

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 350
Economic Matters

(Delegate Brooks)

Finance

Underground Facilities Damage Prevention - Enforcement

This emergency bill authorizes the Maryland Underground Facilities Damage Prevention Authority to impose additional punitive measures when a person fails to notify the one-call system before performing excavation or demolition in the State or violates any other requirement related to excavation and demolition. Specifically, instead of or in addition to assessing a civil penalty pursuant to current law, the authority may (1) require a person to participate in damage prevention training or implement procedures to mitigate the likelihood of damage to underground facilities or (2) impose other similar measures.

Fiscal Summary

State Effect: The bill can be implemented using existing budgeted resources. Revenues are not anticipated to be materially affected.

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

Small Business Effect: Minimal.

Analysis

Current Law: 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 Among other things, Chapter 18 repealed the punitive authority reinstated by the bill, specified the fees the authority may collect, clarified the authority's process for handling complaints, and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 and Penalties

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. A person who fails to do so is deemed negligent and subject to a civil penalty assessed by the authority. To calculate the civil penalty, the authority must consider the severity of the violation, the intent and good faith of the violator, and the past history of violations. 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.

Additional Information

Prior Introductions: None.

Designated Cross File: SB 464 (Senators Feldman and Hershey) - Finance.

Information Source(s): Maryland Underground Facilities Damage Prevention Authority; Washington County; towns of Bel Air and Leonardtown; Department of Legislative Services

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