

2022 Regular Session

HOUSE BILL NO. 581

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. 40:1749.12(6), 1749.13(B)(1), and 1749.15, relative to the
3 Louisiana Underground Utilities and Facilities Damage Prevention Law; to modify
4 definitions to include unplanned utility outages; to provide for excavations or
5 demolitions on certain national holidays; to authorize certain electronic notice; to
6 modify with respect to rebuttable presumptions relative to excavators; to provide for
7 emergency excavation notices and emergency response times; and to provide for
8 related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 40:1749.12(6), 1749.13(B)(1), and 1749.15 are hereby amended and
11 reenacted 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 (6) "Emergency" means any crisis situation which poses an imminent threat
17 or danger to life, health, or property, or the situation is the result of an unplanned
18 utility outage, requires immediate action, and immediate action is taken.

19 * * *

1 §1749.13. Excavation and demolition; prohibitions

2 * * *

3 B.(1) Except as provided in R.S. 40:1749.15, prior to any excavation or
4 demolition, each excavator or demolisher shall serve telephonic or electronic notice
5 of the intent to excavate or demolish to the regional notification center or centers
6 serving the area in which the proposed excavation or demolition is to take place.
7 Such notice shall be given to the notification center at least forty-eight hours, but not
8 more than one hundred twenty hours, excluding weekends and holidays, in advance
9 of the commencement of any excavation or demolition activity. Holidays shall
10 consist of the following: New Year's Day; Martin Luther King, Jr. Day; Good
11 Friday; Memorial Day; Independence Day; Labor Day; Thanksgiving Day;
12 Christmas Eve; and Christmas Day, ~~or the days on which those holidays are observed~~
13 ~~by the state.~~

14 * * *

15 §1749.15. Emergency excavation; notice required; penalty

16 A. The notice required pursuant to R.S. 40:1749.13 shall not apply to any
17 person conducting an emergency excavation. Oral or electronic notice of the
18 emergency excavation shall be given as soon as practicable to the regional
19 notification center or each operator having underground utilities and facilities located
20 in the area and, if necessary, emergency assistance shall be requested from each
21 operator in locating and providing immediate protection to its underground utilities
22 and facilities.

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

27 C. There is a rebuttable presumption that the excavator failed to give notice
28 as required pursuant to this Section if the excavator failed to give any notice to the
29 regional notification center within the following time periods:

30 (1) Within ~~four hours of the beginning of the~~ two hours from the discovery
31 of the need for an emergency excavation.

1 (2) In the case of a gubernatorially declared state of emergency due to a
2 ~~tropical storm or hurricane~~ weather or homeland security related event, within twelve
3 hours of the beginning of the emergency excavation within the parishes to which the
4 emergency declaration applies.

5 (3) In the case of a wildfire, within twenty-four hours after control of the
6 emergency.

7 D. The owner or operator of the underground utilities, facilities, or
8 submerged infrastructure shall respond to an emergency notice as soon as practicable
9 under the circumstances.

10 E. Emergency excavation notices are valid for as long as the emergency
11 situation exists. The type of work and location must remain consistent with the work
12 described in the emergency excavation notice. If the type of work and location
13 become inconsistent with the emergency excavation notice, then a new excavation
14 notice is required.

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 581 Original

2022 Regular Session

St. Blanc

Abstract: Modifies the Louisiana Underground Utilities and Facilities Damage Prevention Law to provide for unplanned utility outages, state holidays, and emergency excavation notices and response times.

Present law (R.S. 40:1749.11 et seq.) provides for the "Louisiana Underground Utilities and Facilities Damage Prevention Law".

Present law defines the term "emergency" as any crisis situation posing an imminent threat or danger to life, health, or property, requiring immediate action, and immediate action is taken. Proposed law amends "emergency" to include a situation that is the result of an unplanned utility outage. Otherwise retains the present law definition.

Present law specifies certain holidays to be observed by regional notification centers. Proposed law adds Martin Luther King, Jr. Day to the list of holidays and removes language which required holiday observation on additional days for which the state may observe.

Present law requires an excavator or demolisher to provide oral notice as soon as practicable to the regional notification center or each operator having underground utilities and facilities located in the area. Proposed law further authorizes electronic notice delivery and otherwise retains present law.

Present law requires an excavator or demolisher to give oral notice of the emergency excavation as soon as practicable to the regional notification center or each operator having underground utilities and facilities located in the area. Proposed law retains present law.

Present law requires an excavator to orally certify in the notice that the situation poses an imminent threat or danger to life, health, or property and requires immediate action and that the excavator has a crew on site. Proposed law retains present law and further requires the excavator to provide notice certification if the situation is the result of an unplanned utility outage and authorizes an owner or operator to be on site in addition to the excavator crew.

Present law provides there is a rebuttable presumption that the excavator failed to give the required notice if the excavator failed to give any notice to the regional notification center within the following time periods:

- (1) Within 4 hours of the beginning of the emergency excavation.
- (2) In the case of a gubernatorially declared state of emergency due to a tropical storm or hurricane event, within 12 hours of the beginning of the emergency excavation within the parishes to which the emergency declaration applies.
- (3) In the case of a wildfire, within 24 hours after control of the emergency.

Proposed law changes the time frame from 4 hours of the beginning of the emergency excavation to 2 hours from the discovery of the need for an emergency excavation and changes the gubernatorially declared state of emergency from a storm or hurricane event to a weather or homeland security related event. Otherwise retains present law.

Proposed law requires the owner or operator of the underground utilities, facilities, or submerged infrastructure to respond to an emergency notice as soon as practicable under the circumstances. Provides that emergency excavation notices are valid for the duration of the emergency situation. Requires the type of work and location to remain consistent with the work described in the emergency excavation notice. Further requires a new excavation notice if the type of work and location become inconsistent with the emergency excavation notice.

(Amends R.S. 40:1749.12(6), 1749.13(B)(1), and 1749.15)