

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 994
Economic Matters

(Delegate Brooks)

Finance

Public Utilities - Underground Facilities - One-Call System

This bill requires a person, when using the one-call system to provide notification of a planned excavation or demolition, to select a start work date that is between 3 and 12 business days after the ticket is initiated. In addition, the bill expands the information that must be indicated through the notice provided to the one-call system to include the *extent* of the work to be performed in connection with the proposed excavation or demolition (rather than just the *type* of the work). In addition, a ticket must include a response date and time for owner-members or their contract locators that corresponds with the start work date selected by the person who initiated the ticket. The bill also makes conforming changes relating to the timeframe during which a ticket is valid and the timeframe within which the owner-member or its contract locator must (1) mark the relevant underground facility and report that it has been marked or (2) report that there are no such facilities in the vicinity of the planned excavation or demolition. **The bill takes effect June 1, 2022.**

Fiscal Summary

State Effect: While the bill is not anticipated to materially affect State finances, the Department of General Services (DGS) advises that the bill may have an operational impact on its projects, as discussed below.

Local Effect: The bill does not materially affect local government operations or finances.

Small Business Effect: Minimal.

Analysis

Current Law:

Maryland Underground Facilities Damage Prevention Authority

To protect underground facilities, such as natural gas, telephone, cable, television, water, and sewer lines, Chapter 635 of 2010 established the Maryland Underground Facilities Damage Prevention Authority. The authority hears complaints and assesses civil penalties for violations of the laws protecting underground facilities. The authority is largely funded through a 5-cent fee on marking tickets, paid by owner-members such as the State and local governments and utilities.

Chapter 18 of 2021 made various changes to the authority, its composition and powers, and the processes for the ongoing protection of underground facilities. Among other things, the bill specified the fees the authority may collect, clarified the authority's process for handling complaints, and modified the authority's process for calculating civil penalties.

One-call System

Persons planning an excavation or demolition project must notify the owners of nearby facilities so that the locations can be clearly marked. Notification is accomplished through the one-call system. The one-call system currently operating in Maryland is Miss Utility. Miss Utility operates call centers that coordinate the marking of underground facilities for Delaware, the District of Columbia, and Maryland.

A person who performs an excavation or demolition is generally required to first initiate a ticket request by notifying the one-call system serving the geographic area where the work is to be performed. The notice provided to the one-call system must indicate several specified items, including, among other things, the type of work to be performed in connection with the proposed excavation or demolition.

A ticket is valid for 12 business days after the day on which the ticket is transmitted by the one-call system to an owner-member. Statute establishes various other requirements for owner-members or their contract locators regarding the marking of underground facilities. Except under specified conditions, within 2 business days after the day on which a ticket is transferred to an owner-member, the owner-member or its contract locator must (1) mark the location of the underground facility and report to the underground facilities information exchange system that the facility has been marked or (2) report to the system that the owner-member has no underground facilities in the vicinity of the planned excavation or demolition.

A person who performs an excavation or demolition without first providing the required notice is deemed negligent and subject to a civil penalty assessed by the authority, as specified. The civil penalty for a violation of this requirement, or any other requirement related to excavation and demolition, may not exceed \$2,000 for a first offense and \$4,000 for each subsequent offense.

If all reasonable precautions have been taken to protect underground facilities, the requirements and timeframes discussed above do not apply to an emergency excavation or demolition being performed to prevent danger to life, health, or property. Instead, the primary contractor or person performing the emergency work must (1) identify the location and extent of work in a clear and concise manner; (2) take all reasonable precautions to protect underground facilities in and near the excavation or demolition area; and (3) immediately notify the appropriate one-call system, as specified. Statute also establishes requirements for owner-members or their contract locators in such emergency situations. A person that abuses the emergency excavation and demolition procedure is subject to specified penalties.

State Fiscal Effect: DGS advises that the bill's requirement that a project start within 12 days of the selected start date on a ticket may require additional tickets to be initiated if unanticipated delays occur. Specifically, DGS advises that unforeseen conditions that affect scheduling often occur during the course of a construction project. Even so, having to file additional tickets through the one-call system in these situations is not anticipated to materially affect State finances.

Additional Information

Prior Introductions: None.

Designated Cross File: SB 789 (Senator Feldman) - Finance.

Information Source(s): Maryland Underground Facilities Damage Prevention Authority; Maryland Department of Transportation; Department of General Services; Public Service Commission; Public School Construction Program; University System of Maryland; Morgan State University; Caroline, Howard, and Prince George's counties; Department of Legislative Services

Fiscal Note History: First Reader - February 24, 2022
js/lgc Third Reader - March 21, 2022
Revised - Correction - March 21, 2022

Analysis by: Richard L. Duncan

Direct Inquiries to:
(410) 946-5510
(301) 970-5510