

AMENDED IN ASSEMBLY JUNE 28, 2016

AMENDED IN SENATE JANUARY 4, 2016

AMENDED IN SENATE APRIL 13, 2015

SENATE BILL

No. 661

Introduced by Senator Hill

February 27, 2015

An act to amend Sections 4216, 4216.1, 4216.2, 4216.3, 4216.4, 4216.5, 4216.6, 4216.7, 4216.8, and 4216.9 of, and to add Sections 4216.12, 4216.13, 4216.14, 4216.15, 4216.16, 4216.17, 4216.18, 4216.19, 4216.20, 4216.21, ~~and 4216.22~~ 4216.22, 4216.23, and 4216.24 to, the Government Code, to add Sections 17921.11 and 18940.8 to the Health and Safety Code, and to amend Sections 955.5 and 1702.5 of, and to add Sections 320.5, 911.2, and 971 to, the Public Utilities Code, relating to excavations.

LEGISLATIVE COUNSEL'S DIGEST

SB 661, as amended, Hill. Protection of subsurface installations.

Existing law requires every operator of a subsurface installation, except the Department of Transportation, to become a member of, participate in, and share in the costs of, a regional notification center. Existing law requires any person who plans to conduct any excavation to contact the appropriate regional notification center before commencing that excavation, as specified. Existing law defines a subsurface installation as any underground pipeline, conduit, duct, wire, or other structure. Existing law requires an operator of a subsurface installation, who receives notification of proposed excavation work, within 2 working days of that notification, excluding weekends and holidays, to mark the approximate location and number of subsurface

installations that may be affected by the excavation or to advise that no subsurface installations operated by him or her would be affected. Existing law requires an operator of a subsurface installation that has failed to comply with these provisions to be liable to the excavator for damages, costs, and expenses.

~~This bill, the Dig Safe Act of 2016, would declare the need to clarify and revise these provisions. The bill would define and redefine various terms relating to a regional notification center. The bill would expand the definition of a subsurface installation to include an underground structure or submerged duct, pipeline, or structure, except as specified: “working day” for purposes of determining excavation start date and time in the context of these provisions.~~

The bill would require an excavator planning to conduct an excavation to delineate the area to be excavated before notifying the appropriate regional notification center of the planned excavation, as provided. The bill would require an operator, before the legal start date and time of the excavation, to locate and field mark, within the area delineated for excavation, its subsurface installations. The bill would require an operator to maintain and preserve all plans and records for any subsurface installation owned by that operator as that information becomes known, as specified.

This bill would prohibit an excavator that damages a subsurface installation due to an inaccurate field mark, as defined, by an operator from being liable for damages, replacement costs, or other expenses arising from damage to the subsurface installation, provided that the excavator complied with the provisions described above.

~~The bill would delete the existing exemptions pertaining to an owner of real property and would instead exempt an owner of residential real property who, as part of improving his or her principal residence, is performing, or is having performed, an excavation using hand tools that does not require a permit, as specified.~~

The bill would also require the Public Utilities Commission and the Office of the State Fire Marshal to enforce the requirement to locate and field mark subsurface installations and lines against operators of ~~natural gas and electric underground infrastructure and hazardous liquid pipelines, unless these operators are municipal utilities. gas corporations, electrical corporations, water corporations, and operators of hazardous liquid pipeline facilities, as specified.~~ The bill would also authorize a local governing board to enforce these provisions on local agencies under its jurisdiction.

~~This bill, if specified funds are appropriated by the Legislature and authority to hire sufficient staff is granted to the Contractors' State License Board, bill would create the California Underground Facilities Safe Excavation Advisory Committee Board under, and assisted by the staff of, the Contractors' State License Board, in the Department of Consumer Affairs, Office of the State Fire Marshall. The bill would require the committee board to coordinate education and outreach activities, develop standards, and investigate violations of of, and enforce, as specified, the provisions described above, as specified. The bill would also require the advisory committee, by December 31, 2018, and in consultation with the Department of Food and Agriculture, to make recommendations, informed by a specified study, that addresses the long-term treatment of agricultural activities in relation to subsurface excavation, and whether those provisions are appropriate or could be modified in ways to promote participation in safe agricultural practices around high priority subsurface installations, as specified. above. The bill would also authorize the board to prescribe rules and regulations as may be necessary or proper to carry out the purposes of these provisions and to exercise the power and duties conferred upon it.~~

~~The advisory committee board would be composed of 9 members who would serve 2-year 4-year terms, and 2 nonvoting ex officio members who may be invited by the appointed members of the committee. board. The bill would authorize the advisory committee, board, to the extent that resources allow, commencing on January 1, 2018, to use compliance audits in furthering the purposes of these provisions. The bill would require the advisory committee to conduct an annual meeting and, on or before February 1, 2018, and each year thereafter, to report to the Governor and the Legislature on its activities and any recommendations.~~

~~The California Building Standards Law requires state agencies that adopt or propose adoption of any building standard to submit the building standard to the California Building Standards Commission for approval and adoption. Under existing law, if a state agency does not have authority to adopt building standards applicable to state buildings, the commission is required to adopt specific building standards, as prescribed. Existing law requires the commission to publish, or cause to be published, editions of the California Building Standards Code in its entirety once every 3 years. Existing law requires the Department of Housing and Community Development to propose the adoption, amendment, or repeal of building standards to the commission and to~~

~~adopt, amend, and repeal other rules and regulations for the protection of the public health, safety, and general welfare of the occupants and the public involving buildings and building construction.~~

~~This bill would require the department and the commission to develop, and propose for adoption by the commission of, building standards requiring all new residential and nonresidential nonpressurized building sewers that connect from building structures to the public right-of-way or applicable utility easement to include the installation of tracer wire or tape, as specified. The bill would authorize the department and the commission to expend funds from the existing Building Standards Administration Special Revolving Fund for this purpose, upon appropriation.~~

~~The bill would create the Safe Energy Infrastructure and Excavation Fund in the State Treasury and would provide that moneys deposited into the fund are to be used *used, upon appropriation by the Legislature*, to cover the administrative expenses of the advisory committee, upon appropriation by the Legislature. The bill would authorize the Public Utilities Commission to use excess moneys in the fund for specified purposes relating to the safety of underground utilities, upon appropriation by the Legislature. *operational expenses of the board and educational and outreach purposes, except as specified.*~~

~~The Natural Gas Pipeline Safety Act of 2011, within the Public Utilities Act, designates the Public Utilities Commission as the state authority responsible for regulating and enforcing intrastate gas pipeline transportation and pipeline facilities pursuant to federal law, including the development, submission, and administration of a state pipeline safety program certification for natural gas. Existing federal law requires each operator of a buried gas pipeline to carry out a program to prevent damage to that pipeline from excavation activities, as specified.~~

~~The bill would require the Public Utilities Commission, no later than February 1, 2019, to report to the Legislature and to the California Underground Facilities Safe Excavation Advisory Committee an analysis of excavation damage to commission-regulated pipeline facilities. The bill would also require each gas corporation, as part of its damage prevention program, to collect certain information until January 1, 2020, to inform its outreach activities, and to report this information annually until January 1, 2020, to the Public Utilities Commission and the California Underground Facilities Safe Excavation Advisory Committee, as specified. The bill would also require each gas corporation to estimate Californians' use of regional notification centers, as specified, and to~~

provide this estimate to the commission and the advisory committee on or before July 1, 2017.

Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the commission is a crime.

~~Because the requirements described above are within the act, a violation of these requirements would impose a state-mandated local program by creating a new crime.~~

~~Existing law requires the Public Utilities Commission to develop and implement a safety enforcement program that is applicable to gas corporations and electrical corporations and that includes procedures for monitoring, data tracking and analysis, and investigations, as well as issuance of citations by commission staff, under the direction of the executive director of the commission, for correction and punishment of safety violations. That law requires the commission to develop and implement an appeals process to govern issuance and appeal of citations, or resolution of corrective action orders. That law requires the commission to implement the safety enforcement program for gas safety by July 1, 2014, and for electrical safety by January 1, 2015.~~

~~This bill would require that moneys collected as a result of the issuance of citations to gas corporations and electrical corporations pursuant to the above-described law be deposited in the Safe Energy Infrastructure and Excavation Fund.~~

~~The bill would make other conforming and clarifying changes.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: *yes-no*.

The people of the State of California do enact as follows:

- 1 SECTION 1. This act shall be known, and may be cited, as the
- 2 Dig Safe Act of 2016.
- 3 SEC. 2. ~~The Legislature finds and declares all of the following:~~
- 4 (a) ~~For the state’s “one-call” law to be effective, it needs greater~~
- 5 ~~clarity and effective enforcement, and it must foster communication~~

1 between operators of subsurface installations and the various types
2 of excavators in California.

3 ~~(b) Regional notification centers, or “one-call” centers, have~~
4 ~~developed means of electronic communication that improve the~~
5 ~~efficiency of the “one-call” process, and statutory barriers to using~~
6 ~~new methods of notification should be eliminated.~~

7 ~~(e) Electronic positive response is a means to communicate the~~
8 ~~status of responses to an excavator’s notice of excavation via the~~
9 ~~one-call center and provides the safety benefit that an excavator~~
10 ~~has an easy means to know whether or not all of the utilities within~~
11 ~~the excavation area have marked their subsurface installations.~~

12 ~~(d) The delineation by an excavator of the area to be excavated~~
13 ~~in advance of the field location and marking by subsurface facility~~
14 ~~operators of their installations aids the excavator in understanding~~
15 ~~where subsurface installations were marked, and thus improves~~
16 ~~safety. This practice was recommended by the National~~
17 ~~Transportation Safety Board in its 1997 study “Protecting Public~~
18 ~~Safety Through Excavation Damage Prevention” and is a best~~
19 ~~practice of the Common Ground Alliance.~~

20 ~~(e) Continuing an excavation after an excavation “ticket” has~~
21 ~~expired does not promote safety, and excavators should renew~~
22 ~~their ticket with the one-call center before expiration. Continuing~~
23 ~~excavation when markings are no longer visible does not promote~~
24 ~~safety, and excavators should stop work until the subsurface~~
25 ~~installations are remarked.~~

26 ~~(f) Increased communication between subsurface installation~~
27 ~~operators and excavators before breaking ground has safety~~
28 ~~benefits.~~

29 ~~(g) Construction sites often have many parties conducting~~
30 ~~different, ongoing work, and so the inherent safety risks associated~~
31 ~~with that work can be increased by a failure of these parties to~~
32 ~~effectively communicate. Excavators, operators of subsurface~~
33 ~~installations, and locators have a responsibility to communicate~~
34 ~~with other parties before entering these worksites, which may~~
35 ~~require advance schedule coordination, and also have a~~
36 ~~responsibility to observe the safety requirements set for those~~
37 ~~worksites.~~

38 ~~(h) Abandoned subsurface installations can be mistaken for~~
39 ~~active subsurface installations that are marked, and thus present a~~
40 ~~safety risk to excavators and the public. Safety will be improved~~

1 if subsurface facility operators identify these subsurface
2 installations when their existence is known:

3 (i) The ability of an operator of subsurface installations to locate
4 and mark affected installations can be seriously impaired by a lack
5 of high-quality records of those installations, and thus operators
6 should keep records of their facilities for as long as they are in the
7 ground, whether or not they are in use.

8 (j) Failure by an operator of subsurface installations to mark
9 the installations within the required two-working-day period is a
10 serious breach of duty.

11 (k) While an operator has two working days after an excavator's
12 call to the one-call center to mark its subsurface installations,
13 failure of that operator to do so does not relieve the excavator of
14 the safety responsibility to wait until the operator has marked
15 before commencing excavation.

16 (l) Mismarks by an operator place excavators and the public at
17 great safety risk, and so operators who mismark their installations
18 are entitled to no award for any damages to those installations.

19 (m) Installations that are embedded in pavement require more
20 extensive communication among operators, locators, and
21 excavators to prevent the installations from being damaged.

22 (n) Exemptions that allow a class of persons to excavate without
23 calling 811 are to be permitted only if alternative procedures allow
24 the excavation to take place without compromising safety.

25 (o) The Department of Transportation controls access to the
26 state right-of-way by the traveling public, excavators, and
27 contractors through the encroachment permit process authorized
28 in Article 2 (commencing with Section 670) of Chapter 3 of
29 Division 1 of the Streets and Highways Code. Recognizing that
30 the public is not always aware where the state right-of-way exists,
31 and that the Department of Transportation operates subsurface
32 installations in the state right-of-way, the Department of
33 Transportation shall facilitate clear communication channels with
34 those working around the state right-of-way, with utility companies,
35 and with the regional notification centers to promote safety and to
36 prevent damage to subsurface installations.

37 (p) Insufficient information exists on how to best achieve safety
38 when conducting agricultural activities around subsurface
39 installations, and a study, informed by data collected about

1 damages in agricultural areas is needed to determine effective and
2 appropriate safety measures.

3 ~~(q) Prevention of boring through sewer laterals with natural gas
4 and other subsurface installation services may be achieved through
5 reasonable care in the use of trenchless excavating technologies.
6 Indication of the location of sewer laterals can aid in prevention
7 of these cross-bores.~~

8 ~~(r) The exemption that permits private property owners to dig
9 on their property without calling a regional notification center to
10 have the area marked for subsurface installations does not have a
11 basis in safety.~~

12 ~~(s) The exemption that permits homeowners to conduct
13 excavation on their property with heavy machinery or when there
14 is a utility easement on his or her property does not have a basis
15 in safety.~~

16 ~~(t) Behaviors that are suspected to be unsafe, but upon which
17 there is not widespread agreement as to the level of risk and,
18 therefore, are unregulated, must be monitored to better assess the
19 risk.~~

20 ~~(u) The Study on the Impact of Excavation Damage on Pipeline
21 Safety, submitted by the United States Department of
22 Transportation to Congress on October 9, 2014, reported that other
23 states have found that exemption of landscape maintenance
24 activities of less than 12 inches deep, when performed with hand
25 tools, does not appear to have a significant impact on safety. The
26 report cautions, however, that while those activity-based
27 exemptions may be acceptable, they should be supported by
28 sufficient data.~~

29 ~~(v) Insufficient data exists on the safety risks of the installation
30 of temporary real estate signposts; therefore, it is important that
31 natural gas distribution companies collect information on whether
32 damages are caused by these signposts.~~

33 ~~(w) Gas corporations have ready access to information about
34 damages that occur on their subsurface installations and should
35 collect relevant data to inform future discussions regarding the
36 risk of notification exemptions.~~

37 ~~(x) Other states have experienced a dramatic improvement in
38 safety after implementing centralized administrative oversight of
39 one-call laws.~~

1 ~~(y) California should have an advisory committee, composed~~
2 ~~of excavation stakeholders, subject to oversight by the Legislature~~
3 ~~and the Department of Finance, to perform three major tasks, which~~
4 ~~are to coordinate the diverse education and outreach efforts~~
5 ~~undertaken by state and local agencies, operators, and excavators~~
6 ~~throughout the state and issue grants for targeted efforts, to study~~
7 ~~excavation questions and develop standards that clarify best~~
8 ~~practices, and to investigate potential violations of the one-call~~
9 ~~law that inform both the standards it is to develop and potential~~
10 ~~enforcement actions. Due to the size of the state, and in order to~~
11 ~~reduce costs, the advisory committee should meet in northern and~~
12 ~~southern California.~~

13 ~~(z) The advisory committee should not be funded through the~~
14 ~~General Fund, but should be funded through fines levied on gas~~
15 ~~and electric corporations for safety violations, instead of having~~
16 ~~those fines go to the General Fund.~~

17 ~~SEC. 3. Section 4216 of the Government Code is amended to~~
18 ~~read:~~

19 ~~4216. As used in this article the following definitions apply:~~

20 ~~(a) “Abandoned subsurface installation” means a subsurface~~
21 ~~installation that is no longer in service and is physically~~
22 ~~disconnected from any active or inactive subsurface installation.~~

23 ~~(b) “Active subsurface installation” means a subsurface~~
24 ~~installation currently in use or currently carrying service.~~

25 ~~(c) “Advisory committee” means the California Underground~~
26 ~~Facilities Safe Excavation Advisory Committee.~~

27 ~~(d) “Delineate” means to mark in white the location or path of~~
28 ~~the proposed excavation using the guidelines in Appendix B of~~
29 ~~the “Guidelines for Excavation Delineation” published in the most~~
30 ~~recent version of the Best Practices guide of the Common Ground~~
31 ~~Alliance. If there is a conflict between the marking practices in~~
32 ~~those guidelines and other provisions of this article, this article~~
33 ~~shall control. “Delineation” also includes physical identification~~
34 ~~of the area to be excavated using pink marking, if an excavator~~
35 ~~makes a determination that standard delineation may be misleading~~
36 ~~to those persons using affected streets and highways, or be~~
37 ~~misinterpreted as a traffic or pedestrian control, and the excavator~~
38 ~~has contacted the regional notification center to advise the operators~~
39 ~~that the excavator will physically identify the area to be excavated~~
40 ~~using pink markings.~~

1 (e) “Electronic positive response” means an electronic response
2 from an operator to the regional notification center providing the
3 status of an operator’s statutorily required response to a ticket.

4 (f) (1) “Emergency” means a sudden, unexpected occurrence,
5 involving a clear and imminent danger, demanding immediate
6 action to prevent or mitigate loss of, or damage to, life, health,
7 property, or essential public services.

8 (2) “Unexpected occurrence” includes, but is not limited to, a
9 fire, flood, earthquake or other soil or geologic movement, riot,
10 accident, damage to a subsurface installation requiring immediate
11 repair, or sabotage.

12 (g) (1) “Excavation” means any operation in which earth, rock,
13 pavement, or other material in the ground is moved, removed, or
14 otherwise displaced by means of tools, equipment, or explosives
15 in any of the following ways: grading, trenching, digging, ditching,
16 drilling, augering, tunneling, scraping, cable or pipe plowing and
17 driving, gouging, crushing, jack hammering, saw cutting, or any
18 other way.

19 (2) For purposes of this article, “excavation” does not include
20 any of the following:

21 (A) Landscape maintenance activity that is performed with hand
22 tools at a depth of no more than 12 inches. Landscape maintenance
23 activity includes all of the following:

24 (i) Aeration, dethatching, and cutting of vegetation, including
25 lawn edging.

26 (ii) Installation or replacement of ground cover and plant life.

27 (iii) Minor fixes to existing drainage and sprinkler systems.

28 (B) Operator maintenance activities that are performed with
29 hand tools around an operator’s facilities that traverse from above
30 the ground to below ground in areas known, or reasonably believed,
31 to contain only the operator’s facilities. Operator maintenance
32 activities include all of the following:

33 (i) Clearing soil, debris, or vegetation from around or inside
34 vaults, casings, and other in-ground structures that house an
35 operator’s facilities.

36 (ii) Moving, removing, or displacing soil for the specific purpose
37 of mitigating or preventing corrosion to pipeline facilities such as
38 gas meters, risers, pipes, and valves located above ground or inside
39 vaults, casings, and other in-ground structures.

1 (iii) Replacing or repairing an operator's facilities located above
2 ground or inside vaults, casings, and other in-ground structures.

3 (iv) Repairing or replacing vaults, casings, and other in-ground
4 structures that house an operator's facilities.

5 (C) Routine digging, grading, and scraping or similar operations
6 in a flood control area known, or reasonably known, not to contain
7 substructures, in connection with debris, vegetation, sediment, or
8 mudflow removal for the purposes of flood control if the flood
9 control facility is owned by a county, city, city and county, flood
10 control district, or similar special district, and the activity is
11 performed by or for the county, city, city and county, flood control
12 district, or similar special district.

13 (D) This paragraph shall become inoperative on January 1, 2020.

14 (3) The exclusion of the activities in paragraph (2) from the
15 definition of "excavation" shall not be used to discourage a person
16 planning to perform those activities from voluntarily notifying a
17 regional notification center pursuant to Section 4216.2, and does
18 not relieve an operator of a subsurface installation from the
19 obligation to locate and field mark pursuant to Section 4216.3
20 following the notification. The exclusion of activities in paragraph
21 (2) does not relieve a person performing those activities from a
22 duty of reasonable care to prevent damage to subsurface
23 installations, and failure to exercise reasonable care may result in
24 liability for damage to a subsurface installation that is proximately
25 caused by those activities.

26 (h) Except as provided in Section 4216.8, "excavator" means
27 any person, firm, contractor or subcontractor, owner, operator,
28 utility, association, corporation, partnership, business trust, public
29 agency, or other entity that, with his, her, or its own employees or
30 equipment, performs any excavation.

31 (i) "Hand tool" means a piece of equipment used for excavating
32 that uses human power and is not powered by any motor, engine,
33 hydraulic, or pneumatic device.

34 (j) "High priority subsurface installation" means high-pressure
35 natural gas pipelines with normal operating pressures greater than
36 415kPA gauge (60psig), petroleum pipelines, pressurized sewage
37 pipelines, high-voltage electric supply lines, conductors, or cables
38 that have a potential to ground of greater than or equal to 60kv, or
39 hazardous materials pipelines that are potentially hazardous to
40 workers or the public if damaged.

1 ~~(k) “Inactive subsurface installation” means both of the~~
2 ~~following:~~

3 ~~(1) The portion of an underground subsurface installation that~~
4 ~~is not in use but is still connected to the subsurface installation, or~~
5 ~~to any other subsurface installation, that is in use or still carries~~
6 ~~service.~~

7 ~~(2) A new underground subsurface installation that has not been~~
8 ~~connected to any portion of an existing subsurface installation.~~

9 ~~(l) “Legal excavation start date and time” means at least two~~
10 ~~working days, not including the date of notification, or up to 14~~
11 ~~calendar days from the date of notification, if so specified by the~~
12 ~~excavator.~~

13 ~~(m) “Local agency” means a city, county, city and county,~~
14 ~~school district, or special district.~~

15 ~~(n) (1) “Locate and field mark” means to indicate the existence~~
16 ~~of any owned or maintained subsurface installations by using the~~
17 ~~guidelines in Appendix B of the “Guidelines for Operator Facility~~
18 ~~Field Delineation” published in the most recent version of the Best~~
19 ~~Practices guide of the Common Ground Alliance and in~~
20 ~~conformance with the uniform color code of the American Public~~
21 ~~Works Association. If there is a conflict between the marking~~
22 ~~practices in the guidelines and this article, this article shall control.~~

23 ~~(2) “Locate and field mark” does not require an indication of~~
24 ~~the depth.~~

25 ~~(o) “Near miss” means an event in which damage did not occur,~~
26 ~~but a clear potential for damage was identified.~~

27 ~~(p) “Operator” means any person, corporation, partnership,~~
28 ~~business trust, public agency, or other entity that owns, operates,~~
29 ~~or maintains a subsurface installation. For purposes of Section~~
30 ~~4216.1, an “operator” does not include an owner of real property~~
31 ~~where subsurface installations are exclusively located if they are~~
32 ~~used exclusively to furnish services on that property and the~~
33 ~~subsurface facilities are under the operation and control of that~~
34 ~~owner.~~

35 ~~(q) “Pavement” means a manmade surface material that cannot~~
36 ~~be removed with a conventional hand tool.~~

37 ~~(r) “Positive response” means the response from an operator~~
38 ~~directly to the excavator providing the status of an operator’s~~
39 ~~statutorily required response to a ticket.~~

1 (s) “Qualified person” means a person who completes a training
2 program in accordance with the requirements of Section 1509 of
3 Title 8 of the California Code of Regulations, Injury and Illness
4 Prevention Program, that meets the minimum locators training
5 guidelines and practices published in the most recent version of
6 the Best Practices guide of the Common Ground Alliance.

7 (t) “Regional notification center” means a nonprofit association
8 or other organization of operators of subsurface installations that
9 provides advance warning of excavations or other work close to
10 existing subsurface installations, for the purpose of protecting
11 those installations from damage, removal, relocation, or repair.

12 (u) “State agency” means every state agency, department,
13 division, bureau, board, or commission.

14 (v) “Subsurface installation” means any underground or
15 submerged duct, pipeline, or structure, including, but not limited
16 to, a conduit, duct, line, pipe, wire, or other structure, except
17 nonpressurized sewerlines, nonpressurized storm drains, or other
18 nonpressurized drain lines.

19 (w) “Ticket” means an excavation location request issued a
20 number by the regional notification center.

21 (x) “Tolerance zone” means 24 inches on each side of the field
22 marking placed by the operator in one of the following ways:

23 (1) Twenty-four inches from each side of a single marking,
24 assumed to be the centerline of the subsurface installation.

25 (2) Twenty-four inches plus one-half the specified size on each
26 side of a single marking with the size of installation specified.

27 (3) Twenty-four inches from each outside marking that
28 graphically shows the width of the outside surface of the subsurface
29 installation on a horizontal plane.

30 (y) “Working day” for the purposes of determining excavation
31 start date and time means a weekday Monday through Friday, from
32 7:00 a.m. to 5:00 p.m., except for federal holidays and state
33 holidays, as defined in Section 19853, or as otherwise posted on
34 the Internet Web site of the regional notification center.

35 *SEC. 2. Section 4216 of the Government Code is amended to*
36 *read:*

37 4216. As used in this article the following definitions apply:

38 (a) “Approximate location of subsurface installations” means
39 a strip of land not more than 24 inches on either side of the exterior

1 surface of the subsurface installation. “Approximate location” does
2 not mean depth.

3 (b) “Excavation” means any operation in which earth, rock, or
4 other material in the ground is moved, removed, or otherwise
5 displaced by means of tools, equipment, or explosives in any of
6 the following ways: grading, trenching, digging, ditching, drilling,
7 augering, tunneling, scraping, cable or pipe plowing and driving,
8 or any other way.

9 (c) Except as provided in Section 4216.8, “excavator” means
10 any person, firm, contractor or subcontractor, owner, operator,
11 utility, association, corporation, partnership, business trust, public
12 agency, or other entity that, with their, or his or her, own employees
13 or equipment performs any excavation.

14 (d) “Emergency” means a sudden, unexpected occurrence,
15 involving a clear and imminent danger, demanding immediate
16 action to prevent or mitigate loss of, or damage to, life, health,
17 property, or essential public services. “Unexpected occurrence”
18 includes, but is not limited to, fires, floods, earthquakes or other
19 soil or geologic movements, riots, accidents, damage to a
20 subsurface installation requiring immediate repair, or sabotage.

21 (e) “High priority subsurface installation” means high-pressure
22 natural gas pipelines with normal operating pressures greater than
23 415kPA gauge (60psig), petroleum pipelines, pressurized sewage
24 pipelines, high-voltage electric supply lines, conductors, or cables
25 that have a potential to ground of greater than or equal to 60kv, or
26 hazardous materials pipelines that are potentially hazardous to
27 workers or the public if damaged.

28 (f) “Inquiry identification number” means the number that is
29 provided by a regional notification center to every person who
30 contacts the center pursuant to Section 4216.2. The inquiry
31 identification number shall remain valid for not more than 28
32 calendar days from the date of issuance, and after that date shall
33 require regional notification center revalidation.

34 (g) “Local agency” means a city, county, city and county, school
35 district, or special district.

36 (h) “Operator” means any person, corporation, partnership,
37 business trust, public agency, or other entity that owns, operates,
38 or maintains a subsurface installation. For purposes of Section
39 4216.1, an “operator” does not include an owner of real property
40 where subsurface facilities are exclusively located if they are used

1 exclusively to furnish services on that property and the subsurface
2 facilities are under the operation and control of that owner.

3 (i) “Qualified person” means a person who completes a training
4 program in accordance with the requirements of Title 8, California
5 Code of Regulations, Section 1509, Injury Prevention Program,
6 that meets the minimum training guidelines and practices of
7 Common Ground Alliance current Best Practices.

8 (j) “Regional notification center” means a nonprofit association
9 or other organization of operators of subsurface installations that
10 provides advance warning of excavations or other work close to
11 existing subsurface installations, for the purpose of protecting
12 those installations from damage, removal, relocation, or repair.

13 (k) “State agency” means every state agency, department,
14 division, bureau, board, or commission.

15 (l) “Subsurface installation” means any underground pipeline,
16 conduit, duct, wire, or other structure, except nonpressurized
17 sewerlines, nonpressurized storm drains, or other nonpressurized
18 drain lines.

19 (m) “Working day” for the purposes of determining excavation
20 start date and time means a weekday Monday through Friday,
21 from 7:00 a.m. to 5:00 p.m., except for federal holidays and state
22 holidays, as defined in Section 19853, or as otherwise posted on
23 the Internet Web site of the regional notification center.

24 ~~SEC. 4.~~

25 SEC. 3. Section 4216.1 of the Government Code is amended
26 to read:

27 4216.1. Every operator of a subsurface installation, except the
28 Department of Transportation, shall become a member of,
29 participate in, and share in the costs of, a regional notification
30 center. Operators of subsurface installations who are members of,
31 participate in, and share in, the costs of a regional notification
32 center, including, but not limited to, the Underground Service
33 Alert—Northern California or the Underground Service
34 Alert—Southern California are in compliance with this section
35 and Section 4216.9.

36 ~~SEC. 5.~~

37 SEC. 4. Section 4216.2 of the Government Code is amended
38 to read:

39 4216.2. (a) Before notifying the appropriate regional
40 notification center, an excavator planning to conduct an excavation

1 shall delineate the area to be excavated. If the area is not delineated,
2 an operator may, at the operator's discretion, choose not to locate
3 and field mark until the area to be excavated has been delineated.

4 (b) Except in an emergency, an excavator planning to conduct
5 an excavation shall notify the appropriate regional notification
6 center of the excavator's intent to excavate at least two working
7 days, and not more than 14 calendar days, before beginning that
8 excavation. The date of the notification shall not count as part of
9 the two-working-day notice. If an excavator gives less notice than
10 the legal excavation start date and time and the excavation is not
11 an emergency, the regional notification center will take the
12 information and provide a ticket, but an operator has until the legal
13 excavation start date and time to respond. However, an excavator
14 and an operator may mutually agree to a different notice and start
15 date.

16 (c) When the excavation is proposed within 10 feet of a
17 ~~high-priority~~ *high priority* subsurface installation, the operator of
18 the ~~high-priority~~ *high priority* subsurface installation shall notify
19 the excavator of the existence of the ~~high-priority~~ *high priority*
20 subsurface installation prior to the legal excavation start date and
21 time, and set up an onsite meeting at a mutually agreed upon time
22 to determine actions or activities required to verify the location
23 and prevent damage to the high priority subsurface installation.
24 The excavator shall not begin excavating until after the completion
25 of the onsite meeting.

26 (d) Except in an emergency, every excavator covered by Section
27 4216.8 planning to conduct an excavation on private property that
28 does not require an excavation permit may contact the appropriate
29 regional notification center if the private property is known, or
30 reasonably should be known, to contain a subsurface installation
31 other than the underground facility owned or operated by the
32 excavator. Before notifying the appropriate regional notification
33 center, an excavator shall delineate the area to be excavated. Any
34 temporary marking placed at the planned excavation location shall
35 be clearly seen, functional, and considerate to surface aesthetics
36 and the local community. An excavator shall check if any local
37 ordinances apply to the placement of temporary markings.

38 (e) If an excavator gives less than the legal excavation start date
39 and time and it is not an emergency, the regional notification center

1 shall take the information and provide a ticket but an operator shall
2 have until the legal excavation start date and time to respond.

3 (f) The regional notification center shall provide a ticket to the
4 person who contacts the center pursuant to this section and shall
5 notify any member, if known, who has a subsurface installation
6 in the area of the proposed excavation. A ticket shall be valid for
7 28 days from the date of issuance. If work continues beyond 28
8 days, the excavator shall ~~update~~ *renew* the ticket either by accessing
9 the center’s Internet Web site or by calling “811” by the end of
10 the 28th day.

11 (g) A record of all notifications by an excavator or operator to
12 the regional notification center shall be maintained for a period of
13 not less than three years. The record shall be available for
14 inspection by the excavator and any member, or their
15 representative, during normal working hours and according to
16 guidelines for inspection as may be established by the regional
17 notification centers.

18 (h) Unless an emergency exists, an excavator shall not begin
19 excavation until the excavator receives a positive response from
20 all known subsurface installations within the delineated boundaries
21 of the proposed area of excavation.

22 (i) If a site requires special access, an excavator shall request
23 an operator to contact the excavator regarding that special access
24 or give special instructions on the location request.

25 (j) If a ticket obtained by an excavator expires but work is
26 ongoing, the excavator shall call into the regional notification
27 center and get a new ticket and wait a minimum of two working
28 days, not including the date of call in, before restarting excavation.
29 All excavation shall cease during the waiting period.

30 ~~SEC. 6.~~

31 *SEC. 5.* Section 4216.3 of the Government Code is amended
32 to read:

33 4216.3. (a) (1) (A) Unless the excavator and operator
34 mutually agree to a later start date and time, or otherwise agree to
35 the sequence and timeframe in which the operator will locate and
36 field mark, an operator shall do one of the following before the
37 legal excavation start date and time:

38 (i) Locate and field mark within the area delineated for
39 excavation and, where multiple subsurface installations of the same

1 type are known to exist together, mark the number of subsurface
2 installations.

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

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

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

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

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

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

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

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

1 (c) Every operator may supply an electronic positive response
2 through the regional notification center before the legal excavation
3 start date and time. The regional notification center shall make
4 those responses available.

5 (d) The excavator shall notify the appropriate regional
6 notification center of the failure of an operator to identify
7 subsurface installations pursuant to subparagraph (A) or (B) of
8 paragraph (1) of subdivision (a), or subdivision (b). The notification
9 shall include the ticket issued by the regional notification center.
10 A record of all notifications received pursuant to this subdivision
11 shall be maintained by the regional notification center for a period
12 of not less than three years. The record shall be available for
13 inspection pursuant to subdivision (h) of Section 4216.2.

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

20 ~~SEC. 7:~~

21 *SEC. 6.* Section 4216.4 of the Government Code is amended
22 to read:

23 4216.4. (a) (1) Except as provided in paragraph (2), if an
24 excavation is within the tolerance zone of a subsurface installation,
25 the excavator shall determine the exact location of the subsurface
26 installations in conflict with the excavation using hand tools before
27 using any power-driven excavation or boring equipment within
28 the tolerance zone of the subsurface installations. In all cases the
29 excavator shall use reasonable care to prevent damaging subsurface
30 installations.

31 (2) (A) An excavator may use a vacuum excavation device to
32 expose subsurface installations within the tolerance zone if the
33 operator has marked the subsurface installation, the excavator has
34 contacted any operator whose subsurface installations may be in
35 conflict with the excavation, and the operator has agreed to the
36 use of a vacuum excavation device. An excavator shall inform the
37 regional notification center of his or her intent to use a vacuum
38 excavation device when obtaining a ticket.

1 (B) An excavator may use power-operated or boring equipment
2 for the removal of any existing pavement only if there is no known
3 subsurface installation contained in the pavement.

4 (3) An excavator shall presume all subsurface installations to
5 be active, and shall use the same care around subsurface
6 installations that may be inactive as the excavator would use around
7 active subsurface installations.

8 (b) If the exact location of the subsurface installation cannot be
9 determined by hand excavating in accordance with subdivision
10 (a), the excavator shall request the operator to provide additional
11 information to the excavator, to the extent that information is
12 available to the operator, to enable the excavator to determine the
13 exact location of the installation. If the excavator has questions
14 about the markings that an operator has placed, the excavator may
15 contact the notification center to send a request to have the operator
16 contact the excavator directly. The regional notification center
17 shall provide the excavator with the contact telephone number of
18 the subsurface installation operator.

19 (c) An excavator discovering or causing damage to a subsurface
20 installation, including all breaks, leaks, nicks, dents, gouges,
21 grooves, or other damage to subsurface installation lines, conduits,
22 coatings, or cathodic protection, shall immediately notify the
23 subsurface installation operator. The excavator may contact the
24 regional notification center to obtain the contact information of
25 the subsurface installation operator. If high priority subsurface
26 installations are damaged and the operator cannot be contacted
27 immediately, the excavator shall call 911 emergency services.

28 (d) Each excavator, operator, or locator shall communicate with
29 each other and respect the appropriate safety requirements and
30 ongoing activities of the other parties, if known, at an excavation
31 site.

32 ~~SEC. 8.~~

33 *SEC. 7.* Section 4216.5 of the Government Code is amended
34 to read:

35 4216.5. The requirements of this article apply to state agencies
36 and to local agencies that own or operate subsurface installations,
37 except as otherwise provided in Section 4216.1. A local agency
38 that is required to provide the services described in Section 4216.3
39 may charge a fee in an amount sufficient to cover the cost of
40 providing that service.

1 ~~SEC. 9.~~

2 *SEC. 8.* Section 4216.6 of the Government Code is amended
3 to read:

4 4216.6. (a) (1) Any operator or excavator who negligently
5 violates this article is subject to a civil penalty in an amount not
6 to exceed ten thousand dollars (\$10,000).

7 (2) Any operator or excavator who knowingly and willfully
8 violates any of the provisions of this article is subject to a civil
9 penalty in an amount not to exceed fifty thousand dollars (\$50,000).

10 (3) Except as otherwise specifically provided in this article, this
11 section is not intended to affect any civil remedies otherwise
12 provided by law for personal injury or for property damage,
13 including any damage to subsurface installations, nor is this section
14 intended to create any new civil remedies for those injuries or that
15 damage.

16 (4) This article shall not be construed to limit any other provision
17 of law granting governmental immunity to state or local agencies
18 or to impose any liability or duty of care not otherwise imposed
19 by law upon any state or local agency.

20 (b) An action may be brought by the Attorney General, the
21 district attorney, or the local or state agency that issued the permit
22 to excavate, for the enforcement of the civil penalty pursuant to
23 this section in a civil action brought in the name of the people of
24 the State of California. If penalties are collected as a result of a
25 civil suit brought by a state or local agency for collection of those
26 civil penalties, the penalties imposed shall be paid to the general
27 fund of the agency. If more than one agency is involved in
28 enforcement, the penalties imposed shall be apportioned among
29 them by the court in a manner that will fairly offset the relative
30 costs incurred by the state or local agencies, or both, in collecting
31 these fees.

32 (c) The requirements of this article may also be enforced
33 following a recommendation of the California Underground
34 Facilities Safe Excavation Advisory Committee by a state or local
35 agency, which may include the Attorney General or a district
36 attorney, with jurisdiction over the activity or business undertaken
37 in commission of the violation. ~~The following agencies~~ *Board by*
38 *the following agencies, that* shall act to accept, amend, or reject
39 the recommendations of the ~~advisory committee~~ *board* as follows:

1 (1) The Registrar of Contractors of the Contractors' State
 2 License Board shall enforce the provisions of this article on
 3 contractors, as defined in Article 2 (*commencing with Section*
 4 *7025*) of Chapter 9 of Division 3 of the Business and Professions
 5 Code.

6 (2) The Public Utilities Commission shall enforce the provisions
 7 of this article on gas corporations, as defined in Section 222 of the
 8 Public Utilities Code, and electrical corporations, as defined in
 9 Section 218 of the Public Utilities ~~Code~~ *Code, and water*
 10 *corporations, as defined in Section 241 of the Public Utilities Code.*

11 (3) The Office of the State Fire Marshal shall enforce the
 12 provisions of this article on operators of hazardous liquid pipeline
 13 facilities, as defined in Section 60101 of Chapter 601 of Subtitle
 14 VIII of Title 49 of the United States Code.

15 (d) *A local governing board may enforce the provisions of this*
 16 *article on local agencies under the governing board's jurisdiction.*

17 (e) *The California Underground Facilities Safe Excavation*
 18 *Board shall enforce the provisions of this article on persons other*
 19 *than those listed in subdivision (c) and (d).*

20 (f) *Moneys collected as a result of penalties imposed pursuant*
 21 *to subdivisions (c) and (e) shall be deposited into the Safe Energy*
 22 *Infrastructure and Excavation Fund.*

23 ~~(d)~~

24 (g) Statewide information provided by operators and excavators
 25 regarding facility events shall be compiled and made available in
 26 an annual report by regional notification centers and posted on the
 27 Internet Web sites of the regional notification centers.

28 ~~(e)~~

29 (h) For purposes of subdivision ~~(d)~~, (g), the following terms
 30 have the following meanings:

31 (1) ~~“Facility”~~ “Incident event” means the occurrence of excavator
 32 downtime, damages, near misses, and violations.

33 (2) “Statewide information” means information submitted by
 34 operators and excavators using the California Regional Common
 35 Ground Alliance’s Virtual Private Damage Information Reporting
 36 Tool. Supplied data shall comply with the Damage Information
 37 Reporting Tool’s minimum essential information as listed in the
 38 most recent version of the Best Practices guide of the Common
 39 Ground Alliance.

1 ~~SEC. 10.~~

2 *SEC. 9.* Section 4216.7 of the Government Code is amended
3 to read:

4 4216.7. (a) If a subsurface installation is damaged by an
5 excavator as a result of failing to comply with Section 4216.2 or
6 4216.4, or subdivision (b) of Section 4216.3, or as a result of failing
7 to comply with the operator's requests to protect the subsurface
8 installation as specified by the operator before the start of
9 excavation, the excavator shall be liable to the operator of the
10 subsurface installation for resulting damages, costs, and expenses
11 to the extent the damages, costs, and expenses were proximately
12 caused by the excavator's failure to comply.

13 (b) If an operator has failed to become a member of, participate
14 in, or share in the costs of, a regional notification center, that
15 operator shall forfeit his or her claim for damages to his or her
16 subsurface installation arising from an excavation against an
17 excavator who has complied with this article to the extent damages
18 were proximately caused by the operator's failure to comply with
19 this article.

20 (c) If an operator of a subsurface installation without a
21 reasonable basis, as determined by a court of competent
22 jurisdiction, has failed to comply with the provisions of Section
23 4216.3, including, but not limited to, the requirement to field mark
24 the appropriate location of subsurface installations within two
25 working days of notification, as defined by subdivision (y) of
26 Section 4216 and subdivision (b) of Section 4216.2, has failed to
27 comply with subdivision (c) of Section 4216.2, or has failed to
28 comply with subdivision (b) of Section 4216.4, the operator shall
29 be liable for damages to the excavator who has complied with
30 Section 4216.2, subdivisions (b) and (d) of Section 4216.3, and
31 Section 4216.4, including liquidated damages, liability, losses,
32 costs, and expenses, actually incurred by the excavator, resulting
33 from the operator's failure to comply with these specified
34 requirements to the extent the damages, costs, and expenses were
35 proximately caused by the operator's failure to comply.

36 (d) An excavator who damages a subsurface installation due to
37 an inaccurate field mark by an operator, or by a third party under
38 contract to perform field marking for the operator, shall not be
39 liable for damages, replacement costs, or other expenses arising

1 from damages to the subsurface installation if the excavator
2 complied with Sections 4216.2 and 4216.4.

3 This section is not intended to create any presumption or to affect
4 the burden of proof in any action for personal injuries or property
5 damage, other than damage to the subsurface installation, nor is
6 this section intended to affect, create, or eliminate any remedy for
7 personal injury or property damage, other than damage to the
8 subsurface installation.

9 (e) For the purposes of this section, “inaccurate field mark”
10 means a mark, or set of markings, made pursuant to Section 4216.3,
11 that did not correctly indicate the approximate location of a
12 subsurface installation affected by an excavation and includes the
13 actual physical location of a subsurface installation affected by an
14 excavation that should have been marked pursuant to Section
15 4216.3 but was not.

16 (f) Nothing in this section shall be construed to do any of the
17 following:

18 (1) Affect claims including, but not limited to, third-party claims
19 brought against the excavator or operator by other parties for
20 damages arising from the excavation.

21 (2) Exempt the excavator or operator from his or her duty to
22 mitigate any damages as required by common or other applicable
23 law.

24 (3) Exempt the excavator or operator from liability to each other
25 or third parties based on equitable indemnity or comparative or
26 contributory negligence.

27 ~~SEC. 11. Section 4216.8 of the Government Code is amended~~
28 ~~to read:~~

29 ~~4216.8. This article does not apply to either of the following~~
30 ~~persons:~~

31 ~~(a) An owner of residential real property, not engaged as a~~
32 ~~contractor or subcontractor licensed pursuant to Article 5~~
33 ~~(commencing with Section 7065) of Chapter 9 of Division 3 of~~
34 ~~the Business and Professions Code, who, as part of improving his~~
35 ~~or her principal residence or an appurtenance thereto, is performing~~
36 ~~or is having an excavation performed using hand tools, including~~
37 ~~the installation of temporary real estate signposts, that does not~~
38 ~~require a permit issued by a state or local agency. A person~~
39 ~~described in this subdivision is not an “excavator” as defined in~~
40 ~~subdivision (h) of Section 4216, however this subdivision shall~~

1 not discourage a person from voluntarily notifying a regional
2 notification center pursuant to Section 4216.2, and does not relieve
3 an operator of a subsurface facility from the obligation to locate
4 and field mark pursuant to Section 4216.3 following the
5 notification. Notwithstanding Section 4216.2, an owner of real
6 residential property is not required to wait until 14 calendar days
7 before the beginning of an excavation to notify the regional
8 notification center, but rather may do so at any time at least two
9 working days before beginning an excavation to learn the locations
10 of subsurface installations on his or her property. This subdivision
11 does not relieve a person performing excavation activities from a
12 duty of reasonable care to prevent damage to subsurface
13 installations, and failure to exercise reasonable care may result in
14 liability for damage to a subsurface installation that is proximately
15 caused by those activities.

16 (b) Any person or private entity that leases or rents power
17 operated or power-driven excavating or boring equipment,
18 regardless of whether an equipment operator is provided for that
19 piece of equipment or not, to a contractor or subcontractor licensed
20 pursuant to Article 5 (commencing with Section 7065) of Chapter
21 9 of Division 3 of the Business and Professions Code, if the signed
22 rental agreement between the person or private entity and the
23 contractor or subcontractor contains the following provision:
24

25 “It is the sole responsibility of the lessee or renter to follow
26 the requirements of the regional notification center law
27 pursuant to Article 2 (commencing with Section 4216) of
28 Chapter 3.1 of Division 5 of Title 1 of the Government Code.
29 By signing this contract, the lessee or renter accepts all
30 liabilities and responsibilities contained in the regional
31 notification center law.”
32

33 ~~SEC. 12.~~

34 *SEC. 10.* Section 4216.9 of the Government Code is amended
35 to read:

36 4216.9. (a) A permit to excavate issued by any local agency,
37 as defined in Section 4216, or any state agency, shall not be valid
38 unless the applicant has been provided an initial ticket by a regional
39 notification center pursuant to Section 4216.2. For purposes of
40 this section, “state agency” means every state agency, department,

1 division, bureau, board, or commission, including the Department
2 of Transportation.

3 (b) This article does not exempt any person or corporation from
4 Sections 7951, 7952, and 7953 of the Public Utilities Code.

5 ~~SEC. 13.~~

6 *SEC. 11.* Section 4216.12 is added to the Government Code,
7 to read:

8 4216.12. (a) The California Underground Facilities Safe
9 Excavation ~~Advisory Committee~~ *Board* is hereby created under,
10 and shall be assisted by the staff of, the ~~Contractors' State License~~
11 ~~Board in the Department of Consumer Affairs.~~ *Office of the State*
12 *Fire Marshall.*

13 (b) The ~~advisory committee~~ *board* shall perform the following
14 tasks:

15 (1) Coordinate education and outreach activities that encourage
16 safe excavation practices, as described in Section 4216.17.

17 (2) Develop standards, as described in Section 4216.18.

18 (3) Investigate possible violations of this article, as described
19 in Section 4216.19.

20 ~~(e) Notwithstanding any other law, the repeal of this section~~
21 ~~renders the advisory committee subject to review by the appropriate~~
22 ~~policy committees of the Legislature.~~

23 ~~(d) This section shall remain in effect so long as, pursuant to~~
24 ~~subdivision (e) of Section 7000.5 of the Business and Professions~~
25 ~~Code, there is in the Department of Consumer Affairs a~~
26 ~~Contractors' State License Board.~~

27 ~~(e) This section shall become operative only if the Legislature~~
28 ~~appropriates moneys from the Safe Energy Infrastructure and~~
29 ~~Excavation Fund to the California Underground Facilities Safe~~
30 ~~Excavation Advisory Committee for the purposes of this section~~
31 ~~and grants authority to the Contractors' State License Board to~~
32 ~~hire sufficient staff.~~

33 (4) *Enforce this article to the extent authorized by subdivision*
34 *(e) of Section 4216.6.*

35 (c) *Notwithstanding any other law, on and after January 1,*
36 *2019, the board shall be subject to review by the appropriate policy*
37 *committees of the Legislature.*

38 ~~SEC. 14.~~

39 *SEC. 12.* Section 4216.13 is added to the Government Code,
40 to read:

1 4216.13. (a) The ~~advisory committee~~ *board* shall be composed
2 of nine members, of which ~~four~~ *seven* shall be appointed by the
3 Governor, ~~three shall be appointed by the Contractors' State~~
4 ~~License Board~~, one shall be appointed by the Speaker of the
5 Assembly, and one shall be appointed by the Senate Committee
6 on Rules.

7 (b) The ~~four~~ *seven* members appointed by the Governor shall
8 be appointed, as follows:

9 (1) Three members shall have knowledge and expertise in the
10 operation of subsurface installations. Of those three members, one
11 shall have knowledge and expertise in the operation of the
12 subsurface installations of a municipal utility. At least one of the
13 three members shall have knowledge and experience in the
14 operation of high priority subsurface installations.

15 ~~(2) One member shall have knowledge and expertise in~~
16 ~~subsurface installation location and marking and shall not be under~~
17 ~~the direct employment of an operator.~~

18 ~~(e) The three members appointed by the Contractors' State~~
19 ~~License Board~~

20 (2) *Three members* shall have knowledge and experience in
21 contract excavation for employers who are not operators of
22 subsurface installations. Of the three members, one member shall
23 be a general engineering contractor, one member shall be a general
24 building contractor, and one member shall be a specialty contractor.
25 For the purposes of this section, the terms “general engineering
26 contractor,” “general building contractor,” and “specialty
27 contractor” shall have the meanings given in Article 4
28 (commencing with Section 7055) of Chapter 9 of Division 3 of
29 the Business and Professions Code.

30 (3) *One member shall have knowledge and expertise in*
31 *subsurface installation location and marking, and shall not be*
32 *under the direct employment of an operator.*

33 ~~(d)~~

34 (c) The member appointed by the Speaker of the Assembly shall
35 have knowledge and expertise in representing in safety matters
36 the workers employed by contract excavators.

37 ~~(e)~~

38 (d) The member appointed by the Senate Committee on Rules
39 shall have knowledge and expertise in managing the underground

1 installations on one's own property, and may be drawn from
2 agricultural, commercial, or residential, or other, property sectors.

3 (f)

4 (e) The ~~advisory committee~~ *board* may invite two directors of
5 operations of regional notification centers to be nonvoting ex
6 officio members of the ~~advisory committee~~. *board*.

7 ~~SEC. 15.~~

8 *SEC. 13.* Section 4216.14 is added to the Government Code,
9 to read:

10 4216.14. (a) The term of a member of the ~~advisory committee~~
11 *board* is ~~two~~ *four* years. Of the first members of the ~~advisory~~
12 ~~committee~~, *board*, four members, determined by lot, shall serve
13 for ~~one year~~ *two years* so that the terms of the members shall be
14 staggered.

15 (b) A member shall not be appointed for more than two
16 consecutive full terms.

17 (c) To the extent possible, the appointing power shall fill any
18 vacancy in the membership of the ~~advisory committee~~ *board* within
19 60 days after the vacancy occurs.

20 (d) Upon the recommendation of the ~~advisory committee~~, *board*,
21 the Governor may remove a member appointed by the Governor
22 for incompetence or misconduct.

23 (e) The ~~advisory committee~~ *board* shall select a chairperson
24 from among its members at the first meeting of each calendar year
25 or when a vacancy in the chair exists.

26 (f) Subject to subdivision (g), the manner in which the
27 chairperson is selected and the chairperson's term of office shall
28 be determined by the ~~advisory committee~~. *board*.

29 (g) A member of the ~~advisory committee~~ *board* shall not serve
30 more than two consecutive years as the chairperson of the ~~advisory~~
31 ~~committee~~. *board*.

32 ~~SEC. 16.~~

33 *SEC. 14.* Section 4216.15 is added to the Government Code,
34 to read:

35 4216.15. The ~~advisory committee~~ *board* shall meet at least
36 once every three months. The ~~advisory committee~~ *board* shall hold
37 meetings in Sacramento and Los Angeles, and in other locations
38 in the state it deems necessary.

1 ~~SEC. 17~~

2 *SEC. 15.* Section 4216.16 is added to the Government Code,
3 to read:

4 4216.16. The ~~advisory committee~~ *board* may obtain funding
5 for its operational expenses from:

6 ~~(a) The Safe Energy Infrastructure and Excavation Fund, created~~
7 ~~in Section 320.5 of the Public Utilities Code.~~

8 ~~(b)~~

9 (a) A federal or state grant.

10 ~~(e)~~

11 (b) A fee charged to members of the regional notification centers
12 not to exceed the reasonable regulatory cost incident to enforcement
13 of this article. *Revenues derived from the imposition of this fee*
14 *shall be deposited in the Safe Energy Infrastructure and Excavation*
15 *Fund.*

16 ~~(d) A filing or administrative fee to hear a complaint pursuant~~
17 ~~to Section 4216.20.~~

18 ~~(e)~~

19 (c) Any other source.

20 ~~SEC. 18:~~

21 *SEC. 16.* Section 4216.17 is added to the Government Code,
22 to read:

23 4216.17. (a) In order to understand the needs for education
24 and outreach, including ~~of~~ those groups with the highest awareness
25 and education needs, such as homeowners, and to facilitate
26 discussion on how to coordinate those efforts, the ~~advisory~~
27 ~~committee~~ *board* shall annually convene a meeting with state and
28 local government agencies, California operators, regional
29 notification centers, and trade associations that fund outreach and
30 education programs that encourage safe excavation practices.

31 (b) The ~~advisory committee~~ *board* shall use the annual meeting
32 described in subdivision (a) to determine the areas in which
33 additional education and outreach efforts should be targeted. ~~The~~
34 ~~advisory committee~~ *Upon appropriation by the Legislature, the*
35 *board* shall grant the use of the moneys that may be apportioned
36 ~~to it by the Public Utilities Commission pursuant to paragraph (1)~~
37 ~~of subdivision (b) of Section 320.5 of the Public Utilities Code in~~
38 *the Energy Infrastructure and Excavation Fund* to fund public
39 education and outreach programs designed to promote excavation
40 safety around subsurface installations and ~~target~~ *targeted* towards

1 specific excavator groups, giving priority to those with the highest
2 awareness and education needs, such as homeowners.

3 ~~SEC. 19.~~

4 *SEC. 17.* Section 4216.18 is added to the Government Code,
5 to read:

6 4216.18. ~~(a)~~The ~~advisory committee~~ *board* shall develop a
7 standard or set of standards relevant to safety practices in
8 excavating around subsurface installations and procedures and
9 guidance in encouraging those practices. When possible, standards
10 should be informed by ~~publicly~~ *publicly* available data, such as
11 that collected by state and federal agencies and by the regional
12 notification centers pursuant to subdivision ~~(d)~~ *(g)* of Section
13 4216.6, and the ~~advisory committee~~ *board* should refrain from
14 using data about facility events not provided either to a state or
15 federal agency or as statewide information, as defined in paragraph
16 (2) of subdivision ~~(e)~~ *(h)* of Section 4216.6. The standard or set
17 of standards are not intended to replace other relevant standards,
18 including the best practices of the Common Ground Alliance, but
19 are to inform areas currently without established standards. The
20 standard or set of standards shall address all of the following:

21 ~~(1)~~

22 *(a)* Evidence necessary for excavators and operators to
23 demonstrate compliance with Sections 4216.2, 4216.3, and 4216.4.

24 ~~(2)~~

25 *(b)* Guidance for recommended sanctions against excavators
26 and operators for violations of the article designed to improve
27 safety. Sanctions may include notification and information letters,
28 direction to attend relevant education, and financial penalties. The
29 guidance shall state the circumstances under which the
30 investigation and a recommendation for sanction shall be
31 transmitted to a state or local agency, which may include the
32 Attorney General or a district attorney, for enforcement pursuant
33 to subdivision (b) of Section 4216.20 and may allow for a decision
34 not to transmit if the investigation was initiated by a complaint,
35 the parties have settled the matter, and the advisory committee has
36 determined that further enforcement is not necessary as a deterrent
37 to maintain the integrity of subsurface installations and to protect
38 the safety of excavators and the public. Recommendations for
39 sanctions shall be graduated and shall consider all of the following:

40 ~~(A)~~

1 (1) The type of violation and its gravity.

2 ~~(B)~~

3 (2) The degree of culpability.

4 ~~(C)~~

5 (3) The operator's or excavator's history of violations.

6 ~~(D)~~

7 (4) The operator's or excavator's history of work conducted
8 without violations.

9 ~~(E)~~

10 (5) The efforts taken by the violator to prevent violation, and,
11 once the violation occurred, the efforts taken to mitigate the safety
12 consequences of the violation.

13 ~~(F)~~

14 (6) That homeowners have high awareness and education needs,
15 and for this reason, financial penalties shall not be recommended
16 except in cases in which a person's violations have been willful,
17 repeated, and flagrant.

18 ~~(3)~~

19 (c) What constitutes reasonable care, as required by paragraph
20 (1) of subdivision (a) of Section 4216.4, in using hand tools around
21 subsurface installations within the tolerance zone, considering the
22 need to balance worker safety in trenches with the protection of
23 subsurface installations. As part of determining reasonable care,
24 the advisory committee shall consider the appropriate additional
25 excavating depth an excavator should make if either of the
26 following occur:

27 ~~(A)~~

28 (1) The subsurface installation is delineated within the tolerance
29 zone but it is not in conflict with the excavation.

30 ~~(B)~~

31 (2) The location of a subsurface installation is determined, but
32 additional subsurface installations may exist immediately below
33 the located subsurface installation.

34 ~~(4)~~

35 (d) What constitutes reasonable care, as required by paragraph
36 (1) of subdivision (a) of Section 4216.4, in grading activities on
37 road shoulders and dirt roads which may include standards for
38 potholing.

39 ~~(b) On or before December 31, 2018, the advisory committee~~
40 ~~shall, in consultation with the Department of Food and Agriculture~~

1 and after an agricultural stakeholder process, make
2 recommendations for long-term treatment of agricultural activities
3 that include determining whether the notification requirements of
4 Section 4216.2, the locate and field mark requirements of Section
5 4216.3, and the excavation requirements of Section 4216.4 are
6 appropriate for all types of agricultural activities, or whether they
7 could be modified in ways to promote participation in safe
8 agricultural practices around high priority subsurface installations.

9 (1) The recommendations shall be informed by a study that
10 includes, but is not limited to, the following:

11 (A) A review of past damages attributable to agricultural
12 activities, including information provided by gas corporations
13 pursuant to subdivision (b) of Section 971 of the Public Utilities
14 Code.

15 (B) Estimations of the use of regional notification centers by
16 persons involved in agricultural activities provided by gas
17 corporations, including the methodology used for the development
18 of, the sources of error in, and confidence intervals for the
19 estimations, pursuant to subdivision (c) of Section 971 of the Public
20 Utilities Code.

21 (C) A review of the outreach and education practices of
22 operators of high priority subsurface installations toward persons
23 who undertake agricultural activities and measures of the successes
24 of those practices, with an explanation of how the measure of
25 success is defined.

26 (D) A review of existing standards for operator communication
27 with excavators, such as Recommended Practice 1162 by the
28 American Petroleum Institute.

29 (2) The recommendations shall address the following questions:

30 (A) Do agricultural activities differ from common types of
31 excavation in ways that may affect the applicability of Sections
32 4216.2, 4216.3, and 4216.4 to agricultural activities?

33 (B) Should a person notify the regional notification center before
34 undertaking agricultural activities that are not in the vicinity of
35 subsurface installations? What is a sufficient means by which a
36 person would know if there are subsurface installations in the
37 vicinity?

38 (C) What is the benefit of the requirement in subdivision (c) of
39 Section 4216.2 for an onsite meeting in advance of the performance
40 of agricultural activities in the vicinity of high priority subsurface

1 installations? Under what circumstances is an onsite meeting
 2 appropriate in advance of the performance of agricultural activities,
 3 and how far in advance of the performance of agricultural activities
 4 does the onsite meeting requirement retain its benefit? What is the
 5 most convenient and expedient means to initiate an onsite meeting
 6 in advance of the performance of agricultural activities?

7 ~~(D) What outreach and education activities on the part of~~
 8 ~~operators of high priority subsurface installations are important to~~
 9 ~~promote safety in performing agricultural activities? What actions~~
 10 ~~should the outreach and education activities induce in persons~~
 11 ~~performing agricultural activities, and how can success be~~
 12 ~~measured?~~

13 ~~(E) How should the success of the advisory committee's~~
 14 ~~recommendations be measured?~~

15 ~~SEC. 20.~~

16 *SEC. 18.* Section 4216.19 is added to the Government Code,
 17 to read:

18 4216.19. (a) ~~The advisory committee board shall investigate~~
 19 ~~possible violations of this article, including complaints from~~
 20 ~~affected parties and members of the public. article.~~

21 *(b) The board may investigate reports of incident events, as*
 22 *defined in paragraph (1) of subdivision (h) of Section 4216.6 and*
 23 *complaints from affected parties and members of the public.*

24 *(c) In determining whether to pursue an investigation, the board*
 25 *shall consider whether the parties have settled the matter and*
 26 *whether further enforcement is necessary as a deterrent to maintain*
 27 *the integrity of subsurface installations and to protect the safety*
 28 *of excavators and the public.*

29 ~~(b)~~

30 *(d) In furthering the purposes of this article, the advisory*
 31 *committee to the extent that resources allow, the board may*
 32 *authorize staff allocated to it by the Contractors' State License*
 33 *Board Office of the State Fire Marshall to use compliance audits,*
 34 *including field audits, and investigations of incidents and near*
 35 *misses.*

36 ~~(e)~~

37 *(e) This section shall become operative on January 1, 2018.*

38 ~~SEC. 21.~~

39 *SEC. 19.* Section 4216.20 is added to the Government Code,
 40 to read:

1 4216.20. (a) Upon the completion of an investigation of a
2 possible violation of this article, the ~~advisory committee~~ *board*
3 shall inform the following parties of the result of the investigation,
4 including any findings of probable violation:

5 (1) The party or parties whose activities were the subject of the
6 investigation.

7 (2) The complainant, if the investigation was initiated because
8 of a complaint.

9 (3) Any excavator or operator whose activities or subsurface
10 installations were involved in the incident investigated.

11 (b) If the ~~advisory committee, board~~, upon the completion of
12 an investigation, finds a probable violation of the article, the
13 ~~advisory committee~~ *board* may transmit the investigation results
14 and any recommended penalty to the state or local agency with
15 jurisdiction over the activity or business undertaken in commission
16 of the ~~violation~~: *violation, pursuant to subdivision (c) of Section*
17 *4216.6, and may take action pursuant to subdivision (e) of Section*
18 *4216.6.*

19 ~~SEC. 22.~~

20 *SEC. 20.* Section 4216.21 is added to the Government Code,
21 to read:

22 4216.21. (a) For an investigation that the ~~advisory committee~~
23 *board* undertakes as a result of a complaint of a violation of Section
24 4216.2, 4216.3, or 4216.4, the complainant shall not file an action
25 in court for damages based on those violations until the
26 investigation is complete, or for 120 days after the investigation
27 begins, whichever comes first, during which time, applicable
28 statutes of limitation shall be tolled.

29 (b) If a complainant files an action in court against a person for
30 damages based upon violations of Section 4216.2, 4216.3, or
31 4216.4, after the completion of ~~an advisory committee~~ *a board*
32 investigation in which the person was found not to have violated
33 the article, the complainant shall also notify the ~~advisory committee~~
34 *board* when the action is filed.

35 (c) This section only applies to a claim for damages to a
36 subsurface installation.

37 *SEC. 21.* Section 4216.22 is added to the Government Code,
38 to read:

39 *4216.22.* Consistent with all laws of this state, the board may
40 prescribe rules and regulations as may be necessary or proper to

1 *carry out the purposes and intent of this act and to exercise the*
2 *powers and duties conferred upon it by this act.*

3 ~~SEC. 23.~~

4 ~~SEC. 22.~~ Section ~~4216.22~~4216.23 is added to the Government
5 Code, to read:

6 ~~4216.22.~~

7 4216.23. (a) Notwithstanding Section 10231.5, the ~~advisory~~
8 ~~committee board~~ shall report to the Governor and the Legislature
9 on or before February 1, 2018, and each year thereafter, on the
10 activities of the ~~advisory committee board~~ and any
11 recommendations of the ~~advisory committee board~~.

12 (b) A report to be submitted pursuant to subdivision (a) shall
13 be submitted in compliance with Section 9795.

14 ~~SEC. 24.~~ Section 17921.11 is added to the Health and Safety
15 Code, to read:

16 17921.11. (a) ~~During the next regularly scheduled intervening~~
17 ~~code cycle that commences on or after January 1, 2017, or during~~
18 ~~a subsequent code adoption cycle, the department shall develop~~
19 ~~and propose for adoption by the California Building Standards~~
20 ~~Commission, pursuant to Chapter 4 (commencing with Section~~
21 ~~18935) of Part 2.5, building standards requiring all new residential~~
22 ~~nonpressurized building sewers that connect from building~~
23 ~~structures to the public right-of-way or applicable utility easement~~
24 ~~to include the installation of tracer tape or wire to aid in detection~~
25 ~~and tracing of these nonpressurized building sewers.~~

26 (b) ~~In researching, developing, and proposing building standards~~
27 ~~under this section, the Department of Housing and Community~~
28 ~~Development is authorized to expend funds from the Building~~
29 ~~Standards Administration Special Revolving Fund, upon~~
30 ~~appropriation pursuant to Section 18931.7.~~

31 ~~SEC. 25.~~ Section 18940.8 is added to the Health and Safety
32 Code, to read:

33 18940.8. (a) ~~During the next regularly scheduled intervening~~
34 ~~code cycle that commences on or after January 1, 2017, or during~~
35 ~~a subsequent code adoption cycle, the commission shall develop~~
36 ~~and propose for adoption, pursuant to Chapter 4 (commencing~~
37 ~~with Section 18935) of Part 2.5, building standards requiring all~~
38 ~~new nonresidential nonpressurized building sewers that connect~~
39 ~~from building structures to the public right-of-way or applicable~~
40 ~~utility easement to include the installation of tracer tape or wire~~

1 to aid in detection and tracing of these nonpressurized building
2 sewers:

3 (b) In researching, developing, and proposing building standards
4 under this section, the California Building Standards Commission
5 is authorized to expend funds from the Building Standards
6 Administration Special Revolving Fund, upon appropriation
7 pursuant to Section 18931.7.

8 SEC. 26. Section 320.5 is added to the Public Utilities Code,
9 to read:

10 320.5. (a) The Safe Energy Infrastructure and Excavation Fund
11 is hereby established in the State Treasury. Moneys deposited into
12 the fund shall be used to cover the administrative expenses of the
13 California Underground Facilities Safe Excavation Advisory
14 Committee, upon appropriation by the Legislature. Additionally,
15 the moneys may be used as described in subdivision (b).

16 (b) Up to five hundred thousand dollars (\$500,000) of moneys
17 in the fund that are in excess of the moneys necessary for the
18 administrative expenses of the California Underground Facilities
19 Safe Excavation Advisory Committee may, upon appropriation
20 by the Legislature, be apportioned by the commission for the
21 following purposes:

22 (1) The California Underground Facilities Safe Excavation
23 Advisory Committee, to fund public education and outreach
24 programs designed to promote excavation safety around subsurface
25 installations and targeted toward specific excavator groups.

26 (2) The commission, to further a gas and electric safety and
27 enforcement workforce development program consistent with its
28 equal employment program. No moneys shall be used to fulfill
29 existing state and federal training requirements or for ongoing
30 operations, but moneys may be used for the purpose of education
31 in emergent safety issues and in best practices pertaining to gas
32 and electric utility inspections, audits, accident investigations, and
33 data tracking and analysis. The commission may only apportion
34 moneys for this purpose upon commission approval of a safety
35 and enforcement workforce development program at a meeting of
36 the commission. No more than one hundred fifty thousand dollars
37 (\$150,000) of the Safe Energy Infrastructure and Excavation Fund
38 may be used for this purpose.

39 (c) Any moneys not allocated pursuant to subdivisions (a) and
40 (b) shall be deposited into the General Fund.

1 ~~SEC. 27.~~ Section 911.2 is added to the Public Utilities Code,
2 to read:

3 911.2. No later than February 1, 2019, the commission shall
4 report to the Legislature and to the California Underground
5 Facilities Safe Excavation Advisory Committee an analysis of
6 excavation damage to commission-regulated pipeline facilities.
7 The report shall include analyses of the types of damage and other
8 information described in Section 971.

9 ~~SEC. 28.~~ Section 955.5 of the Public Utilities Code is amended
10 to read:

11 955.5. (a) For purposes of this section, the following terms
12 have the following meanings:

13 (1) “Gas pipeline” means an intrastate distribution line as
14 described in paragraph (1) of, or an intrastate transmission line as
15 described in paragraph (2) of, Section 950.

16 (2) “Hospital” means a licensed general acute care hospital as
17 defined in subdivision (a) of Section 1250 of the Health and Safety
18 Code.

19 (3) “School” means a public or private preschool, elementary,
20 or secondary school.

21 (b) A gas corporation shall provide not less than three working
22 days’ notice to the administration of a school or hospital prior to
23 undertaking nonemergency excavation or construction of a gas
24 pipeline, excluding any work that only uses hand tools, pneumatic
25 hand tools, or vacuum technology for the purpose of marking and
26 locating a subsurface installation pursuant to Article 2
27 (commencing with Section 4216) of Chapter 3.1 of Division 5 of
28 Title 1 of the Government Code, if the work is located within 500
29 feet of the school or hospital. The notification shall include all of
30 the following:

31 (1) The name, address, telephone number, and emergency
32 contact information for the gas corporation.

33 (2) The specific location of the gas pipeline where the excavation
34 or construction will be performed.

35 (3) The date and time the excavation or construction is to be
36 conducted and when the work is expected to be completed.

37 (4) An invitation and a telephone number to call for further
38 information on what the school or hospital should do in the event
39 of a leak.

1 ~~(e) The gas corporation shall maintain a record of the date and~~
2 ~~time of any notification provided to the administration of a school~~
3 ~~or hospital prior to undertaking nonemergency excavation or~~
4 ~~construction of a gas pipeline and any subsequent contacts with~~
5 ~~the administration of a school or hospital relative to the excavation~~
6 ~~or construction and the actions taken, if any, in response to those~~
7 ~~subsequent contacts. The gas corporation shall maintain these~~
8 ~~records and make them available for inspection for no less than~~
9 ~~five years from the date of the notification.~~

10 ~~SEC. 29. Section 971 is added to the Public Utilities Code, to~~
11 ~~read:~~

12 ~~971. (a) As a part of its damage prevention program carried~~
13 ~~out pursuant to Section 192.614 of Part 192 of Title 49 of the Code~~
14 ~~of Federal Regulations, each gas corporation shall collect data to~~
15 ~~inform its outreach activities. Until January 1, 2020, the data shall~~
16 ~~include all of the following:~~

17 ~~(1) Damage to underground commission-regulated pipeline~~
18 ~~facilities that occurred during the performance of landscaping~~
19 ~~activities. Each gas corporation shall note in its investigation of~~
20 ~~excavation damage incidents the approximate depth of the gas~~
21 ~~facility at the time of damage, the type of excavator involved,~~
22 ~~which may include “homeowner,” “licensed contractor,” or~~
23 ~~“unlicensed contractor,” and whether the excavator had called the~~
24 ~~regional notification center before performing the excavation.~~

25 ~~(2) All claims filed by the gas corporation against an excavator~~
26 ~~for damage to commission-regulated pipeline facilities.~~

27 ~~(3) Damages to underground commission-regulated pipeline~~
28 ~~facilities that occurred in the installation of temporary real estate~~
29 ~~signposts. Each gas corporation shall note in its investigation of~~
30 ~~excavation damage incidents the type of signpost installed and the~~
31 ~~method of installation, including the types of tools used.~~

32 ~~(4) Damage to underground commission-regulated pipeline~~
33 ~~facilities that occurred during agricultural activities, including the~~
34 ~~type of activity performed and the type of tool involved in the~~
35 ~~damage.~~

36 ~~(5) Any other information that the commission shall require.~~

37 ~~(b) Until January 1, 2020, each gas corporation shall annually~~
38 ~~report to the commission and to the California Underground~~
39 ~~Facilities Safe Excavation Advisory Committee excavation damage~~

1 data and analyses contained in subdivision (a) in a format of the
2 commission's choosing.

3 (e) As a part of its damage prevention program carried out
4 pursuant to Section 192.614 of Part 192 of Title 49 of the Code of
5 Federal Regulations, each gas corporation shall estimate
6 Californians' use of regional notification centers, as defined in
7 Section 4216 of the Government Code, before conducting
8 agricultural activities. This estimation shall consider the use of
9 regional notification centers before conducting agricultural
10 activities that are both in the vicinity of its natural gas transmission
11 pipelines and not in the vicinity of its natural gas transmission
12 pipelines. Each gas corporation shall provide this estimate to the
13 commission and to the California Underground Facilities Safe
14 Excavation Advisory Committee on or before July 1, 2017. In
15 performing this estimation, each gas corporation shall do all of the
16 following:

17 (1) Estimate the amount and locations of agricultural activity
18 being performed by using relevant publicly available information,
19 such as maps prepared pursuant to the Farmland Mapping and
20 Monitoring Program of the California Natural Resources Agency,
21 information from the National Agricultural Statistics Service, and
22 information available from assessor parcel numbers.

23 (2) Determine the number and locations of notifications to
24 regional notification centers for excavation activities on agricultural
25 land by using information from its own mark and locate activities
26 and, to the extent the information is available, from the regional
27 notification centers or other sources.

28 (3) For notifications in the vicinity of its natural gas transmission
29 pipelines, determine the average number of notifications on
30 agricultural land per transmission pipeline mile per year as well
31 as a histogram to describe the number of transmission pipeline
32 intervals Y , in units of the best available precision, on which X
33 notifications occurred, where X increases from zero.

34 (4) Describe the methodology used for the development of any
35 estimates and identify sources of error in the estimation and a
36 confidence interval for the estimation.

37 SEC. 30. Section 1702.5 of the Public Utilities Code is
38 amended to read:

39 1702.5. (a) The commission shall, in an existing or new
40 proceeding, develop and implement a safety enforcement program

1 applicable to gas corporations and electrical corporations that
2 includes procedures for monitoring, data tracking and analysis,
3 and investigations, as well as issuance of citations by commission
4 staff, under the direction of the executive director. The enforcement
5 program shall be designed to improve gas and electrical system
6 safety through the enforcement of applicable law, or order or rule
7 of the commission related to safety using a variety of enforcement
8 mechanisms, including the issuance of corrective actions, orders,
9 and citations by designated commission staff, and recommendations
10 for action made to the commission by designated commission staff.

11 (1) ~~When considering the issuance of citations and assessment~~
12 ~~of penalties, the commission staff shall take into account voluntary~~
13 ~~reporting of potential violations, voluntary removal or resolution~~
14 ~~efforts undertaken, the prior history of violations, the gravity of~~
15 ~~the violation, and the degree of culpability.~~

16 (2) ~~The procedures shall include, but are not limited to,~~
17 ~~providing notice of violation within a reasonable period of time~~
18 ~~after the discovery of the violation.~~

19 (3) ~~The commission shall adopt an administrative limit on the~~
20 ~~amount of monetary penalty that may be set by commission staff.~~

21 (b) ~~The commission shall develop and implement an appeals~~
22 ~~process to govern the issuance and appeal of citations or resolution~~
23 ~~of corrective action orders issued by the commission staff. The~~
24 ~~appeals process shall provide the respondent a reasonable period~~
25 ~~of time, upon receiving a citation, to file a notice of appeal, shall~~
26 ~~afford an opportunity for a hearing, and shall require the hearing~~
27 ~~officer to expeditiously provide a draft disposition.~~

28 (e) ~~The commission shall, within a reasonable time set by the~~
29 ~~commission, conclude a safety enforcement action with a finding~~
30 ~~of violation, a corrective action order, a citation, a determination~~
31 ~~of no violation, approval of the corrective actions undertaken by~~
32 ~~the gas corporation or electrical corporation, or other action. The~~
33 ~~commission may institute a formal proceeding regarding the alleged~~
34 ~~violation, potentially resulting in additional enforcement action,~~
35 ~~regardless of any enforcement action taken at the commission staff~~
36 ~~level.~~

37 (d) ~~The commission shall implement the safety enforcement~~
38 ~~program for gas safety by July 1, 2014, and implement the safety~~
39 ~~enforcement program for electrical safety no later than January 1,~~
40 ~~2015.~~

1 ~~(e) This section does not apply to an exempt wholesale~~
 2 ~~generator, a qualifying small power producer, or qualifying~~
 3 ~~cogenerator, as defined in Section 796 of Title 16 of the United~~
 4 ~~States Code and the regulations enacted pursuant thereto. Nothing~~
 5 ~~in this section affects the commission’s authority pursuant to~~
 6 ~~Section 761.3.~~

7 ~~(f) Notwithstanding any other law, moneys collected as a result~~
 8 ~~of the issuance of citations pursuant to this section shall be~~
 9 ~~deposited in the Safe Energy Infrastructure and Excavation Fund.~~

10 ~~SEC. 31. No reimbursement is required by this act pursuant to~~
 11 ~~Section 6 of Article XIII B of the California Constitution because~~
 12 ~~the only costs that may be incurred by a local agency or school~~
 13 ~~district will be incurred because this act creates a new crime or~~
 14 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
 15 ~~for a crime or infraction, within the meaning of Section 17556 of~~
 16 ~~the Government Code, or changes the definition of a crime within~~
 17 ~~the meaning of Section 6 of Article XIII B of the California~~
 18 ~~Constitution.~~

19 *SEC. 23. Section 4216.24 is added to the Government Code,*
 20 *to read:*

21 *4216.24. The Safe Energy Infrastructure and Excavation Fund*
 22 *is hereby established in the State Treasury. Moneys deposited into*
 23 *the fund shall be used, upon appropriation by the Legislature, to*
 24 *cover the operational expenses of the board and for the purposes*
 25 *specified in subdivision (b) of Section 4216.17, except as follows:*

26 *(a) Revenues derived from penalties imposed pursuant to Section*
 27 *4216.6 shall not be used for operational expenses.*

28 *(b) Revenues derived from the fee imposed pursuant to Section*
 29 *4216.16 shall not be used for the purposes specified in subdivision*
 30 *(b) of Section 4216.17.*