



# HOUSE COMMITTEE ON APPROPRIATIONS

## FISCAL NOTE

HOUSE BILL NO. 2189

PRINTER'S NO. 3697

PRIME SPONSOR: Matzie

### COST / (SAVINGS)

FUND	FY 2024/25	FY 2025/26
General Fund	See Fiscal Impact	See Fiscal Impact

**SUMMARY:** HB 2189 PN 3697 reauthorizes the Underground Utility Line Protection Law (Act 287 of 1974) through December 31, 2031, and updates the responsibilities of facility owners, designers, and project owners under the PA One Call System. The extension of the sunset provision shall take effect immediately and the rest of the legislation will take effect in 60 days.

**ANALYSIS:** This legislation reauthorizes and amends Act 287 of 1974 known as the Underground Utility Line Protection Law. Specifically, the bill:

- Extends the sunset date of the Act through December 31, 2031
- Defines or creates a number of definitions
- Updates the duties of:
  - **Facility Owners**
    - Are no longer prohibited from requiring members to locate lines or facilities
    - Are required to document communications between excavators and the facility owner
    - Agents of a facility owner are now covered by indemnity and hold harmless provisions
    - Are now required to file a report to the One Call System if they receive a notice of damage or line violations, even in cases where the cost of repair is less than \$2,500
    - Comply with information requests by the Commission within 30 days of such request
    - Are required to mark, locate, or identify abandoned main lines if practicable, based on existing records
  - **Designers**
    - Who prepare drawings requiring excavation or demolition work to:
      - Submit design ticket notification through the One Call System, when design drawing is completed
      - Respond timely to notifications from excavators
      - Provide a project owner information about their duties
      - Comply with information requests by the Commission within 30 days of such request
    - Requires designers make reasonable efforts in their drawings to *“to depict all lines or facilities and quality levels obtained through the subsurface utility engineering process in the planning and design phases, including test hole data sheet details for all lines or facilities crossing existing lines or facilities in accordance with the American Society of Civil Engineers (ASCE) most recently published standard CI/ASCE 38-22 and 75-22.”*
    - A designer is deemed to have met their duty to request facility location information if they notify the One Call System and show proof of initial notification via a serial number

- **Excavators**

- Shall submit a locate request to identify the location/type of facility owner's lines by notifying the facility owner through the One Call System
- Provides provisions in any contract, private or public, which attempt to limit the rights of excavators be reported to Commission's prosecutorial staff for action, including imposition of administrative penalties.
- Provides for the reporting of "alleged violation" to the Commission through the One Call System, within 30 days after striking or damaging a facility owner's line during excavation or demolition
- Requires each excavator to notify 911 and the facility owner if damage caused by the excavator results in the escape of flammable, toxic, or corrosive gas or liquid
- Comply with information requests by the Commission within 30 days of such request
- Prohibits an excavator from:
  - delegating their duty to submit a locate request to another person
  - repairing a damaged underground facility

- **Project Owners**

- Requires the utilization of sufficient subsurface engineering "process" for projects with an estimated cost of more than \$400,000
- Provides provisions in a private or public contract, which attempt to limit the rights of excavators, be reported to Commission's prosecutorial staff for action, including imposition of administrative penalties.
- Provides for the reporting of "alleged violation" to the Commission through the One Call System, within 30 days after they or contracted excavator strikes or damages a facility owner's line during excavation or demolition
- Comply with information requests by the Commission within 30 days of such request

- Other provisions:

- Requires that the One Call system be governed by a board of directors, chosen by facility owners and that two owners/operators/representatives are from pipelines associated with conventional oil and gas wells
- Updates language related to the duties of the Damage Prevention Committee and provides for the submission of an annual report to the Commission and the General Assembly
- Penalties:
  - A party found in violation of the Act must pay an administrative penalty within 60 days of issuance of an informal determination, unless the party rejects the informal determination within 30 days
  - Commission shall impose an additional administrative penalty of \$100/day, not to exceed a total of \$5,000, for each day that a party fails to pay the administrative penalty to the Commission
  - A party shall receive an additional administrative penalty of \$100/day, not to exceed a total of \$5,000, for each day that it fails to complete a damage prevention educational program as required by an informal determination within 60 days of receiving such determination
- It is required that an action for the recovery of any penalty or forfeiture occurs within three years from the date at which liability occurs

**FISCAL IMPACT:** The enactment of this legislation would have a fiscal impact on commonwealth Funds, specifically the General Fund. The fiscal impact would be a function of two components, operational costs of the Commission related to administering the act and the collection of administrative penalties.

With respect to operational costs to administer the Underground Utility Line Protection Law, the Commission spent \$327,873 in 2021/22, \$510,242 in 2022/23, and \$652,034 in 2023/24. Thus, extending the sunset date through December 31, 2031, implies that the Commission would need the enactment of annual appropriation to support such expenditures.

As it relates to the collection of penalties, the potential amount would be based on the number of penalties, the duration in days, and the number of violators. Due to the unknown nature of the number of potential violations or the number of anticipated occurrences, such collections are indeterminate.

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**DATE:** October 2, 2024

*Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.*