

BILL ANALYSIS

Senate Research Center

C.S.S.B. 1563
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State Affairs
4/19/2009
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Land that can be developed in El Paso County is rapidly decreasing; as the city of El Paso consists of 224 square miles with less than 50 square miles remaining undeveloped. In 2007, the city of El Paso approved a master plan to encourage the development of open spaces. The city has amended development codes to increase the dedication of park land in development areas. In addition, the city is currently working on plans to allow for joint park-type uses in the drainage systems, including drainage channels and detention areas.

Utility easements in El Paso are very attractive for several reasons, including increased connectivity between the mountain and the river, conversion to a more attractive use, and acquisition of new park/trail areas for little expense. However, public utilities have been reluctant to allow a trail to be routed over their land because of potential liability costs if someone were to be injured.

C.S.S.B. 1563 amends current law relating to the liability of a public utility that allows recreational use of land that the public 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 Chapter 75, Civil Practice and Remedies Code, by adding Section 75.0021, as follows:

Sec. 75.0021. IMMUNITY FROM LIABILITY OF AN ELECTRIC UTILITY. (a) Defines "person" and "electric utility."

(b) Provides that a public utility that, as the owner, easement holder, occupant, or lessee of land, signs an agreement with a municipality, county, or political subdivision to allow public access to or use of the premises for recreation by allowing the public access or use does not assume responsibility or incur liability to a third party who enters the premises for recreation to the extent the municipality, county, or political subdivision agrees to indemnify the public utility for liability arising from the condition of the premises for such recreation use.

(c) Provides that this section applies only to a county that is within fifty miles of an international border and has a population that is in excess of 675,000 persons.

SECTION 2. Amends Section 75.003(b), Civil Practice and Remedies Code, to provide that this chapter does not affect the doctrine of attractive nuisance, except as follows:

(1) the doctrine may not be the basis for liability of an owner, lessee, or occupant of agricultural land for any injury to a trespasser over the age of 16 years; and

(2) the doctrine is limited to the extent provided by Section 75.0021(b).

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: upon passage or September 1, 2009.