

HOUSE BILL REPORT

ESHB 2223

As Passed Legislature

Title: An act relating to modifying the effective date of RCW 19.122.130 from 2011's underground utility damage prevention act

Brief Description: Regarding the effective date of RCW 19.122.130, from the underground utility damage prevention act.

Sponsors: House Committee on Technology, Energy & Communications (originally sponsored by Representatives Takko, Morris, Armstrong and Angel; by request of Utilities & Transportation Commission).

Brief History:

Committee Activity:

Technology, Energy & Communications: 1/13/12 [DPS].

Floor Activity:

Passed House: 2/8/12, 97-0.

Passed Senate: 2/29/12, 49-0.

Passed Legislature.

Brief Summary of Engrossed Substitute Bill

- Authorizes the Utilities and Transportation Commission to contract with a nonprofit entity to create a Safety Committee in advance of January 1, 2013, the effective date of the Underground Utilities Damage Prevention Act.
- Authorizes the Safety Committee to pass bylaws and establish organizational processes that are necessary to complete the Safety Committee's tasks.

HOUSE COMMITTEE ON TECHNOLOGY, ENERGY & COMMUNICATIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 14 members: Representatives McCoy, Chair; Crouse, Ranking Minority Member; Short, Assistant Ranking Minority Member; Anderson, Billig, Carlyle, Dahlquist, Haler, Harris, Hasegawa, Kelley, McCune, Nealey and Wylie.

Staff: Scott Richards (786-7156).

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

Background:

The Underground Utilities Damage Prevention Act.

In 2011 legislation known as the Underground Utilities Damage Prevention Act (Act) was enacted. The Act made substantial changes to the statute governing safe excavation practices near underground facilities. A law governing safe excavation practices near underground facilities is often referred to as a "Dig Law," or a "Call Before You Dig Law."

Under the Act, all underground facility operators must subscribe to the one-number locator service, a service through which an excavator may notify utilities and request field-marking of underground facilities. An excavator must mark the excavation area with white paint and provide notice of excavation to the one-number locator service two to 10 days before excavation begins. Underground utility operators must respond by marking underground facilities within two days of being notified of the planned excavation. Excavators may not proceed until all known facilities are marked or provided information regarding unlocatable underground facilities.

Safety Committee.

Under the Act, the Utilities and Transportation Commission (Commission) is authorized to contract with a statewide, nonprofit entity to create a Safety Committee. The purpose of the Safety Committee is to: (1) advise the Commission and other state agencies, the Legislature, and local governments on best practices and training to prevent damage to underground utilities, and policies to enhance worker and public safety; and (2) review complaints alleging violations involving practices related to underground facilities.

The Safety Committee is made up of 13 members that serve staggered three-year terms. The Safety Committee must include members who represent a broad range of underground utility stakeholders and meet at least once every three months.

The Commission's authorization to contract with a nonprofit entity expires December 31, 2020.

Enforcement of Civil Penalties.

The Commission may enforce civil penalties when it receives written notification from the Safety Committee indicating that a violation of the Act has likely been committed by a person subject to regulation by the Commission, or involving the underground facilities of such a person.

If the Commission receives written notification from the Safety Committee that a violation has likely been committed by a person who is not subject to regulation by the Commission, and in which the underground facility involved is also not subject to regulation by the Commission, the Commission may refer the matter to the Attorney General for enforcement of a civil penalty.

Civil penalties may not be more than \$1,000 per initial violation, and not be more than \$5,000 per subsequent violation within three years.

Effective Date.

The Act takes effect January 1, 2013.

Summary of Engrossed Substitute Bill:

The Utilities and Transportation Commission is authorized to contract with a nonprofit entity to create a Safety Committee in advance of January 1, 2013, the effective date of the Underground Utilities Damage Prevention Act.

By January 1, 2013, the Safety Committee may pass bylaws and provide for those organizational processes that are necessary to complete the Safety Committee's tasks.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) This bill makes a technical fix that allows the Safety Committee to start its work before January 1, 2013, the implementation date of the Underground Utilities Damage Prevention Act. It is important for the Safety Committee to get started in advance of the effective date so that the Safety Committee may be prepared to address violations.

(Opposed) None.

Persons Testifying: Representative Takko, prime sponsor; Ann Rendahl, Washington Utilities and Transportation Commission; Nancy Atwood, Puget Sound Energy; Brad Tower, Olympia Pipeline; and Dan Kirschner, NorthWest Gas Association.

Persons Signed In To Testify But Not Testifying: None.