

1-1 By: Ellis, Patrick S.B. No. 633
 1-2 (In the Senate - Filed February 18, 2013; February 25, 2013,
 1-3 read first time and referred to Committee on State Affairs;
 1-4 March 20, 2013, reported favorably by the following vote: Yeas 8,
 1-5 Nays 0; March 20, 2013, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15			X	
1-16	X			

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to liability of certain electric utilities that allow
 1-20 certain uses of land that the electric utility owns, occupies, or
 1-21 leases.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. Subsection (a), Section 51.014, Civil Practice
 1-24 and Remedies Code, is amended to read as follows:

1-25 (a) A person may appeal from an interlocutory order of a
 1-26 district court, county court at law, or county court that:

1-27 (1) appoints a receiver or trustee;

1-28 (2) overrules a motion to vacate an order that
 1-29 appoints a receiver or trustee;

1-30 (3) certifies or refuses to certify a class in a suit
 1-31 brought under Rule 42 of the Texas Rules of Civil Procedure;

1-32 (4) grants or refuses a temporary injunction or grants
 1-33 or overrules a motion to dissolve a temporary injunction as
 1-34 provided by Chapter 65;

1-35 (5) denies a motion for summary judgment that is based
 1-36 on an assertion of immunity by an individual who is an officer or
 1-37 employee of the state or a political subdivision of the state;

1-38 (6) denies a motion for summary judgment that is based
 1-39 in whole or in part upon a claim against or defense by a member of
 1-40 the electronic or print media, acting in such capacity, or a person
 1-41 whose communication appears in or is published by the electronic or
 1-42 print media, arising under the free speech or free press clause of
 1-43 the First Amendment to the United States Constitution, or Article
 1-44 I, Section 8, of the Texas Constitution, or Chapter 73;

1-45 (7) grants or denies the special appearance of a
 1-46 defendant under Rule 120a, Texas Rules of Civil Procedure, except
 1-47 in a suit brought under the Family Code;

1-48 (8) grants or denies a plea to the jurisdiction by a
 1-49 governmental unit as that term is defined in Section 101.001;

1-50 (9) denies all or part of the relief sought by a motion
 1-51 under Section 74.351(b), except that an appeal may not be taken from
 1-52 an order granting an extension under Section 74.351;

1-53 (10) grants relief sought by a motion under Section
 1-54 74.351(1); ~~or~~

1-55 (11) denies a motion to dismiss filed under Section
 1-56 90.007; or

1-57 (12) denies a motion for summary judgment filed by an
 1-58 electric utility regarding liability in a suit subject to Section
 1-59 75.0022.

1-60 SECTION 2. Subsection (c), Section 75.0021, Civil Practice
 1-61 and Remedies Code, is amended to read as follows:

2-1 (c) This section applies only to a public utility located
 2-2 in[+
 2-3 [~~(1)~~] a county with a population of 800,000 or more and
 2-4 located on the international border [~~or~~
 2-5 [~~(2)~~] a municipal management district located in a
 2-6 municipality with a population of more than 1.9 million].

2-7 SECTION 3. Chapter 75, Civil Practice and Remedies Code, is
 2-8 amended by adding Section 75.0022 to read as follows:

2-9 Sec. 75.0022. LIMITED LIABILITY OF CERTAIN ELECTRIC
 2-10 UTILITIES. (a) In this section:

2-11 (1) "Electric utility" has the meaning assigned by
 2-12 Section 31.002, Utilities Code.

2-13 (2) "Person" includes an individual, as defined by
 2-14 Section 71.001.

2-15 (3) "Premises" includes the land owned, occupied, or
 2-16 leased by an electric utility, or covered by an easement owned by an
 2-17 electric utility, with respect to which public access and use is
 2-18 allowed in a written agreement with a political subdivision under
 2-19 Subsection (c).

2-20 (4) "Serious bodily injury" means an injury that
 2-21 creates a substantial risk of death or that causes serious
 2-22 permanent disfigurement or protracted loss or impairment of the
 2-23 function of a body part or organ.

2-24 (b) This section applies only to an electric utility located
 2-25 in a county with a population of four million or more.

2-26 (c) An electric utility, as the owner, easement holder,
 2-27 occupant, or lessee of land, may enter into a written agreement with
 2-28 a political subdivision to allow public access to and use of the
 2-29 premises of the electric utility for recreation, exercise,
 2-30 relaxation, travel, or pleasure.

2-31 (d) The electric utility, by entering into an agreement
 2-32 under this section or at any time during the term of the agreement,
 2-33 does not:

2-34 (1) assure that the premises are safe for recreation,
 2-35 exercise, relaxation, travel, or pleasure;

2-36 (2) owe to a person entering the premises for
 2-37 recreation, exercise, relaxation, travel, or pleasure, or
 2-38 accompanying another person entering the premises for recreation,
 2-39 exercise, relaxation, travel, or pleasure, a greater degree of care
 2-40 than is owed to a trespasser on the premises; or

2-41 (3) except as provided by Subsection (e), assume
 2-42 responsibility or incur any liability for:

2-43 (A) damages arising from or related to bodily or
 2-44 other personal injury to or death of any person who enters the
 2-45 premises for recreation, exercise, relaxation, travel, or pleasure
 2-46 or accompanies another person entering the premises for recreation,
 2-47 exercise, relaxation, travel, or pleasure;

2-48 (B) property damage sustained by any person who
 2-49 enters the premises for recreation, exercise, relaxation, travel,
 2-50 or pleasure or accompanies another person entering the premises for
 2-51 recreation, exercise, relaxation, travel, or pleasure; or

2-52 (C) an act of a third party that occurs on the
 2-53 premises, regardless of whether the act is intentional.

2-54 (e) Subsection (d) does not limit the liability of an
 2-55 electric utility for serious bodily injury or death of a person
 2-56 proximately caused by the electric utility's wilful or wanton acts
 2-57 or gross negligence with respect to a dangerous condition existing
 2-58 on the premises.

2-59 (f) The limitation on liability provided by this section
 2-60 applies only to a cause of action brought by a person who enters the
 2-61 premises for recreation, exercise, relaxation, travel, or pleasure
 2-62 or accompanies another person entering the premises for recreation,
 2-63 exercise, relaxation, travel, or pleasure.

2-64 (g) The doctrine of attractive nuisance does not apply to a
 2-65 claim that is subject to this section.

2-66 (h) A written agreement entered into under this section may
 2-67 require the political subdivision to provide or pay for insurance
 2-68 coverage for any defense costs or other litigation costs incurred
 2-69 by the electric utility for damage claims under this section.

3-1 SECTION 4. Subsection (b), Section 75.003, Civil Practice
3-2 and Remedies Code, is amended to read as follows:

3-3 (b) This chapter does not affect the doctrine of attractive
3-4 nuisance, except:

3-5 (1) as provided by Section 75.0022(g); and

3-6 (2) [that] the doctrine of attractive nuisance may not
3-7 be the basis for liability of an owner, lessee, or occupant of
3-8 agricultural land for any injury to a trespasser over the age of 16
3-9 years.

3-10 SECTION 5. The change in law made by this Act applies only
3-11 to a cause of action that accrues on or after the effective date of
3-12 this Act. A cause of action that accrues before the effective date
3-13 of this Act is governed by the law in effect immediately before that
3-14 date, and that law is continued in effect for that purpose.

3-15 SECTION 6. This Act takes effect immediately if it receives
3-16 a vote of two-thirds of all the members elected to each house, as
3-17 provided by Section 39, Article III, Texas Constitution. If this
3-18 Act does not receive the vote necessary for immediate effect, this
3-19 Act takes effect September 1, 2013.

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