
OLR Bill Analysis

sSB 43

AN ACT CONCERNING MUNICIPAL LIABILITY FOR LAND OPENED TO THE PUBLIC FOR RECREATIONAL PURPOSES.

SUMMARY:

This bill limits the liability of municipalities, special taxing districts, and metropolitan districts that make their land available to the public without charge for recreational purposes. It also specifies that any state or local taxes collected under state law are not considered a charge for using the property.

The bill also exempts from certain hazardous waste clean-up costs, fines, and penalties any municipality that acquires an easement over property it does not own in order to make it available to the public without charge for recreational use.

EFFECTIVE DATE: October 1, 2011

LANDOWNER RECREATIONAL LAND IMMUNITY

By law, a landowner who makes land available to the public for recreational purposes without charging admission owes no duty of care to (1) keep the land safe for recreational purposes or (2) give any warning of a dangerous condition, use, structure, or activity on the land to those entering for recreational purposes. Additionally, the law provides that such landowner does not thereby (1) make any representation that the land is safe for any purpose, (2) confer on the person using the land a legal status entitling the person to a duty of care by the owner, or (3) assume responsibility for any injury to a person or property that is caused by the landowner's act or omission.

The statutory immunity from liability does not apply to (1) willful or malicious failure to guard or warn against a dangerous condition, use, structure, or activity or (2) injuries suffered in any case where the landowner charges people who use the land for recreational purposes.

For purposes of these liability protections, current law defines “owner” as the possessor of a fee interest, tenant, lessee, occupant, or person in control of the premises. The Supreme Court ruled that municipalities are not “owners” under these provisions (*Conway v. Wilton*, 238 Conn. 653 (1996)). The bill expands this definition to include any (1) town, city, borough, consolidated town and city, and consolidated town and borough, (2) special taxing district, and (3) metropolitan district created by special act or under the statutes. It also explicitly includes railroad companies in the definition.

By law, “charge” means the admission price or fee asked in return for an invitation or permission to use the land. The bill specifies that any state or local taxes collected under state law are not considered a charge for using the property.

LIABILITY PROTECTIONS FOR MUNICIPALITIES THAT ACQUIRE AN EASEMENT ON CONTAMINATED PROPERTY FOR RECREATIONAL USE

The bill exempts from certain hazardous waste clean-up costs, fines, and penalties any municipality that acquires an easement over property it does not own in order to make it available to the public without charge for recreational use. Specifically, the bill exempts the municipality from liability for investigation and remediation costs and any fines or penalties arising from any pollution or hazardous waste on the property as long as the contamination (1) occurred or existed on the property before the municipality acquired the easement or (2) was not caused the municipality or its agent.

The bill further provides that any such municipality may investigate and remediate any hazardous waste and pollution on the property included in the easement, following Department of Environmental Protection (DEP) standards for doing so, and is not liable for the investigation and remediation costs for property not included in the easement.

Under the bill, “pollution” is anything discharged by or deposited in any public or private sewer, or that otherwise comes in contact with any waters, that contaminates or causes a significant and harmful

change in the temperature of any state waters. "Hazardous waste" means any waste that poses a present or potential hazard to human health or the environment when improperly handled.

COMMITTEE ACTION

Planning and Development Committee

Joint Favorable Substitute

Yea 19 Nay 1 (03/25/2011)