

By: Whitmire

S.B. No. 951

A BILL TO BE ENTITLED

AN ACT

1
2 relating to use of regional notification centers to provide
3 underground facility notification before excavation.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 251.009, Utilities Code, is amended to
6 read as follows:

7 Sec. 251.009. PROVISION OF GENERAL INFORMATION. At least
8 once each calendar year, at intervals not exceeding 15 months, each
9 Class A underground facility operator who conveys, transmits, or
10 distributes by means of its underground facilities service directly
11 to more than one million residential customers within this state
12 shall provide all of its residential customers in this state
13 general information about excavation activities covered by this
14 chapter and the appropriate [~~statewide~~] toll-free telephone number
15 established by the corporation.

16 SECTION 2. Section 251.060, Utilities Code, is amended to
17 read as follows:

18 Sec. 251.060. DUTIES OF CORPORATION. The corporation shall
19 develop and implement processes to:

20 (1) maintain a registration of:

21 (A) notification centers as provided by Section
22 251.101(a)(3);

23 (B) operators who elect to convert facilities to
24 Class A facilities under Section 251.005(a); or

1 (C) operators who elect to become Class A
2 underground facility operators under Section 251.005(b);

3 (2) establish minimum technical standards used by
4 notification centers;

5 (3) establish a statewide toll-free telephone number
6 to be used by excavators that incorporates the use of a call router
7 system that routes calls to the appropriate regional notification
8 center or establish a toll-free telephone number for each region
9 ~~[centers on a pro rata basis]~~;

10 (4) oversee the bid process and select the vendor for
11 the ~~[statewide]~~ toll-free telephone number or numbers;

12 (5) oversee the bid process and select the vendor for
13 the call router system, if necessary;

14 (6) determine before May 1 of each year, if necessary,
15 the cost-sharing between the notification centers of:

16 (A) the toll-free telephone number; and

17 (B) the call router system prescribed by Section
18 251.102(4);

19 (7) develop public service announcements to educate
20 the public about ~~[statewide]~~ one-call notification and its
21 availability;

22 (8) ~~[establish a format for information transfer among~~
23 ~~notification centers other than high speed data transmission, if~~
24 ~~appropriate,~~

25 ~~[(9)]~~ on a complaint concerning charges, investigate
26 and determine appropriate charges;

27 (9) ~~[(10)]~~ recommend a civil penalty against a

1 notification center that does not meet the requirements of this
2 chapter of not less than \$1,000 or more than \$5,000 for each
3 violation;

4 (10) [~~(11)~~] refer the recommended penalty to the
5 attorney general, who shall institute a suit in a court of competent
6 jurisdiction to recover the penalty;

7 (11) [~~(12)~~] assist in dispute resolution among
8 notification centers or between a notification center and an
9 operator;

10 (12) [~~(13)~~] assist any operator who encounters
11 difficulty in joining the appropriate [a] notification center; and

12 (13) [~~(14)~~] review and study design standards for the
13 placement of underground facilities throughout this state.

14 SECTION 3. The heading to Section 251.061, Utilities Code,
15 is amended to read as follows:

16 Sec. 251.061. CONTRACT FOR [~~STATEWIDE~~] TOLL-FREE NUMBER OR
17 NUMBERS AND CALL ROUTER SYSTEM.

18 SECTION 4. Section 251.061(a), Utilities Code, is amended
19 to read as follows:

20 (a) The corporation shall solicit proposals for the
21 contract to establish and operate the [~~statewide~~] toll-free
22 telephone number or numbers and, if necessary, the call router
23 system by using a request for proposals process that includes
24 specifications that have been approved by the board of directors in
25 accordance with this chapter.

26 SECTION 5. Subchapter C, Chapter 251, Utilities Code, is
27 amended by amending Sections 251.101 and 251.102 and by adding

1 Section 251.1015 to read as follows:

2 Sec. 251.101. NOTIFICATION CENTER. (a) A notification
3 center is a legal entity that:

4 (1) operates a notification system capable of serving
5 all excavators and operators in the system's region [~~statewide~~];

6 (2) is created to:

7 (A) receive notification of an intent to excavate
8 and of damage to an underground facility and disseminate that
9 information to member operators that may be affected by the
10 excavation or damage [~~and to other notification centers operating~~
11 ~~in this state~~]; and

12 (B) receive notification of an extraordinary
13 circumstance and disseminate that information to member operators
14 [~~and to other notification centers operating in this state~~]; and

15 (3) registers the following information with the
16 corporation:

17 (A) its name, address, and telephone number;

18 (B) the name of a contact person;

19 (C) a statement of compliance with Section
20 251.104; and

21 (D) a listing of the counties in the system's
22 region [~~which it operates~~].

23 (b) The three [~~A~~] notification centers [~~center~~] operating
24 on September 1, 1997, may continue to operate if the notification
25 centers comply [~~center complies~~] with this chapter. A notification
26 center may operate only in the region to which the center is
27 assigned by Section 251.1015. If a notification center fails to

1 comply with this chapter, the corporation shall assign another
2 notification center to that region.

3 Sec. 251.1015. NOTIFICATION CENTER REGIONS. (a) Texas
4 Excavation Safety System, Incorporated, is assigned to the northern
5 region. The northern region consists of the counties in the
6 following Texas Department of Transportation districts:

- 7 (1) Abilene;
- 8 (2) Amarillo;
- 9 (3) Atlanta;
- 10 (4) Brownwood;
- 11 (5) Childress;
- 12 (6) Dallas;
- 13 (7) Fort Worth;
- 14 (8) Paris;
- 15 (9) Tyler;
- 16 (10) Waco; and
- 17 (11) Wichita Falls.

18 (b) Texas One Call System is assigned to the western region.
19 The western region consists of the counties in the following Texas
20 Department of Transportation districts:

- 21 (1) El Paso;
- 22 (2) Laredo;
- 23 (3) Lubbock;
- 24 (4) Odessa;
- 25 (5) Pharr; and
- 26 (6) San Angelo.

27 (c) Lone Star Notification Center is assigned to the

1 southern region. The southern region consists of the counties in
2 the following Texas Department of Transportation districts:

- 3 (1) Austin;
4 (2) Beaumont;
5 (3) Bryan;
6 (4) Corpus Christi;
7 (5) Houston;
8 (6) Lufkin;
9 (7) San Antonio; and
10 (8) Yoakum.

11 Sec. 251.102. GENERAL DUTIES OF NOTIFICATION CENTER. A
12 notification center shall:

- 13 (1) operate 24 hours a day every day of the year;
- 14 (2) have the capability to receive emergency
15 information 24 hours a day from excavators and disseminate the
16 information as soon as it is received to the appropriate operators
17 [~~and to all registered and affected notification centers operating~~
18 ~~in this state~~];
- 19 (3) have the capacity to receive extraordinary
20 circumstance information 24 hours a day from operators and
21 disseminate the information as soon as it is received to all
22 appropriate persons [~~registered and affected notification~~
23 ~~centers~~];
- 24 (4) submit to the corporation, not later than May 15 of
25 each year, a pro rata share of the expense, as established by the
26 corporation, of the statewide toll-free telephone number and the
27 call router, if necessary;

1 (5) provide, on request of an excavator, a contact
2 name and telephone number of a representative of the operator for
3 special circumstances; and

4 (6) have personnel capable of assisting
5 Spanish-speaking customers.

6 SECTION 6. Sections 251.107(a) and (b), Utilities Code, are
7 amended to read as follows:

8 (a) Each operator of a Class A underground facility,
9 including a political subdivision of this state, shall participate
10 in the [a] notification center assigned to the region in which that
11 facility is located as a condition of doing business in this state.

12 (b) Each operator of a Class A underground facility shall
13 provide to the notification center assigned to the region in which
14 that facility is located:

15 (1) maps or grid locations or other identifiers
16 determined by the operator indicating the location of the
17 operator's underground facilities;

18 (2) the name and telephone number of a contact person
19 or persons; and

20 (3) at least quarterly but, if possible, as those
21 changes occur, information relating to each change in the
22 operator's maps or grid locations or other identifiers or in the
23 person or persons designated as the operator's contact person or
24 persons.

25 SECTION 7. Section 251.151(a), Utilities Code, is amended
26 to read as follows:

27 (a) Except as provided by Sections 251.155 and 251.156, a

1 person who intends to excavate shall notify the [~~a~~] notification
2 center assigned to the region in which the excavation will occur not
3 earlier than the 14th day before the date the excavation is to begin
4 or later than the 48th hour before the time the excavation is to
5 begin, excluding Saturdays, Sundays, and legal holidays.

6 SECTION 8. Section 251.153, Utilities Code, is amended to
7 read as follows:

8 Sec. 251.153. DUTY OF NOTIFICATION CENTER. (a) At the time
9 an excavator provides the [~~a~~] notification center with the
10 excavator's intent to excavate, the notification center shall
11 advise the excavator that water, slurry, and sewage underground
12 facilities in the area of the proposed excavation may not receive
13 information concerning the excavator's proposed excavation.

14 ~~(b) [Not later than two hours after the time the~~
15 ~~notification center receives a notice of intent to excavate from an~~
16 ~~excavator, the notification center shall provide to every other~~
17 ~~affected notification center operating in this state the~~
18 ~~information required by Section 251.152 and received from the~~
19 ~~excavator. The notification center shall provide the information~~
20 ~~by the use of high speed data transmission.~~

21 [~~(c)~~] Not later than two hours after the time the
22 notification center receives a notice of intent to excavate from an
23 excavator [~~or from a different notification center~~], the
24 notification center shall notify each member operator that may have
25 an underground facility in the vicinity of the proposed excavation
26 operation.

27 SECTION 9. Section 251.154(a), Utilities Code, is amended

1 to read as follows:

2 (a) A person required to provide notice under this chapter
3 is considered to have provided the notice when the person delivers
4 the required information and the appropriate [a] notification
5 center receives that information within the time limits prescribed
6 by this chapter.

7 SECTION 10. Section 251.155(c), Utilities Code, is amended
8 to read as follows:

9 (c) When an emergency exists, the excavator shall notify the
10 appropriate [a] notification center as promptly as reasonably
11 possible.

12 SECTION 11. Section 251.158(b), Utilities Code, is amended
13 to read as follows:

14 (b) The operator shall notify the appropriate [a]
15 notification center of the extraordinary circumstance and shall
16 include in the notification:

17 (1) the nature and location of the extraordinary
18 circumstance;

19 (2) the expected duration of the situation and the
20 approximate time at which the operator will be able to resume
21 location request activities; and

22 (3) the name and telephone number of the individual
23 that the notification system can contact if there is an emergency
24 that requires the operator's immediate attention.

25 SECTION 12. Section 251.159(b), Utilities Code, is amended
26 to read as follows:

27 (b) If the excavator is not certain of the operator's

1 identity, the excavator shall contact the appropriate [a]
2 notification center to report the damage[, and the notification
3 center shall immediately notify all other affected notification
4 centers]. Immediately on receiving notification, each
5 notification center shall contact each member operator that has
6 underground facilities in or near the area in which the damage
7 occurred.

8 SECTION 13. Section 251.202(c), Utilities Code, is amended
9 to read as follows:

10 (c) The corporation shall use the money received under this
11 section to develop public service announcements to educate the
12 public about [~~the statewide~~] one-call notification system and its
13 availability as prescribed by Section 251.060(7).

14 SECTION 14. Section 251.105(a), Utilities Code, is
15 repealed.

16 SECTION 15. (a) This Act takes effect September 1, 2003.

17 (b) The Texas Underground Facility Notification Corporation
18 shall implement the regional notification system as required by
19 this Act not later than January 1, 2004. In implementing the
20 system, the corporation shall ensure that a contract described by
21 Subsection (c) of this section is not impaired.

22 (c) This Act does not affect the validity of a contract
23 between a notification center and an operator that was entered into
24 before the effective date of this Act. An operator that enters into
25 a contract with a notification center before the effective date of
26 this Act shall comply with Section 251.107(a), Utilities Code, as
27 amended by this Act, on expiration of the contract.