

SUBJECT: Allowing electric utilities in Fort Bend to provide land for recreational use

COMMITTEE: Judiciary and Civil Jurisprudence — favorable, without amendment

VOTE: 7 ayes — Smithee, Farrar, Hernandez, Laubenberg, Murr, Rinaldi,
Schofield

2 nays — Gutierrez, Neave

WITNESSES: For — Ricardo Ramirez, City of Sugar Land; Larry Junek; (*Registered, but did not testify*: June Deadrick, CenterPoint Energy; Jesse Ozuna, City of Houston Mayor's Office; Monty Wynn, Texas Municipal League)

Against — Steve Bresnen, Texas Trial Lawyers Association

BACKGROUND: In 2013, the 83rd Legislature enacted HB 200 by Murphy, which allowed electric utilities in Harris County to provide their land for recreational use while receiving limited liability for incidents that occurred on that property.

If an electric company entered into an agreement with a political subdivision allowing its land to be used for recreational activities, the electric utility is not required to assure that the premises are safe for recreation, owe individuals who used the land for recreational purposes a greater degree of care owed to a trespasser on the premises, or assume responsibility or incur liability for certain injuries or damages.

An electric utility does not receive limited liability for serious bodily injury or death of a person caused by the electric utility's wilful or wanton acts or gross negligence with respect to a dangerous condition existing on the premises.

A written agreement between a political subdivision and an electrical utility may require the political subdivision to provide or pay for insurance coverage for any defense costs or other litigation costs incurred by the electric utility for certain damage claims.

DIGEST: HB 1166 would allow electric utility companies in Fort Bend County to enter into agreements with political subdivisions in order to provide their land for recreational use. The bill would grant electric utilities in Fort Bend County the same limited liability provisions granted to electric utilities in Harris County that allows their land to be used for public recreational activities.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017, and would apply to a cause of action that accrued on or after that date.

SUPPORTERS SAY: HB 1166 would allow Fort Bend County to build hiking and biking trails on an electric utility's land, providing communities with trails for exercise, commuting, and connecting with neighbors. With its location on Houston's southwestern edge, finding land in Fort Bend County can be difficult and expensive due to the rapidly growing population, and agreements with electric companies would provide valuable land for very little cost to the city.

Without the limited liability protections offered in the bill, an electric utility might be hesitant to offer its land for recreational use. The bill would not remove liability from an electric utility for wilful or wanton acts of gross negligence but would provide reasonable accommodations to allow utilities to provide a community benefit without incurring a burdensome liability.

OPPONENTS SAY: By limiting the liability of electric utilities that offer their land for recreational use, HB 1166 could leave injured parties without recourse if they were injured and harmed while on the electric utility's property.

NOTES: A companion bill, HB 548 by Kolkhorst, was referred to the Senate Committee on Business and Commerce on February 8.