

2024 Regular Session

HOUSE BILL NO. 397

BY REPRESENTATIVE ST. BLANC

UTILITIES: Provides relative to the Louisiana Underground Utilities and Facilities Damage Prevention Law

1 AN ACT

2 To amend and reenact R.S. 40:1749.13(B)(2), 1749.14(C)(1)(b)(iii) and (v), and 1749.15(B),
3 to enact R.S. 40:1749.12(20) through (22) and 1749.13(E), and to repeal R.S.
4 40:1749.21(C) and (D), relative to the Louisiana Underground Utilities and Facilities
5 Damage Prevention Law; to provide for definitions; to provide for excavations and
6 demolitions; to provide for regional notification centers; to provide for emergency
7 excavations; to provide for effectiveness; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 40:1749.13(B)(2), 1749.14(C)(1)(b)(iii) and (v), and 1749.15(B) are
10 hereby amended and reenacted and R.S. 40:1749.12(20) through (22) and 1749.13(E) are
11 hereby enacted to read as follows:

12 §1749.12. Definitions

13 As used in this Part, the following terms have the meanings ascribed to them
14 in this Section:

15 * * *

16 (20) "Large project excavation or demolition" means excavation or
17 demolition activity that cannot reasonably be completed within the requirements of
18 R.S. 40:1749.13(B)(2).

1 (21) "Marine excavator" means an excavator or demolisher who is
2 performing excavation or demolition in areas such as swamps, wetlands, shallow
3 water, waterways, rivers, bayous, bays, lakes, the sea, and arms of the sea.

4 (22) "Routine excavation or demolition" means excavation or demolition
5 activity that requires no more than twenty calendar days to be completed, and no
6 more than thirty calendar days for agricultural, forestry, or marine excavation or
7 demolition activity.

8 §1749.13. Excavation and demolition; prohibitions

9 * * *

10 B.

11 * * *

12 (2) This notice shall contain the name, address, and telephone number of the
13 person filing the notice of intent, and, if different, the person responsible for the
14 excavation or demolition, the starting date, anticipated duration, and description of
15 the specific type of excavation or demolition operation to be conducted, the specific
16 location of the proposed excavation or demolition and a statement as to whether
17 directional boring or explosives are to be used. ~~If the excavation or demolition is~~
18 ~~part of a larger project, the~~ The notice shall be confined to the actual area of
19 proposed excavation or demolition that will occur during the twenty-day time period
20 under pursuant to R.S. 40:1749.14(C).

21 * * *

22 E.(1). The purpose of this Subsection is to allow for voluntary agreements
23 in writing between operators of underground utilities or facilities and excavators and
24 demolishers to determine the mark-by time, as well as the duration of excavation and
25 demolition projects that cannot be reasonably completed within the time frame
26 required for routine excavation or demolition.

27 (2) Unless hereinafter specifically excepted, all other provisions of this
28 Subsection shall apply to large project excavations or demolitions.

1 (3) Upon an excavator or demolisher contacting the regional notification
 2 center to provide notice of excavation or demolition, the excavator or demolisher
 3 may request that the excavation or demolition be recognized as a large project
 4 excavation or demolition. At which time, the regional notification center shall notify
 5 all affected underground utility and facility operators that a large project excavation
 6 or demolition request has been submitted.

7 (4) A large project excavation or demolition request shall only be submitted
 8 electronically to the regional notification center at least ten business days prior to the
 9 commencement of the excavation or demolition.

10 (5) The submission of a large project excavation or demolition request shall
 11 also include the names and contact information of any and all subcontractors of the
 12 excavator or demolisher who will be working on the project.

13 (6) Upon receipt of the large project excavation or demolition notification
 14 request, operators of underground utilities or facilities and the requesting excavator
 15 or demolisher may attempt to reach a mutual agreement in writing to determine the
 16 scope of work, the mark-by-times, as well as any other details of the project that the
 17 operator and excavator or demolisher mutually agree need to be included in the
 18 written agreement such as the marking schedule, and additional parties to be
 19 included in the notification request. In no event shall an agreement be entered into
 20 pursuant to this Subsection for a duration of more than ninety calendar days.

21 (7) If mutual agreement between the operator and the excavator or
 22 demolisher cannot be reached, the large project excavation or demolition notification
 23 request shall be deemed null and void, and the provisions of R.S. 40:1749.13(B)
 24 shall apply.

25 §1749.14. Regional notification center

26 * * *

27 C.(1) Each operator of an underground facility or utility, after having
 28 received the notification request from the regional notification center of an intent to
 29 excavate or an intent to conduct normal commercial farming operations, shall supply,

1 prior to the proposed excavation or normal commercial farming operation, the
2 following information to the person responsible for the excavation or normal
3 commercial farming operation:

4 * * *

5 (b)

6 * * *

7 (iii) When the utility or facility operator has marked the location of
8 underground facilities or utilities, the marking shall be deemed good as long as
9 visible but not longer than twenty calendar days, including weekends and holidays,
10 from the mark-by time: unless the notice was designated as a large project excavation
11 or demolition and a written agreement has been reached between the operator and
12 the excavator or demolisher. However, if the proposed excavation or demolition
13 activity could impact a pipeline located on or in water, the commissioner may extend
14 the time period allowed for completion of the excavation or demolition. An
15 additional notice to the regional notification center shall be given by the excavator
16 or demolisher in accordance with the provisions of this Part when the marks are no
17 longer visible or if the excavation or demolition cannot be completed within twenty
18 calendar days from the mark-by time, ~~whichever occurs first.~~ for routine excavation
19 or demolition or ninety calendar days for large project excavation or demolition.

20 * * *

21 (v) In the case whereby a forestry excavator, ~~or~~ agricultural excavator, or
22 marine excavator has requested that the utilities and facilities be marked for
23 location, the operator of a utility or facility shall mark the area of their utilities or
24 facilities. The markings provided by the operator shall be deemed good as long as
25 the markings are visible or up to thirty calendar days from the time the markings
26 were made, whichever is shorter.

27 * * *

28 §1749.15. Emergency excavation; notice required; penalty

29 * * *

1 B. The excavator shall certify in the notice required in Subsection A of this
2 Section that the situation poses an imminent threat or danger to life, health, or
3 property or is the result of an unplanned utility outage and requires immediate action
4 and that the excavator, or owner, or operator has ~~a crew~~ personnel on site.

5 * * *

6 Section 2. R.S. 40:1749.21(C) and (D) are hereby repealed in their entirety.

7 Section 3. This Act shall become effective on January 1, 2025.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 397 Original

2024 Regular Session

St. Blanc

Abstract: Provides relative to the Louisiana Underground Utilities and Facilities Damage Prevention Law.

Present law provides for definitions.

Proposed law retains present law and adds the definitions for "large project excavation or demolition", "marine excavator", and "routine excavation or demolition".

Present law provides for what information is included in a notice of intent to excavate or demolish, and if the excavation or demolition is part of a larger project, the notice shall be confined to the actual area of proposed excavation or demolition that will occur during the 20-day time period under present law.

Proposed law amends present law to require that all notices shall be confined to the actual area of proposed excavation or demolition that will occur during the 20-day time period under present law.

Proposed law provides for the purpose of proposed law.

Proposed law provides for what proposed law shall be applied to.

Proposed law requires that upon an excavator or demolisher contacting the regional notification center to provide notice of excavation or demolition, the excavator or demolisher may request that the excavation or demolition be recognized as a large project excavation or demolition. At which time, the regional notification center shall notify all affected underground utility and facility operators that a large project excavation or demolition request has been submitted.

Proposed law requires that a large project excavation or demolition request shall only be submitted electronically to the regional notification center at least 10 business days prior to the commencement of the excavation or demolition.

Proposed law provides for what shall be included in the submission of a large project excavation or demolition request.

Proposed law provides that upon receipt of the large project excavation or demolition notification request, operators of underground utilities or facilities and the requesting excavator or demolisher may attempt to reach a mutual agreement in writing to determine certain details of the project that the operator and excavator or demolisher mutually agree needs to be included in the written agreement. In no event shall an agreement be entered into pursuant to proposed law for a duration of more than 90 calendar days.

Proposed law provides that if a mutual agreement between the operator and the excavator or demolisher cannot be reached, the large project excavation or demolition notification request shall be deemed null and void, and the provisions of present and proposed law shall apply.

Present law provides that each operator of an underground facility or utility, after having received the notification request from the regional notification center of an intent to excavate or an intent to conduct normal commercial farming operations, shall supply, prior to the proposed excavation or normal commercial farming operation, certain information.

Proposed law retains present law.

Present law provides that when the utility or facility operator has marked the location of underground facilities or utilities, the marking shall be deemed good as long as visible but not longer than 20 calendar days, including weekends and holidays, from the mark-by time.

Proposed law provides that present law applies unless the notice was designated as a large project excavation or demolition and a written agreement has been reached between the operator and the excavator or demolisher.

Present law provides that if the proposed excavation or demolition activity could impact a pipeline located on or in water, the commissioner may extend the time period allowed for completion of the excavation or demolition. An additional notice to the regional notification center shall be given when the marks are no longer visible or if the excavation or demolition cannot be completed within 20 calendar days from the mark-by time, whichever occurs first.

Proposed law amends present law to clarify that an additional notification is needed if marks are not visible or the excavation or demolition cannot be completed within 20 calendar days from mark-by time.

Proposed law adds that a large project excavation or demolition has 90 calendar days to complete excavation or demolition before additional notice is required.

Present law provides that the case whereby a forestry excavator or agricultural excavator has requested that the utilities and facilities be marked for location, the operator of a utility or facility shall mark the area of their utilities or facilities. The markings provided shall be deemed good as long as they are visible or up to 30 calendar days from the time the markings were made, whichever is shorter.

Proposed law retains present law and also allows for a marine excavator to make a request.

Present law provides that an excavator shall certify in the notice required in present law that the situation poses an imminent threat or danger to life, health, or property or is the result of an unplanned utility outage and requires immediate action and that the excavator, or owner, or operator has a crew on site.

Proposed law amends present law to clarify that an excavator shall certify in the notice required in present law that the situation poses an imminent threat or danger to life, health, or property or is the result of an unplanned utility outage and requires immediate action and that the excavator, or owner, or operator has personnel on site.

Present law provides that an owner or operator of a natural gas pipeline that is inactive, has a certain diameter, and is located in a parish with a certain population shall maintain the minimum amount of ground cover as provided by present law. If the minimum amount of ground cover has not been maintained then the owner or operator of the natural gas pipeline shall, at his own expense, restore the minimum amount of cover over the pipeline prior to the pipeline being reactivated.

Proposed law repeals present law.

Present law provides for when present law shall become void.

Proposed law repeals present law.

Effective January 1, 2025.

(Amends R.S. 40:1749.13(B)(2), 1749.14(C)(1)(b)(iii) and (v), and 1749.15(B); Adds R.S. 40:1749.12(20)-(22) and 1749.13(E); Repeals R.S. 40:1749.21(C) and (D))