

The Senate Committee on Regulated Industries and Utilities offered the following substitute to HB 449:

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 9 of Title 25 of the Official Code of Georgia Annotated, relating to
2 blasting or excavating near utility facilities, so as to revise the "Georgia Utility Facility
3 Protection Act" to enhance the processes for locate requests and to require that 9-1-1 be
4 contacted if an excavator damages a gas or hazardous liquid pipeline; to change and provide
5 for certain definitions; to provide for certain procedures in extraordinary circumstances; to
6 provide for an exemption; to provide for the marking of the locations of underground
7 electronic traffic control devices and underground electronic traffic management facilities
8 within rights of way of the Department of Transportation; to provide limitations on the
9 recovery of costs of damages; to establish a statute of limitations on enforcement; to amend
10 Code Section 46-3-34, relating to utilities protection center, funding of activities, notice of
11 work delay, and responsibility for completing safety requirements, so as to correct a
12 cross-reference; to provide for related matters; to provide for an effective date; to repeal
13 conflicting laws; and for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

15

SECTION 1.

16 Chapter 9 of Title 25 of the Official Code of Georgia Annotated, relating to blasting or
17 excavating near utility facilities, is amended as follows:

18

"CHAPTER 9

19 25-9-1.

20 This chapter shall be known and may be cited as the 'Georgia Utility Facility Protection
21 Act.'

22 25-9-2.

23 The purpose of this chapter is to protect the public from physical harm, prevent injury to
24 persons and property, and prevent interruptions of utility service resulting from damage to
25 utility facilities and sewer laterals caused by blasting or excavating operations by providing
26 a method whereby the location of utility facilities and sewer laterals will be made known
27 to persons planning to engage in blasting or excavating operations so that such persons may
28 observe proper precautions with respect to such utility facilities and sewer laterals.

29 25-9-3.

30 As used in this chapter, the term:

31 (1) 'Abandoned utility facility' means a utility facility taken out of service by a facility
32 owner or operator on or after January 1, 2001.

33 (2) 'Betterments' means any upgrading of the utility facility being repaired made solely
34 for the benefit of and at the election of the facility owner or operator and not attributable
35 to the damage.

36 ~~(2)~~(3) 'Blasting' means any operation by which the level or grade of land is changed or
37 by which earth, rock, buildings, structures, or other masses or materials are rended, torn,

38 demolished, moved, or removed by the detonation of dynamite or any other explosive
39 agent.

40 ~~(3)~~(4) 'Business days' means Monday through Friday, excluding the following holidays:
41 New Year's Day, Birthday of Dr. Martin Luther King, Jr., Memorial Day, Independence
42 Day, Labor Day, Thanksgiving Day and the following Friday, Christmas Eve, and
43 Christmas Day. Any such holiday that falls on a Saturday shall be observed on the
44 preceding Friday. Any such holiday that falls on a Sunday shall be observed on the
45 following Monday. If Christmas Eve falls on a Friday, it shall be observed on the
46 preceding Thursday. If Christmas Eve falls on a Sunday, it shall be observed on the
47 following Tuesday.

48 ~~(4)~~(5) 'Business hours' means the time from 7:00 A.M. to 4:30 P.M. local time on
49 business days.

50 ~~(5)~~(6) 'Commission' means the Public Service Commission.

51 ~~(6)~~(7) 'Corporation' means any corporation; municipal corporation; county; authority;
52 joint-stock company; partnership; association; business trust; cooperative; organized
53 group of persons, whether incorporated or not; or receiver or receivers or trustee or
54 trustees of any of the foregoing.

55 ~~(7)~~(8) 'Damage' means any impact or exposure that results in the need to repair a utility
56 facility or sewer lateral due to the weakening or the partial or complete destruction of the
57 facility or sewer lateral including, but not limited to, the protective coating, lateral
58 support, cathodic protection, or the housing for the line, device, sewer lateral, or facility.

59 ~~(8)~~(9) 'Design locate request' means a communication to the ~~utilities protection center~~
60 UPC in which a request for locating existing utility facilities for bidding, predesign, or
61 advance planning purposes is made. ~~A design locate request shall not be used for~~
62 ~~excavation purposes.~~

63 ~~(9)~~(10) 'Designate' means to stake or mark on the surface of the tract or parcel of land
64 the location of a utility facility or sewer lateral.

65 ~~(10)~~(11) 'Emergency' means a sudden or unforeseen occurrence involving a clear and
 66 imminent danger to life, health, or property; the interruption of utility services; or repairs
 67 to transportation facilities that require immediate action.

68 (12) 'Emergency 9-1-1 call' means using the digits, address, Internet Protocol address,
 69 or other information to access or initiate contact with a public safety answering point.

70 ~~(11)~~(13) 'Emergency notice' means a communication to the ~~utilities protection center~~
 71 UPC to alert the involved facility owners or operators of the need to excavate due to an
 72 emergency that requires immediate excavation.

73 ~~(12)~~(14)(A) 'Excavating' means any operation using mechanized equipment or
 74 explosives to move earth, rock, or other material below existing grade. Such term shall
 75 include, but shall not be ~~This includes but is not~~ limited to augering, blasting, boring,
 76 digging, ditching, dredging, drilling, driving-in, grading, plowing-in, ripping, scraping,
 77 trenching, and tunneling.

78 (B) Such term 'Excavating' shall not include pavement milling:

79 (i) Farming activities;

80 (ii) Milling or pavement repair that does not exceed the depth of the existing
 81 pavement or 12 inches, whichever is less. ~~The term shall not include routine road; or~~

82 (iii) Routine road maintenance or railroad maintenance activities carried out by road
 83 maintenance or railroad employees or contractors, provided that such activities:

84 (I) Occur ~~occur~~ entirely within the right of way of a public road, street, railroad, or
 85 highway of the state;

86 (II) Are ~~are~~ carried out with reasonable care so as to protect any utility facilities and
 87 sewer laterals placed in the right of way by permit; are carried out within the limits
 88 of any original excavation on the traveled way, shoulders, or drainage ditches of a
 89 public road, street, railroad, or highway, and do not exceed 18 inches in depth below
 90 the grade existing prior to such activities; and, ~~if~~

91 (III) If involving the replacement of existing guard rails and sign posts, replace
 92 such guard rails and sign posts in their previous locations and at their previous
 93 depth. ~~'Excavating' shall not include farming activities.~~

94 ~~(13)~~(15) 'Excavator' means any person engaged in ~~excavating or blasting as defined in~~
 95 ~~this Code section~~ blasting or excavating.

96 ~~(14)~~(16) 'Extraordinary circumstances' means circumstances other than normal operating
 97 conditions which exist ~~and make~~ making it impractical or impossible for a facility owner
 98 or operator to comply with the provisions of this chapter. Such extraordinary
 99 circumstances may include, but shall not be limited to, hurricanes, tornadoes, floods, ice
 100 and snow, and other acts of God.

101 ~~(15)~~(17) 'Facility owner or operator' means any person or entity with the sole exception
 102 of a homeowner ~~who~~ that owns, operates, or controls the operation of a utility facility.

103 ~~(16)~~(18) 'Farming activities' means the tilling of the fields related to agricultural
 104 activities but ~~does~~ shall not include other types of mechanized excavating on a farm.

105 ~~(17)~~(19) 'Horizontal directional drilling' or 'HDD' means a type of trenchless excavation
 106 that uses guidable boring equipment to excavate in an essentially horizontal plane without
 107 disturbing or with minimal disturbance to the ground surface.

108 ~~(18)~~(20) 'Large project' means an excavation that involves more work to locate utility
 109 facilities than can reasonably be completed within the requirements of subsection (a) of
 110 Code Section 25-9-7.

111 ~~(19)~~(21) 'Local governing authority' means:

112 (A) A a county, municipality, or local authority created by or pursuant to a general,
 113 local, or special Act of the General Assembly, or by the Constitution of the State of
 114 Georgia. ~~The term also includes any; and~~

115 (B) Any local authority that is created or activated by an appropriate ordinance or
 116 resolution of the governing body of a county or municipality individually or jointly with
 117 other political subdivisions of this state.

118 ~~(20)~~(22) 'Locate request' means a communication between an excavator and the ~~utilities~~
 119 ~~protection center~~ UPC in which a request for designating utility facilities, sewer laterals,
 120 or both is processed.

121 ~~(21)~~(23) 'Locator' means a person ~~who~~ that is acting on behalf of facility owners and
 122 operators in designating the location of the utility facilities and sewer laterals of such
 123 owners and operators.

124 ~~(22)~~(24) 'Mechanized excavating equipment' means all equipment ~~which is~~ powered by
 125 any motor, engine, or hydraulic or pneumatic device and which is used for excavating.

126 ~~(23)~~(25) 'Milling' means the process of grinding asphaltic concrete.

127 ~~(24)~~(26) 'Minimally intrusive excavation methods' means methods of excavation that
 128 minimize the potential for damage to utility facilities and sewer laterals. Such term shall
 129 ~~Examples~~ include, but ~~are not~~ shall not be limited to, air entrainment/vacuum extraction
 130 systems and water jet/vacuum excavation systems operated by qualified personnel and
 131 careful hand tool usage and other methods as determined by the ~~Public Service~~
 132 ~~Commission.~~ commission. Such term shall not include the use of
 133 trenchless excavation.

134 ~~(25)~~(27) 'Permanent marker' means a visible indication of the approximate location of
 135 a utility facility or sewer lateral that can reasonably be expected to remain in position for
 136 the life of the facility. Such term shall include, but shall not be ~~The term includes, but~~
 137 ~~is not~~ limited to, sewer cleanouts; water meter boxes; and etching, cutting, or attaching
 138 medallions or other industry accepted surface markers to curbing, pavement, or other
 139 similar visible fixed surfaces. ~~All permanent markers other than sewer cleanouts, water~~
 140 ~~meter boxes, or any other visible component of a utility facility that establish the exact~~
 141 ~~location of the facility must be placed accurately in accordance with Code Section 25-9-9~~
 142 ~~and be located within the public right of way. Sewer cleanouts, water meter boxes, or~~
 143 ~~any other visible component of a utility facility that establishes the exact location of the~~

144 ~~facility must be located within ten feet of the public right of way to be considered a~~
145 ~~permanent marker.~~

146 ~~(26)~~(28) 'Person' means an individual, firm, joint venture, partnership, association, local
147 governing authority, state, or other governmental unit, authority, department, agency, or
148 a corporation and shall include any trustee, receiver, assignee, employee, agent, or
149 personal representative thereof.

150 ~~(27)~~(29) 'Positive response information system' or 'PRIS' means the automated
151 information system operated and maintained by the ~~utilities protection center~~ UPC at its
152 location that allows excavators, locators, facility owners or operators, and other affected
153 parties to determine the status of a locate request or a design locate request.

154 (30) 'Public safety answering point' shall have the same meaning as provided in Code
155 Section 46-5-122.

156 ~~(28)~~(31) 'Routine road maintenance' means work that is planned and performed on a
157 routine basis to maintain and preserve the condition of the public road system and
158 includes routine road surface scraping, mowing grass, animal removal, cleaning of inlets
159 and culverts, trash removal, striping and striping removal, and cutting of trees; however,
160 stump removal shall be considered excavation.

161 ~~(29) 'Service area' means a contiguous area or territory which encompasses the~~
162 ~~distribution system or network of utility facilities by means of which a facility owner or~~
163 ~~operator provides utility service.~~

164 ~~(30)~~(32) 'Sewer lateral' means an individual customer service line which transports waste
165 water from one or more building units to a utility owned sewer facility.

166 ~~(31)~~(33) 'Sewer system owner or operator' means the owner or operator of a sewer
167 system. Sewer systems shall be considered to extend to the connection to the customer's
168 facilities.

169 ~~(32)~~(34) 'Traffic control devices' means all roadway or railroad signs, sign structures, or
170 signals and all associated infrastructure on which the public relies for informational,
171 regulatory, or warning messages concerning the public or railroad rights of way.

172 ~~(33)~~(35) 'Traffic management system' means a network of traffic control devices,
173 monitoring sensors, and personnel, with all associated communications and power
174 services, including all system control and management centers.

175 ~~(34)~~(36) 'Tolerance zone' means the width of the utility facility or sewer lateral plus 18
176 inches on either side of the outside edge of the utility facility or sewer lateral on a
177 horizontal plane.

178 ~~(35)~~(37) 'Trenchless excavation' means a method of excavation that uses boring
179 equipment to excavate with minimal or no disturbance to the ground surface ~~and includes~~
180 ~~horizontal directional drilling~~. Such term shall include HDD.

181 ~~(36)~~(38) 'Unlocatable facility' means an underground facility that cannot be marked with
182 reasonable accuracy using generally accepted techniques or equipment commonly used
183 to designate utility facilities and sewer laterals. Such term shall include, but shall not be
184 ~~This term includes, but is not~~ limited to, nonconductive utility facilities and sewer laterals
185 and nonmetallic underground facilities that have no trace wires or records that indicate
186 a specific location.

187 ~~(37)~~(39) 'Utilities ~~protection center~~ Protection Center' or 'UPC' means the corporation or
188 other organization formed by facility owners or operators to provide a joint notification
189 service for the purpose of receiving advance notification from persons planning to blast
190 or excavate and distributing such notifications to its affected facility owner or operator
191 members.

192 ~~(38)~~(40) 'Utility facility' means an:

193 (A) An underground or submerged conductor, pipe, or structure used or installed for
194 use in providing electric or communications service or in carrying, providing, or

195 gathering gas, oil or oil products, sewage, waste water, storm drainage, or water or
196 other liquids; or

197 (B) An underground electronic traffic control device or an underground electronic
198 traffic management system.

199 All utility facilities shall be considered to extend up to the connection to the customer's
200 facilities. Such term shall not include ~~The term does not include traffic control devices,~~
201 ~~traffic management systems, or sewer laterals.~~

202 ~~(39)~~(41) 'White lining' means marking the route of the excavation either electronically
203 or with white paint, flags, stakes, or a combination of such methods to outline the dig site
204 prior to notifying the UPC and before the locator arrives on the job.

205 25-9-4.

206 (a) Any person may submit a design locate request to the UPC. Such design locate request
207 shall:

208 (1) Describe the tract or parcel of land for which the design locate request has been
209 submitted with sufficient particularity, as defined by policies developed and promulgated
210 by the UPC, to enable the facility owner or operator to ascertain the precise tract or parcel
211 of land involved; and

212 (2) State the name, address, and telephone number of the person ~~who~~ that has submitted
213 the design locate request, as well as the name, address, and telephone number of any
214 other person authorized to review any records subject to inspection as provided in
215 paragraph (3) of subsection (b) of this Code section.

216 (b) Within ten ~~working~~ business days after a design locate request has been submitted to
217 the UPC for a proposed project, the facility owner or operator shall respond ~~by the method~~
218 ~~requested by~~ to the person calling in the design locate request under the guidelines listed
219 below:

220 (1) For single address requests, designate ~~Designate~~ or cause to be designated by a
 221 locator in accordance with Code Sections 25-9-7 and 25-9-9 the location of all utility
 222 facilities and sewer laterals within the area of the proposed excavation;

223 (2) For multiple address requests:

224 (A) Provide to the person submitting the design locate request the best available
 225 description of all utility facilities and sewer laterals in the area of proposed excavation,
 226 which might include drawings of utility facilities and sewer laterals already built in the
 227 area, or other facility records that are maintained by the facility owner or operator; or
 228 ~~(B)~~ Allow the person submitting the design locate request or any other authorized
 229 person to inspect or copy the drawings or other records for all utility facilities and sewer
 230 laterals within the proposed area of excavation.

231 (c) Upon responding using any of the methods provided in subsection (b) of this Code
 232 section, the facility owner or operator shall provide the response to the UPC in accordance
 233 with UPC procedures.

234 (d) A design locate request shall not be used for excavation purposes.

235 (e) A design locate request shall not be required as a condition for approving a utility
 236 permit application.

237 25-9-5.

238 (a) Except as otherwise provided by subsection (b) of this Code section, all facility owners
 239 or operators operating or maintaining utility facilities within the state shall participate as
 240 members in and cooperate with the UPC. No duplicative center shall be established. The
 241 activities of the UPC shall be funded by all facility owners or operators.

242 (b) Persons ~~who~~ that install water and sewer facilities or ~~who~~ that own such facilities until
 243 those facilities are accepted by a local governing authority or other entity are not required
 244 to participate as members of the UPC and shall not be considered facility owners or
 245 operators. All such persons shall install and maintain permanent markers, ~~as defined in~~

246 ~~Code Section 25-9-3~~; identifying all water and sewer facilities at the time of the facility
247 installation. Notwithstanding the above, all owners or operators of water and sewer
248 facilities that provide service from such facilities ~~are~~ shall be considered facility owners
249 or operators and shall be members of the UPC.

250 (c) All permanent markers other than sewer cleanouts, water meter boxes, or any other
251 visible components of a utility facility that establish the exact location of the utility facility
252 shall be placed accurately in accordance with Code Section 25-9-9 and shall be located
253 within the public right of way. Sewer cleanouts, water meter boxes, or any other visible
254 components of a utility facility that establish the exact location of the utility facility shall
255 be located within ten feet of the public right of way to be considered a permanent marker.

256 ~~(c)~~(d) The UPC shall maintain a list of the name, address, and telephone number of the
257 office, department, or other source from or through which information respecting as to the
258 location of utility facilities of its participating facility owners or operators may be obtained
259 during business hours on business days.

260 25-9-6.

261 (a) No person shall commence, perform, or engage in blasting or in excavating with
262 mechanized excavating equipment on any tract or parcel of land in any county in this state
263 unless and until the person planning the blasting or excavating has given 48 hours' notice
264 by submitting a locate request to the UPC, ~~beginning~~; such notice period shall commence
265 the next business day after such notice is provided, excluding hours during days other than
266 business days. Any person performing excavation is responsible for being aware of all
267 information timely entered into the PRIS prior to the commencement of excavation. If,
268 prior to the expiration of the 48 hour ~~waiting~~ notice period, all identified facility owners
269 or operators have responded to the locate request, and if all such facility owners or
270 operators have indicated that their facilities either are not in conflict or have been marked,
271 then the person planning to perform ~~excavation or blasting or excavating~~ shall be

272 authorized to commence work, subject to the other requirements of this Code section,
273 without waiting the full 48 hours. The 48 hours' notice shall not be required for excavating
274 where minimally intrusive excavation methods are used exclusively. Any locate request
275 received by the UPC after business hours shall be deemed to have been received by the
276 UPC the next business day. Such locate request shall:

277 (1) Describe the tract or parcel of land upon which the blasting or ~~excavation~~ excavating
278 is to take place with sufficient particularity, as defined by policies developed and
279 promulgated by the UPC, to enable the facility owner or operator to ascertain the precise
280 tract or parcel of land involved;

281 (2) State the name, address, and telephone number of the person ~~who~~ that will engage
282 in the blasting or excavating;

283 (3) Describe the type of blasting or excavating to be engaged in by the person; and

284 (4) Define the time frame ~~in~~ during which requested ~~excavation~~ blasting or excavating
285 may occur.

286 (b) In the event the location upon which the blasting or excavating is to take place cannot
287 be described with sufficient particularity to enable the facility owner or operator to
288 ascertain the precise tract or parcel involved, the person proposing the blasting or
289 excavating shall mark the route or boundary of the site of the proposed blasting or
290 excavating by means of white ~~paint, white stakes, or white flags~~ if lining, as practical, or
291 schedule an on-site meeting with the locator or facility owner or operator and inform the
292 UPC, within a reasonable time, of the results of such meeting. The person marking a site
293 ~~with~~ using white lining shall comply with the rules and regulations of the Department of
294 Transportation as to the use of such markings so as not to obstruct signs, pavement
295 markings, pavement, or other safety devices.

296 (c) Except as otherwise provided in this subsection, notice given pursuant to subsection (a)
297 of this Code section shall expire 30 calendar days following the date of such notice, and
298 no blasting or excavating undertaken pursuant to this notice shall continue after such time

299 has expired. In the event that the blasting or excavating ~~which~~ that is the subject of the
300 notice given pursuant to subsection (a) of this Code section will not be completed within
301 30 calendar days following the date of such notice, an additional notice ~~must~~ shall be given
302 in accordance with subsection (a) of this Code section for the locate request to remain
303 valid. Additional notices for an existing request shall not expand the tract or parcel of land
304 upon which the blasting or excavation is to take place.

305 (d) For emergencies, notice shall expire at 7:00 A.M. three business days after the
306 notification is made to the UPC.

307 (e) Except for those persons submitting design locate requests, no person, including
308 facility owners or operators, shall request marking of a site through the UPC unless
309 excavating is scheduled to commence. In addition, no person shall make repeated requests
310 for re-marking, unless the repeated request is required for excavating to continue or due to
311 circumstances not reasonably within the control of such person. Any person ~~who~~ that
312 willfully fails to comply with this subsection shall be liable to the facility owner or operator
313 for \$100.00 or for actual costs, whichever is greater, for each repeated request for
314 re-marking.

315 (f) If, subsequent to giving the notice to the UPC required by subsection (a) of this Code
316 section, a person planning excavating determines that such work will require blasting, then
317 such person shall promptly so notify the UPC and shall refrain from any blasting until the
318 facility owner or operator responds within ~~24~~ 48 hours, excluding hours during days other
319 than business days, following receipt by the UPC of such notice.

320 (g) When a locate request is made in accordance with subsection (a) of this Code section,
321 excavators other than the person planning the blasting or excavating may conduct such
322 activity, provided that the person planning the blasting or excavating shall remain
323 responsible for ensuring that any stakes or other markings placed in accordance with this
324 chapter remain in place and reasonably visible until such blasting or excavating is
325 completed; and provided, further, that such blasting or excavating is:

- 326 (1) Performed on the tract or parcel of land identified in the locate request;
- 327 (2) Performed by a person authorized by and having a contractual relationship with the
- 328 person planning the blasting or excavating;
- 329 (3) The type of blasting or excavating described in the locate request; and
- 330 (4) Carried out in accordance with all other requirements of this chapter.
- 331 (h) Facility owners or operators may bill an excavator their costs for any requests for
- 332 re-marking other than for re-marks with no more than five individual addresses on a single
- 333 locate request. Such costs shall be documented actual costs and shall not exceed \$100.00
- 334 per re-mark request.

335 25-9-7.

336 (a)(1) Within 48 hours beginning the next business day following receipt by the UPC of

337 the locate request filed in accordance with Code Section 25-9-6, excluding hours during

338 days other than business days, each facility owner or operator shall determine whether

339 or not utility facilities are located on the tract or parcel of land upon which the excavating

340 or blasting is to occur. If utility facilities are determined to be present, the facility owner

341 or operator shall designate, through stakes, flags, permanent markers, or other marks on

342 the surface of the tract or parcel of land, the location of such utility facilities. This

343 subsection shall not apply to large projects.

344 (2) Designation of the location of utility facilities through staking, flagging, permanent

345 markers, or other marking shall be in accordance with the American Public Works

346 Association (APWA) color code in place at the time the location of the utility facility is

347 designated. Additional marking requirements beyond color code, if any, shall be

348 prescribed by rules and regulations promulgated by the ~~Public Service Commission~~

349 commission.

350 (3) A facility owner or operator is not required to mark its own facilities ~~within 48 hours~~

351 pursuant to the time frame set out in paragraph (1) of this subsection if the facility owner

352 or operator or its agents are the only parties performing the excavation; however, such
353 facilities shall be designated prior to the actual start of excavation.

354 (b)(1) Within 48 hours beginning the next business day following receipt by the UPC of
355 the locate request filed in accordance with Code Section 25-9-6, excluding hours during
356 days other than business days, each sewer system owner or operator shall determine
357 whether ~~or not~~ sewer laterals are located or likely to be located on the tract or parcel of
358 land upon which the ~~excavating or blasting~~ excavating is to occur. If sewer laterals are
359 determined to be present or likely to be present, then the sewer system owner or operator
360 shall assist in designating sewer laterals up to the edge of the public right of way. Such
361 assistance shall not constitute ownership or operation of the sewer lateral by the sewer
362 system owner or operator. Good faith compliance with provisions of this subsection in
363 response to a locate request shall constitute full compliance with this chapter, and no
364 person shall be found liable to any party for damages or injuries as a result of performing
365 in compliance with the requirements of this subsection.

366 (2) To assist in designating sewer laterals, the sewer system owner or operator shall
367 provide its best available information regarding the location of the sewer laterals to the
368 excavator. ~~Such~~ This information shall be conveyed to the excavator in a manner that
369 may include, but shall not be limited to, any one of the following methods:

370 (A) Marking the location of sewer laterals in accordance with subsection (a) of this
371 section, provided that:

372 (i) Any sewer lateral designated using the best available information shall constitute
373 a good faith attempt and shall be deemed to be in compliance with this subsection,
374 provided that such mark represents only the best available information of the sewer
375 system owner or operator and may not be accurate; and

376 (ii) If a sewer lateral is unlocatable, a triangular green mark shall be placed at the
377 sewer main pointing at the address in question to indicate the presence of an
378 unlocatable sewer lateral;

379 (B) Providing electronic copies of or delivering the records through facsimile or by
380 other means to an agreed upon location within 48 hours beginning the next business day
381 following receipt by the UPC of the locate request filed in accordance with Code
382 Section 25-9-6, excluding hours during days other than business days; provided,
383 however, that for local governing authorities that receive fewer than 50 locate requests
384 annually, the local governing authority may designate the agreed upon location and
385 communicate such designation to the excavator;

386 (C) Arranging to meet the excavator on site to provide the best available information
387 about the location of the sewer laterals;

388 (D) Providing the records through other processes and to other locations approved by
389 documented agreement between the excavator and the facility owner or operator; or

390 (E) Any other reasonable means of conveyance approved by the commission after
391 receiving recommendations from the advisory committee, provided that such means are
392 equivalent to or exceed the provisions of subparagraph (A), (B), or (C) of this
393 paragraph.

394 (c) Each facility owner or operator, either upon determining that no utility facility or sewer
395 lateral is present on the tract or parcel of land or upon completion of the designation of the
396 location of any utility facilities or sewer laterals on the tract or parcel of land as required
397 by subsection (a) or (b) of this Code section, shall provide ~~this~~ such information to the UPC
398 in accordance with procedures developed by the UPC, which may include the use of the
399 PRIS. In no event shall such notice be provided later than midnight of the second business
400 day following receipt by the UPC of actual notice filed in accordance with Code
401 Section 25-9-6.

402 (d) In the event the facility owner or operator is unable to designate the location of the
403 utility facilities or sewer laterals due to extraordinary circumstances, ~~the~~ such facility
404 owner or operator shall notify the UPC and provide an estimated completion date in
405 accordance with procedures developed by the UPC, which may include the use of the

406 PRIS. The UPC shall also have the ability to declare extraordinary circumstances on behalf
407 of any or all operators if the center is unable to transmit locate requests as required by this
408 statute.

409 (e) If, at the end of the time period specified in subsections (a) and (b) of this Code section,
410 any facility owner or operator has not complied with the requirements of subsections (a),
411 (b), and (c) of this Code section, as applicable, the UPC shall issue a second request to each
412 such facility owner or operator. If the facility owner or operator does not respond to ~~this~~
413 such additional request by 12:00 Noon of that business day, either by notifying the UPC
414 in accordance with procedures developed by the UPC that no utility facilities or sewer
415 laterals are present on the tract or parcel of land, or by designating the location of such
416 utility facilities or sewer laterals in accordance with the provisions of subsections (a)
417 and (b) of this Code section, as applicable, then the person providing notice pursuant to
418 Code Section 25-9-6 may proceed with the ~~excavating or blasting or excavating~~, provided
419 that there is no visible and obvious evidence of the presence of an unmarked utility facility
420 or sewer lateral on the tract or parcel of land. Such person shall not be subject to any
421 liability resulting from damage to the utility facility or sewer lateral as a result of the
422 blasting or excavating, provided that such person complies with the requirements of Code
423 Section 25-9-8.

424 (f) If visible and obvious evidence of the presence of an unmarked utility facility or sewer
425 lateral does exist and the facility owner or operator either refuses to comply with
426 subsections (a) through (d) of this Code section, as applicable, or is not a member of the
427 UPC, then the excavator shall attempt to designate such facility or sewer lateral prior to
428 excavating. The facility owner or operator shall be strictly liable for the actual costs
429 associated with the excavator designating such utility facilities and sewer laterals and any
430 associated downtime. Such costs shall not exceed \$100.00 or documented actual costs,
431 whichever is greater, for each locate request.

432 (g) All utility facilities installed by facility owners or operators on or after January 1, 2001,
433 shall be installed in a manner which will make them locatable using a generally accepted
434 electronic locating method. All sewer laterals installed on or after January 1, 2006, shall
435 be installed in a manner which will make them locatable by facility owners or operators
436 using a generally accepted electronic locating method. In the event that an unlocatable
437 utility facility or unlocatable sewer lateral becomes exposed when the facility owner or
438 operator is present or in the case of sewer laterals when the sewer utility owner or operator
439 is present on or after January 1, 2006, such utility facility or sewer lateral shall be made
440 locatable through the use of a permanent marker or an updating of permanent records.

441 (h) Facility owners or operators shall either maintain recorded information concerning the
442 location and other characteristics of abandoned utility facilities, maintain such abandoned
443 utility facilities in a locatable manner, or remove such abandoned utility facilities. Facility
444 owners or operators shall provide information on abandoned utility facilities, when
445 possible, in response to a locate request or design locate request. When the presence of an
446 abandoned utility facility within an excavation site is known, the facility owner or operator
447 should attempt to designate the abandoned utility facility or provide information to the
448 excavator regarding such facilities. When located or exposed, all abandoned utility
449 facilities and sewer laterals shall be treated as live utility facilities and sewer laterals.

450 (i) Notwithstanding any other provision of law to the contrary, a facility owner or operator
451 may use a locator to designate any or all utility facilities and sewer laterals. The use of a
452 locator shall not relieve the facility owner or operator of any responsibility under this
453 chapter. However, by contract a facility owner or operator may be indemnified by a locator
454 for any failure on the part of the locator to comply with the provisions of this chapter.

455 (j) Large project rules shall be promulgated by the ~~Public Service Commission~~
456 commission. These rules shall include, but shall not be limited to, the establishment of
457 detailed processes. Such rules may also include changes in the time period allowed for a

458 facility owner or operator to comply with the provisions of this chapter and the time period
459 for which designations are valid.

460 (k)(1) Within 48 hours beginning the next business day following receipt by the UPC of
461 the locate request filed in accordance with Code Section 25-9-6, excluding hours during
462 days other than business days, each facility owner or operator shall determine whether
463 or not unlocatable facilities other than sewer laterals are present. In the event that such
464 facilities are determined to be present, the facility owner or operator shall exercise
465 reasonable care in locating such facilities. The exercise of reasonable care shall require,
466 at a minimum, the use of the best available information to designate the facilities and
467 notification to the UPC of such attempted location. Placing markers or otherwise leaving
468 evidence of locations of facilities is deemed to be an acceptable form of notification to
469 the excavator or locator.

470 (2) This subsection shall not apply to sewer laterals.

471 25-9-8.

472 (a) Persons engaged in blasting or in excavating with mechanized excavating equipment
473 shall not strike, damage, injure, or loosen any utility facility or sewer lateral which has
474 been staked, flagged, or marked in accordance with this chapter.

475 (b) When ~~excavating or blasting~~ excavating is to take place within the tolerance zone,
476 the excavator shall exercise reasonable care for the protection of the utility facility or sewer
477 lateral, including permanent markers and paint placed to designate utility facilities. Such
478 ~~This~~ protection shall include, but shall not be limited to, at least one of the following based
479 on geographical and climate conditions: hand digging, pot holing, soft digging, vacuum
480 excavation methods, pneumatic hand tools, or other technical methods that may be
481 developed. Other mechanical methods may be used with the approval of the facility owner
482 or operator.

483 (c) If the precise location of the underground facilities cannot be determined by the
484 excavator, the facility owner or operator thereof shall be notified by the excavator so that
485 the operator and the excavator shall work together to determine the precise location of the
486 underground facilities prior to continuing the excavation.

487 (d) When conducting trenchless excavation the excavator ~~must~~ shall exercise reasonable
488 care, as described in subsection (b) of this Code section, and shall take additional care to
489 attempt to prevent damage to utility facilities and sewer laterals. ~~The recommendations of~~
490 ~~the HDD consortium applicable to the performance of trenchless excavation set out in the~~
491 ~~document 'Horizontal Directional Drilling Good Practice Guidelines,' dated May, 2001, are~~
492 ~~adopted by reference as a part of this subsection to describe such additional care.~~ The
493 advisory committee may recommend to the commission more stringent criteria as it deems
494 necessary to define additional care ~~and the~~. The commission is authorized to adopt
495 additional criteria to define additional care.

496 (e) Any person engaged in blasting or in excavating with mechanized excavating
497 equipment ~~who~~ that strikes, damages, injures, or loosens any utility facility or sewer lateral,
498 regardless of as to whether the utility facility or sewer lateral is marked, shall immediately
499 cease such blasting or excavating and notify the UPC and the appropriate facility owner or
500 operator, if known. Upon receiving notice from the excavator or the UPC, the facility
501 owner or operator shall send personnel to the location as soon as possible to effect
502 temporary or permanent repair of ~~the~~ such damage. Until such time as the damage has
503 been repaired, no person shall engage in ~~excavating or blasting or excavating~~ activities that
504 may cause further damage to the utility facility or sewer lateral except as provided in Code
505 Section 25-9-12.

506 (f) The excavator shall make an emergency 9-1-1 call to alert emergency services upon
507 striking or damaging a utility facility that carries:

- 508 (1) Gas as defined in 49 C.F.R. Parts 192 and 193; or
509 (2) Hazardous liquid as defined in 49 C.F.R. Part 195.

510 25-9-9.

511 (a) For the purposes of this chapter, the location of utility facilities ~~which~~ is provided by
512 a facility owner or operator in accordance with subsection (a) of Code Section 25-9-7 to
513 any person ~~must~~ engaging in scheduled blasting and excavating shall be accurate to within
514 18 inches, measured horizontally from the outer edge of either side of such utility facilities.
515 If any utility facility becomes damaged by an excavator due to the furnishing of inaccurate
516 information as to its location by the facility owner or operator, ~~such~~ the excavator shall not
517 be subject to any liability resulting from damage to the utility facility as a result of the
518 blasting or excavating, provided that such person engaging in scheduled blasting or
519 excavating complies with the requirements of Code Section 25-9-8 and there is no visible
520 and obvious evidence to the excavator of the presence of a mismarked utility facility.

521 (b) Upon documented evidence that the person seeking information as to the location of
522 utility facilities has incurred losses or expenses due to inaccurate information, lack of
523 information, or unreasonable delays in supplying information by the facility owners or
524 operators, ~~the~~ such facility owners or operators shall be liable to ~~that~~ such person for any
525 such losses or expenses.

526 25-9-10.

527 This chapter does not affect and is not intended to affect any right, title, power, or interest
528 ~~which~~ that any facility owner or operator may have with relation to any utility facility or
529 to any easement, right of way, license, permit, or other interest in or with respect to the land
530 on which the utility facility is located.

531 25-9-10.1.

532 Utility facilities of a railroad within a right of way of such railroad shall be exempt from
533 the provisions of this chapter.

534 25-9-10.2.

535 Notwithstanding any other provision of this chapter, the marking of the locations of any
536 underground electronic traffic control devices and any underground electronic traffic
537 management facilities operated by the Department of Transportation shall be provided for
538 by the Department of Transportation. Any request for the marking of such locations shall
539 be submitted using either a single telephone number or an email contact address, both of
540 which shall appear on any construction plans or permits issued by the Department of
541 Transportation to any entity seeking permission to perform underground construction on
542 a right of way of the Department of Transportation.

543 25-9-11.

544 This chapter does not affect and is not intended to affect any rights, powers, interest, or
545 liability of the state or the Department of Transportation with respect to the state highway
546 system, the county road system, or the municipal street system, or of a county with respect
547 to the county road system or of a municipality with respect to the city street system, with
548 relation to any utility facility which is or may be installed within the limits of any public
549 road or street right of way, whether the installation is by written or verbal permit, easement,
550 or any form of agreement whatsoever.

551 25-9-11.1.

552 No local governing authority shall enforce any ordinance or resolution which imposes fines
553 for a violation of a local ordinance or resolution that establishes requirements for white
554 lining, marking of utility facilities, re-marking of utility facilities, or otherwise locating
555 utility facilities or sewer laterals for any locate request or large project.

556 25-9-12.

557 The notice requirements provided by Code Section 25-9-6 shall not be required of persons
558 performing emergency excavations ~~or excavation in extraordinary circumstances~~; provided,
559 however, that any person ~~who~~ that engages in an emergency excavation ~~or excavation in~~
560 ~~extraordinary circumstances~~ shall take all reasonable precautions to avoid or minimize
561 damage to any existing utility facilities and sewer laterals; provided, further, that any
562 person ~~who~~ that engages in an emergency excavation ~~or excavation in extraordinary~~
563 ~~circumstances~~ shall give notice of ~~the~~ such emergency excavation as soon as practical to
564 the UPC. In giving such notice, such person ~~must~~ shall specifically identify the dangerous
565 condition involved. If it is later determined that the excavation did not qualify as an
566 emergency excavation, all liabilities and penalties will accrue as if no notice had been
567 given.

568 25-9-12.1.

569 The notice requirements provided by Code Section 25-9-6 shall be required of persons
570 performing nonemergency excavations in an area where one or more facility owners or
571 operators has declared extraordinary circumstances in accordance with subsection (d) of
572 Code Section 25-9-7. When a situation of extraordinary circumstances has been declared,
573 the excavator shall be responsible for securing knowledge of the PRIS status of all facility
574 owners or operators in the area to be excavated, as not all facility owners or operators may
575 have declared extraordinary circumstances. Once the PRIS status of all facility owners or
576 operators is known, excavation may commence in accordance with the requirements of
577 subsection (e) of Code Section 25-9-7. If there is visible and obvious evidence of the
578 presence of an unmarked utility facility or sewer lateral of a facility owner or operator that
579 has declared extraordinary circumstances, the excavator shall exercise reasonable care for
580 the protection of such utility facilities and sewer laterals when excavating.

581 25-9-13.

582 (a) Any person ~~who~~ that violates the requirements of subsection (a), (f), or (g) of Code
583 Section 25-9-6 and ~~whose subsequent excavating or blasting~~ when resultant blasting or
584 excavating damages utility facilities or sewer laterals such person shall be strictly liable for:

585 (1) All costs incurred by the facility owner or operator in repairing or replacing its
586 damaged facilities, excluding betterments. An investigation of any damages shall be
587 initiated by the completion of the next business day following the repair of the reported
588 damage. All repair invoices shall be sent to the excavator within 90 days; and

589 (2) Any injury or damage to persons or property resulting from damaging the utility
590 facilities and sewer laterals.

591 (b) Each local governing authority is authorized to require by ordinance any bonds on
592 utility contractors or on persons performing ~~excavation or blasting or excavating~~ within the
593 any public right of way or any dedicated utility easement as it may determine to assure
594 compliance with subsection (a) of this Code section.

595 (c) Any person ~~who~~ that violates the requirements of Code Section 25-9-6 and ~~whose~~
596 ~~subsequent excavating or blasting~~ when resultant blasting or excavating damages utility
597 facilities or sewer laterals such person shall also indemnify the affected facility owner or
598 operator against all claims or costs incurred, if any, for personal injury, property damage,
599 or service interruptions resulting from damaging the utility facilities and sewer laterals.
600 Such obligation to indemnify shall not apply to any county, city, town, or state agency
601 except as permitted by law.

602 (d) In addition to the other provisions of this Code section, a professional licensing board
603 shall be authorized to suspend or revoke any professional or occupational license,
604 certificate, or registration issued to a person pursuant to Title 43 ~~whenever~~ in instances
605 when such person has repeatedly violated the requirements of Code Section 25-9-6 or
606 25-9-8.

607 (e) Subsections (a), (c), and (d) of this Code section shall not apply to any person ~~who~~
608 ~~shall commence, perform, or engage~~ that commencing, performing, or engaging in blasting
609 or in excavating with mechanized equipment on any tract or parcel of land in any county
610 in this state if the facility owner or operator to which notice was given ~~respecting~~ with
611 respect to such blasting or excavating with mechanized equipment as prescribed in
612 subsection (a) of Code Section 25-9-6 has failed to comply with Code Section 25-9-7 or
613 has failed to become a member of the UPC as required by Code Section 25-9-5. A facility
614 owner or operator to which notice of blasting or excavating with mechanized equipment
615 as prescribed in subsection (a) of Code Section 25-9-6 was given shall be prohibited from
616 seeking claims for damages if no designation of utility facilities or sewer laterals was
617 performed prior to the damage being incurred and the person blasting or excavating
618 complied with the provisions in Code Section 25-9-8.

619 (f) The enforcement provisions of this Code section shall not apply to any person ~~who~~
620 ~~shall commence, perform, or engage~~ that commences, performs, or engages in blasting or
621 in excavating with mechanized equipment within the curb lines or edges of the pavement
622 of any public road and ~~who~~ that causes damage to a utility facility located within the
623 roadway hard surface or the graded aggregate base therein if such person has complied
624 with the provisions of this chapter and there is no indication that a utility facility is in
625 conflict with the proposed excavation.

626 (g) Any person engaged in excavation in the concrete or asphalt of a state or local
627 government maintained road for the purpose of road repair, full depth reclamation,
628 potholing, or general road repair, that complies with Code Section 25-9-6 shall not be held
629 liable for damage claims if the utility facility or sewer facility falls within the depth of the
630 existing pavement and subbase materials or 12 inches below the road surface, whichever
631 is less.

632 ~~(g)~~(h) The commission shall enforce the provisions of this chapter. The commission may
 633 promulgate any rules and regulations necessary to implement the commission's authority
 634 to enforce this chapter.

635 (i) Enforcement actions brought under this chapter shall commence within three years
 636 from the date that the probable violation was reported to the commission.

637 ~~(h)~~(j)(1) The Governor shall appoint an advisory committee ~~consisting of persons who~~
 638 ~~are employees or officials of or who represent the interests of~~ as follows:

639 (A) One member to represent the Department of Transportation;

640 (B) One member to represent water systems or water and sewer systems owned or
 641 operated by local governing authorities;

642 (C) One member to represent the ~~utilities protection center~~ UPC;

643 (D) One member to represent water systems or water and sewer systems owned or
 644 operated by counties;

645 (E) One member to represent water systems or water and sewer systems owned or
 646 operated by municipalities;

647 (F) One member to represent the nonmunicipal electric industry;

648 (G) Five members to represent excavators to include the following:

649 (i) One licensed utility contractor;

650 (ii) One licensed general contractor;

651 (iii) One licensed plumber;

652 (iv) One landscape contractor; and

653 (v) One highway contractor;

654 (H) One member to represent locators;

655 (I) One member to represent the nonmunicipal telecommunications industry;

656 (J) One member to represent the nonmunicipal natural gas industry;

657 (K) One member to represent municipal gas, electric, or telecommunications providers;

658 and

659 (L) The commission chairperson or such chairperson's designee.

660 The commission chairperson or his or her designee shall serve as chairperson of the
661 advisory committee and shall cast a vote only in the case of a tie. Persons appointed to
662 the advisory committee shall have expert knowledge of this chapter and specific
663 operations expertise with the subject matter encompassed by the provisions of this
664 chapter.

665 (2) The advisory committee shall establish rules of operation including an attendance
666 policy. In the event a committee member resigns or fails to meet the criteria of the
667 attendance policy, the advisory committee shall appoint an interim member to represent
668 the same stakeholder group until such time as the Governor appoints a replacement.

669 (3) The advisory committee shall assist the commission in the enforcement of this
670 chapter, make recommendations to the commission regarding rules and regulations, and
671 perform duties to be assigned by the commission including, but not limited to, the review
672 of reported violations of this chapter and the preparation of recommendations to the
673 commission as to the appropriate penalties to impose on persons violating the provisions
674 of this chapter.

675 (4) The members of the advisory committee shall be immune, individually and jointly,
676 from civil liability for any act or omission done or made in the performance of their
677 duties while serving as members of such advisory committee, but only in the absence of
678 willful misconduct.

679 ~~(k)~~(1) Commission enforcement of this chapter shall follow the procedures described
680 in this subsection. Nothing in this subsection shall limit the authority of the commission
681 delegated from the federal government and authorized in other state law.

682 (2)(A) The commission is not authorized to impose civil penalties on any local
683 governing authority except as provided in this paragraph. The commission may
684 recommend training for local governing authorities in response to any probable or
685 proven violation. Civil penalties may be recommended for or imposed on any local

686 governing authority for refusal to comply with the requirements of Code Section 25-9-7
687 or for other violations of Code Section 25-9-7 that result in injury to people, damage
688 to property, or the interruption of utility service in the event that investigators find that
689 a local governing authority has demonstrated a pattern of willful noncompliance. Civil
690 penalties may be recommended or imposed on or after January 1, 2006, for violations
691 of provisions of this chapter other than Code Section 25-9-7 in the event that
692 investigators find that the severity of an excavation violation warrants civil penalties
693 or that a local governing authority has demonstrated a pattern of willful noncompliance.
694 Any such civil penalty shall be recommended or imposed in accordance with a tiered
695 penalty structure designed for local governing authorities. In the event that the
696 investigators determine that a local governing authority has made a good faith effort to
697 comply with this chapter, the investigators shall not recommend a civil penalty. For
698 purposes of this subsection 'refusal to comply' means that a utility facility owner or
699 operator does not respond in PRIS to a locate request, does not respond to a direct
700 telephone call to designate their facilities, or other such direct refusal. Refusal to
701 comply ~~does~~ shall not mean a case where the volume of requests or some other
702 mitigating circumstance prevents the utility owner or operator from locating in
703 accordance with Code Section 25-9-7.

704 (B) No later than January 1, 2006, the advisory committee shall recommend to the
705 commission for adoption a tiered penalty structure for local governing authorities. Such
706 structure shall take into account the size, annual budget, gross receipts, number of
707 utility connections and types of utilities within the territory of the local governing
708 authority. Such penalty structure shall also take into account the number of locate
709 requests received annually by the local governing authority, the number of locate codes
710 made annually to the local governing authority from the UPC, the number of utility
711 customers whose service may have been interrupted by violations of this chapter, and
712 the duration of such interruptions. Such penalty structure shall also consider the cost

713 of compliance. The penalty structure shall establish for each tier the maximum penalty
714 per violation and per 12 month period at a level to induce compliance with this chapter.
715 Such maximum penalty shall not exceed \$5,000.00 per violation or \$50,000.00 per 12
716 month period for the highest tier.

717 (3) If commission investigators find that a probable violation has occurred, they may
718 recommend training in lieu of penalties to any person for any violation. The commission
719 shall provide suggestions for corrective action to any person requesting such assistance.
720 Commission investigators shall make recommended findings or offers of settlement to
721 the respondent.

722 (4) Any respondent may accept or disagree with the settlement recommended by the
723 investigators. If the respondent disagrees with the recommended settlement, the
724 respondent may dispute the settlement recommendation to the advisory committee. The
725 advisory committee shall then render a recommendation either supporting the
726 investigators' recommendation, rejecting the investigators' recommendation, or
727 substituting its own recommendation. With respect to an investigation of any probable
728 violation committed by a local governing authority, any recommendation by the advisory
729 committee shall be in accordance with the provisions of paragraph (2) of this subsection.
730 In its deliberations the advisory committee shall consider the gravity of the violation or
731 violations; the degree of the respondent's culpability; the respondent's history of prior
732 offenses; and such other mitigating factors as may be appropriate. If the advisory
733 committee determines that a respondent has made a good faith effort to comply with this
734 chapter, the committee shall not recommend civil penalties against the respondent. To
735 the extent that a respondent does not accept a settlement agreement or request to dispute
736 the recommendation of the investigators to the advisory committee, the respondent shall
737 be assigned to a hearing officer or administrative law judge.

738 (5) If any respondent disagrees with the recommendation of the advisory committee,
739 after notice and hearing by a hearing officer or administrative law judge, such officer or

740 judge shall make recommendations to the commission regarding enforcement, including
741 civil penalties. Any such recommendations relating to a local governing authority shall
742 comply with the provisions of paragraph (2) of this subsection. The acceptance of the
743 recommendations by the respondent at any point ~~will~~ shall stop further action by the
744 investigators in ~~that~~ such case.

745 (6) When the respondent agrees with the advisory committee recommendation, the
746 investigators shall present such agreement to the commission. The commission is then
747 authorized to adopt the recommendation of the advisory committee regarding a civil
748 penalty, or to reject such a recommendation. The commission is not authorized to impose
749 a civil penalty greater than the civil penalty recommended by the advisory committee or
750 to impose any civil penalty if the advisory committee does not recommend a civil
751 penalty.

752 (7) The commission may, by judgment entered after a hearing on notice duly served on
753 any person not less than 30 days before the date of the hearing, impose a civil penalty not
754 exceeding \$10,000.00 for each violation, if it is proved that the person violated any of the
755 provisions of this chapter as a result of a failure to exercise additional care in accordance
756 with subsection (d) of Code Section 25-9-8 or reasonable care in accordance with other
757 provisions of this chapter. Any such recommendations relating to a local governing
758 authority shall comply with the provisions of paragraph (2) of this subsection. Any
759 proceeding or civil penalty undertaken pursuant to this Code section shall neither prevent
760 nor preempt the right of any party to obtain civil damages for personal injury or property
761 damage in private causes of action except as otherwise provided in this chapter.

762 ~~(j)~~(l) All civil penalties ordered by the commission and collected pursuant to this Code
763 section shall be deposited in the general fund of the state treasury."

764

SECTION 2.

765 Code Section 46-3-34, relating to utilities protection center, funding of activities, notice of
766 work delay, and responsibility for completing safety requirements, is amended by revising
767 subsection (a) as follows:

768 "(a) All utilities shall organize, participate as members in, and cooperate with the utilities
769 protection center. In lieu of organizing a new center, if the organization defined as the
770 ~~utilities protection center in paragraph (21) of Code Section 25-9-2~~ Utilities Protection
771 Center (UPC) in Code Section 25-9-3 undertakes to serve as the utilities protection center
772 referred to in this part, it may do so and no duplicative center shall thereafter be
773 established. The activities of the center relating to high-voltage lines shall be funded by
774 all utilities."

775

SECTION 3.

776 This Act shall become effective on January 1, 2022.

777

SECTION 4.

778 All laws and parts of laws in conflict with this Act are repealed.