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## FISCAL IMPACT REPORT

SPONSOR: HBIC DATE TYPED: 3/19/03 HB CS/825/aHFI#1  
 SHORT TITLE: Utility Excavation Requests SB \_\_\_\_\_  
 ANALYST: Maloy

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
			NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

Responses Received From

The Public Regulatory Commission  
 The Construction Industries Division, Regulation and Licensing Department

### SUMMARY

Synopsis of the HFI Amendment

The House Floor has amended the House Business and Industries Substitute for House Bill 825 to shorten the turn-around time for answering a paper request (request to identify the location of utilities via construction plans or maps) *from 10 days to 2 days*, or other such period of time agreed upon by the parties.

Synopsis of Original Bill

The House Business and Industries Substitute for House Bill 825 requires those preparing pre-construction documentation and/or site assessments for excavation to determine the location of any underground facilities in or near the relevant area. The bill places the burden on the excavation personnel to submit a request to the underground facilities owner/operator to have the utilities located and marked.

This request may be submitted to the owner / operator in one of two ways:

1. HB 825/HBICS provides for *telephonic advance notice*. In these instances, the owner/operator marks the actual site. Such notice shall include:
  - a. a statement of intention that the work is to commence within 10 working days of the request,
  - b. identification of the specific area to be excavated.
2. The bill also provides that a *paper request* may be submitted, seeking to have the owner/operator of the underground facilities *mark the approximate location* of any underground utilities *on engineering or construction plans* (plans to be provided by the requester). Or, in the alternative, the owner/operator of the facility may simply provide access to maps showing the approximate location of the utilities. These paper marking/identification requests shall be answered within 10 days, or the time frame agreed upon by the parties.

Finally, the bill provides that a person who engages in excavation, but who willfully fails to comply with this statute, may be liable to the owner / operator of underground facilities for the cost of locating and marking the utility right of way. This liability is capped at \$2,500. This liability is a possibility regardless of whether any damage is caused.

#### Significant Issues

The intent of the bill is to encourage those engaging in activities relating to excavation to seek advance assistance in locating underground utilities. This promotes worker safety, and saves contractors and the utility owners / operators considerable costs in repair (as well as personal injury liability).

The mechanism of encouragement is simple: Whether or not a request to locate and mark services is made to the utility, the excavator / contractor may be held liable for the costs associated with locating and marking, up to \$2,500. Thus, if the excavator may be liable for the costs regardless of making a request, there is no cost-savings incentive to avoid making the required request.

#### **OTHER SUBSTANTIVE ISSUES**

Currently, the transportation division of the public regulation commission supervises and oversees compliance with the requirements that excavators make reasonable efforts to determine the location of underground utilities before they dig. Current law obligates excavators to contact the “one call system” and ask that existing facilities be marked before they begin digging operations. Many excavators, however, do not bother. The result of failing to request location and marking is very costly to both the utility owners / operators, and to contractors. Finding mechanisms to encourage compliance with use of the “one call system” is sound policy.

Damage to underground utilities may not only results in tremendous repair costs to the utilities and to excavators, but it also may result in inconvenience to surrounding homeowners and businesses when their utility service is compromised.

In the event an excavator damages underground utilities, having complied with advance locating and marking requirements, if there was an error on the part of the utility owner / operator in the

locating and/or marking process, the excavator should not be required to bear the cost of repair.

SJM/