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AB-1166 Public works: protection of underground infrastructure: regional notification center system: electronic positive response. (2019-2020)

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Assembly Bill No. 1166

CHAPTER 453

An act to amend Section 4216.3 of the Government Code, relating to underground infrastructure.

[Approved by Governor October 02, 2019. Filed with Secretary of State October 02, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1166, Levine. Public works: protection of underground infrastructure: regional notification center system: electronic positive response.

Existing law creates the California Underground Facilities Safe Excavation Board and requires the board to perform various duties relating to the protection of subsurface installations. Existing law requires an excavator planning to conduct an excavation to notify the appropriate regional notification center of the excavator's intent to excavate at least 2 working days, and not more than 14 calendar days, before beginning that excavation. Existing law requires the regional notification center to take the information and provide a ticket, and prohibits an excavator from beginning excavation until the excavator receives a response from all known operators of subsurface installations within the delineated boundaries of the proposed area of excavation, as provided. Existing law, commencing January 1, 2018, authorizes every operator to supply an electronic positive response through the regional notification center before the legal excavation start date and time, and requires the regional notification center to make those responses available to the excavator. Existing law defines "electronic positive response," for these purposes, to mean an electronic response from an operator to the regional notification center providing the status of an operator's statutorily required response to a ticket.

This bill would, instead, on and after January 1, 2021, require every operator to supply an electronic positive response through the regional notification center before the legal excavation start date and time. The bill would authorize the board, upon a showing of good cause by an operator, to extend the time by which the operator is required to comply with this requirement, through December 31, 2021. The bill would require the board to determine which facts or circumstances constitute good cause. The bill would require the board, on or before January 1, 2021, to adopt emergency regulations, as prescribed, to implement these provisions. The bill would require the regional notification centers to annually report to the board regarding technological development, as prescribed.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 4216.3 of the Government Code is amended to read:

4216.3. (a) (1) (A) Unless the excavator and operator mutually agree to a later start date and time, or otherwise agree to the sequence and timeframe in which the operator will locate and field mark, an operator shall do one of the following before the legal excavation start date and time:

(i) Locate and field mark within the area delineated for excavation and, where multiple subsurface installations of the same type are known to exist together, mark the number of subsurface installations.

(ii) To the extent and degree of accuracy that the information is available, provide information to an excavator where the operator's active or inactive subsurface installations are located.

(iii) Advise the excavator it operates no subsurface installations in the area delineated for excavation.

(B) An operator shall mark newly installed subsurface installations in areas with continuing excavation activity.

(C) An operator shall indicate with an "A" inside a circle the presence of any abandoned subsurface installations, if known, within the delineated area. The markings are to make an excavator aware that there are abandoned subsurface installations within that delineated work area.

(2) Only a qualified person shall perform subsurface installation locating activities.

(3) A qualified person performing subsurface installation locating activities on behalf of an operator shall use a minimum of a single-frequency utility locating device and shall have access to alternative sources for verification, if necessary.

(4) An operator shall amend, update, maintain, and preserve all plans and records for its subsurface installations as that information becomes known. If there is a change in ownership of a subsurface installation, the records shall be turned over to the new operator. Commencing January 1, 2017, records on abandoned subsurface installations, to the extent that those records exist, shall be retained.

(b) If the field marks are no longer reasonably visible, an excavator shall renotify the regional notification center with a request for remarks that can be for all or a portion of the excavation. Excavation shall cease in the area to be remarked. If the delineation markings are no longer reasonably visible, the excavator shall redelineate the area to be remarked. If remarks are requested, the operator shall have two working days, not including the date of request, to remark the subsurface installation. If the area to be remarked is not the full extent of the original excavation, the excavator shall delineate the portion to be remarked and provide a description of the area requested to be remarked on the ticket. The excavator shall provide a description for the area to be remarked that falls within the area of the original location request.

(c) (1) (A) On and after January 1, 2021, every operator shall supply an electronic positive response through the regional notification center before the legal excavation start date and time. Upon a showing of good cause by an operator, the board may extend the time by which the operator is required to comply with this requirement. The board shall not grant an extension beyond December 31, 2021. The board shall determine which facts or circumstances constitute good cause.

(B) The regional notification center shall make the responses required by subparagraph (A) available to the excavator.

(2) The regional notification centers shall annually report to the board regarding their continual technological development in their roles of facilitating communication between excavators and operators in a manner that enhances safety, accountability, and efficiency.

(d) (1) On or before January 1, 2021, the board shall adopt regulations to implement subparagraph (A) of paragraph (1) of subdivision (c). The initial adoption, amendment, or repeal of a regulation authorized by this section is deemed to address an emergency, for purposes of Sections 11346.1 and 11349.6, and the board is hereby exempted for that purpose from the requirements of subdivision (b) of Section 11346.1. After the initial adoption, amendment, or repeal of an emergency regulation pursuant to this section, the board shall not request approval from the Office of Administrative Law to readopt the regulation as an emergency regulation pursuant to Section 11346.1.

(2) It is the intent of the Legislature, in authorizing the deviations in this section from the requirements and procedures of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2, to authorize the board to expedite the exercise of its power to implement regulations as its unique operational circumstances require.

(e) The excavator shall notify the appropriate regional notification center of the failure of an operator to identify subsurface installations pursuant to subparagraph (A) or (B) of paragraph (1) of subdivision (a), or subdivision (b). The notification shall include the ticket issued by the regional notification center. The regional notification center shall maintain a record of all notifications received pursuant to this subdivision for a period of not less than three years. The record shall be available for inspection pursuant to subdivision (f) of Section 4216.2.

(f) If an operator or local agency knows that it has a subsurface installation embedded or partially embedded in the pavement that is not visible from the surface, the operator or local agency shall contact the excavator before pavement removal to communicate and determine a plan of action to protect that subsurface installation and excavator.