) "Premises" includes the land owned, occupied, or
9 leased by an electric utility, or covered by an easement owned by an
10 electric utility, with respect to which public access and use is
11 allowed in a written agreement with a political subdivision under
12 Subsection (c).

13 (4) "Serious bodily injury" means an injury that
14 creates a substantial risk of death or that causes serious
15 permanent disfigurement or protracted loss or impairment of the
16 function of a body part or organ.

17 (b) This section applies only to an electric utility located
18 in a county with a population of four million or more.

19 (c) An electric utility, as the owner, easement holder,
20 occupant, or lessee of land, may enter into a written agreement with
21 a political subdivision to allow public access to and use of the
22 premises of the electric utility for recreation, exercise,
23 relaxation, travel, or pleasure.

24 (d) The electric utility, by entering into an agreement
25 under this section or at any time during the term of the agreement,
26 does not:

27 (1) assure that the premises are safe for recreation,

1 exercise, relaxation, travel, or pleasure;

2 (2) owe to a person entering the premises for
3 recreation, exercise, relaxation, travel, or pleasure, or
4 accompanying another person entering the premises for recreation,
5 exercise, relaxation, travel, or pleasure, a greater degree of care
6 than is owed to a trespasser on the premises; or

7 (3) except as provided by Subsection (e), assume
8 responsibility or incur any liability for:

9 (A) damages arising from or related to bodily or
10 other personal injury to or death of any person who enters the
11 premises for recreation, exercise, relaxation, travel, or pleasure
12 or accompanies another person entering the premises for recreation,
13 exercise, relaxation, travel, or pleasure;

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

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

20 (e) Subsection (d) does not limit the liability of an
21 electric utility for serious bodily injury or death of a person
22 proximately caused by the electric utility's wilful or wanton acts
23 or gross negligence with respect to a dangerous condition existing
24 on the premises.

25 (f) The limitation on liability provided by this section
26 applies only to a cause of action brought by a person who enters the
27 premises for recreation, exercise, relaxation, travel, or pleasure

1 or accompanies another person entering the premises for recreation,
2 exercise, relaxation, travel, or pleasure.

3 (g) The doctrine of attractive nuisance does not apply to a
4 claim that is subject to this section.

5 (h) A written agreement entered into under this section may
6 require the political subdivision to provide or pay for insurance
7 coverage for any defense costs or other litigation costs incurred
8 by the electric utility for damage claims under this section.

9 SECTION 4. Section 75.003(b), Civil Practice and Remedies
10 Code, is amended to read as follows:

11 (b) This chapter does not affect the doctrine of attractive
12 nuisance, except:

13 (1) as provided by Section 75.0022(g); and

14 (2) [~~that~~] the doctrine of attractive nuisance may not
15 be the basis for liability of an owner, lessee, or occupant of
16 agricultural land for any injury to a trespasser over the age of 16
17 years.

18 SECTION 5. The change in law made by this Act applies only
19 to a cause of action that accrues on or after the effective date of
20 this Act. A cause of action that accrues before the effective date
21 of this Act is governed by the law in effect immediately before that
22 date, and that law is continued in effect for that purpose.

23 SECTION 6. This Act takes effect immediately if it receives
24 a vote of two-thirds of all the members elected to each house, as
25 provided by Section 39, Article III, Texas Constitution. If this
26 Act does not receive the vote necessary for immediate effect, this
27 Act takes effect September 1, 2013.