
UNFINISHED BUSINESS

Bill No: SB 865
Author: Hill (D)
Amended: 8/24/20
Vote: 21

SENATE GOVERNMENTAL ORG. COMMITTEE: 13-0, 5/12/20

AYES: Dodd, Wilk, Allen, Archuleta, Bradford, Chang, Galgiani, Hill, Hueso, Nielsen, Portantino, Rubio, Wiener

NO VOTE RECORDED: Borgeas, Glazer, Jones

SENATE APPROPRIATIONS COMMITTEE: 5-0, 6/9/20

AYES: Portantino, Bradford, Hill, Leyva, Wieckowski

NO VOTE RECORDED: Bates, Jones

SENATE FLOOR: 39-0, 6/25/20

AYES: Allen, Archuleta, Atkins, Bates, Beall, Borgeas, Bradford, Caballero, Chang, Dahle, Dodd, Durazo, Galgiani, Glazer, Lena Gonzalez, Grove, Hertzberg, Hill, Hueso, Hurtado, Jackson, Leyva, McGuire, Melendez, Mitchell, Monning, Moorlach, Morrell, Nielsen, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener, Wilk

NO VOTE RECORDED: Jones

ASSEMBLY FLOOR: Not available

SUBJECT: Excavations: subsurface installations

SOURCE: Author

DIGEST: This bill makes a number of changes to the Dig Safe Act of 2016 (Act) including: requiring new subsurface installations be mapped using a geographic information systems (GIS), as specified; renaming the California Underground Facilities Safe Excavation Board as the “Dig Safe Board” (Board); and requiring an excavator to notify the Regional Notification Center (RNC) within 48 hours of discovering or causing damage, among other things.

Assembly Amendments remove a provision of the bill that would have revised the procedures for notification upon discovering or causing damage to expand cases subject to a requirement to call “911” emergency services; remove a provision of the bill that would have required an RNC to include 2 excavator representatives on its board; require an excavator to notify the RNC within 48 hours of discovering or causing damage; and, change the date from January 1, 2021, to January 1, 2023, by which all new subsurface installations be mapped using GIS, as specified.

ANALYSIS:

Existing law:

- 1) Creates the California Underground Facilities Safe Excavation Board within the Office of the State Fire Marshal (SFM). The Act subjects the board to review by the appropriate policy committees of the Legislature.
- 2) Requires the California Underground Facilities Safe Excavation Board to perform various duties relating to the protection of subsurface installations, as specified.
- 3) Subjects any operator or excavator who violates the Act to a civil penalty, as specified.

This bill:

- 1) Provides that the Board shall also be known as the “Dig Safe Board.”
- 2) Requires an RNC to provide notification records to the Board quarterly and to provide notifications of damage to the Board within five business days of receipt at the RNC.
- 3) Requires all new subsurface installations after January 1, 2023, be mapped using GIS and maintained as permanent records of the operator.
- 4) Exempts from the GIS mapping and record keeping requirements any oil and gas flowlines three inches or less in diameter that are located within the administrative boundaries of an oil field, as specified.
- 5) Defines “flowline” to mean any pipeline that connects an oil, gas, or natural gas liquids well with a gathering line or header, as specified.

- 6) Requires an excavator discovering or causing damage to notify the RNC within 48 hours of discovering or causing the damage.
- 7) Authorizes enforcement of the Act by specified agencies through their own investigations, and authorizes the Board to collect penalties imposed on persons subject to its jurisdiction, as specified.
- 8) Moves the Board out of the SFM, commencing on January 1, 2022, and into the Office of Energy Infrastructure Safety within the Natural Resources Agency, as specified.
- 9) Authorizes the Board to offer violators, for violations that are neither egregious nor persistent, the option of completing an educational course in lieu of paying a fine, as specified.
- 10) Specifies that nothing in this bill preempts or impedes the Board's authority to impose more restrictive notification time windows.

Background

Purpose of the bill. According to the author's office, "SB 865 builds upon my previous efforts to strengthen safe excavation practices in our state. Excavating safely requires the cooperation of many different individuals, and there are common sense reforms we can enact to better facilitate that cooperation and communication. Most importantly, these simple reforms will save lives."

Call Before You Dig. In 1986, a southern California excavating crew incorrectly assumed that no subsurface infrastructure existed at their construction site and as a result, a gas main was struck and exploded, killing a 23-year old crew member. That incident, together with others like it across the country, led to the adoption of California's "Call Before You Dig" law in 1989, AB 73 (Elder, Chapter 928, Statutes of 1989).

The law generally requires individuals to contact an RNC prior to planned excavations, and requires any utility or other operator with subsurface installations in the vicinity of a planned excavation to go to the site and clearly identify and mark all underground infrastructure.

In California, the two RNCs are Underground Service Alert of Northern California and Nevada, also known as USA North 811; and, Underground Service Alert of

Southern California, also known as DigAlert. Collectively, the two centers are commonly referred to as 811 centers.

Dig Safe Act of 2016. SB 661 (Hill, Chapter 809, Statutes of 2016) enacted the Dig Safe Act of 2016, amending the existing “Call Before You Dig” statute in response to a series of fatal incidents, including a dig-in incident (an industry term for when construction workers accidentally hit gas lines) in Fresno where an excavator punctured a 10-inch natural gas pipeline while operating heavy equipment at a road construction site, killing one person and injuring 12 others and temporarily closing down Highway 99. SB 661, among other things, required a person planning to conduct an excavation to contact the appropriate RNC prior to commencing that excavation regardless of whether the excavation would be conducted in an area that is known, or reasonably should be known, to contain subsurface installations.

This bill renames the “California Underground Facilities Safe Excavation Board” as the “Dig Safe Board,” and – commencing on January 1, 2022 – removes the Board from under the SFM and establishes it within the Office of Emergency Infrastructure Safety within the Natural Resources Agency. The author argues that the Office of Emergency Infrastructure Safety better aligns with the Board’s mission and operational functions; however, that particular office had not yet been established when the Board was initially created.

Geographic information systems. GIS is a system of computer software, hardware, data, procedures, and personnel combined to help manipulate, analyze, and present information tied to a geographic location. This information provides organizations and individuals the ability to analyze, visualize, manage, disseminate, and interpret geographical data, and the complex geographic relationship between them. RNCs must be able to accurately and precisely identify the dig site location, which often includes areas of recent construction.

This bill requires, commencing January 1, 2023, all new subsurface installations be mapped using GIS and maintained as permanent records of the operator. Existing law requires operators to amend, update, maintain, and preserve all plans and records for its subsurface installations as that information becomes known, and requires that the records be turned over to the new operator in the instance of a change in ownership.

This bill exempts from the new GIS tagging and record keeping requirements oil and gas flowlines three inches or less in diameter that are located within the

administrative boundaries of an oil field. Small diameter flowlines located in active oil fields are frequently moved to accommodate new drilling and facility installation, which could result in the development of a database with outdated and inaccurate information, thus increasing the potential for incidents to occur.

Damage to subsurface installations. As noted above, damage to subsurface infrastructure can lead to catastrophic and deadly emergencies. Existing law requires an excavator to call “911” emergency services upon discovering or causing damage to either of the following: a natural gas or hazardous liquid pipeline in which the damage results in the escape of any flammable, toxic, or corrosive gas or liquid; or a high priority subsurface installation of any kind.

This bill additionally requires an excavator discovering or causing damage to notify the RNC within 48 hours of discovering or causing the damage.

Education in lieu of fiscal penalties. Under existing law, the Board is required to grant the use of the moneys in the Safe Energy Infrastructure and Excavation Fund (Fund) to fund public education and outreach programs designed to promote excavation safety around subsurface installations and targeted towards specific excavator groups, giving priority to those with the highest awareness and education needs, including, but not limited to, homeowners.

This bill deletes those education and outreach program provisions, and instead, requires the Board to offer violators of the Act, that are neither egregious nor persistent, to offer violators the option of completing an educational course in lieu of paying a fine. This bill makes moneys in the Fund available to the Board in order to fund the educational course, subject to appropriation by the Legislature.

Related/Prior Legislation

AB 754 (Grayson, Chapter 494, Statutes of 2019) authorized the California Department of Technology to provide access to Geographic Information Systems data to an RNC, as specified.

AB 1166 (Levine, Chapter 453, Statutes of 2019) required every operator of a subsurface installation to supply an electronic positive response through the RNC before the excavation start date, as specified.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

According to the Assembly Appropriations Committee, Minor one-time costs of approximately \$75,000 to \$150,000 (special fund) for the board in the first year to acquire a GIS software subscription service and annual costs thereafter of approximately \$75,000 to maintain the service.

SUPPORT: (Verified 8/28/20)

City of San Carlos

Desert Water Agency

League of California Cities

Underground Service Alert of Northern California and Nevada

OPPOSITION: (Verified 8/28/20)

Underground Service Alert of Southern California

Prepared by: Brian Duke / G.O. / (916) 651-1530
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**** **END** ****