

Department of Legislative Services  
 Maryland General Assembly  
 2016 Session

FISCAL AND POLICY NOTE  
 Third Reader

House Bill 696  
 Economic Matters

(Delegate Davis, *et al.*)

Finance

Public Utilities - Maryland Underground Facilities Damage Prevention Authority  
 - Funding

This bill authorizes the Maryland Underground Facilities Damage Prevention Authority to obtain funding for its operational expenses from an additional assessment or charge of up to 5 cents per ticket from an owner-member, if the assessment or charge is (1) not imposed on a county or municipality and (2) is approved by a two-thirds vote of all members of the authority.

The bill takes effect June 1, 2016.

Fiscal Summary

**State Effect:** Nonbudgeted revenues for the Maryland Underground Facilities Damage Prevention Authority increase by \$17,500 in FY 2016 and by \$210,000 annually thereafter from assessments. Nonbudgeted expenditures by the authority are not directly affected, as discussed below. State expenditures for assessments are anticipated to be minimal and absorbable within existing budgeted resources.

(in dollars)	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
NonBud Rev.	\$17,500	\$210,000	\$210,000	\$210,000	\$210,000
Expenditure	0	0	0	0	0
Net Effect	\$17,500	\$210,000	\$210,000	\$210,000	\$210,000

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

**Local Effect:** None. The assessment or charge may not be imposed on a county or municipality.

**Small Business Effect:** Minimal. Contractors who initiate ticket requests for marking of underground facilities are charged an additional 5 cents per ticket.

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## **Analysis**

**Current Law:** “Owner” means a person that (1) owns or operates an underground facility and (2) has the right to bury an underground facility. It includes a public utility, a telecommunications corporation, a cable television corporation, a political subdivision, a municipality, a steam heating company, an authority, and a unit of the State. “Owner-member” means an owner that participates as a member in a one-call system.

“One call-system” means a communications system in the State that (1) allows a person to notify owner-members of planned excavation or demolition by either calling a toll-free number or abbreviated dialing code or initiating an interactive Internet ticket request and (2) maintains an underground facilities information exchange system.

“Ticket” means a numbered document issued by a one-call system to notify owner-members that (1) a person intends to perform an excavation or demolition or (2) a designer has requested information on the location of underground facilities.

### *Authority Funding*

Generally, the authority may obtain funding for its operational expenses from (1) a federal or State grant; (2) filing fees and administrative fees for complaints heard by the authority; and (3) any other source. Except for the above filing and administration fees for complaints, the authority may not impose a charge or assessment against any person, directly or indirectly, to obtain funding for its operational expenses.

### *Ticket Requests and Facility Marking*

A person that intends to perform an excavation or demolition in the State must initiate a ticket request by notifying the one-call system serving the geographic area where the excavation or demolition is to be performed of the person’s intent to perform the excavation or demolition. The notice must indicate (1) the location of the proposed excavation or demolition; (2) whether the proposed excavation or demolition is within rights-of-way owned or controlled by the Maryland Department of Transportation (MDOT), an administration of MDOT, or the Maryland Transportation Authority (MDTA) and, if so, the entity and the permit number or authorization number obtained from that entity; and (3) the type of work to be performed in connection with the proposed excavation or demolition.

On receiving notice, the one-call system must promptly transmit a copy of the ticket to all owner-members in the geographic area indicated for that ticket, unless the proposed excavation is within the rights-of-way of MDOT, an administration of MDOT, or MDTA, in which case the one-call system must promptly transmit a copy of the ticket to the applicable agency. 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.

A political subdivision, municipality, MDOT, an administration of MDOT, and MDTA may charge, assess, or collect a one-time initial marking fee of up to \$35 for reimbursement of expenses incurred to mark its underground facilities. The maximum remarking fee is \$15.

**Background:** 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 has nine members which are selected by the Governor from lists submitted by various industry participants. The terms of members are staggered and members may not receive compensation for serving as a member or reimbursement for expenses. The authority may adopt bylaws and is required to adopt a code of conduct for its members. The authority may also employ a staff, maintain an office at a place it designates, and maintain facilities for the purpose of holding hearings.

### *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 only 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.

### *Most Recent Annual Report Indicates Need for Legislation*

The authority's [2016 annual report](#) indicates that the authority intends to continue growing its enforcement and training programs, as is necessary to conform to new federal requirements. The report notes that in 2016, the authority will need to move away from using grant funds for staff and office support to a more robust approach to education, tracking, and enforcement. This will require the development of software modules to enhance tracking and provide online training and other forms of outreach. These changes, the report notes, will require a permanent funding source for the authority's day-to-day operations. The report indicates that the authority intended to seek legislation to establish the funding source in the 2016 legislative session.

**State Fiscal Effect:** Assuming an assessment of 5 cents per ticket and an even distribution of tickets throughout the year, nonbudgeted revenues for the authority increase by \$17,500 in fiscal 2016, which reflects the bill's June 1, 2016 effective date, and by \$210,000 annually thereafter. Nonbudgeted expenditures by the authority are not directly affected but are assumed to increase correspondingly.

Any impact on MDOT, MDTA, and any other State agency required to pay assessments under the bill is anticipated to be minimal and absorbable within existing budgeted resources.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** SB 480 (Senator Astle, *et al.*) - Finance.

**Information Source(s):** Public Service Commission, Office of People's Counsel, Maryland Department of Transportation, Maryland Underground Facilities Damage Prevention Authority, Department of Legislative Services

**Fiscal Note History:** First Reader - February 11, 2016  
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