

# SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

**BILL NO.** Senate Bill 1237

**PRINTER NO.** 1889

**AMOUNT**

No Fiscal Impact

**FUND**

General Fund Restricted Account

**DATE INTRODUCED**

June 6, 2024

**PRIME SPONSOR**

Senator Baker

**DESCRIPTION**

Senate Bill 1237 reauthorizes and amends the Underground Utility Line Protection Law, further providing for definitions; for the duties of facility owners, designers, excavators and project owners; for the damage prevention committee; and for compliance orders and administrative penalties.

This legislation eliminates the current sunset date of December 31, 2024, from the Underground Utility Line Protection Law, adds several new definitions, modifies existing definitions and provides for various technical corrections and updates.

A facility owner may not be required to locate lines installed before the effective date of the legislation, unless the facility owner has existing maps of the lines, and the maps meet the specifications of the One Call System's Member Mapping Solutions. A facility owner is not prohibited as a member of the One Call System from voluntarily submitting maps of lines or facilities installed before the effective date of the bill.

The bill requires facility owners to make reasonable efforts during excavation to locate or notify excavators of any known lines and abandoned lines. A facility owner is required to document communications with excavators to ensure an excavator is aware of any inability to locate facilities. Facility owners are required to comply with all requests for information by the Public Utility Commission (PUC) relating to enforcement authority within 30 days.

Senate Bill 1237 requires designers to submit a design notification through the One Call System when a design drawing is completed, to timely respond to notifications received from excavators in accordance with existing law, to inform a project owner of the project owner's duties under existing law and to comply with all requests for information by the PUC relating to enforcement authority within 30 days.

Designers are required to depict lines or facilities with the appropriate quality levels based on the complexity of the design and construction activities obtained through the subsurface utility engineering process in the planning and design phases in accordance with the American Society of Civil Engineers (ASCE) published standards. In the event that as-builts are required during the construction phase, designers are required to prepare the as-builts in accordance with the most recently published standards of the ASCE.

# SENATE APPROPRIATIONS COMMITTEE

## FISCAL NOTE

The bill requires excavators to submit a locate request to identify the location and type of facility owner lines at each work site through the One Call System. An excavator shall not misrepresent an emergency excavation and may not delegate the duty to submit a locate request to the One Call System to another person and shall have the sole responsibility to submit requests.

Project owners may not establish provisions in any contract which attempt to limit the rights of excavators under current law, and any such provisions shall not be valid for any reason. Any attempted waiver of excavator rights shall be void and unenforceable and shall be reported to the PUC. Project owners are required to comply with all requests for information by the PUC relating to enforcement authority within 30 days.

Senate Bill 1237 requires the damage prevention committee to review reports of alleged violations and damage prevention investigator findings concerning the basis or root cause of an alleged violation and any recommendations proposed to address an alleged violation. If a person who is subject to an informal determination by an investigator opts to reject the informal determination, the person shall do so in writing within 30 days. The matter then shall be referred to the PUC for a formal complaint. An action resulting in a formal complaint before the PUC must be brought within the time limits specified under Title 66. When a written rejection of an informal determination results in a formal complaint, the PUC shall conduct a de novo review of the alleged violation. The informal determination of the damage prevention committee shall not be binding upon the PUC.

A person or entity violating the Underground Utility Line Protection Law must pay an administrative penalty to the PUC within 60 days of issuance of an informal determination, unless the person or entity subject to the informal determination rejects it within 30 days. The PUC shall assess an additional administrative penalty of \$100 per day, not to exceed a total of \$5,000, for an administrative penalty not paid within the established time period. A person or entity subject to an informal determination of the damage prevention committee requiring a damage prevention educational program under law shall successfully complete the program within 60 days of issuance of the informal determination. The PUC shall assess an additional administrative penalty of \$100 per day, not to exceed a total of \$5,000, on a person who fails to comply with this requirement.

This act shall take effect in 60 days.

### **FISCAL IMPACT:**

According to information provided by the PUC, Senate Bill 1237 will have no impact on Commonwealth funds.