

BILL ANALYSIS

Senate Research Center
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H.B. 931
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Business & Commerce
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 931 repeals Civil Practice and Remedies Code provisions limiting to an electric utility located in a county with a population of four million or more statutory provisions authorizing an electric utility to enter into a written agreement with a political subdivision to allow certain public access to and use of the utility's premises and limiting the utility's liability for such public access and use. The bill amends the Civil Practice and Remedies Code to authorize such a written agreement to require the political subdivision with whom the utility entered into the agreement to pay costs incurred by the utility in entering the agreement, including reimbursement for maintenance or removal of facilities and additional taxes, fees, and other costs incurred by the utility. H.B. 931 limits the liability of a political subdivision that arises from the use of property that is subject to such an agreement, as justice and equity may require, to an amount not to exceed \$350,000 for each person, \$700,000 for each single occurrence for bodily injury or death, \$100,000 for each single occurrence for injury to or destruction of property, court costs, reasonable attorney's fees, and any other expense incurred in filing a cause of action against a political subdivision relating to the liability of the political subdivision in the agreement with the utility.

Interested parties assert that public hike and bike trails provide many benefits, including supplementing transportation infrastructure, reducing connection, connecting communities, and encouraging a healthy lifestyle. However, acquiring real estate in an urban area that is suitable for development of hike and bike trails can be both difficult and expensive. These parties further contend that, by utilizing an electric utility's property, miles of public hike and bike trails can be constructed at virtually no land cost. H.B. 931 establishes limitations on the liability of certain electric utilities that allow public use of the utility's property for recreation and certain other purposes.

H.B. 931 amends current law relating to liability of certain electric utilities and political subdivisions that contract for certain uses of land that the electric utility owns, occupies, or leases.

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 75.0022(h), Civil Practice and Remedies Code, as follows:

(h) Authorizes a written agreement entered into under this section (Limited Liability of Certain Electric Utilities) to require the political subdivision to provide or pay for costs incurred by the electric utility (utility) in entering the agreement, including reimbursement for maintenance or removal of facilities and additional taxes, fees, and other costs incurred by the utility. Makes nonsubstantive changes.

SECTION 2. Amends Section 75.007(e), Civil Practice and Remedies Code, to delete an existing reference to Section 75.0021 (Limited Liability of Certain Public Utilities).

SECTION 3. Amends Subchapter B, Chapter 101, Civil Practice and Remedies Code, by adding Section 101.030, as follows:

Sec. 101.030. LIABILITY OF POLITICAL SUBDIVISION IN AGREEMENT WITH ELECTRIC UTILITY. (a) Provides that this chapter (Tort Claims) applies to a political subdivision that enters into a written agreement with a utility for public access to and use of the premises of the utility as provided by Section 75.0022.

(b) Provides that liability of a political subdivision that arises from the use of property that is subject to an agreement under Section 75.0022 is limited, as justice and equity may require, to an amount not to exceed:

- (1) \$350,000 for each person;
- (2) \$700,000 for each single occurrence for bodily injury or death;
- (3) \$100,000 for each single occurrence for injury to or destruction of property;
- (4) court costs;
- (5) reasonable attorney's fees; and
- (6) any other expense incurred in filing a cause of action against a political subdivision under this section.

SECTION 4. Repealers: Sections 75.0021 (Limited Liability of Certain Public Utilities) and 75.0022(b) (relating to the applicability of this section), Civil Practice and Remedies Code.

SECTION 5. (a) Makes application of this Act prospective.

(b) Provides that the change in law made by this Act to Section 75.0022(h), Civil Practice and Remedies Code, does not apply to an agreement entered into between a utility and a political subdivision before the effective date of this Act.

SECTION 6. Effective date: upon passage or September 1, 2017.