

Policy / Procedure	Present Law Until Sept 30 TH , 2025	New Law, Effective Oct 1 ST , 2025	Reference
Notice Prior To Start Excavation/Demolition For Markings			
Underground Facilities	Within 3 to 12 full working days.	No less than 3 full working days.	87-122 (a)
SubAqueous Facilities	Within 10 to 20 full working days.	No less than 10 to 20 full working days.	
Facilities Locate By Date			
Underground Facilities	Within 3 full working days after the date the notice was given.	Within 3 full working days prior to the work start date .	87-121 (b)(1) (2)
SubAqueous Facilities	Within 10 full working days after the date the notice was given.	No change to current law.	
Notification Expiration (Life of a ticket)	15 full working days after the date the notice was given.	Extend the time before notice expires from 15 working days to 28 calendar days.	87-122 (a)
Area of Excavation	Amended to add additional language	Limit the area of the proposed excavation or demolition to an area that the excavator reasonably believes may be completed within 28 calendar days from the work start date and does not include any areas where the excavation or demolition has been completed and accepted by the authorities having jurisdiction	87-122 (b)(5)
Use of Non-Mechanized Equipment	Shall not use mechanized within 24 inches of specific facilities unless operator has consented to use and operator is on site.	Shall use non-mechanized equipment within a 24-inch circumference around specific facilities unless operator has consented to use and is on site in addition to use of safe excavation practices around pipeline system within the tolerance zone.	87-122 (c)(10)
Definitions	Non-mechanized equipment was hand tools.	Amended non-mechanized equipment to include hand tools and soft dig technologies. Added Soft Dig Technology description. Added Horizontal Distance.	87-117 (15) (20a)(22)
Facility Markings	Remains the same with an added statement.	Painted surface marks should be of adequate length to distinguish from dots.	87-121 (a) (1)
Emergency Request Response by operator	Not addressed	Facility operator shall make initial contact with the excavator within 3 hours	87-121 (b)(4)
Unmarked Facility Response by operator	Not addressed	Facility operator shall arrange for the facility to be marked within 3 hours from the time the additional notice is received by notification center.	87-121 (b)(5)
Exemptions	Excavation or Demolition that involves the tilling of soils for agriculture or gardening purposes	Added to include if encroaching on operators right of way easement, or permitted use and excavation is less than 12 inches in depth	87-124 (3)
	No change, only an addition.	Added “their contractor” in addition to operator and surveyor excavating with non-mechanized equipment for stated purposes.	87-124(5)

Policy / Procedure	<i>Present Law Until Sept 30TH, 2025</i>	New Law, Effective Oct 1ST, 2025	Reference
Exemptions	Excavation and Demo activities performed for routine maintenance of a r/o/w, or any other governmental entity with labor on their payroll	Verbiage changes to read an excavation or demo performed for the purpose of maintenance activities within the right of way ...	87-124 (6)
Claims Adjudication	<i>Not addressed.</i>	Venue for claims adjudication for damages in NC shall be held in the NC county in which the occurrence happened.	87-126 (c)
Absence of a Facility Location	<i>Re-write of the section and addition</i>	Would limit the liability of the excavator and the person financially responsible for the excavation as long as the excavator has exercised due care in preparing for or conducting the excavation. This section would create a presumption, rebuttable by clear and convincing evidence, that the excavator has exercised due care if the Notification Center has notified the operator and the operator has failed to respond, the excavator has complied with all responsibilities imposed by statute, and the excavator did not have actual knowledge of the existence of a facility within the area of excavation.	87-128
Underground Damage Prevention Review Board	Same, but with additions to new law.	<ol style="list-style-type: none"> 1. Governor shall fill vacancies within 60 days of seat being vacated. 2. Quorum met with majority of seat members are present, either by being present in person, phone, or other electronic means 3. Establish an internal attendance policy by the board, with the board appointing an interim member until appointed by Governor. 4. On request of the board, Utilities Commission shall appoint a nonvoting ex officio member as an admin rep to provide counsel and coordinate efforts of the board 5. Board must contact and inform persons who reports have been filed within 15 working days 6. Board must notify those deemed to have violated the law within 30 days 7. Informal conference may be requested by the deemed violator: Must request within 30 days of the board's determination 8. Deemed violator may request arbitration of board decision before the Utilities Commission within 30 days of the board's decision following the informal conference 9. Utilities Commission shall report to the board compliance of persons on whom fines or penalties have been imposed 10. Penalties not paid within 90 days to Utilities Commission; the Attorney General shall bring action to Superior Court for Wake County for recovery. 	<p>87-129</p> <p>(a1)</p> <p>(a4)</p> <p>(a7)</p> <p>(a8)</p> <p>(b)</p> <p>(b1)</p> <p>(b2)</p> <p>(c)</p> <p>(d1)</p> <p>(d2)</p>

*All NC811 Policies and Procedures will be updated to reflect and abide by new law



HOUSE BILL 247: Underground Safety Revisions.

2025-2026 General Assembly

Committee: Senate Rules and Operations of the Senate	Date: June 12, 2025
Introduced by: Reps. Zenger, Watford, Setzer	Prepared by: Michael Johnston*
Analysis of: Third Edition	Staff Attorney

OVERVIEW: *House Bill 247 would do all of the following with regard to marking of underground utilities:*

- *Specify that nonmechanized equipment includes soft dig technologies.*
- *Clarify the standards of painted surface marks for operators marking underground facilities and adjust response times for requests for marking of a facility.*
- *Shorten the notice period for projects not involving subaqueous facilities, extend notice validity, limit the area for facility location requests, and clarify excavation practices near pipelines.*
- *Amend exemptions from requirements for notice before commencing an excavation.*
- *Clarify that the venue for all actions arising from actual and consequential damages occurring in this State is the county where the damages occurred.*
- *Create a rebuttable presumption that an excavator has exercised due care in certain circumstances.*
- *Make changes to the Underground Damage Prevention Review Board (Board) concerning vacancies and quorum, and allow an informal conference process to request that the Board reverse or modify its determinations concerning violations of the Act.*

CURRENT LAW AND BILL ANALYSIS:

Section 1 of the bill would define the term "soft dig technologies" and specify that nonmechanized equipment includes soft dig technologies.

Section 2 would specify that when a facility operator marks facilities, where practical, the painted surface marks must be long enough to distinguish them from dots. This section would also modify an operator's duties when information is requested by an excavator as follows, unless otherwise provided in a written agreement between the operator and the excavator, including electronically:

- For a facility, the operator must provide the information within three working days prior to the work start date provided by the excavator. Under current law, the operator must provide the information within three working days after the day that the excavator provided notice of the proposed excavation or demolition to the Notification Center.
- For an emergency request, the operator must make initial contact with the excavator within 3 hours.

Kara McCraw
Director



Legislative Analysis
Division
919-733-2578

House Bill 247

Page 2

- For a request of an unmarked facility because the operator has failed to respond to the positive response system, the operator must arrange for the facility to be marked within three hours of the time the Notification Center receives the additional notice.

Section 3 would do all of the following:

- Require that notice for any excavation or demolition not involving a subaqueous facility must be given not less than three full working days before the proposed commencement date of the excavation or demolition. Under current law, notice must be provided between three to twelve full working days before the proposed commencement date.
- Require that notice for any excavation or demolition in the vicinity of a subaqueous facility be given **no less than** 10 to 20 full working days before the proposed commencement date of the excavation or demolition. Under current law, notice must be provided **within** 10 to 20 full working days before the proposed commencement date.
- Extend the time before notice expires from 15 days to 28 days.
- Limit the area of locate of the proposed excavation or demolition to an area that the excavator reasonably believes may be completed within 28 calendar days from the work start date and does not include any areas where the excavation or demolition has been completed and accepted by the authorities having jurisdiction.
- Clarify requirements regarding the use of nonmechanized equipment within a 24-inch circumference around an oil or gas pipeline. The section would specify that safe excavation practices, including, but not limited to, hand digging or potholing, must be used within the tolerance zone of a pipeline.

Section 4 would amend exemptions from the requirements for notice before commencing any excavation or demolition operation as follows:

- Under current law, excavations or demolitions involving the tilling of soil for agricultural or gardening purposes are exempt. This section would limit that exemption to situations where the excavation or demolition encroaches on any operator's right-of-way, easement, or permitted use and is less than 12 inches in depth.
- Under current law, excavations by an operator or surveyor with nonmechanized equipment for certain purposes or underground probing to determine the extent of gas or water migration are exempt. This section would extend the exemption to an operator or surveyor's contractor.
- Under current law, excavations or demolitions performed when a person responsible for routine maintenance of a right-of-way or any other governmental entity performs maintenance activities within the right-of-way using labor on their permanent payroll. This section would extend the exemption to all excavations or demolitions performed for the purpose of maintenance activities within the right-of-way regardless of who performs the maintenance.

Section 5 would specify that the venue for claims adjudication for actual and consequential damages occurring in North Carolina is the court system of the county in which the damages occurred.

House Bill 247

Page 3

Under current law, if an operator has been given notice and fails to respond or properly locate the facility, the excavator is free to proceed. Neither the excavator nor the person financially responsible for the excavation are liable to the operator for damages to the operator's facilities if the person doing the excavating exercises due care to protect existing facilities where there is evidence that those facilities exist near the proposed excavation area.

Section 6 would limit the liability of the excavator and the person financially responsible for the excavation as long as the excavator has exercised due care in preparing for or conducting the excavation. This section would create a presumption, rebuttable by clear and convincing evidence, that the excavator has exercised due care if the Notification Center has notified the operator and the operator has failed to respond, the excavator has complied with all responsibilities imposed by statute, and the excavator did not have actual knowledge of the existence of a facility within the area of the excavation.

The Underground Damage Prevention Review Board (Board), consisting of 15 members appointed by the Governor, reviews reports of alleged violations of the Act.

Section 7 would make the following changes to the processes of the Board:

- Require the Governor to fill vacancies within 60 days after the vacancy, to the extent practicable.
- Specify that a quorum is a majority of the seated members of the Board, rather than eight members, and allow members to attend meetings via conference call or other electronic means.
- Require the Board to establish an internal attendance policy. If a member resigns or fails to meet the criteria of the attendance policy, the Board could appoint an interim member from the same stakeholder group until the Governor appoints a replacement for the remainder of the unexpired term.
- If requested by the Board, allow the Utilities Commission (Commission) to appoint a nonvoting ex officio member.

Section 7 would also increase the time limit for the Board to notify persons against whom reports have been filed from 10 days to 15 days. This section would also require the Board to notify violators of the Act within 30 days of the Board's determination and the recommended action or penalty. A person deemed to be in violation could request an informal conference before the Board. The person may be represented by an attorney or other person, present evidence, and make arguments in favor of the person's position. Following the informal conference, the Board may reverse, modify, or uphold its original findings. If the Board recommends a penalty, the Board must notify the Commission, and the Commission must issue an order imposing the penalty within 30 days.

The Commission would be directed to report to the Board annually on the compliance of persons on whom fines or penalties have been imposed. If the penalty is not paid within 90 days of the Commission's order imposing the penalty, then the Attorney General must bring an action to recover the penalty upon request of the Commission.

EFFECTIVE DATE: This act would become effective October 1, 2025.

* *Chris Saunders, LAD Staff Attorney, substantially contributed to this summary.*