

By: White

H.B. No. 2882

A BILL TO BE ENTITLED

AN ACT

relating to recovery in a civil action of damages attributable to excavation activities.

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

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

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

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

SUBCHAPTER E. PENALTIES AND REMEDIES

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

Sec. 251.204. CIVIL ACTION. (a) A person may file a civil action against an excavator that violates Section 251.151, 251.152, or 251.159 for the reasonable and expected costs of damages and repair to the operator of an underground facility, including court costs.

(b) In assessing the damages, a trier of fact shall consider the actual damages to the facility, the reasonable costs of repair, the loss of revenue to the operator, the effect of the excavator's

1 actions on the public health and safety, and whether the violation
2 was intentional or reckless.

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

5 (d) In a civil action filed under this section, the operator
6 of an underground facility may seek to recover also necessary and
7 reasonable attorney's fees incurred in the action. In addition, if
8 the excavator was found to have caused the damages intentionally or
9 recklessly, the operator may seek to recover also treble the actual
10 damages.

11 (e) A civil action under this section is in addition to any
12 other procedure or remedy provided by law, including Section
13 [251.201](#).

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

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