

1 Section 2. R.S. 40:1749.23(A) is hereby amended and reenacted and R.S.
2 40:1749.12(17) and (18) and 1749.27 are hereby enacted to read as follows:

3 §1749.12. Definitions

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

6 * * *

7 (17) "Commissioner" means the commissioner of conservation.

8 (18) "Pipeline" means all intrastate and interstate pipeline facilities defined
9 by 49 CFR 192 and 49 CFR 195.

10 * * *

11 §1749.23. Enforcement and adjudication; administration; levy of civil penalties

12 A. ~~The~~ Except as provided in R.S. 40:1749.27, the provisions of this Part
13 may be enforced by the Department of Public Safety and Corrections or by any local
14 law enforcement agency. The Department of Public Safety and Corrections or its
15 designee may provide forms, including citation, complaint, and incident report
16 forms, to other law enforcement agencies for use in enforcement of the provisions
17 of this Part.

18 * * *

19 §1749.27. Enforcement for the prevention of damage to pipelines; authority of the
20 commissioner; administration; violations; penalties; disposition of monies

21 A.(1) Notwithstanding the provisions of R.S. 40:1749.23, the commissioner
22 shall have exclusive authority to enforce the provisions of this Part as it applies to
23 the prevention of damage to pipelines.

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

26 (a) The general powers of the commissioner as authorized by Subtitle I of
27 Title 30 of the Louisiana Revised Statutes of 1950.

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

4 B. For the prevention of damage to pipelines, the powers of the
5 commissioner shall include but are not limited to the following:

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

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

10 (3) Seeking restraining orders, injunctions, or any other available civil
11 remedies.

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

13 C. The commissioner or his designee shall promulgate rules and regulations
14 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950
15 et seq., for the necessary and proper implementation and administration of the
16 provisions of this Part, including the implementation of a procedure to report and
17 investigate any reasonable complaint regarding a violation of this Part. The
18 procedure shall include all of the following:

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

22 (2) Establishing a uniform complaint form to record the complainant's name
23 and identifying information, the nature and details of the complaint, the geographic
24 location of the complaint, any information about excavators, the date and time of the
25 complaint, the date and time of the complaint report, and whether any collateral
26 damage or off-site impact incurred including information about the impact or
27 damage.

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

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

6 D.(1)(a) The commissioner shall adjudicate all violations involving the
7 prevention of damage to pipelines and assess civil penalties or other civil remedies
8 for violations of this Part.

9 (b) All civil penalties or other civil remedies assessed by the commissioner
10 pursuant to this Part shall be assessed in the same manner as prescribed by R.S.
11 30:544, including consideration of all of the following factors:

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

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

17 (2) All monies received or collected by the commissioner pursuant to
18 enforcement of the provisions of this Part as they apply to the prevention of damage
19 to pipelines shall be deposited immediately upon receipt in the state treasury and
20 shall be credited to the Oil and Gas Regulatory Fund, R.S. 30:21.

21 Section 3. This Act shall become effective upon signature by the governor or, if not
22 signed by the governor, upon expiration of the time for bills to become law without signature
23 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
24 vetoed by the governor and subsequently approved by the legislature, this Act shall become
25 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 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.