

By: White

H.B. No. 2882

Substitute the following for H.B. No. 2882:

By: Smith

C.S.H.B. No. 2882

A BILL TO BE ENTITLED

1 AN ACT
2 relating to recovery in a civil action of damages attributable to
3 excavation activities.

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

5 SECTION 1. Section 251.008, Utilities Code, is amended to
6 read as follows:

7 Sec. 251.008. EFFECT ON CIVIL REMEDIES. Except as
8 otherwise specifically provided by Section 251.204 or another
9 provision of this chapter, this chapter, including Section 251.201,
10 does not affect any civil remedy for personal injury or for property
11 damage, including any damage to an underground facility.

12 SECTION 2. The heading to Subchapter E, Chapter 251,
13 Utilities Code, is amended to read as follows:

14 SUBCHAPTER E. PENALTIES AND REMEDIES

15 SECTION 3. Subchapter E, Chapter 251, Utilities Code, is
16 amended by adding Section 251.204 to read as follows:

17 Sec. 251.204. CIVIL ACTION. (a) An operator or excavator
18 may file a civil action for damages arising from a violation of
19 Section 251.151, 251.152, 251.154, 251.155, 251.157, or 251.159.

20 (b) In a civil action filed under this section the
21 substantially prevailing party may recover reasonable attorney's
22 fees, court costs, and other expenses incurred in the action if:

23 (1) the substantially prevailing party was
24 represented by an attorney;

1 (2) the substantially prevailing party presents the
2 claim to the opposing party or the opposing party's authorized
3 agent; and

4 (3) payment for the just amount owed is not tendered
5 before the expiration of the 30th day after the claim is presented.

6 (c) Venue for a civil action under this section is
7 determined on the same basis as under Section [251.201\(e\)](#).

8 (d) A civil action under this section is in addition to any
9 other procedure or remedy provided by law, including Section
10 [251.201](#).

11 SECTION 4. Section 251.204, Utilities Code, as added by
12 this Act, applies only to a cause of action that accrues on or after
13 the effective date of this Act.

14 SECTION 5. This Act takes effect September 1, 2019.