SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
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This fiscal impact statement is produced in compliance with the South Carolina Code of Laws and House and Senate rules. The focus of the analysis is on governmental expenditure and revenue impacts and may not provide a comprehensive summary of the legislation.

Bill Number:	H. 3571 Introduced on January 14, 2025
Subject:	Underground Facility Damage Prevention
Requestor:	House Labor, Commerce, and Industry
RFA Analyst(s):	Wren and Manic
Impact Date:	March 4, 2025

Fiscal Impact Summary

This bill makes changes to the Underground Facility Damage Prevention Act in Chapter 36, Title 58 regarding the process for notifying utilities of excavation projects and the responsibilities of utilities operators. The bill makes changes to the Operators Association and the penalties for utilities operators that do not comply with the requirements. The bill also adds additional responsibilities to the Attorney General's Office regarding complaints arising from violations of the provisions of the bill. Additionally, the bill allows the Attorney General's Office to promulgate regulations as needed to implement and administer the provisions of the bill. Further, the bill increases civil penalties for violations of the bill.

This bill will have no expenditure impact on the Department of Transportation (DOT) since any additional responsibilities can be managed within the normal course of business.

This bill will increase recurring expenses of the Attorney General's Office by approximately $320,000 beginning in FY 2025-26 for 3.0 FTEs and operating expenses. The agency will request General Fund appropriations for these increased expenses.

Although the additional number of violations where judicial review will be requested due to implementation of the bill is unknown, Judicial does not anticipate the bill will have an expenditure impact due to the small number of appeals and judicial review requests of Administrative Procedures Act actions.

The Public Service Commission (PSC), the Office of Regulatory Staff (ORS), and the Public Service Authority (PSA) indicate that the bill will have no expenditure impact because it does not change the duties and responsibilities of the agencies.

The Revenue and Fiscal Affairs Office (RFA) contacted all counties and the Municipal Association of South Carolina (MASC) to determine the expenditure impact of the bill on local governments. We received responses from Beaufort, Florence, and Kershaw Counties. All three counties indicate this bill will have no expenditure impact. The expenditure impact of the bill will vary by municipality. MASC indicates that while the enhanced penalties for operators who fail to become members of the association will generally pose greater expense than the cost to comply with current membership requirements and the enhanced penalties would pose a greater impact on smaller municipalities, it could result in an undetermined cost savings over time due to a reduction in unsafe or negligent digging incidents. MASC also indicates that the quarterly reports to the notification center could create an additional administrative burden to municipal operators. Additionally, MASC indicates that the bill permits excavators to proceed with digging despite visible indication of unmarked infrastructure if the operator fails to respond. Without further clarification, this could lead to substantial liability if damage occurs following a failure to respond timely. Further, MASC indicates that the increase in time from twelve to forty-five days for certain excavation and demolition projects may allow municipalities to better plan and allocate limited staff resources to fulfill notice and response requirements.

This bill may result in a change in the fines and fees collected in court. Court fines and fees are distributed to the General Fund, Other Funds, and local funds. Therefore, RFA anticipates this bill may result in a change to General Fund, Other Funds, and local revenue due to the change in fines and fees collections in court.

The bill continues to allow all penalties recovered in any actions brought under Chapter 36, Title 58 to be equally divided between the General Fund and the Attorney General's Office. Since the bill increases the penalties associated with violations, revenue allocated to the General Fund and Other Funds of the Attorney General's Office will also increase by an undetermined amount, as the number of violations that may occur is unknown.

Explanation of Fiscal Impact

Introduced on January 14, 2025
State Expenditure
This bill makes changes to the Underground Facility Damage Prevention Act in Chapter 36, Title 58 regarding the process for notifying utilities of excavation projects and the responsibilities of utilities operators The bill makes changes to the Operators Association and the penalties for utilities operators that do not comply with the requirements. The bill also adds additional responsibilities to the Attorney General's Office regarding complaints arising from violations of the provisions of the bill, mediations, and contested cases. Additionally, the bill allows the Attorney General's Office to promulgate regulations as needed to implement and administer the provisions of the bill. Further, the bill increases civil penalties for violations of the bill.

Department of Transportation. DOT indicates that any additional responsibilities associated with the bill can be managed within the normal course of business. Therefore, the bill will have no expenditure impact on DOT.

Attorney General's Office. The Attorney General's Office indicates that this bill will increase the agency's recurring expenses by approximately $320,000 beginning in FY 2025-26 for 3 FTEs (2 Attorney's and 1 Administrative Coordinator) and operating expenses. The new FTEs are needed for the additional responsibilities to determine contested cases. The agency will request General Fund appropriations for these additional expenses.

Judicial. Judicial does not anticipate that the bill will have an expenditure impact due to the small number of appeals and judicial review requests of Administrative Procedures Act actions.

For reference, Judicial indicates that in FY 2023-24, there were 161 non-forfeiture related Administrative Procedures Act actions filed in circuit court, which represented 0.81 percent of cased filed during that period.

Public Service Commission. PSC indicates that the proposed changes only require additional information to be filed by the notification center in an already existing report filed with the Commission. Therefore, this bill will have no expenditure impact on PSC.

Office of Regulatory Staff. ORS indicates that the bill will have no expenditure impact because it does not alter the duties and responsibilities of the agency.

Public Service Authority. PSA indicates that the bill will have no expenditure impact as the agency can manage the requirements of the bill with existing staff and resources.

State Revenue
This bill may result in a change in the fines and fees collected in court. Court fines and fees are distributed to the General Fund, Other Funds, and local funds. Therefore, RFA anticipates this bill may result in a change to General Fund and Other Funds revenue due to the change in fines and fees collections in court.

Additionally, the bill continues to allow all penalties recovered in any actions brought under Chapter 36, Title 58 to be equally divided between the General Fund and the Attorney General's Office. The bill increases certain fines for civil penalties from an amount not to exceed $1,000 to an amount up to $5,000 per violation and up to $25,000 for other violations. Since the bill increases the fines associated with violations, revenue allocated to the General Fund and Oher Funds of the Attorney General's Office will also increase by an undetermined amount. However, the number of additional violations that may occur is unknown.

Local Expenditure
RFA contacted all counties and MASC to determine the potential expenditure impact of the bill on local governments. We received responses from Beaufort, Florence, and Kershaw Counties and MASC. All three counties indicate this bill will have no expenditure impact.

The expenditure impact of the bill will vary by municipality. MASC indicates that while the enhanced penalties for operators who fail to become members of the association will generally pose greater expense than the cost to comply with current membership requirements and the enhanced penalties would pose a greater impact on smaller municipalities, it could result in an undetermined cost savings over time due to a reduction in unsafe or negligent digging incidents. MASC also indicates that the quarterly reports to the notification center could create an additional administrative burden to municipal operators. Additionally, MASC indicates that the bill permits excavators to proceed with digging despite visible indication of unmarked infrastructure if the operator fails to respond. Without further clarification, this could lead to substantial liability if damage occurs following a failure to respond timely. Further, MASC indicates that the increase in time from twelve to forty-five days for certain excavation and demolition projects may allow municipalities to better plan and allocate limited staff resources to fulfill notice and response requirements.

Local Revenue
This bill may result in a change in the fines and fees collected in court. Court fines and fees are distributed to the General Fund, Other Funds, and local funds. Therefore, RFA anticipates this bill may result in a change to local revenue due to the change in fines and fees collections in court.

Frank A. Rainwater, Executive Director