



## HOUSE COMMITTEE ON APPROPRIATIONS

# FISCAL NOTE

HOUSE BILL NO. 1607

PRINTERS NO. 3861

PRIME SPONSOR: Baker

### COST / (REVENUE)

FUND	FY 2013/14	FY 2014/15
General Fund; Underground Utility Line Protection Fund	\$0	See Fiscal Impact

**SUMMARY:** House Bill 1607, Printer's Number 3861, amends the Underground Utility Line Protection Law and transfers enforcement authority from the Department of Labor and Industry to the Pennsylvania Public Utility Commission.

**ANALYSIS:** The bill amends the Underground Utility Line Protection Law (Act 287 of 1974) to update the law to provide for new definitions and duties related to the PA One Call System and oil and gas well activity as outlined. It also transfers enforcement authority from the Department of Labor and Industry to the Pennsylvania Public Utility Commission.

It updates and enhances the duties of facility owners, project owners, excavators and designers regarding the PA One Call System (POCS) such as:

- maintain existing records relating to the location of underground main lines abandoned on or after effective date and marking of abandoned lines;
- facility owner's obligations to communicate directly with the excavator within two hours upon POCS re-notification and, if necessary, go to the proposed work site;
- submit a report of alleged violation to the Commission through POCS not more than thirty business days of committing or becoming aware of a possible violation. No report may be required where the cost to repair the damage is less than \$2,500 or less, unless the same person damaged the facility owner's lines two or more times within a six-month period; and
- the POCS shall provide access or photocopies of specific response records under investigation by the PUC. Per Memoranda of Understanding between PUC and POCS, alleged violations may be provided to the Pennsylvania Emergency Management Agency.

The bill provides that an excavator, designer or operator requesting information from the POCS shall pay an annual fee for the service provided. The fee shall be set by the POCS Board of Directors and used to offset a portion of the costs of operations of the POCS and a portion of the operation costs levied on the political subdivision and municipal authority members. Failure to pay the fee shall constitute a violation and be subject to enforcement action by the PUC.

It also establishes a Damage Prevention Committee consisting of nine members appointed by the PUC who will serve staggered three year terms as defined in the bill. The committee shall

meet regularly to carry out its duties, such as review findings and recommendations of the damage prevention investigator; issue warning letters; and issue informal determinations regarding violations. The PUC shall have enforcement powers and duties to implement the act including hiring employees, issuing orders and promulgating regulations.

The bill establishes the Underground Utility Line Protection Fund as a revolving fund to be used to cover PUC administrative costs related to enforcement operations. The fund shall be comprised of: administrative penalties collected through Damage Prevention Committee process; annual assessment paid by POCS; funds received by PUC as a result of enforcing the act; and federal and state grants received by the commission for the purpose of this act. Any administrative penalties collected through the PUC formal complaint process shall be deposited in the General Fund

An initial assessment of \$550,000 will be paid by POCS to fund initial costs of PUC enforcement of the program. In subsequent fiscal years, the assessment will be used to cover any shortfalls between administrative penalties collected and other funding sources and the actual costs incurred for enforcement. The annual amount assessed to the POCS may not exceed \$550,000.

The PUC's program enforcement costs shall be a line item in its annual proposed budget and shall not be included in the amount assessed to public utilities under the Public Utility Code. All program costs will be borne by the Underground Utility Line Protection Fund.

The bill outlines that the commission may issue a warning or administrative penalties for violations of the act, including up to \$2,500 per violation not resulting in injury or death and up to \$50,000 per violation that results in injury, death or property damage of \$25,000 or more. The PUC shall consider various factors when determining the penalty assessment, such as compliance history; amount of injury or property damage; level of threat to public safety; and degree of culpability.

The sunset provision is extended five years from December 31, 2016 to December 31, 2021.

The legislation shall take effect in two parts upon enactment: the addition of Section 7.9 (establishing the Underground Utility Line Protection Fund) is effective immediately, while the remainder of the Act is effective in 180 days.

**FISCAL IMPACT:** Enactment of this bill will have no adverse fiscal impact on Commonwealth funds. As established in the legislation, PUC's administrative costs related to the enforcement of this program will be covered by revenues deposited into the newly created Underground Utility Line Protection Fund.

An initial assessment of \$550,000 will be paid by POCS to fund initial costs of enforcement, while future assessments shall not exceed this amount. These enforcement costs shall be a line item in the PUC's annual proposed budget and not included in the amount assessed to public utilities under the Public Utility Code. It is expected that these enforcement costs would include, but not limited to, the Damage Prevention Committee, hiring employees, issuing orders and promulgating regulations.

However, it should be noted that the commission's overall costs related to the POCS could exceed \$550,000. While it may not assess the POCS more than this amount, the Underground Utility Line Protection Fund will have additional revenues to cover these PUC administrative costs. For example, as established in the bill, the fund shall be comprised of administrative penalties collected through Damage Prevention Committee process; annual assessment paid by POCS; funds received by PUC as a result of enforcing the act; and federal and state grants received by the commission for the purpose of this act.

**PREPARED BY:** Jeffrey Clukey  
House Appropriations Committee (R)

**DATE:** June 26, 2014

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