

## **BILL ANALYSIS**

Senate Research Center

H.B. 2391  
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State Affairs  
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Engrossed

### **DIGEST AND PURPOSE**

Currently, the Texas Underground Facility Notification Corporation (corporation) receives one cent each time a notification center receives a call from an excavator. The corporation is required to waive the one cent fee if the revenue from collecting those fees exceeds \$500,000 within that year. Additionally an excavator is charged penalties for violating the Underground Facility Damage Prevention and Safety Act. H.B. 2391 increases the fee to five cents per call, lowers the cap to \$250,000, and increases the amount of financial penalties.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 251.106, Utilities Code, to require a notification center, each time the notification center receives a call from an excavator under Section 251.151, to pay the corporation five cents, rather than one cent. Requires the corporation to waive this charge for the remainder of any year in which the corporation receives \$250,000, rather than \$500,000, under this section.

SECTION 2. Amends Section 251.201, Utilities Code, as follows:

Sec. 251.201. New heading: CIVIL PENALTY OR WARNING LETTER. Provides that an excavator that violates Section 251.151, 251.152, or 251.159 is liable for a civil penalty of not less than \$500, rather than \$50, or more than \$1,000, rather than \$100. Authorizes the board of directors of the corporation (board), if a county attorney or district attorney decides not to bring an action to recover the civil penalty, to give the excavator a warning letter, in accordance with Section 251.2011, and require the excavator to attend a safety training course approved by the board, in accordance with Section 251.2011. Requires the county attorney or district attorney to notify the board of its decision. Provides that the excavator is liable for a civil penalty of not less than \$1,000, rather than \$100, or more than \$2,000, rather than \$200, if it is found at the trial on a civil penalty that the excavator has violated this chapter and has been assessed a penalty under this section or has received a warning letter from the board one other time before the first anniversary of the date of the most recent violation. Provides that the excavator is liable for a civil penalty of not less than \$2,000, rather than \$200, or more than \$5,000, rather than \$500, if it is found at the trial on a civil penalty that the excavator has violated this chapter and has been assessed a penalty under this section at least two other times before the first anniversary of the date of the most recent violation, or has been assessed a penalty at least one other time before the first anniversary of the date of the most recent violation and has received a warning letter from the board during that period. Makes a reference to "penalty" as "civil penalty." Provides that venue for a proceeding to collect a civil penalty under this section is in certain counties.

SECTION 3. Amends Chapter 251E, Utilities Code, by adding Section 251.2011, as follows:

Sec. 251.2011. WARNING LETTER AND SAFETY TRAINING COURSE. Requires the board to establish a procedure to ensure that the board verifies that an excavator has violated Section 251.151, 251.152, 251.159 before giving the excavator a warning letter and requiring the excavator to attend a safety training course under Section 251.201.

SECTION 4. Effective date: September 1, 2001.

Makes application of this Act prospective.