HOUSE FILE 2581
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO HSB 538)

(As Amended and Passed by the House February 29, 2024)
ALL New Language by the House

A BILL FOR

An Act relating to required timing for notices regarding underground facility excavations and enforcement of excavation provisions, and including penalties.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 480.1, Code 2024, is amended by adding the following new subsections:

NEW SUBSECTION. 5A. *"Forty-eight-hour period"* means a period of forty-eight consecutive hours beginning at 6:00 a.m. the next business day from the day the notification center receives a notice and excludes Saturdays, Sundays, and legal holidays.

NEW SUBSECTION. 5B. *"Locator"* means a person proposing to engage or engaging in the location and marking of underground facilities under contract with or employed by an operator.

Sec. 2. Section 480.3, subsection 1, paragraph a, subparagraph (1), Code 2024, is amended to read as follows:

(1) The center shall be governed by a board of directors, which shall represent and be elected by operators, excavators, and other persons who participate in the center. The board shall include two locators and two excavators to serve as nonvoting members. The board, with input from all interested parties, shall determine the operating procedures and technology needed for a single statewide notification center and establish a notification process.

Sec. 3. Section 480.3, subsection 2, Code 2024, is amended to read as follows:

2. *a.* The board shall implement the latest and most cost-effective technological improvements for the center in order to provide operators and excavators with the most accurate data available and in a timely manner to allow operators and excavators to perform their responsibilities with the minimum amount of interruptions.

b. The center shall establish a communication system to facilitate the provision of notice by operators, locators, and excavators.

Sec. 4. Section 480.3, Code 2024, is amended by adding the following new subsection:

NEW SUBSECTION. 4. The center shall provide records to the utilities board upon request as a part of an investigation on

behalf of the attorney general's office.

Sec. 5. Section 480.4, subsection 1, paragraph a, Code 2024, is amended to read as follows:

a. Except as otherwise provided in this section, prior to any excavation, an excavator shall contact the notification center and provide notice of the planned excavation occurring after a forty-eight-hour period. ~~This notice must be given at least forty-eight hours prior to the commencement of the excavation, excluding Saturdays, Sundays, and legal holidays. Notices received after 5:00 p.m. shall be processed as if received at 8:00 a.m. the next business day.~~ The notice shall be valid for ~~twenty~~ twenty-five calendar days ~~from the date~~ beginning on the day the ~~notice was provided to the notification center~~ forty-eight-hour period concludes. If all locating and marking of underground facilities is completed prior to the expiration of the forty-eight-hour period, the excavator may proceed with excavation upon being notified by the notification center that the locating and marking of all underground facilities is complete. The notification center shall establish a toll-free telephone number to allow excavators to provide the notice required pursuant to this subsection.

Sec. 6. Section 480.4, subsection 3, paragraph a, subparagraphs (1), (2), and (3), Code 2024, are amended to read as follows:

(1) An operator who receives notice from the notification center shall mark the horizontal location of the operator's underground facility and the excavator shall use due care in excavating in the marked area to avoid damaging the underground facility. The operator shall complete such locating and marking, and shall notify the notification center that the marking is complete within ~~forty-eight hours after receiving the notice, excluding Saturdays, Sundays, and legal holidays,~~ the forty-eight-hour period unless otherwise agreed by the operator and the excavator. No later than the expiration of

the forty-eight-hour period, ~~excluding Saturdays, Sundays, and legal holidays,~~ the notification center shall notify the excavator of the underground facility locating and marking status, or the failure of the operator to notify the center that the locating and marking is complete. The locating and marking of the underground facilities shall be completed at no cost to the excavator. If, in the opinion of the operator, the planned excavation requires that the precise location of the underground facilities be determined, the excavator, unless otherwise agreed upon between the excavator and the operator, shall hand dig test holes or use nondestructive methods to determine the location of the facilities unless the operator specifies an alternate method.

(2) (a) The marking required under this subsection shall be done in a manner that will last for a minimum of five working days on any nonpermanent surface, or a minimum of ten working days on any permanent surface. If the excavation will continue for any period longer than such periods, the operator shall remark the location of the underground facility upon the request of the excavator. The request shall be made through the notification center.

(b) A locator shall use for marking a flag that includes the name of the operator and a contact phone number.

(3) Unless otherwise agreed by the operator and excavator in writing, no excavation shall be performed within twenty-five feet of an underground ~~natural gas transmission line as defined in 49 C.F.R. §192.3~~ pipeline operating at one hundred fifty pounds per square inch or greater and that is equal to or greater than two inches in diameter unless a representative of the operator of the underground ~~natural gas transmission line~~ pipeline is present at the planned excavation area. This requirement shall not apply, however, when a representative of the operator fails to be present at the proposed excavation area at the time work is scheduled to commence or as otherwise agreed by the operator and excavator in writing. In this

event, the excavator shall notify the operator that the representative failed to appear, and excavation operations can begin, provided the excavator uses due care to avoid damaging the underground facilities.

Sec. 7. Section 480.4, subsection 3, paragraph b, Code 2024, is amended to read as follows:

b. An operator who receives notice from the notification center and who determines that the operator does not have any underground facility located within the proposed area of excavation shall notify the notification center concerning this determination within ~~forty-eight hours after receiving the notice, excluding Saturdays, Sundays, and legal holidays~~ the forty-eight-hour period. No later than the expiration of the forty-eight-hour period, ~~excluding Saturdays, Sundays, and legal holidays,~~ the notification center shall notify the excavator that the operator does not have any underground facilities within the proposed area of excavation.

Sec. 8. Section 480.6, subsection 1, Code 2024, is amended by adding the following new paragraph:

NEW PARAGRAPH. *c.* If a locator violates a time limit set forth in this chapter and a complaint relating to the violation is filed with the utilities board, the locator is subject to a civil penalty in an amount determined by the attorney general. A civil penalty imposed by the attorney general under this paragraph shall not exceed one hundred dollars for each violation for each day the violation continues, up to a maximum of five thousand dollars.

Sec. 9. Section 480.6, subsection 2, Code 2024, is amended to read as follows:

2. *a.* The attorney general, upon the receipt of a complaint, may institute any legal proceedings necessary to enforce the penalty provisions of this chapter.

b. At the direction of the attorney general, the utilities board shall investigate a violation of this chapter. Upon completion of the investigation, the utilities board

shall submit to the attorney general a written summary of the investigation and all evidence acquired during the investigation, except as set forth in subsection 2, paragraph *"c"*.

c. The utilities board may independently receive and investigate complaints alleging a violation of this chapter by a locator.

Sec. 10. NEW SECTION. **480.11 Locator enforcement authority.**

1. A locator who operates in this state and engages in location services under a contract with an operator shall satisfy all of the following requirements:

a. Take responsibility for completing location services as required under section 480.4.

b. Correctly notify the notification center that a location service could not be completed due to a lack of response by the excavator and include in the notice the date, time, and method of the attempted contact with the excavator, and the name and contact information of any representative of the excavator.

2. A locator operating in this state is subject to enforcement requirements as established in chapter 476. Any enforcement action taken for a violation of this chapter by a locator shall be taken solely against the locator and not the operator.

Sec. 11. UNDERGROUND FACILITY EXCAVATION MEETING. The Iowa utilities board shall convene interested stakeholders before December 31, 2024, to discuss underground facility excavations, including subjects relating to forecasting and future projects, and operational challenges.