
DIGEST

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HB 389 Reengrossed

2017 Regular Session

Carmody

Abstract: Authorizes the commissioner of conservation of the La. Department of Natural Resources to enforce the La. 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.) including the Hazardous Materials Transportation and Motor Safety Carrier Act.

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, excavators, pipeline owners or operators, and the general public. Provides that this system does not replace nor conflict with the existing system.
- (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 parties involved in the complaint or incident, 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. Provides that this form does not replace nor conflict with the existing form.
- (3) Investigating the validity of any complaint using any relevant information, including but not limited to any information provided by excavators, pipeline owners or operators, or 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 damage prevention education to be a component of all penalties and remedies imposed by the commissioner of conservation.

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.

Proposed law provides for a process and time line for transition of the responsibilities from the office of state police to the office of conservation through a memorandum of understanding entered into

between the two offices. Further provides that at such time as the office of conservation has finally adopted the rules required by this Act, the exclusive authority to enforce the provisions of the OneCall law as it applies to pipelines shall reside with the commissioner of conservation.

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 Louisiana 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.

The Committee Amendments Proposed by House Committee on Appropriations to the engrossed bill:

1. Provide that the law specifically does not limit or restrict the Hazardous Materials Transportation and Motor Safety Carrier Act.
2. Provide that the centralized complaint system and form developed by the commissioner of conservation do not replace nor conflict with the systems already established by the State Police for the OneCall system.
3. Include all parties, including the contractors, excavators, pipeline owners and operators, and the public are involved in the system throughout the process.
4. Require damage prevention education to be a component of all penalties and remedies imposed by the commissioner of conservation.
5. Provide for a process and time line for transition of the responsibilities from the office of state police to the office of conservation through a memorandum of understanding entered into between the two offices. Further provide that at such time as the office of conservation has finally adopted the rules required by this Act, the exclusive authority to enforce the provisions of the OneCall law as it applies to pipelines shall reside with the commissioner of conservation.

