



## **SB18-167**

**SHORT TITLE:** Enforce Requirements 811 Locate Underground Facilities

**LONG TITLE:** Concerning increased enforcement of requirements related to the location of underground facilities.

**SPONSORS:** Sen. Scott and Donovan/Rep. Winter and Saine

**COMMITTEES:** Senate Committee - Transportation

**PURPOSE OF THE BILL:** To established enforceable oversight of the 8-1-1 notification system to protect the public from accidental damage to underground facilities such as pipelines, cables, and electrical lines.

**PROPONENTS OF THE BILL:** The construction industry (excavators), investor owned utilities supplying gas and electricity

**POTENTIAL STAKEHOLDERS:** Construction, developers, owners of underground utilities, local governments who own facilities and conduct excavation activities, farmers and ranchers, engineers. There were 58 stakeholders involved in the development of the bill.

**BACKGROUND:** In 2016, the U.S. Department of Transportation's PHMSA conducted an adequacy evaluation of Colorado's excavation damage prevention law enforcement and determined that the state's excavation-related enforcement is inadequate. Based on this finding, the state was issued a deadline of 2021 to upgrade its 811 enforcement or have its federal pipeline safety grant reduced in 2022. PHMSA grant funding is issued to the Public Utilities Commission in the Department of Regulatory Agencies (DORA) and primarily funds distribution pipeline inspectors who conduct safety analyses and failure reviews. DORA is expected to receive about \$700,000 of federal funding from this source in 2018.

**Is this bill necessary this year?** The state was issued a deadline of 2021 to upgrade its 811 enforcement or have its federal pipeline safety grant reduced in 2022. Implementation may take some time so while this year may not be necessary for meeting the deadline, time is growing short.

**How does the bill change current law?** In part, it creates a commission (Underground Damage Prevention Safety Commission in the Colorado Department of Labor and Employment) to enforce penalties for violation of the 8-1-1 notification call requirements; it repeals the exemption from 811 memberships for the Colorado Dept. of Transportation; it requires a licensed professional engineer designing an excavation to request a location request for marking underground facilities (the engineering plans must meet ASCE standards for accuracy); it requires a fee paid for location; eliminates Tier 2 membership in the notification association (currently includes some special districts, local governments, cable TV, as of 2021); all new underground facilities installed on/after Jan. 1 2021 must be electronically locatable; home rule local govts. are not subject to commission enforcement but must adopt a similar damage prevention program or waive its exemption; protects information regarding underground facilities from release under CORA. This is a lengthy bill and should be read in detail.

**Does the bill affect the prior appropriations system?** No.

**How is the bill implemented?** A 15-member commission must be appointed by the Governor. The safety commission designates a review committee to investigate violations and recommend action including penalties and present those to the safety commission. The safety commission's action is final for purposes of appeal to the district court. Owners of underground utilities must provide adequate staff to meet additional requests for locations. Entities planning new underground facilities to be installed on or after 2021 must assure that they are electronically locatable.

**Practical considerations:** Increased costs will be borne by owners of underground facilities for providing additional locates. Excavators must plan for the possibility of fines for violations. Farmers and ranchers who are exempted from placing locate calls for routine work still face liability for cutting into an underground facility so that potential cost must be considered. Counties conducting routine road grading and maintenance can incur delays from making locate requests prior to commencing work. Excavation companies must pay increased fees to fund the safety commission.

**Fiscal Impact:** The bill carries a \$3 million fiscal note for the next two fiscal years for the state. No estimates are provided for local government impacts or the fiscal impacts to owners of underground utilities and other entities.