
SENATE COMMITTEE AMENDMENTS

2026 Regular Session

Amendments proposed by Senate Committee on Commerce, Consumer Protection and International Affairs to Reengrossed House Bill No. 259 by Representative Dewitt

1 AMENDMENT NO. 1

2 On page 1, line 2, after "To" delete the remainder of the line

3 AMENDMENT NO. 2

4 On page 1 delete lines 3 through 6 and insert:

5 "amend and reenact R.S. 40:1749.12, 1749.13(B)(6), 1749.14(C)(2) and (4), 1749.18(B)(4),
6 and 1749.19 and to enact R.S. 40:1749.13(F) and 1749.23(B)(4), relative to the Louisiana
7 Underground Utilities and Facilities Damage Prevention Law; to provide for regional
8 notification centers; to provide for enforcement of excavation or demolition; to provide for
9 notices; to provide for exemptions; to provide for terms, conditions, and definitions; and to
10 provide for related matters."

11 AMENDMENT NO. 3

12 On page 1 delete lines 8 through 20 and delete pages 2 through 4 and insert

13 "Section 1. R.S. 40:1749.12, 1749.13(B)(6), 1749.14(C)(2) and (4), 1749.18(B)(4), and
14 1749.19 are hereby amended and reenacted and R.S. 40:1749.13(F) and 1749.23(B)(4) are
15 hereby enacted to read as follows:

16 §1749.12. Definitions

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

19 (1) "Agricultural excavator" means a person who owns or operates a farm and
20 is directly involved in the cultivation of land or crops or who raises livestock.

21 (2) "Clear or no conflict" means a response provided by an owner or operator
22 of underground utilities or facilities when the owner or operator determines that its
23 facilities or utilities are not in conflict with the proposed area of excavation.

24 ~~(2)~~(3) "Commissioner" means the commissioner of conservation.

25 ~~(3)~~(4) "Damage" means any defacing, scraping, gouging, breaking, cutting,
26 or displacement of, impact upon or removal of an underground facility or utility or
27 its means of primary support.

28 ~~(4)~~(5) "Demolisher" means any person engaged in the act of demolishing as
29 defined in Paragraph ~~(2)~~(6) of this Section.

30 ~~(5)~~(6) "Demolition" means the total or partial wrecking, razing, rendering,
31 moving, or removing of any building or structure, movable or immovable.

32 ~~(6)~~(7) "Emergency" means any crisis situation which poses an imminent
33 threat or danger to life, health, or property, which requires immediate action, if such
34 action is taken. The term also includes an unplanned utility outage, which requires
35 immediate action, if such action is taken.

36 ~~(7)~~(8) "Excavation" or "excavate" means any operation causing movement
37 or removal of earth, rock, or other materials in or on the ground or submerged in a
38 marine environment that could reasonably result in damage to underground or
39 submerged utilities or facilities by the use of powered or mechanical or manual
40 means, including but not limited to pile driving, digging, blasting, augering, boring,
41 back filling, dredging, compaction, plowing-in, trenching, ditching, tunneling,
42 land-leveling, grading, and mechanical probing. "Excavation" or "excavate" shall not
43 include manual probing, normal commercial farming operations, or any activity
44 resulting from force majeure related occurrences, including but not limited to an act
45 of God or an act of nature.

46 ~~(8)~~(9) "Excavator" means any person who engages in excavation operations.

47 ~~(9)~~(10) "Forestry excavator" means an excavator who is a logger, prescribed
48 burner, site preparation operator, or tree planter for commercial forestry operations.

1 ~~(10)~~(11) "Inclement weather" means weather that prohibits or impedes a
2 worker's use of his locating equipment or causes undue risk to himself or his
3 equipment such as lightning, heavy rain, tornadoes, hurricanes, floods, sleet, snow,
4 or flooding conditions.

5 ~~(11)~~(12) "Large project excavation or demolition" means excavation or
6 demolition activity within a contiguous area that cannot reasonably be completed
7 within twenty calendar days for routine demolition or excavation or within thirty
8 calendar days for agricultural, forestry, or marine excavation or demolition activity.

9 (13) "Locate request" means a communication between an excavator or
10 demolisher and the regional notification center in which a request for locating
11 underground utilities or facilities is processed.

12 ~~(12)~~(14) "Marine excavator" means an excavator or demolisher who is
13 performing excavation or demolition in areas such as swamps, wetlands, shallow
14 water, waterways, rivers, bayous, bays, lakes, the sea, and arms of the sea.

15 ~~(13)~~(15) "Mark-by time" is the date and time provided by the regional
16 notification center by which the utility or facility operator is required to mark the
17 location or provide information to enable an excavator or demolisher, using
18 reasonable and prudent means, to determine the specific location of the utility or
19 facility as provided for in R.S. 40:1749.14(D). The mark-by time may be extended
20 if mutually agreed upon and documented between the excavator and operator.

21 ~~(14)~~(16) "Normal commercial farming operations" means the following
22 operations or activities for agriculture cultivation purposes:

23 (a) Operations or activities that do not encroach upon a private utility or
24 pipeline servitude, public right-of-way, or a public franchise area.

25 (b) Operations or activities that do encroach upon a private utility or pipeline
26 servitude and the depth of the excavation is less than twelve inches in the soil below
27 the existing surface grade.

28 ~~(15)~~(17) "Operator" means any person who owns or operates a public or
29 private underground facility or utility which furnishes a service or material or stores,
30 transports, or transmits electric energy, steam, oil, gases, natural gas, gas, mixture
31 of gases, petroleum, petroleum products, hazardous or flammable fluids, toxic or
32 corrosive fluids/gases, including telephone or telegraph system, fiber optic electronic
33 communication systems, or water or water systems, or drainage, sewer systems, or
34 traffic control systems or other items of like nature.

35 ~~(16)~~(18) "Person" means an individual, firm, partnership, association, limited
36 liability company, corporation, joint venture, municipality, governmental agency,
37 political subdivision, or agent of the state or any legal representative thereof.

38 ~~(17)~~(19) "Pipeline" means all intrastate and interstate pipeline facilities
39 defined by 49 CFR 192.3 and 49 CFR 195.2.

40 (20) "Positive response" means once a facility owner or facility operator
41 marks the location of existing facilities in the proposed excavation area or
42 determines that excavation or demolition is not in conflict with any existing
43 underground facilities, the facility owner or facility operator then notifies the
44 excavator of the status of the location request ticket by appropriate response through
45 the regional notification center's positive response system.

46 ~~(18)~~(21) "Regional notification center" means any one of the following:

47 (a) An entity designated as nonprofit by the Internal Revenue Service under
48 Section 501(c) of the Internal Revenue Code and which is organized to protect its
49 members from damage and is certified by the Department of Public Safety and
50 Corrections in accordance with this Part.

51 (b) An organization of operators, consisting of two or more separate operators
52 who jointly have underground utilities or facilities in three or more parishes in
53 Louisiana, which is organized to protect its own installation from damage and has
54 been certified by the Department of Public Safety and Corrections in accordance
55 with this Part.

56 (c) An operator who has underground utilities or facilities in a majority of
57 parishes in Louisiana and is organized to protect its own installation from damage,
58 and has been certified by the Department of Public Safety and Corrections in
59 accordance with this Part.

60 ~~(19)~~(22) "Routine excavation or demolition" means excavation or demolition
61 activity that requires no more than twenty calendar days to be completed, and no

1 more than thirty calendar days for agricultural, forestry, or marine excavation or
2 demolition activity.

3 ~~(20)~~(23) "Service line or lines" means underground facilities or utilities
4 which provide power, gas, natural gas, communication, or water capabilities to a
5 building or structure or buildings or group of structures.

6 ~~(24)~~ "Ticket" means the notification sent by the regional notification center
7 to any owner or operator who has a facility located within the proposed area of
8 excavation.

9 ~~(25)~~ "Ticket number" means a unique identification number assigned by the
10 regional notification center to each locate request.

11 ~~(21)~~(26) "Underground facility or utility" means any pipe, conduit, duct,
12 wire, cable, valve, line, fiber optic equipment, or other structure which is buried or
13 placed below ground or submerged for use in connection with storage, conveyance,
14 transmission, or protection of electronics communication system, telephone or
15 telegraph system, or fiber optic, electric energy, oil, natural gas, gas, gases, steam,
16 mixture of gases, petroleum, petroleum products, hazardous or flammable
17 fluids/gases, toxic or corrosive fluids/gases, hazardous fluids/gases, or other
18 substances of like nature or water or water systems, sewer systems or traffic,
19 drainage control systems, or other items of like nature.

20 ~~(22)~~(27) "Wildfire" means an uncontrolled combustion of natural vegetation.
21 §1749.13. Excavation and demolition; prohibitions

22 * * *

23 B.(1) * * *

24 (6) At least one person on any underground or submerged excavation or
25 demolition site shall have proof of completion of the training and education provided
26 by the Regional Notification Center. Training is required on an annual basis through
27 the Regional Notification Center and shall be available through its website free of
28 charge. Excavators or demolishers engaged in logging operations, or those who have
29 been certified by an operator qualification program subject to Title 49, CFR, Part 192
30 or Part 195, shall be exempt from this requirement.

31 * * *

32 F.(1) The provisions of this Subsection shall apply only to excavation
33 activities performed in connection with broadband development projects funded in
34 whole or in part through the Broadband Equity, Access, and Deployment (BEAD)
35 Program.

36 (2) Prior to commencing excavation on a BEAD-funded broadband project,
37 an excavator shall provide not less than thirty days advance notice to all operators
38 with underground facilities located in the proposed project area by utilizing the
39 regional notification center's large project excavation or demolition locate request.

40 (3) After providing thirty days advanced notice, but prior to the requirements
41 of Subsection B of this Section, the excavator or demolisher and the operator having
42 facilities within the excavation project area shall attempt in good faith to enter into
43 a mutual written agreement that shall determine the scope of work, the mark-by-
44 times, and any other project-specific coordination requirements. The agreement shall
45 not be unreasonably withheld, conditioned, or delayed. In the event the parties are
46 unable to reach a mutual written agreement, excavation shall not be delayed on that
47 basis alone. The operator may comply with either of the following:

48 (a) The standard marking requirements and timelines set forth in this Chapter.

49 (b) At the operator's election, any marking schedule or coordination
50 agreement already agreed to by other operators for the same excavation project.
51 Nothing in this Section shall relieve any party of its obligations under this Chapter.

52 (4) Each executed written agreement shall be electronically uploaded by the
53 excavator or demolisher to the regional notification center and attached to the
54 applicable large project excavation or demolition ticket. The written agreement shall
55 be available at the excavation site for inspection.

56 (5) If facility markings are not visible at the time excavation is to commence,
57 and no positive response has been provided by the operator with any underground
58 utility or facility in conflict in the proposed area of excavation, the excavator shall
59 not begin excavation until documented notice is made to the operator of the
60 underground utility or facility. The operator shall have three hours from the time
61 documented notice is made to either mark the facility or provide a positive response
62 that there is no conflict. If the operator fails to respond within three hours of the

1 documented notice, the excavation may commence with the excavator or demolisher
2 exercising due care to protect any underground utility or facility within the area of
3 excavation.

4 (6) Any excavator or demolisher performing excavation activities in the
5 public right-of-way pursuant to a BEAD-funded broadband project shall display, at
6 the excavation site, signage identifying the excavator, demolisher or their agents or
7 contractors, the broadband service provider for whom the work is being performed,
8 and a telephone number or email address for project inquiries.

9 (7) Each project shall comply with the provisions of this Part.

10 (8) The provisions of this Subsection shall terminate on August 1, 2030.

11 §1749.14. Regional notification center

12 * * *

13 C.(1)

13 * * *

14 * * *

15 (2)If the operator does not visibly mark the location of these utilities or
16 facilities, the operator shall provide information to enable an excavator using
17 reasonable and prudent means to determine the approximate location of the utility
18 or facility including but not limited to written or electronic information in the form
19 of maps, drawings, or GPS coordinates showing any potential conflicts within the
20 area of planned excavation. The information provided by the operator shall include
21 a contact person and a specific telephone number for the excavators to call. After the
22 operator has received the notification request, the information on location, size, and
23 type of underground utility or facility must be provided by the operator to the
24 excavator prior to excavation.

25 * * *

26 ~~(4) Should an underground utility or facility operator determine that its~~
27 ~~underground facilities are not in conflict with the location of the request or determine~~
28 ~~that its underground facilities are not fully marked for locating purposes, a~~
29 ~~notification shall be sent to the excavator prior to the mark-by time. A notification~~
30 ~~to the regional notification center that generated the location request shall suffice for~~
31 ~~compliance with this Section as it pertains to positive response A facility operator~~
32 ~~shall provide a positive response through the regional notification center before~~
33 ~~expiration of the time allowed for marking. The response shall indicate whether the~~
34 ~~operator's facilities are present and marked, not present, or that additional time is~~
35 ~~required.~~

36 * * *

37 §1749.18. Certification of a regional notification center by Department of Public
38 Safety and Corrections

39 * * *

40 B. For the purposes of promoting cost effectiveness, ease of use, safety, and
41 the protection of property, workmen, and citizens from damage, injury, and death,
42 the rules and regulations shall include but not be limited to requirements that any
43 regional notification center, that is either certified or that applies for certification
44 pursuant to the provisions of this Chapter, shall have and maintain the following:

45 * * *

46 (4)(a) Specifically defined geopolitical services areas that are coterminous
47 with parish boundaries and do not overlap any other defined service area.

48 (b) The provisions of this Paragraph shall apply only to those regional
49 notification centers described in R.S. 40:1749.12~~(13)(a)~~(21)(a).

50 * * *

51 §1749.19. Voluntary participation by incorporated municipalities and parish
52 governments

53 ~~A. Each incorporated municipality or parish government that operates under~~
54 ~~a home rule charter that was adopted prior to January 1, 1958, which owns or~~
55 ~~operates, in its own right or through a special district or districts created pursuant to~~
56 ~~constitutional, home rule, or statutory authority, a drainage system, a sewer system,~~
57 ~~drainage, water or water system, telephone or telegraph, fiber optic, electronics~~
58 ~~equipment system, traffic control system, or an electrical energy system and/or a gas~~
59 ~~or natural gas system underground facility within its local jurisdiction which would~~
60 ~~otherwise be included in R.S. 40:1749.14, and which does not desire to be so~~
61 ~~included, shall adopt an ordinance indicating this desire by adopted an ordinance on~~
62 ~~or before December 31, 1998, indicating its desire to be excluded from the~~

1 provisions of R.S. 40:1749.14 shall be exempt from the requirements of R.S.
2 40:1749.14. This exemption shall apply to all such systems that are owned or
3 operated by the incorporated municipality or parish government in its own right or
4 through a special district or districts, including those systems existing at the time that
5 the incorporated municipality or parish government adopted the ordinance indicating
6 its desire to be excluded from the provisions of R.S. 40:1749.14 and those
7 subsequently established or acquired. Each exempt incorporated municipality, parish
8 government, and public utility shall maintain a permitting process or other
9 established procedure through which a permittee may obtain, if available,
10 information regarding the approximate location of such systems owned or operated
11 by the incorporated municipality, parish government, or public utility that are
12 situated in the immediate vicinity of the permitted work or area of excavation. The
13 ordinance shall be filed with the secretary of state for verification purposes. An
14 incorporated municipality or parish government which fails to adopt the ordinance
15 shall be subject to the provisions of this Part on and after December 31, 1998.

16 B. ~~Each municipality or parish government which owns or operates in its own~~
17 ~~right, or through a special district or districts created pursuant to law, a drainage~~
18 ~~system, a sewer system, water or water system, telephone or telegraph, fiber optic,~~
19 ~~electronics equipment system, traffic control system, an electrical energy system,~~
20 ~~natural gas system, and/or a gas system underground facility within its local~~
21 ~~jurisdiction which would otherwise be included in R.S. 40:1749.17, and which is~~
22 ~~incorporated or created subsequent to July 1, 1997, and which does not desire to be~~
23 ~~so included, shall comply with the provisions of Subsection A of this Section within~~
24 ~~one year of the date of its first municipal elections or within one year of the date of~~
25 ~~creation of a special district.~~

26 * * *

27 §1749.23. Enforcement and adjudication; administration; levy of civil penalties

28 * * *

29 B. The deputy secretary for the office of public safety services in the
30 Department of Public Safety and Corrections or any local law enforcement agency
31 shall have the right to:

32 * * *

33 (4) Order the cessation of excavation or demolition activities when the officer
34 has reasonable cause to believe the excavator is operating in violation of this Part.
35 Excavation or demolition shall not resume until the excavator demonstrates
36 compliance with this Part. For the purposes of this Paragraph, "reasonable cause"
37 means articulable facts observed by the officer that would lead a reasonable person
38 to believe that a violation of this Part is occurring or is about to occur, including but
39 not limited to the absence of a valid locate ticket, an expired ticket, excavation
40 within unmarked or improperly marked areas, or other observable noncompliance
41 pursuant to this Part.

42 * * *