



# HOUSE COMMITTEE ON APPROPRIATIONS

## FISCAL NOTE

SENATE BILL NO. 242

PRINTERS NO. 1227

PRIME SPONSOR: L. Baker

### COST / (SAVINGS)

FUND	FY 2017/18	FY 2018/19
General Fund	See Fiscal Impact	See Fiscal Impact

**SUMMARY:** Senate Bill 242, Printer's Number 1227, amends the Underground Utility Line Protection Law to transfer enforcement authority from the Department of Labor and Industry to the Public Utility Commission and make other changes related to program sunset, definitions, duties and obligations.

**ANALYSIS:** This legislation amends the Underground Utility Line Protection Law (Act 287 of 1974) to transfer enforcement authority and oversight of the One Call System from the Department of Labor and Industry to the Pennsylvania Public Utility Commission (PUC) and make other program changes. It also extends the sunset of the act from December 31, 2017 to December 31, 2024.

The bill includes several new definitions to update the program based on the additional duties and obligations, such as "excavation work" by removing the exclusions for the direct operations necessary or incidental to the purposes of finding or extracting natural resources, but does exclude work performed under the Surface Mining Conservation and Reclamation Act, the Bituminous Mine Subsidence and Land Conservation Act, and the Coal Refuse Disposal Control Act.

Several definitions are included related to natural gas and pipeline issues, including "conventional oil and gas well," "Federal pipeline safety laws," "stripper well," "stripper well lines," "unconventional formation," "unconventional oil and gas well" and "well pad." These terms provide additional clarity related to such infrastructure included in the definition of "line" or "facility."

Other definitions are updated and included and related to those working with the One Call System, such as "alleged violation," "complex project" and "work site." It also establishes "lawful start date" as three business days through ten business days following notification to the One Call System.

The bill list several duties and requirements of facility owners. It does state that the One Call System may not require its members to locate lines or facilities installed before the effective date of the legislation unless the member has existing maps of the lines or facilities and the member's existing maps meet the specifications of the One Call System's Member Mapping Solutions.

Some additional duties required of facility owners include:

- Communicate directly to the excavator within two hours after re-notification when the facility owner has failed to respond to a locate request or a re-notification from the One Call System, and mark, state or locate or verify its underground lines;

- Submit a report of alleged violations to the PUC within 30 business days after the facility owner's lines have been damaged where the cost to repair is over \$2,500 or there has been repeat damage;
- Participate in the One Call System's Member Mapping Solutions as determined by the One Call System's board of directors; and
- Maintain existing records of abandoned main lines and locate or identify the main lines if possible going forward.

Duties of designers are included, such as reporting an alleged violation to the PUC not more than 30 days after becoming aware of the violation and paying a request fee to the One Call System when requesting line and facility information.

Duties of excavators are included, such as requiring the reporting of any incident where a facility owner's line is struck or damaged during excavation; requiring a locate request prior to excavation with the applicable fee; and requiring re-notification of the One Call System of an unmarked or incorrectly marked facility.

Duties of project owners are included, such as requiring violations to be reported not more than ten business days after striking or damaging a facility owner's line or if the project owner believes a violation has occurred.

The bill also includes several duties of the One Call System such as:

- Requiring the One Call System to provide reports of alleged violations and related information per memoranda of understanding between the PUC and the One Call System. These reports may also be made available to the Pennsylvania Emergency Management Agency;
- Requiring notification when an excavator has identified an unmarked or incorrectly marked facility and the facility owner's responsibilities; and
- Changing the fee structure for excavator, designer or operator use of One Call services from a fee per service to an annual fee set by the One Call System's board of directors. The fee is used to offset operation costs of the One Call System and the political subdivision and municipal authority members.

Senate Bill 242 establishes a damage prevention committee of members appointed by the PUC. The members include the chairman or his designee from the PUC's professional staff; the Secretary of Transportation or his designee; the president of the One Call System or his designee from the One Call System's professional staff; one representative from each of a municipally owned electric, natural gas or petroleum pipelines, telephone, water or wastewater and cable television, nominated by facility owners; three representatives of excavators nominated by excavators; one representative of municipal governments nominated by municipal governments; one representative of municipal authorities nominated by municipal authorities.

The committee must review reports of alleged violations and the damage prevention investigator's findings and recommendations, issue warning letters, issue informal determinations that impose an administrative penalty, require a person to attend a damage prevention educational program, and issue informal determinations. A person determined to have committed an alleged violation must provide a written acknowledgement of the findings and administrative penalty contained in the report issued by the damage prevention investigator and appear before the commission.

The committee shall submit an annual report containing relevant damage prevention data to the commission, the Committee on Consumer Protection and Professional Licensure of the Senate and the Committee on Consumer Affairs of the House of Representatives.

The bill provides the PUC with the following powers and duties, such as issuing orders and promulgating regulations. It may also issue warnings, order compliance and levy administrative penalties for violations, as well as issue subpoenas and the production of related materials.

It also states that the commission's program costs for enforcement of the act shall be included in the commission's proposed budget and subject to the review and approval of the Governor and the General Assembly. The assessment of the PUC's program costs shall not include Federal and State funds provided for the enforcement of this act.

The legislation provides that eighty percent of the One Call System's program costs shall be included within the amount assessed to public utilities under 66 Pa.C.S. Section 510, which addresses assessments for regulatory expenses upon public utilities. Twenty percent of the program costs shall be assessed as a fee upon the One Call System, with the fee to be paid to the PUC. The One Call System's board of directors shall determine the manner in which the fee may be recovered from facility owners, excavators, designers and other involved persons, provided that the manner of recovery may not include facility owners that are public utilities.

Provisions under Section 7.9 relating to recovery of program costs and the extension of the sunset date shall take effect immediately upon enactment, and the remainder of the act shall take effect in 180 days.

**FISCAL IMPACT:** The Public Utility Commission, per its authority under 66 Pa.C.S. Section 510, shall assess public utilities for its regulatory expenses. Additional costs will be covered by a fee upon the One Call System and paid to the PUC, while the Department of Labor and Industry will have some reduced operational costs given the transfer of One Call enforcement authority to the commission.

Based on the funding authority established in the bill, the commission projects that initial administrative and enforcement costs related to the One Call System will be \$1.26 million. This amount is anticipated to cover a full fiscal year, which includes salary and benefits for six employees, computer software and hardware, software development, training and travel expenses. Based on the cost breakdown provided, eighty percent of these estimated costs is \$1,008,000 and will be assessed to public utilities, while the other twenty percent is \$252,000 and will be generated from the One Call System fees.

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House Appropriations Committee (R)

**DATE:** October 18, 2017

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