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H.B. 430
134th General Assembly

Bill Analysis

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Version: As Passed by the House

Primary Sponsor: Rep. Cross

Rocky Hernandez, Attorney

SUMMARY

- Requires that if a public improvement is within 660 feet of the center point of any interstate hazardous liquid pipeline or interstate gas pipeline, the pipeline operator must provide specified information to the public authority constructing the public improvement.
- Requires that if the public authority is notified that the public improvement is 660 feet of the center point of an interstate hazardous liquid pipeline or interstate gas pipeline, the public authority must include in the plans and specifications information specified in the bill related to the pipeline.
- Requires a utility to provide the location information of an interstate hazardous pipeline or interstate gas pipeline to a developer or designer of a proposed project requiring excavation when the project is within 660 feet of a center point of the pipeline.
- Requires the developer and designer to include the notice information provided by the utility of the interstate hazardous pipeline and interstate gas pipeline in the developer's or designer's plans and specifications.
- Authorizes a public authority to withhold approval to a project until the requirements have been satisfied by the developer and the utility.
- Provides that a public authority is immune from liability related to the approval or construction of the development when the approval is based on information provided by the developer in the plans and specifications.
- Designates April as "Ohio Work Zone Safety Awareness Month."

DETAILED ANALYSIS

General overview

Ohio law imposes various responsibilities upon public entities, contractors, and owners of underground utility facilities (such as items buried or submerged for use in connection with the storage or conveyance of water or sewage, electronic communications, electricity, or petroleum products or natural gas) to protect those facilities during the construction of public improvements.¹ Similarly, the law imposes various responsibilities on the utilities, excavators, developers, and designers related to the operation and protection of underground utility facilities during development projects.² The bill adds similar responsibilities to these entities for the protection of interstate hazardous liquid pipelines and interstate gas pipelines.

Interstate hazardous liquid pipeline or interstate gas pipelines

Public improvements

Under continuing law, in any public improvement that may involve underground utility facilities, the public authority, prior to preparing plans and specifications, must contact a protection service (a notification center that receives notices of this sort and distributes information related to the notice to its members) and owners of underground utility facilities that are not members of a protection service for the existence and location of all underground utility facilities within the construction area. And if requested by the public authority, the owner of the underground utility facility must mark the location of the underground utility facility within the construction area or provide drawings to the public authority. The bill adds that if a public improvement is within 660 feet of the center point of any interstate hazardous liquid pipeline or interstate gas pipeline, the pipeline operator must provide to the public authority the following:

1. A written notice of any special notification requirements;
2. The location and description of any right-of-way associated with the pipeline as well as pipeline location information, such as providing documents reflecting the actual location of the pipeline, marking facilities on design drawings, and providing maps;
3. Contact information for the primary contact person for the project area.³

If the public authority is notified that the improvement is 660 feet of the center point of an interstate hazardous liquid pipeline or interstate gas pipeline, the public authority must also include in the plans and specifications for the project all of the following:

- Any special notification requirements;

¹ R.C. 153.64.

² R.C. 3781.25 through 3781.38.

³ R.C. 153.64(A) and (B)(3).

- The name and contact information of the primary contact person for each pipeline operator who has provided notice to the public;
- Notice stating that the public authority has utilized reasonable means to contact the pipeline operator to verify the location of the pipeline and pipeline right-of-way (which the public authority is deemed to have done if it provides notice to the protection service);
- Notice that the public authority has reviewed, or has attempted to review, preliminary information about the public improvement with the pipeline operator and incorporated the requested adjustments into the plans.⁴

General utility protection service law

Under continuing law, developers and designers of any property improvement that will require excavation are required to notify a protection service that serves the area of a proposed excavation site. The protection service then notifies each utility having an underground utility facility in the proposed excavation site or gives the developer or designer contact information for the utility. Upon receiving the notice, the utility then must notify the developer or designer of the location of the underground utility facility; the developer or designer must then provide the information to the excavator before excavation begins.⁵

Existing law requires that in the case of interstate hazardous liquid pipelines or interstate gas pipelines, the owner or operator of a utility must provide written notice to the developer or designer of any special notification requirements. The bill limits this requirement to when the proposed project is within 660 feet of the center point of the interstate hazardous liquid pipeline or an interstate gas pipeline. The bill also requires the utility to identify its primary contact person for the project area.⁶

Continuing law requires that if requested by the developer or designer, the utility must mark the location of the underground utility facility at the proposed excavation site or provide drawings.⁷ Under the bill, for these types of pipelines, the utility must also provide the location and description of any right-of-way associated with the underground utility facilities as well as pipeline location information, such as providing documents reflecting the actual location of the pipeline, marking facilities on design drawings, and providing maps.⁸

Based on this information, under existing law the developer or designer must include on the plans for the project the approximate location of the underground facility, the contact information for the utility, and, in the case of an interstate hazardous liquid pipeline or an

⁴ R.C. 153.64(B)(4).

⁵ R.C. 3781.27(A), (B), (C)(1), and (E); R.C. 3781.26, not in the bill.

⁶ R.C. 3781.27(C)(1).

⁷ R.C. 3781.27(C)(2).

⁸ R.C. 3781.27(C)(3).

interstate gas pipeline, any special notification requirements. Under the bill, for these types of pipelines, the developer or designer is also required to include in the plans and specifications the following:

- The name and contact information of the primary contact person for each pipeline operator who has provided notice to the developer or designer;
- Notice stating that the developer or designer has utilized reasonable means to contact the pipeline operator to verify the location of the pipeline and pipeline rights-of-way (which the developer or designer is deemed to have done if it notified the protection service as described above);
- Notice that the developer or designer has reviewed, or attempted to review, preliminary information about the proposed development with the pipeline operator and incorporated requested adjustments into the plans.⁹

The bill authorizes a public authority to withhold approval to a project until the above requirements have been satisfied by the developer and the utility. A public authority may rely solely upon the notice submitted with the plans by the developer or designer, as described above, when determining whether the requirements have been satisfied for purposes of granting final approval of the development. The bill provides that a public authority is immune from liability related to the approval or construction of the development when the approval is based on this information.¹⁰

Ohio Work Zone Safety Awareness Month

The bill designates the month of April as “Ohio Work Zone Safety Awareness Month.”¹¹

HISTORY

Action	Date
Introduced	09-21-21
Reported, H. Energy and Natural Resources	02-16-22
Passed House (91-0)	03-02-22

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⁹ R.C. 3781.27(E)(1).

¹⁰ R.C. 3781.27(G).

¹¹ R.C. 5.248.