

2017 Regular Session

HOUSE BILL NO. 389

BY REPRESENTATIVE CARMODY

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

UTILITIES: Authorizes the assistant secretary of the office of conservation of the Louisiana Department of Natural Resources to regulate pipeline utilities and facilities

1 AN ACT

2 To enact R.S. 40:1749.12(17) and (18) and 1749.27, relative to the administration and
3 regulation of underground utilities and facilities; to provide for definitions; to
4 provide for authority; to provide for clarification; to enumerate certain powers; to
5 provide for and require certain procedures; to provide for adjudication of violations;
6 to provide for penalties and other remedies; to provide for collection of monies; to
7 provide for effectiveness; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 40:1749.12(17) and (18) and 1749.27 are hereby enacted to read as
10 follows:

11 §1749.12. Definitions

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

14 * * *

15 (17) "Assistant secretary" means the assistant secretary of the office of
16 conservation of the Louisiana Department of Natural Resources.

17 (18) "Pipeline" means all intrastate and interstate pipelines facilities defined
18 by 49 CFR 192 and 49 CFR 195.

19 * * *

1 §1749.27. Pipeline enforcement; authority; administration; violations; penalties;
2 monies

3 A.(1) Notwithstanding the provisions of R.S. 40:1749.23, the assistant
4 secretary shall have exclusive authority to enforce the provisions of this Part
5 regulating pipelines.

6 (2) The provisions of this Section shall not be construed in any manner to
7 limit or otherwise restrict either of the following:

8 (a) The general powers of the assistant secretary as authorized by Part III of
9 the Natural Resources and Energy Act of 1973, R.S. 30:541, et seq.

10 (b) The authority of the Department of Public Safety and Corrections as
11 established pursuant to the Hazardous Materials Information Development,
12 Preparedness, and Response Act, R.S. 30:2361, et seq.

13 B. In the regulation of pipelines, the powers of the assistant secretary include
14 but are not limited to the following:

15 (1) Monitoring any excavation or demolition, including requests for the
16 excavator or demolisher to provide the locate request number issued by a regional
17 notification center.

18 (2) Issuing citations or ordering other penalties or remedies.

19 (3) Seeking restraining orders, injunctions, or any other available civil
20 remedies.

21 (4) Utilizing any other enforcement powers that may be provided by law.

22 C. The assistant secretary or his designee shall promulgate rules and
23 regulations in accordance with the provisions of the Administrative Procedure Act,
24 R.S. 49:950 et seq., for the necessary and proper implementation and administration
25 of the provisions of this Section, including the implementation of a procedure to
26 report and investigate any reasonable complaint regarding a violation of this Section.

27 The procedure shall include all of the following:

1 (1) Establishing a centralized complaint reporting point using a toll-free
2 phone number that is available to contractors, utility operators, and the general
3 public.

4 (2) Establishing a uniform complaint form to record the complainant's name
5 and identifying information, the nature and details of the complaint, the geographic
6 location of the complaint, any information about excavators, the date and time of the
7 complaint, the date and time of the complaint report, and whether any collateral
8 damage or off-site impact incurred including information about the impact or
9 damage.

10 (3) Investigating the validity of any complaint using any relevant
11 information, including but not limited to any information provided by a regional
12 notification center with jurisdiction in the reported geographic area.

13 (4) Obtaining all information needed to issue a citation, order any other
14 appropriate remedy, or otherwise adjudicate any complaint determined to be valid.

15 D.(1)(a) The assistant secretary shall adjudicate all violations involving
16 pipelines and assess civil penalties or other civil remedies for violations of this
17 Section.

18 (b) All civil penalties or other civil remedies assessed by the assistant
19 secretary pursuant to this Section shall be assessed in the same manner as prescribed
20 by R.S. 30:544, including consideration of all of the following factors:

21 (i) The nature, circumstances, and gravity of the relevant violation.

22 (ii) The degree of culpability, history of prior violations, the effect on ability
23 to continue to do business, any good faith in attempting to achieve compliance,
24 ability to pay the penalty, and such other matters as justice requires with respect to
25 the person found to have committed the violation.

26 (2) All monies received or collected by the assistant secretary pursuant to
27 enforcement of the provisions of this Section shall be deposited immediately upon
28 receipt in the state treasury and shall be credited to the Oil and Gas Regulatory Fund,
29 R.S. 30:21.

1 Section 2. This Act shall become effective upon signature by the governor or, if not
 2 signed by the governor, upon expiration of the time for bills to become law without signature
 3 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 4 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 5 effective on the day following such approval.

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 389 Original

2017 Regular Session

Carmody

Abstract: With respect to underground utilities and facilities, authorizes the assistant secretary of the office of conservation of the Louisiana Department of Natural Resources to regulate pipelines.

Present law provides for definitions. Proposed law adds definitions of the terms "assistant secretary" and "pipeline".

Proposed law provides that, notwithstanding the provisions of present law (R.S. 40:1749.23), the assistant secretary shall have exclusive authority to enforce the provisions of proposed law regulating pipelines.

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

- (1) The general powers of the assistant secretary as authorized by present law (R.S. 30:541, et seq.).
- (2) The authority of the Dept. of Public Safety and Corrections as established pursuant to present law (R.S. 30:2361, et seq.).

Proposed law provides that the powers of the assistant secretary include but are not limited to the following regarding 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 assistant secretary or his designee to promulgate rules and regulations in accordance with present law (R.S. 49:950, et seq.) for the necessary and proper implementation and administration of the provisions of proposed law. Proposed law requires the assistant secretary to develop a procedure for investigating and reporting any reasonable complaint regarding a violation of proposed law, 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 assistant secretary to adjudicate all violations involving pipelines and assess civil penalties or other civil remedies for violations of proposed law.

Proposed law provides that all civil penalties or other civil remedies assessed by the assistant secretary pursuant to proposed law 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 proposed law to be deposited immediately upon receipt in the state treasury and shall be credited to the Oil and Gas Regulatory Fund as created by present law (R.S. 30:21).

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

(Adds R.S. 40:1749.12(17) and (18) and 1749.27)