



# Ohio Legislative Service Commission

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## Fiscal Note & Local Impact Statement

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**Bill:** H.B. 659 of the 130th G.A.

**Date:** December 1, 2014

**Status:** As Introduced

**Sponsor:** Rep. Sprague

**Local Impact Statement Procedure Required:** No

**Contents:** To create an enforcement process for Ohio's underground-utility-damage-prevention law

### State Fiscal Highlights

- Increase in expenditures for PUCO to conduct inquiries into the complaint against an entity that did not follow certain requirements of Ohio's underground-utility-damage-prevention law.
- The bill requires that participants in the one-call notification system pay up to \$50 annually to help defray such costs, but does not specify a fund to receive the proceeds of the fee. PUCO expenditures might be paid in part using the existing main operating appropriation which draws on the Public Utilities Fund (Fund 5F60).
- The bill creates the Underground Facilities Protection Fund, and all fines collected under the bill will be deposited into the fund and used for Underground Utility Damage Prevention grants. A fine for a first offense could be up to \$2,500; a fine for a "persistent noncomplier" could be up to \$10,000.

### Local Fiscal Highlights

- Political subdivisions may incur minimal expenditures for safety registration. The bill requires each utility, excavator, developer, and designer who participates in the one-call notification system to register with PUCO and pay a safety registration of up to \$50 annually, which PUCO may lower.

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## Detailed Fiscal Analysis

H.B. 659 creates an enforcement process for Ohio's underground-utility-damage-prevention law. Enforcement authority is given to the Public Utilities Commission of Ohio (PUCO). The bill also creates a committee called the Underground Technical Committee (UTC) to review cases and recommend fines and penalties. PUCO is required to impose the UTC's recommended fines and penalties, with some exceptions. Cases are initiated upon complaint of a person who has been aggrieved by a compliance failure. A "compliance failure" is defined as a failure to comply with certain requirements of Ohio's underground-utility-damage-prevention law.

The bill permits any person who has been aggrieved because of a compliance failure to file a complaint with PUCO to seek punitive action against the person responsible for the alleged compliance failure.

Under the bill, PUCO must conduct an inquiry regarding the complaint. The inquiry must be limited to whether there was a compliance failure. PUCO must examine relevant facts regarding the alleged compliance failure. PUCO may request records verification, informal meetings, teleconferences, photo documentation, and any other documentation or information relevant to the inquiry. Then PUCO must make a report of the inquiry to the UTC. The report must contain any admission made by the responsible person. The bill explicitly prohibits PUCO's report from containing a recommendation as to the imposition of a fine or penalty. The UTC must review every report submitted by PUCO. The UTC is composed of 17 members, the majority of which are either excavators or representatives of underground utility industries.

The bill requires each utility, excavator, developer, and designer who participates in the one-call notification system to register with PUCO and pay a safety registration of up to \$50 annually, which PUCO may lower. These amounts are to fund the operation of the UTC and PUCO in the performance of duties under the bill, though the bill does not specify a fund to receive the money. PUCO must administer and oversee the registration process. The bill states that failure to register results in a fine of up to \$2,500. PUCO must deposit all fines collected under the bill into the Underground Facilities Protection Fund, which the bill creates. The fund retains its interest and is to be used solely to fund Underground Utility Damage Prevention grants. PUCO is authorized by the bill to implement a grant program that makes such grants available to fund training, education, and public awareness programs.

### **Fiscal Effect**

According to sponsor testimony, there is no reporting system to record underground utility damage incidents, but anecdotal evidence suggests there are thousands of incidents per year. PUCO will incur additional expenditures to conduct inquiries into the complaint of an entity that did not follow certain requirements of Ohio's underground-utility-damage-prevention law. Conducting an inquiry regarding each complaint (as required by the bill) may result in PUCO hiring additional staff. The

\$50 annual fee paid by participants in the one-call notification system is to be used to cover the resulting costs, but the bill does not specify a fund to receive the proceeds. LSC assumes that some PUCO expenditures would likely be paid using the existing main operating appropriation which draws on the Public Utilities Fund (Fund 5F60). As of this writing, the agency has not yet provided LSC with an estimate of potential costs.

Political subdivisions may incur minimal expenditures for safety registration. Only those subdivisions that participate in the one-call notification system bill as a utility, excavator, developer, and designer would pay for safety registration. Although registration can be up to \$50 annually, PUCO may lower it.

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