

BILL ANALYSIS

Senate Research Center
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current statute establishes requirements for an excavator to notify a one call center prior to performing any excavation. This allows underground facility operators to mark the location of underground facilities and prevent damage as a result of excavation. Parties involved in the one call notification process are dependent on established timeframes and deadlines in the statute, but the established timelines do not align as the positive response is due earlier than the actual marking of the line in some cases. Additionally, these projects frequently involve numerous sub-contractors. However, the current statute remains ambiguous as to who is required to make a one call.

S.B. 2098 amends statute to clarify which individuals are responsible for notifying a one call center. The bill clarifies that a subcontractor may not use or depend on a notification made by the general contractor. S.B. 2098 also adjusts the timeframes by which certain activities are calculated, including the time by which a one call notification ticket begins, the time by which the positive response and any marking of facilities must be completed, the life of a one call ticket notification, and eliminates the special provisions for one call notifications made on a Saturday before noon. The bill also clarifies that the excavator must make another notification when the markings at the site of excavation have been damaged, destroyed, or are no longer visible.

As proposed, S.B. 2098 amends current law relating to requirements for underground facility damage prevention and safety.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 251.002(6), Utilities Code, to redefine "excavator."

SECTION 2. Amends Subchapter A, Chapter 251, Utilities Code, by adding Section 251.0045, as follows:

Sec. 251.0045. EXCAVATION BY SUBCONTRACTOR. Prohibits a subcontractor who performs an excavation operation from beginning the excavation unless the subcontractor has complied with the requirements this chapter (Underground Facility Damage Prevention and Safety) imposes on an excavator, regardless of whether the general contractor that hired the subcontractor has complied with the requirements.

SECTION 3. Amends Section 251.151, Utilities Code, by amending Subsection (a) and adding Subsection (a-1), as follows:

(a) Requires an excavator, rather than a person, who intends to excavate, except as provided by Sections 251.155 (Exception in Case of Emergency; Offense) and 251.156 (Other Exceptions to Duty of Excavators), to notify a notification center not earlier than the 14th day before the date the excavation is to begin, rather than not earlier than the 14th day before the date the excavation is to begin or later than the 48th hour before the

time the excavation is to begin, excluding Saturdays, Sundays, and legal holidays. Prohibits an excavator from excavating during certain times.

(a-1) Requires the excavator, if markings made by an operator after notice is given under Subsection (a) for an excavation operation showing the location of underground facilities in the excavation area are no longer visible, are unclear, or are damaged, to give another notice under Subsection (a) for the unfinished portions of the excavation operation.

SECTION 4. Amends Sections 251.157(a) and (d), Utilities Code, as follows:

(a) Requires the Class A underground facility operator to mark the location not later than:

(1) 8 a.m. on the third day following the date on which the excavator gives to the notification system notice of intent to excavate under Section 251.151(a), rather than the 48th hour after the time the excavator gives to the notification system notice of intent to excavate, excluding Saturdays, Sundays, and legal holidays;

(2) deletes existing text including 11:59 a.m. on the Tuesday following a Saturday notification unless the intervening Monday is a holiday. Redesignates existing Subdivision (4) as Subdivision (2);

(3) deletes this subdivision.

(d) Requires an operator contacted by the notification center, not later than 8 a.m. on the third day following the date on which the excavator gives to the notification system notice of intent to excavate under Section 251.151(a), excluding Saturdays, Sundays, and legal holidays, rather than not later than the 48th hour after the time the excavator gives to the notification center notice of intent to excavate, to notify the excavator of the operator's plans to not mark the proximate location of an underground facility at or near the site of the proposed excavation.

SECTION 5. Repealer: Section 251.151(b) (relating to authorizing an excavator to begin the excavation, if the excavator makes a Saturday notification, at a certain time), Utilities Code.

SECTION 6. Effective date: September 1, 2017.