

By: Martinez

H.B. No. 3293

A BILL TO BE ENTITLED

AN ACT

relating to requirements for addressing and preventing damage to underground utility facilities; imposing a fee; creating an offense.

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

SECTION 1. Section 251.002, Utilities Code, is amended by adding Subdivision (16) to read as follows:

(16) "Approximate location" means a strip of land not wider than the width of the underground facility plus two feet on either side.

SECTION 2. Section 251.062(b), Utilities Code, is amended to read as follows:

(b) Before January 15 of each year, a Class A or Class B facility operator shall pay to the corporation a fee of \$50 for services to be performed by the corporation during that calendar year. A fee for a part of a year may not be prorated.

SECTION 3. Section 251.105(b), Utilities Code, is amended to read as follows:

(b) The notification center shall charge a Class A or Class B underground facility operator not more than \$1.25 for a call made to the system that affects the operator. The board may increase or decrease the maximum charge only on an affirmative vote of at least two-thirds of the total number of votes entitled to be cast. A notification center may petition the corporation for an increase in

the maximum charge and is entitled to the increase on proof that costs exceed the maximum charge.

SECTION 4. Sections 251.107(a) and (b), Utilities Code, are amended to read as follows:

(a) Each operator of a Class A or Class B underground facility, including a political subdivision of this state, shall participate in a notification center as a condition of doing business in this state.

(b) Each operator of a Class A or Class B underground facility shall provide to the notification center:

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

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

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

SECTION 5. Section 251.151(b), Utilities Code, is amended to read as follows:

(b) Notwithstanding Subsection (a), if an excavator makes a Saturday notification, the excavator may begin the excavation the following Wednesday [~~Tuesday~~] at 11:59 a.m. [~~unless the intervening Monday is a holiday. If the intervening Monday is a holiday, the excavator may begin the excavation the following Wednesday at 11:59~~]

1 ~~a.m.]~~

2 SECTION 6. Section 251.156(a), Utilities Code, is amended  
3 to read as follows:

4 (a) Section 251.151 does not apply to:

5 (1) interment operations of a cemetery;

6 (2) operations at a secured facility if:

7 (A) the excavator operates each underground  
8 facility at the secured facility, other than those within a  
9 third-party underground facility easement or right-of-way; and

10 (B) the excavation activity is not within a  
11 third-party underground facility or right-of-way;

12 (3) routine railroad maintenance within 15 feet of  
13 either side of the midline of the track if the maintenance will not  
14 disturb the ground at a depth of more than 18 inches;

15 (4) activities performed on private property in  
16 connection with agricultural operations;

17 (5) operations associated with the exploration or  
18 production of oil or gas if the operations are not conducted within  
19 an underground facility easement or right-of-way; or

20 (6) excavations by or for a person that:

21 (A) owns, leases, or owns a mineral leasehold  
22 interest in the real property on which the excavation occurs; and

23 (B) operates all underground facilities located  
24 at the excavation site[~~, or~~

25 [~~(7) routine maintenance by a county employee on a~~  
26 ~~county road right-of-way to a depth of not more than 24 inches]~~.

27 SECTION 7. Sections 251.157(a) and (d), Utilities Code, are

amended to read as follows:

(a) Each Class A or Class B underground facility operator contacted by the notification system shall mark the approximate location of its underground facilities at or near the site of the proposed excavation if the operator believes that marking that ~~the~~ location is necessary. The operator shall mark the location not later than:

(1) the 72nd ~~[48th]~~ hour after the time the excavator gives to the notification system notice of intent to excavate, excluding Saturdays, Sundays, and legal holidays;

(2) 11:59 a.m. on the Wednesday ~~[Tuesday]~~ following a Saturday notification ~~[unless the intervening Monday is a holiday]~~; or

~~(3) [11:59 a.m. on the Wednesday following a Saturday notification if the intervening Monday is a holiday, or~~

~~[(4)]~~ a time agreed to by the operator and the excavator.

(d) Not later than the 72nd ~~[48th]~~ hour after the time the excavator gives to the notification center notice of intent to excavate, an operator contacted by the notification center shall notify the excavator of the operator's plans to not mark the approximate ~~[proximate]~~ location of an underground facility at or near the site of the proposed excavation. The operator must provide the notification by e-mail or facsimile or by another verifiable electronic method approved by the board.

SECTION 8. Section 251.203(a), Utilities Code, is amended to read as follows:

1           (a) A person commits an offense if:

2                   (1) the person without authorization from the owner or  
3 operator of the facility intentionally removes, damages, or  
4 conceals a marker or sign giving information about the location of a  
5 Class A or Class B underground facility; and

6                   (2) the marker or sign gives notice of the penalty for  
7 intentional removal, damage, or concealment of the marker or sign.

8           SECTION 9. Section 251.153(a), Utilities Code, is repealed.

9           SECTION 10. (a) The changes in law made by this Act apply  
10 only to conduct occurring on or after the effective date of this  
11 Act. Conduct occurring before the effective date of this Act is  
12 governed by the law in effect on the date the conduct occurred, and  
13 the former law is continued in effect for that purpose.

14           (b) The operator of an underground facility that is used to  
15 produce, store, convey, transmit, or distribute water, slurry, or  
16 sewage is not required to participate in a notification center as a  
17 condition of doing business in this state or to provide materials  
18 required by law to a notification center until January 1, 2014.

19           SECTION 11. This Act takes effect September 1, 2013.