
DIGEST

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HB 389 Engrossed

2017 Regular Session

Carmody

Abstract: Authorizes the commissioner of conservation of the La. Department of Natural Resources to enforce the Underground Utilities and Facilities Damage Prevention (OneCall) law as it applies to pipelines.

Proposed law provides that the commissioner of conservation shall have exclusive authority to enforce the provisions of OneCall law as it applies to pipelines.

Proposed law provides that it shall not be construed in any manner to limit or otherwise restrict either of the following:

- (1) The general powers of the commissioner of conservation.
- (2) The authority of the Dept. of Public Safety and Corrections as established pursuant to present law (R.S. 30:2361 et seq.).

Present law provides that for violations of the Natural Resources and Energy Act of 1973, there is a maximum civil penalty of \$10,000 for each violation for each day and a maximum penalty of \$500,000 for any related series of violations. Proposed law increases those maximums to \$200,000 per violation per day and \$2 million for any related series of violations.

Proposed law provides that the powers of the commissioner of conservation include but are not limited to the following responsibilities regarding application of the OneCall law to pipelines:

- (1) Monitoring any excavation or demolition, including requests for the excavator or demolisher to provide the locate request number issued by a regional notification center.
- (2) Issuing citations or ordering other penalties or remedies.
- (3) Seeking restraining orders, injunctions, or any other available civil remedies.
- (4) Utilizing any other enforcement powers that may be provided by law.

Proposed law requires the commissioner of conservation or his designee to promulgate rules and regulations for the necessary and proper implementation and administration of the provisions. Proposed law requires the commissioner of conservation to develop a procedure for investigating and reporting any reasonable complaint regarding a violation of the OneCall law as it applies to

pipelines, and the procedure shall include all of the following:

- (1) Establishing a centralized complaint reporting point using a toll-free phone number that is available to contractors, utility operators, and the general public.
- (2) Establishing a uniform complaint form to record the complainant's name and identifying information, the nature and details of the complaint, the geographic location of the complaint, any information about excavators, the date and time of the complaint, the date and time of the complaint report, and whether any collateral damage or off-site impact incurred, including information about the impact or damage.
- (3) Investigating the validity of any complaint using any relevant information, including but not limited to any information provided by a regional notification center with jurisdiction in the reported geographic area.
- (4) Obtaining all information needed to issue a citation, order any other appropriate remedy, or otherwise adjudicate any complaint determined to be valid.

Proposed law requires the commissioner of conservation to adjudicate all violations of the OneCall law involving pipelines and assess civil penalties or other civil remedies for any violations of the OneCall law.

Proposed law provides that all civil penalties or other civil remedies assessed by the commissioner of conservation shall be assessed in the same manner as prescribed by present law (R.S. 30:544), including consideration of all of the following factors:

- (1) The nature, circumstances, and gravity of the relevant violation.
- (2) The degree of culpability, history of prior violations, the effect on ability to continue to do business, any good faith in attempting to achieve compliance, ability to pay the penalty, and such other matters as justice requires with respect to the person found to have committed the violation.

Proposed law requires all monies received or collected by the assistant secretary pursuant to enforcement of the OneCall law as it applies to pipelines to be deposited immediately upon receipt in the state treasury and shall be credited to the Oil and Gas Regulatory Fund.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 30:21(B)(2)(a) and 544(A)(1) and R.S. 40:1749.23(A); Adds R.S. 30:4(S) and R.S. 40:1749.12(17) and (18) and 1749.27)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Natural Resources and

Environment to the original bill:

1. Provide that the bill authorizes the commissioner of conservation to enforce the Underground Utilities and Facilities Damage Prevention (OneCall) law as it applies to pipelines.
2. Increase the authorized civil penalties applicable to violations under the Natural Resources and Energy Act of 1973 from \$10,000 to \$200,000 for each day a violation exists and from \$500,000 to \$2 million for a maximum for any related series of violations.