

HOUSE BILL REPORT

HB 2409

As Reported by House Committee On:
Local Government

Title: An act relating to underground facilities and safe excavation practices.

Brief Description: Addressing underground facilities and safe excavation practices.

Sponsors: Representatives Corry and Barkis.

Brief History:

Committee Activity:

Local Government: 1/30/24, 1/31/24 [DPS].

Brief Summary of Substitute Bill

- Permits excavators to use white lining or pin flags to mark the boundaries of excavation areas.
- Requires agreements for notice to excavate outside of the 2 to 10 day requirement to be agreed to orally or in writing.
- Changes duties for excavators and facility operators.
- Provides that the safety committee does not have authority to review disputes between facility operators and excavators.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Duerr, Chair; Alvarado, Vice Chair; Goehner, Ranking Minority Member; Jacobsen, Assistant Ranking Minority Member; Berg, Griffey and Riccelli.

Staff: Elizabeth Allison (786-7129).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Background:

Dig Law.

Washington's Dig Law requires an excavator to call 811 for underground facilities to be located and marked before excavation begins. Unless otherwise agreed, the excavator must give 2 to 10 days' notice before excavating and must mark the excavation area with white paint. If boundary marking is infeasible, an excavator must communicate directly with affected facility operators to ensure that the boundary of the excavation area is accurately identified. Excavators must use reasonable care to avoid damaging underground facilities.

A facility operator must respond to a request to locate within two business days. The facility operator must mark locatable facilities and must also provide information about the presence of unlocatable facilities.

Safety Committee.

The Washington Dig Law Safety Committee (Committee) is made up of 13 members representing a variety of stakeholders from the digging and utility committee. The Committee must appoint a review committee of three to five members to review complaints alleging violations of rules related to underground facilities.

Summary of Substitute Bill:

In addition to using white paint, excavators may mark the boundary of an excavation area with white lining or pin flags when necessary. The requirement that an excavator communicate directly with affected facility operators if boundary marking is infeasible, is removed.

Notice to excavate must be 2 to 10 full business days. An agreement for notice between the facility operator and excavator outside 2 to 10 full business days must be agreed to orally or in writing.

A facility operator must respond to a request to locate no later than the date the excavation work is to begin.

The facility operator must mark locatable underground facilities within the boundary of the white lined area. Facility operators must provide a positive response to inform excavators that the area is clear. A positive response is a notification from the facility operator that the facility operator has completed marking or providing information in response to a notice.

An excavator must use reasonable care to avoid damaging underground facilities while removing hard surfaces. A hard surface is an area covered with asphalt, concrete, interlocking brick or block, solid stone, or any similar impervious or nonporous material on the surface of the ground.

The Committee does not have authority to review downtime or other claim disputes between facility operators and excavators.

Substitute Bill Compared to Original Bill:

The substitute bill allows an agreement between an excavator and facility operator for notice outside of 2 to 10 days to be agreed to orally or in writing. All facility operators, including those who do not have facilities buried within an excavation area, must provide a positive response to excavators informing them that the area is clear.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The purpose of the 811 Safety Committee (Committee) is to promote safe excavation practices and review complaints. One duty of the Committee is to annually review existing laws and evaluate performances. This bill is part of that process to incorporate best practices into state law. There are some agreed upon technical amendments that stakeholders have reached out about. This bill proposes modest and necessary changes and incorporates six proposals. Two changes include facility operators' time and also implement a positive response process. This is the most impactful change by the state and puts Washington near the top in the damage prevention process. The positive response allows excavators to know when locating has been done. There is no cost for this process. Puget Sound Energy is already doing this process for positive response. Contractors will be able to look it up online and won't waste resources.

(Opposed) None.

(Other) Positive response is being discussed at the federal level. There should be an amendment allowing jurisdiction if an excavator digs too early. Requirements for positive response every time marking is completed is not feasible, especially in rural areas. There should be an amendment to allow paint or markings on the ground to satisfy the positive response requirement.

Persons Testifying: (In support) Representative Chris Corry, prime sponsor; Don Evans, Washington 811; Mark Scoccolo, SCI Infrastructure; and Kemp Garcia, Linescape of Washington and National Utility Contractor's Association of Washington.

(Other) Jason Lewis, Utilities and Transportation Commission; and Josie Cummings, Avista.

Persons Signed In To Testify But Not Testifying: None.